

South Sudan

Six Grave violations	International Data 2022	Outcomes of the research 2020-2023
Killing and Maiming of Children	80 children, comprising 61 boys, 17 girls, and 2 cases where the gender was unknown	between July 2020 and 2022, 117 children, including 91 boys, 25 girls, and one of unknown gender, aged 2 to 17, were either killed (58) or maimed (59)
Recruitment or Use of Children as Soldiers	110 children, comprising 107 boys and 3 girls	between 2018 and the first half of 2022: 182 children aged 9 to 17, were recruited and used in conflict in South Sudan. Most of them were boys, with a significant number under the age of 15
Sexual Violence against Children	94 girls, as young as 7	74 cases of sexual violence against girls aged 9 to 17 during various periods: 7 in the latter half of 2020, 7 in 2021, and 60 in the first half of 2022

Abduction of Children	76 children (36 boys, 37 girls, 3 gender unknown)	63 children aged between 4 months and 11 years, with 18 instances in the latter half of 2020, 13 in 2021, and 32 in the first half of 2022. An additional 27 abduction reports were still under verification
Attacks against Schools or Hospitals	62 attacks on schools (51) and hospitals (11)	11 attacks on educational and medical facilities in South Sudan: 3 on schools and eight on hospitals, distributed over a span of three years, with four attacks in the latter half of 2020, four in 2021, and three in the first half of 2022
Denial of Humanitarian Access for Children	44 incidents of denial of humanitarian access	10 instances of denied humanitarian access impacting children's assistance, with two incidents in the latter half of 2020, six in 2021, and two in the first half of 2022

Challenges met during the research

Typology	Challenges	Comment
Quantitative	Data collection	The challenge of accessing local data necessitates continuous

		monitoring in research endeavours. This ongoing process ensures that data collection remains active and adaptable to evolving circumstances. By consistently monitoring, researchers can gather timely and relevant information, enabling them to capture changing trends, identify emerging patterns, and address evolving challenges within communities. This dynamic approach to data collection enhances the accuracy and comprehensiveness of research findings, facilitating more informed decision-making and targeted interventions to support vulnerable population.
Qualitative	Participants scared to take part in interviews	Exercising general caution regarding testimonies is crucial in research and investigative processes. Testimonies, while valuable, can be subjective and influenced by various factors such as memory, perception, and personal biases. Therefore, it's important to approach testimonial evidence critically and verify its accuracy and reliability through corroborating evidence, multiple sources, and cross-referencing.
Qualitative/ Qualitative	Need for anonymity	anonymity should be a standard in this research

Introductory note

This research involved structured interviews with a diverse array of stakeholders, including representatives from academia, non-governmental organizations (NGOs), politicians, and students. A total of 15 individuals, between 22 and 60 years old, were interviewed to elicit insights into the challenges and potential solutions pertaining to the realization of children's rights in South Sudan. The questions aimed at unearthing nuanced perspectives on the existing challenges to implement children's rights. The diverse backgrounds of the interviewees, ranging from academia to NGOs and from politics to students, provided a panoramic view of the challenges faced in the practical implementation of legal safeguards for children. The findings offer a comprehensive understanding of the intricate web of challenges obstructing the path to the effective protection of children's rights in South Sudan. The voices of academia, NGOs, politicians, and students converge in describing a vivid picture of the hurdles that must be overcome to bridge the gap between legal aspirations and the lived realities of children in the country. It is through such research initiatives and the collective insights of stakeholders that meaningful steps can be taken to address the systemic issues hindering the fulfilment of children's rights, ultimately paving the way for a more secure and nurturing environment for the youngest members of society. The results of the consultation are summarised in each relevant part.

1. Country analysis

South Sudan's journey since gaining independence in 2011 has been marked by profound challenges, with conflicts, economic

setbacks, and natural disasters shaping its complex narrative.¹⁶ The early years following independence were marred between 2013 and 2016 by internal strife, undermining developmental improvements. However, a ray of hope emerged with the signing, in 2018, of the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS), followed by the formation of a Transitional Government of National Unity in 2020 (World Bank, 2023).

South Sudan has been in a precarious political transition, characterized by often violent political contestations and other challenges, which significantly disrupted the implementation of fundamental political and security processes, as well as transitional justice mechanisms. On 2 August 2022, parties to the Revitalized Agreement agreed a two-year extension, postponing elections to late 2024. Across the country, the population continues to face an insufferable human rights and humanitarian situation, exacerbated by continuing conflict and armed violence. The latest cycle of violence that erupted in 2022 in the country, resulted in yet another round of horrific human rights violations and abuses, and, according to the Commission on Human Rights in South Sudan (CHRSS), it was “driven by the ferocity of national political competition and abetted by impunity for past violations” (CHRSS, 2023). More than 74% of the population inside the country requi-

16 For this section, see also: Craze, J. (17 April 2023). "Gunshots in Khartoum". *New Left Review*. Archived from the original on 17 April 2023; Dewaal, A. (19 April 2023). "Sudan's New War and Prospects for Peace". *Reinventing peace*; Elbagir, N., Mezzofiore, G., Qiblawi, T. (20 April 2023). "Exclusive: Evidence emerges of Russia's Wagner arming militia leader battling Sudan's army". *CNN*; Abdelaziz, K. (15 December 2023). "Sudan's RSF advances on Wad Madani as eight-month-old war spreads". *Reuters*.

red humanitarian assistance in 2022, which was an increase over the previous year. One in three children suffered chronic malnutrition. The provision of aid has been reduced, while the needs of the population have increased. Shortfalls in global funding, as a result of the armed conflict in Ukraine, led the World Food Programme to make further cuts to life-saving assistance. Conditions in many displacement camps were appalling, in particular in Unity and Upper Nile States, where violent attacks on civilians had caused mass displacement. Refugee populations in neighbouring countries were also affected by cuts in humanitarian assistance. 25. Conflict exacerbated the food crisis in the six states where people experienced emergency levels of acute food insecurity. Attacks on civilian populations were often accompanied by looting and the destruction of homes and livelihood assets. Survivors of these attacks, in particular women and girls, were forced to live on wild foods and waterlilies while hiding from attackers, and then forced to rely on humanitarian assistance.

1.1. Conflict

The history of South Sudan has been marred by persistent conflict, political struggles, and humanitarian crises. In December 2013, violence erupted following a political dispute between President Salva Kiir and former Vice President Riek Machar, leading to a civil war that lasted for nearly five years. The conflict had ethnic dimensions, with Dinka and Nuer soldiers supporting Kiir and Machar, respectively. Armed groups targeted civilians along ethnic lines, committing atrocities such as rape, destruction of property, and recruitment of children into their ranks (Global Conflict Tracker, 2023).

Despite international efforts and negotiations, the peace agreement signed in August 2015 between Kiir and Machar did not

bring lasting stability. Violence resumed after Machar's return to Juba in April 2016, resulting in renewed displacement and conflict. Subsequent cease-fires were negotiated and violated, reflecting the complex and fragile nature of the peace process.

In June 2018, negotiations mediated by Uganda and Sudan led to the signing of the Khartoum Declaration of Agreement, including a cease-fire and a commitment to negotiate a power-sharing agreement. This marked a significant development, followed by the signing of the Revitalized Agreement on the Resolution of the Conflict in South Sudan in August 2018. The agreement outlined a new power-sharing structure, reinstating Machar as vice president.

While Machar returned to South Sudan in October 2018 for a peace celebration, reports of continued attacks raised concerns about the sustainability of the peace. The conflict's toll has been severe, with an estimated nearly 400,000 people killed, and millions displaced or fleeing the country (Global Conflict Tracker, 2023).

The United Nations (UN) played a role in addressing the crisis, deploying peacekeepers, and shifting the mission's mandate to civilian protection. However, challenges persisted due to the deteriorating security situation and a complex relationship with the South Sudanese government.

The conflict also had dire humanitarian consequences, leading to food shortages and famine which was declared as the "worst in the world": critical shortages persisted, surpassing peak levels during the civil war.

Recent developments indicate ongoing challenges despite the official end of the civil war. Intercommunal violence, attacks, and a fragile peace process have heightened concerns. The slow progress in implementing the 2018 peace agreement, intercommunal violence, and a deteriorating humanitarian situation underscore the urgency of improving security and meeting the basic needs of South Sudan's civilians.

The situation worsened in April 2023 with fighting triggering an influx of refugees, including South Sudanese, exacerbating overcrowded camps and straining resources. More than two-thirds of the population faced severe food insecurity, marking the worst hunger crisis in the country's history.

While the unity government remains intact, security sector reforms have stalled, and the threat of violence looms. The UN extended sanctions on South Sudan, citing human rights violations, and the persistent rift between Kiir and Machar raises concerns about potential violence in the lead-up to the delayed December 2024 elections (Global Conflict Tracker 2023).

In the midst of these challenges, an armed insurgency led by Thomas Cirilo – leader and commander in chief of the National Salvation Front (NSF) - poses additional threats to civilians and further complicates the peace process. The international community, including the United States, remains invested in achieving a lasting settlement, addressing the humanitarian crisis, and preventing destabilizing regional spill over. The situation in South Sudan remains fluid and precarious, requiring sustained efforts to secure lasting peace and stability.

The South Sudanese government's narrative, attributing the ongoing high levels of violence solely to "inter-communal violence" or conflicts among opposition groups, is a perspective that raises critical questions about the root causes of the country's persistent turmoil. This official stance appears to detach the current violence from the armed conflict that began in 2013 and the subsequent peace agreements brokered to end it. However, a more nuanced analysis suggests that these issues are intricately linked, revealing a complex web of ethno-political competition, elite power struggles, and resource contention that underpins the ongoing unrest (Amnesty International, 2023).

1.2. Post-conflict situation

Since achieving independence from Sudan in 2011, South Sudan has grappled with the formidable task of upholding the complete spectrum of human rights associated with sovereign statehood. Unfortunately the country has found itself consistently at the lower echelons of global human development indexes. The roots of South Sudan's troubles can be traced back to a complex tapestry woven from the threads of prolonged civil war and acute underdevelopment, a legacy that stubbornly persists to this day.

The scars of decades-long conflict with Sudan impede its progress, leaving behind a fractured landscape of economic instability and dilapidated infrastructure. This historical baggage has posed formidable challenges to South Sudan's ability to foster development and safeguard the fundamental rights of its citizens.

The eruption of armed conflict in December 2013 pushed South Sudan into an even more precarious situation. Rather than building upon nascent achievements in infrastructure and security, the conflict wrought havoc, disrupting the fragile progress that had been made. The consequences were felt acutely by the population, with widespread displacement, loss of life, and a sharp deterioration in living conditions becoming the new norm.

This descent into violence not only exacted a toll on the physical landscape but also brought to the fore a host of human rights concerns. Extrajudicial killings, sexual violence, forced displacement, and constraints on freedom of expression became stark manifestations of a nation in turmoil. The civilian population bore the brunt of these violations, thrust into a dire human rights situation with little recourse.

The impact of the conflict reverberated beyond human rights, triggering a severe humanitarian crisis. The disruption of livelihoods, mass displacement, and pervasive insecurity laid the groundwork

for extreme food insecurity, affecting vast segments of the population. The resultant need for humanitarian assistance became urgent and paramount to stave off widespread suffering.

Factors such as entrenched poverty, limited access to education and healthcare, and political instability have collectively contributed to South Sudan low ranking for global human development. Resolving the current conflict is but one facet of the issue; addressing the deep-seated issues of underdevelopment and cultivating institutions capable of safeguarding human rights in the long term are equally critical. The provision of humanitarian assistance remains a lifeline for a the population, offering some hope within the myriad challenges faced by the country.

The Comprehensive Peace Agreement (CPA), which spanned from 9 July 2005, until 9 July 2011, played a pivotal role in shaping the governance framework of South Sudan during the Interim Period. As outlined in the CPA, the establishment of an Interim National Constitution was a key component, serving as the legal foundation and supreme law applicable to the entire Sudan.

In the specific context of Southern Sudan, the CPA mandated the formation of an inclusive Southern Sudan Constitutional Drafting Committee. This committee was tasked with the responsibility of drafting the Interim Constitution in 2005. The goal was for the document to be adopted by the Transitional Assembly of Southern Sudan through a two-thirds majority. The establishment of the Interim Constitution during the Interim Period represented a crucial step in the governance transition, providing a legal framework that would guide Southern Sudan through the interim phase as it moved towards the eventual realization of its political and constitutional identity. This constitutional process aimed at fostering inclusivity and legitimacy in the creation of foundational legal documents, laying the groundwork for the nation-building efforts that followed South Sudan's eventual independence in 2011. The

Interim Constitution was replaced by the Transitional Constitution of South Sudan in 2011 - which came into force on 9 July 2011.¹⁷ Economic revival, predominantly driven by oil production, faced hurdles in the form of historic floods and the global COVID-19 pandemic. The precarious economic outlook spotlights the need for diversification, given the vulnerability of the oil sector. Additionally, South Sudan's reliance on Sudan for oil export routes introduces macroeconomic instability risks, particularly amid limited fiscal resources and pressing humanitarian needs.

The humanitarian crisis in the country is intricate, with 9.4 million people - including 5 million children –, or 76% of the population, requiring assistance in 2023 – a substantial increase from the previous year. Women and children are disproportionately affected, with the recent conflict in neighbouring Sudan exacerbating the situation through an influx of refugees and returnees. Disabilities affect an estimated 15% of these needy individuals. Around 5.8 million non-displaced residents still need urgent aid. A staggering

17 The Transitional Constitution of the Republic of South Sudan, promulgated in 2011, stands as a foundational document that delineates the governance structure and principles for the newly independent nation. Crafted by the Southern Sudan Constitutional Drafting Committee, the constitution underwent a comprehensive drafting process, marking a significant step in shaping the legal and political landscape of South Sudan. Published in April 2011, the constitution reflected the aspirations and values of the people of South Sudan as they embarked on the journey of nation-building. Its ratification on 7 July 2011, by the South Sudan Legislative Assembly signalled a crucial moment in the establishment of the nation's legal framework. The significance of this constitutional milestone was underscored by its entry into force on the day of South Sudan's independence, 9 July 2011, following the formal endorsement by the president of the republic. It was emended several times, the last ones in 2015 and 2022.

95% of citizens rely on weather-dependent resources for their daily lives (World Bank 2023; BIT 2023).

The country's susceptibility to climate change and natural disasters, including severe droughts and floods, compounds the humanitarian crisis, resulting in fatalities, displacements, and profound disruptions to livelihoods (BIT 2023).

Widespread displacement, both internally and across borders, has overloaded limited resources, basic services and created tensions among communities. The peace agreement in South Sudan, known as the Revitalized Agreement on the Resolution of the Conflict, has been pushed to run for an extra two years, delaying the anticipated elections to early 2024. The sluggish pace of enacting this agreement is causing unrest in various regions. Currently, 1.9 million individuals are displaced and urgently need sustainable solutions that foster unity and peace. Given the extreme climatic conditions, it's crucial to focus on programs that enhance climate resilience, especially since these conditions directly impact national stability.

Aid operations, especially those aimed at children and women, are hampered by multiple barriers, including threats from violence, administrative hurdles, risks to humanitarian workers, and logistical challenges. The nation's already weakened infrastructure is further damaged by floods, rendering many roads unusable since 2021. This makes remote regions accessible only through more expensive means like boats, helicopters, or planes.

Accountability remains an issue. The Revitalised Agreement provides for the establishment of transitional justice mechanisms: the Commission for Truth, Reconciliation and Healing; the Compensation and Reparation Authority and the Hybrid Court for South Sudan. However, none of these mechanisms is operational.

Looking ahead, the challenges for South Sudan include the steadfast implementation of the peace agreement, bolstering governance and institutional frameworks, and fortifying economic and

financial management systems. These initiatives are seen as critical for resilience-building against future shocks and laying the groundwork for a diversified, inclusive, and sustainable growth trajectory.

South Sudan's path post-independence reflects a nuanced interplay of political, economic, and environmental factors. Resolving the humanitarian crisis necessitates a holistic strategy, encompassing political stability, economic reforms, and collaborative efforts, both domestically and internationally, to guide the nation toward a more stable and sustainable future.

1.3. Social, cultural and religious aspects

Cultural, religious, and societal norms in South Sudan play a significant part in shaping the roles and rights of boys and girls, particularly in terms of protection and safety. These norms are deeply ingrained and influence various aspects of children's lives, including their upbringing, education, responsibilities, and expectations. These gender roles impact children's access to education, leisure activities, and opportunities for personal development. Early marriage and childbearing are rooted in traditional beliefs about a girl's readiness for marriage and her role in the family, and this increased their vulnerability to various risks. Traditionally, boys are expected to take on leadership roles and make important decisions, while girls' voices and opinions are marginalised. Restriction on movements limits girls' access to education, healthcare, and social interactions.

Taboos and social norms hinder open conversations about these topics affecting girls' ability to make informed decisions about their bodies and health. Boys and girls are disciplined differently based on perceived gender norms, which affects their safety and well-being.

Regarding children rights, while boys, just like girls, face significant challenges after experiencing violations, said experiences differ in various ways. Boys face stigma related to traditional gender norms, discouraging them from seeking help or reporting violations. Boys are at a higher risk of being recruited into armed groups in conflict-affected regions, further exposing them to violence and exploitation. Boys experience psychological trauma and social isolation after violations, but societal expectations about masculinity make it more difficult for them to openly express their emotions and seek help. Reintegrating boys into their communities after experiences of violence or armed conflict is challenging due to potential fears about their involvement in violence.

Still, there are unique challenges faced by girls such as child marriage and early pregnancy. Girls who have experienced violations are at a high risk of early marriage, which can exacerbate their vulnerability. Child marriage not only limits girls' access to education and opportunities but can also have negative health consequences due to early pregnancies and childbirth. Violations and their aftermath disrupt girls' education, as they are withdrawn from school to address family or societal concerns. The impact of violations on mental health and trauma also affects the girls' ability to concentrate and succeed in school. Girls who experience violations such as sexual violence face stigmatization and isolation from their communities. The isolation can hinder their reintegration and recovery. Health consequences as a result of physical injuries, unwanted pregnancies, sexually transmitted infections, and yet access to appropriate healthcare and psychosocial support may be limited. Violations disrupt girls' access to economic opportunities, which have long-term consequences for their economic empowerment and independence. Traditional practices, stigma, and limited awareness of legal rights make it more challenging for girls to seek justice and hold perpetrators accountable. The

aftermath of violations makes girls more vulnerable to trafficking, forced labour, and exploitation.

Moreover, there are several traditional practices and societal beliefs that can exacerbate gender disparities in child violations and contribute to the unequal treatment of boys and girls. These practices and beliefs have a negative impact on the rights and well-being of children, particularly girls and include:

- Traditional beliefs about early marriage which contributed to the practice of marrying off girls at a young age, early as 9 years old. Girls are often married off in exchange for cows to maintain the family.
- Lack of decision making: girls often have limited decision-making within families and the communities. This affects their ability to have a say in matters that concern them, including issues related to their own health, education and well-being.
- Access to resources: traditional land and property ownership norms disproportionately favour boys and men based on the cultural believe that inheritance stays with the male lineage while female is to leave the family and become part of another family.
- Violence and Discrimination: traditional norms and beliefs that condone violence against women and girls can contribute to gender-based violence. This includes domestic violence, sexual assault and other forms of abuse.
- Inheritance Practices: inheritance favours male family members. This as a result leads to unequal distribution of property and resources.
- Female Genital Mutilation's practice reflects a deeply ingrained gender bias and can perpetuate inequality. This also causes a serious physical and psychological consequence for the girls.

- Education: most rural communities prioritise boys' education over girls' contribution to gender disparities in access to education. However, Public institutions have sensitised the communities on the importance of girls' education with efforts to promote gender equality in educational opportunities.

Addressing gender violations requires a culturally sensitive approach that acknowledges and respects local customs while promoting positive change.

Women and girls are among the groups most vulnerable to conflict and most exposed to its indirect effects, such as poverty, malnutrition, diseases, and a lack of access to public services (World Bank 2018).

As a result, social protection programs have been implemented in South Sudan to reduce inequality and empower girls and teenage girls, and these programs have reduced the gender gap. The programs include:

- The Safety Net and Skill Development Project: which provides training for the skills more suitable for school dropouts, especially young girls due to early marriages, to participate in income-generating activities.
- Universal Social Welfare Program which includes the maternity benefit to teenage girls and poor women to cover pregnant women's medical expenditures and compensate for any subsequent income loss caused by the pregnancy. The inclusive safety net system and to 'work progressively to reduce risk, vulnerability, poverty, and economic and social inclusion plan (SSDP 2011). This proposed targeted programs for children, especially girls.
- South Sudan National Disability and Inclusion Policy (2013) set to respond to and address the multiple vulnerabilities faced

by South Sudanese citizens, especially the most excluded, who are children and teenage girls, and women.

- Donations and Cash Transfers which has shown positive effects on school enrolment, attendance, completion, and transition for girls in South Sudan (Gala, 2015). Evidence on the impact of social protection on HIV/AIDS prevention has also shown that girls who receive cash transfers are less likely to resort to harmful coping strategies like having sex with older partners or having sex in exchange for food, shelter, transport, or money.
- The School Feeding Program (World Food Program) where the beneficiaries are being reached through emergency food distribution, especially in schools, hence a reduction in the rate of school dropouts by the young girls to stay home and look for food.
- Nutrition support to pregnant and lactating mothers intended for teenage mothers and pregnant women in rural areas.
- Child Soldiers and Boys' Reintegration Program which focuses on the reintegration of boys who have been involved in armed groups, providing psychosocial support, vocational training, and family reunification efforts. The effectiveness of gender-specific child protection programs has been influenced by factors such as security and access, resource constraints, cultural norms, coordination and collaboration and sustainability.

For this research, interviewees were asked how the societal factors impact violence against children in the country.

The respondents underline that the perpetuation of violence against children is intricately woven into the fabric of prevailing attitudes, each strand contributing to a deeply troubling narrative. Firstly, the unsettling notion that a child is regarded as a

mere property item within the family or under the authority of a parent establishes a foundation that compromises the child's intrinsic rights and exposes them to potential exploitation. Further entangling this narrative is the perspective that a "good child" is one that conforms to perceived norms, while deviations from this norm are met with stigma. This normative conformity places undue pressure on children to align with predetermined expectations, fostering an environment that stifles individuality and authentic expression. Adding to the complexity is the expectation that a "good child" must epitomize obedience, perpetuating power imbalances that leave children vulnerable to various forms of abuse. This emphasis on unquestioning compliance not only diminishes the child's agency but also reinforces hierarchical structures within familial and societal contexts. Additionally, viewing a child as an investment introduces a troubling transactional element. This perspective jeopardizes the child's well-being for potential future gains, commodifying their existence and compromising the fundamental recognition of their intrinsic value as human beings.

In the specific context of South Sudan, these attitudes materialize in tangible ways. The hierarchical structures prevalent in many regions relegate children to a subordinate position, amplifying their vulnerability and diminishing their likelihood of being heard or believed when reporting instances of violence. The normalization of physical punishment or violence in certain contexts further complicates the issue, creating an environment in which identifying and addressing such violence becomes challenging. Moreover, the entrenched social norms that dictate the privacy of issues related to violence, especially sexual violence, contribute to a pervasive culture of silence. This culture discourages victims from coming forward, hindering both community and legal interventions, and perpetuating a cycle of abuse.

To address these deeply rooted challenges, the interviewees indi-

cated the need for a comprehensive approach. Initiatives should not only focus on raising awareness but also on challenging and reshaping societal norms. Cultivating an environment where children are valued, heard, and protected necessitates unravelling these intricate cultural and social threads. It calls for fostering a discourse that places the well-being and rights of every child at the forefront of societal priorities. Ultimately, the path to meaningful change involves dismantling these harmful attitudes and fostering a collective commitment to nurturing environments that prioritize the safety and dignity of children.

At the cultural level, despite commendable strides in the realm of gender equality awareness, deeply entrenched cultural practices persist, weaving a reality where women grapple with unequal treatment, further entrenching the dominance of male figures within familial structures. Notably, the societal perception of women and girls as valuable assets becomes evident in poignant instances, such as the case of a young girl confronting severe threats for daring to prioritize education over an alliance with an elderly man. These instances cast a stark light on the profound and enduring nature of these challenges. In examining specific issues, the spectre of child marriage emerges as a concerning practice sanctioned by certain cultural traditions. This not only exposes young girls to the perils of marital rape, physical abuse, and emotional trauma but also raises fundamental questions about the protection of their rights within these cultural frameworks. Furthermore, the lens broadens to encompass initiation rites, integral to the cultural identity of certain ethnic groups, yet harbouring the potential for physical harm and psychological distress. The assimilation of young boys into war, a rite in itself, underscores the multifaceted nature of these challenges. Venturing into the intricate fabric of cultural beliefs about gender roles, deeply rooted convictions perpetuate male dominance and, alarmingly, normal-

ize violence against girls. Turning to the religious mosaic of South Sudan, the diversity is underlined by a 2022 Report on International Religious Freedom, revealing Christians as the majority at 60.5%, indigenous (animist) religions at 32.9%, and Muslims at 6.2%. While major religions generally reject violence against children, interpretations or misinterpretations of religious texts can be invoked to justify harmful practices, adding yet another layer of complexity. The role of religious leaders emerges as a critical factor in shaping community behaviours. Their condemnation of violence against children can be a catalyst for positive change, whereas silence or complicity may inadvertently endorse and perpetuate harmful behaviours. The inherent conflicts within belief systems, where traditional practices clash with organized religious teachings, become a battleground where children often find themselves caught in the crossfire. In navigating these complex dynamics, a discourse unfolds that calls for a nuanced, multidimensional approach. Initiatives aimed at raising awareness, challenging harmful practices, and fostering positive societal changes must be crafted with cultural sensitivity. The protection of children's rights in South Sudan necessitates a collaborative effort that respects the diverse strands of culture, society, and religion, weaving a new narrative that upholds the inherent dignity and rights of every child.

1.4. Implementation of human rights

Significant human rights issues include reports of extrajudicial killings; forced disappearances; torture and cases of cruel, inhuman, and degrading treatment or punishment by security forces, opposition forces, armed militias affiliated with the government and the opposition, and ethnically based groups; harsh and life-threatening prison conditions; arbitrary detention; political prisoners or detain-

ees; transnational repression against individuals in other countries, including killings, kidnappings, or violence; serious problems with judicial independence; arbitrary or unlawful interference with privacy; serious abuses in an internal conflict, including unlawful killing of civilians, enforced disappearances or abductions, torture and physical abuses or punishment, unlawful recruitment or use of child soldiers, mass forced displacement, widespread gender-based violence, and use of food as a weapon of war; serious restrictions on freedom of expression and the media, including violence against and intimidation and detention of journalists, closure of media houses, censorship, and site blocking; serious restrictions on internet freedom; substantial interference with the rights of peaceful assembly and freedom of association, including overly restrictive laws on the organization, funding, or operation of nongovernmental organizations and civil society organizations; inability of citizens to change their government peacefully through free and fair elections; serious restrictions on political participation; serious government corruption; serious government restrictions on or harassment of domestic and international human rights organizations; lack of investigation and accountability for gender-based violence including conflict-related sexual violence, domestic and intimate partner violence, child, early, and forced marriage, and female genital mutilation/cutting and other forms of gender-based violence; trafficking in persons; crimes involving violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons; the existence of laws criminalizing consensual same-sex sexual conduct between adults, although these laws were largely not enforced; and existence of the worst forms of child labour.

Despite isolated examples of prosecution for human rights abuses, impunity remained widespread. The government also failed to take steps to identify, investigate, prosecute, and punish officials who engaged in corruption.

2. Level of adequacy to international law

Both the Interim Constitution and the subsequent Transitional Constitution feature a Bill of Rights, a critical component that outlines and safeguards fundamental rights and freedoms. Notably, these constitutional documents go beyond merely enumerating specific rights; they also explicitly incorporate international law as a point of reference.

In the context of the Interim Constitution, the Bill of Rights for Southern Sudan asserted that "all rights and freedoms enshrined in international human rights treaties, covenants, and instruments ratified by the Republic of the Sudan shall be an integral part of this Bill". This provision underscores a commitment to aligning the domestic legal framework with the principles and standards set forth in international human rights instruments. It reflects an acknowledgment of the universality and significance of these rights, transcending national boundaries.

Subsequently, in the Transitional Constitution, the provision underwent an amendment. The revised language replaced "Republic of the Sudan" with "Republic of South Sudan," reflecting the emergence of South Sudan as an independent and sovereign nation. This modification is not merely symbolic; it signifies a legal and political shift, emphasizing South Sudan's autonomy and the establishment of its unique constitutional identity.

By incorporating international human rights treaties, covenants, and instruments into the Bill of Rights, both the Interim and Transitional Constitutions of South Sudan demonstrate a commitment to upholding and promoting globally recognized standards of human rights. This integration serves as a mechanism to ensure that the protection and enjoyment of fundamental rights in South Sudan align with the broader principles endorsed by the international community. It underscores the nation's dedication to fostering

a legal framework that reflects its commitment to human rights, justice, and the dignity of its citizens. Article 9, para 3 of the Transitional Constitution of 2011, provides "All rights and freedoms enshrined in International human rights treaties, covenants and instruments ratified or acceded to by the Republic of South Sudan shall be an integral part of the Constitution". Article 104 of the Constitution provides that the Supreme Court is empowered to apply the rights within the Bill of Rights and any freedoms within a ratified Treaty.

South Sudan is party to the following international instruments:

- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
- Convention on the Rights of the Child (CRC);
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OP-AC);
- Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography (CRC-OP-SC);
- Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT);
- Optional Protocol of the Convention against Torture (CAT-OP);
- International Covenant on Civil and Political Rights (ICCPR);
- International Covenant on Economic, Social and Cultural Rights (ICESCR).;
- Convention on the Rights of persons with Disabilities (CRPD) (U.N. Treaty Body Database, 2023).

However, many challenges persist in implementing international provision in the national legal and cultural system.

3. National legislation

Conviction of rape is punishable by up to 14 years' imprisonment and a fine. The government did not effectively enforce the law, and rape and other forms of sexual violence were widespread. The law defines forced or non-consensual sexual intercourse within marriage as "not rape". No information is available on the number of persons prosecuted, convicted, or punished for rape, and convictions of rape seldom were publicized. According to observers, sentences for persons convicted of rape are often less than the maximum. Women and girls also face the threat of rape while living in UN POC sites and IDP camps. In May 2022 a court in Aweil, Northern Bahr el-Ghazal State, convicted a Sudanese national of raping and murdering a four-year-old girl in a rare example of a rape conviction. The court sentenced the accomplice to five years in prison for helping the accused to dispose of the body in a pit latrine. On 20 October 2022, a Juvenile Court in Juba sentenced a man to 10 years in jail for raping a 15-year-old girl in one of several cases presided over by the court since 2021 (U.S. Dep. of State, 2023).

The legal landscape concerning children in South Sudan, as delineated by the Child Act of 2008 (Act 10/2008) and Article 17 of the Transitional Constitution, ostensibly provides a robust framework designed to shield children from an array of exploitative and abusive practices. This includes safeguarding them from harmful cultural practices, abduction, and trafficking.

The government has undertaken initiatives to address child labour and advance children's rights, yet the effectiveness of these efforts

remains largely elusive. Despite the launch of the "Children, Not Soldiers" campaign by the Ministry of Defence, aimed at raising awareness about the issue of child soldiers, the reality on the ground reveals persistent recruitment and deployment of children within the Sudan People's Liberation Army (SPLA). Child soldiers are stationed in conflict-ridden areas or utilized as bodyguards, even though the SPLA has been implicated in deploying them on the front lines during opposition attacks, particularly by the Sudan People's Liberation Army – In Opposition (SPLA-IO). Recruitment of children extends to areas like Bentiu and other parts of Unity state, indicating a troubling trend that undermines the government's stated commitments. Despite the Child Act setting the minimum age for voluntary military recruitment at 18, evidence suggests that many child soldiers are significantly younger, pointing to a critical gap in enforcement.

Additional challenges are in the realm of education, despite constitutional and legal provisions for free primary education. The financial burden placed on parents, who often find themselves responsible for paying teachers' salaries, emerges as a significant obstacle. The associated costs, including uniforms, coupled with high levels of food insecurity, elevated living expenses, and inadequate school infrastructure, collectively contribute to alarmingly low levels of primary education completion in South Sudan. The stark statistics, revealing that only 32 % of children aged 5 to 14 attend school, with a primary education completion rate of merely 37 %, underscore the formidable barriers hindering access to education. Moreover, the prevalence of child labour is exacerbated by the fact that 46 % of children aged 10 to 14 are engaged in work, with 11 % simultaneously juggling work and school commitments (Dimo, 2015).

Current legal provisions add to the complexity of the situation. While children are mandated to attend school only until the age of

13, they are not legally permitted to work until they reach 14. This legal gap leaves children most vulnerable to exploitation and child labour violations during the crucial ages of 13 and 14.

In response to these challenges, South Sudan has established government committees within law agencies to create referral mechanisms for reporting and addressing child labour violations. However, the effectiveness of these agencies remains questionable, as they have been largely inactive in combating the deeply entrenched issue of child labour. The gap between legal frameworks and practical implementation underscores the need for a more robust and proactive approach to safeguarding the rights and well-being of children in South Sudan. As the nation grapples with these multifaceted challenges, a critical re-evaluation of policies, enforcement mechanisms, and social interventions becomes imperative to foster real and tangible change for the vulnerable children caught in the cycle of exploitation and deprivation. The prevalence of child marriage presents a stark and concerning reality, particularly impacting girls between the ages of 15 to 19. Disturbingly, almost half of girls within this age group find themselves in marriages, and shockingly, some are forced into this institution as early as the tender age of 12. This distressing trend not only deprives these young girls of their childhood but also has far-reaching consequences on their education and well-being.

The detrimental effects of child marriage are evident in educational disparities. Only 37 % of girls, who are ensnared in early marriages, have the opportunity to attend primary school. In stark contrast, 51 % of boys enjoy access to primary education. This glaring gender-based educational gap is a direct consequence of the prevalent practice of marrying off girls at a young age, curtailing their opportunities for personal and academic growth.

Despite legislative efforts to protect girls from early marriage, such as the 2008 law, the persistence of child marriage remains

deeply entrenched in South Sudanese society. The root cause lies in deeply ingrained cultural views that advocate for the early marriage of girls. There exists a prevailing belief that early marriages are in the best interest of girls and their families. This perspective is often shaped by the notion that such unions allow families to access resources, traditionally provided through dowries.

The consequences of this cultural perspective are profound, perpetuating a cycle where girls are denied the right to education, subjecting them to a life trajectory marked by early marital responsibilities instead of academic pursuits. Addressing the issue of child marriage in South Sudan necessitates a multifaceted approach that not only involves legal frameworks but also challenges cultural norms and seeks to empower girls with the agency to shape their own futures. Only through concerted efforts to change societal perceptions and promote gender equality can the pervasive issue of child marriage be effectively addressed, ensuring that girls have the opportunity to exercise their rights, including the right to education and the right to determine the course of their own lives.

In conclusion, the laudable intentions embedded in the legal framework face formidable challenges on the path to realization, with the yawning gap between legal provisions and practical implementation casting a shadow over the protection of children's rights. The overarching challenges are multifaceted and intricately woven into the fabric of the country socio-political landscape. At the forefront is the glaring absence of protective mechanisms, leaving children vulnerable to exploitation and abuse. This vacuum creates a precarious environment where the legal safeguards outlined in the Child Act and the Transitional Constitution struggle to manifest in tangible protection for children. A prevailing atmosphere of insecurity exacerbates the difficulties in implementing children's rights. The spectre of instability looms large,

creating an environment where the practical application of legal protections becomes a formidable task. This insecurity not only hampers the enforcement of existing laws but also engenders an atmosphere where the rights of children are further compromised.

For this research, interviewees were asked to rate between 0 (inadequate) and 5 (very adequate) the adequacy of the national legal tools to international standards.

The respondent's nuanced ranking, spanning from 2 to 5 on a scale, paints a dynamic portrait of the country's progress, revealing a landscape shaped by both strides forward and persistent challenges. On the positive side, South Sudan progressed in pivotal areas such as land reform, peacebuilding, reconciliation, education, and health. These achievements represent foundational pillars for societal advancement, showcasing a commitment to the well-being and stability of the population. However, the protection of civil liberties, the preservation of freedom of press, and the intricate dance of democracy and good governance remain areas of struggle. The interviewees indicated that in areas such as safeguarding of people and property, gender inclusion, and the pursuit of social equity the country is far behind acceptable standards. In the words of the respondents, the term "failure" describes this assessment, and the unanimous comment is that there is a pressing need for improvement in said areas.

The national legal framework is described as being in its infancy. While efforts have been made to align laws with international standards, the stark reality is a lack of implementation and enforcement. This underscores a crucial imperative for translating legal provisions into tangible actions on the ground.

The concern mostly indicated is the lack of harmonization between customary law and international legal standards, notably in the realms of women rights and child protection. The vulnerabili-

ty of women and children during conflicts emerges as a poignant plea for urgency in bridging these gaps and ensuring the safety of these categories of individuals.

In navigating these challenges, the interviewees contend that the gap extends beyond the realm of laws on paper; it encapsulates institutional capacity, political will, and grassroots understanding. The call for holistic capacity-building echoes, emphasizing the need for an integrated approach to fortify not just legal frameworks but the mechanisms essential for their effective implementation.

From a pragmatic standpoint, the discourse extends to the realm of business, where closer alignment with international standards is seen as a potential catalyst for economic growth. The plea for patience and support from the global community emerges as a crucial note, acknowledging the intricacies of the country's journey toward stability and development.

Amidst the challenges, there is a glimmer of hope emanating from mainly for the new generation. Young people interviewed see the potential of South Sudan, intertwined with a desire for laws to align with international standards, not just for the present but for the legacy they wish to shape.

Overall, there is a realistic acknowledgment that the journey ahead is arduous. However, young generations are committed to overcoming challenges envisioning a future where laws, aligned with international norms and standards will serve as beacons guiding the way toward stability, equity, peace, justice and prosperity.

For this research, interviewees were also asked if there are areas where national legislation related to child protection is lacking and to elaborate on the issue. The outcome of the conversations is that children rights unravel a narrative of both urgency and necessity, emphasizing the critical need for comprehensive legislative

reforms to address the myriad of challenges faced by children. At the forefront is the concerning issue of child marriage, where the absence of clear laws leaves many young girls susceptible to early unions, perpetuating cycles of physical and emotional trauma. Robust legislation becomes not only a legal imperative but a moral commitment to safeguarding the well-being and future of girls. The spectre of child soldiers persists, despite international agreements. The call for more stringent laws against recruiting children into armed groups resonates, especially for those most vulnerable ones displaced in conflict zones, associated with armed forces, in detention, unaccompanied and separated from their family, returnees, and those living in host communities. Legal measures must shield them from the harrowing consequences of conflict exploitation. The dialogue further underscores the inadequacy in legal support for child victims of sexual violence. The community bears witness to these heinous acts, yet the insufficiency of legal measures allows the perpetrators to evade accountability. Advocates stress the urgency of preventive and responsive protection programs, intertwining awareness raising, expanded case management, integration with other sectors, and diverse communication platforms to empower survivors and reduce the prevalence of negative coping strategies.

Education, considered an inherent right for every child, faces formidable challenges. The absence of legislative support implies that many children, especially girls, remain on the fringes of the educational landscape. Cultural and religious stereotypes perpetuate gender divides, limiting access to schooling for girls. Legal frameworks must evolve to dismantle these barriers and bridge the gender gap in education, enabling the full development and empowerment of all children.

The shadows cast by child trafficking emerge as another hidden challenge, underscoring the necessity for more robust legal frame-

works. Efforts must be directed not only at unveiling this issue but also at prosecuting those responsible and securing the safety of children within the communities.

Respondents also underlined the need to focus on the psychological well-being of children affected by conflict. Legal mandates are called for, not just to address the immediate physical repercussions of war and displacement, but to ensure that children receive the necessary psychological rehabilitation and care, preventing them from being left vulnerable and alone in unfamiliar places.

Child nutrition and health rights emerge as pivotal concerns, with malnutrition prevalent among children. While immediate food aid is crucial, there is an imperative need for long-term solutions embedded in legislation. These encompass initiatives to boost agricultural production, improve access to clean water and sanitation, and fortify local health systems, paving the way for sustained improvements in child well-being.

Lastly, interviewees emphasize the significance of birth registration as a linchpin in child protection. The absence of official documentation renders, indeed, children invisible to essential services, increasing their vulnerability to exploitation and violence. Legal mandates for birth registration are posited not just as administrative necessities but as fundamental instruments for protecting children from exposures to early marriage, child labour, and trafficking.

In conclusion, the respondents advocate for legal reforms upholding the principles of justice, equity, and the best interests of the child, paving the way for a brighter, more secure future for the children of our region. Moreover, there is a collective responsibility to foster environments where every child can grow, learn, and dream without the looming shadows of exploitation, violence, and neglect.

4. Judicial System

Courts are unable to operate effectively due to structural damages, lack of resources, and security concerns causing delays in legal proceedings, hindering access to justice for all, including children. Access to justice is problematic due to the collapse of the judicial infrastructure and the displacement or disappearance of judicial staff, lawyers, and prosecutors. Informal, non-judicial, and traditional systems of justice are also likely to be disrupted and affected by conflict. By the time the judicial system is functioning again, many years have passed, and the children's recollection of the details of the crimes they witnessed may be less clear.

As a result of the prolonged wars, resources have been diverted away from essential services supporting the judicial sector. Among the effects, it is worth recalling courts are inaccessible or under-resourced due to the ongoing conflict, making it difficult to provide timely and fair justice for children. The lack of trained personnel, infrastructure, and financial resources affected the capacity of the justice system to address the needs of children adequately. Judges, lawyers, and law enforcement officials lack proper training in dealing with child-related cases, particularly in conflict contexts. Many children, especially those in remote and conflict-affected areas, have limited access to the justice system due to factors such as displacement, lack of awareness, and security concerns. Reintegrating children who have been affected by armed conflict or violence back into society is a complex process that requires comprehensive support, including psychosocial assistance, education, vocational training and community acceptance. However, due to ongoing conflict and resource limitations, these reintegration programs have faced challenges. A number of harmful traditional practices still persist in contradiction of the country's justice system. In some communities, girls are given as

compensation for anyone killed. Removal of teeth, scarification and corporal punishment as a way of discipline are highly recognised and practised.

Following the implementation of the Transitional Constitution, the judiciary of South Sudan underwent a significant transformation, establishing itself as an independent institution. The judicial system comprises various levels, with the Supreme Court serving as the apex court, followed by Courts of Appeal, High Courts (one in each of the 10 states), County Courts, and other specialized courts or tribunals established as deemed necessary by the Constitution and the law.

The judiciary system is intricate, encompassing both government courts established by the constitution and traditional Customary courts overseen by traditional leaders, each applying their own set of laws—Statutes for government courts and customary laws for Customary courts. This complexity arises from the fact that a dispute can be subject to two legal systems, as decisions made in Customary courts can be appealed to government courts. The impact of this dual system on legal practice remains uncertain and varies. Typically, cases appealed from customary courts undergo a fresh review (*de novo*), with no automatic deference to the decisions of the customary court. Additionally, cases may not be remanded based on an incomplete factual record.

The main legal instruments establishing the Judiciary and defining its jurisdiction and procedures are: the Transitional Constitution of the Republic of South Sudan 2011 (as amended), the Judiciary Act of 2008, the Code of Civil Procedure Code Act of 2007, the Code of Criminal Procedure Act of 2008, and the Local Government Act of 2009 (ICJ, 2013).

Key judicial institutions include the Supreme Court, located in Juba, and three branches of the Court of Appeal situated in Juba, Malakal, and Rumbek. Additionally, there are ten branches of the

High Court, each located in the capitals of the respective states. However, challenges are evident in the establishment of County Courts, as a report published by SSLS in March 2013 noted that only a fraction of these courts had been practically established, leaving many counties without functioning County Courts.

According to the provisions of the Transitional Constitution, the Supreme Court, presided over by the Chief Justice, assumes a crucial role as the "custodian" of both the national Constitution and the State Constitutions. The court holds original jurisdiction to adjudicate disputes arising under the Transitional Constitution and state constitutions, initiated by individuals, legal entities, or governments. Among its wide-ranging powers, the Supreme Court has the authority to interpret constitutional provisions, review the constitutionality of laws, and set aside or strike down laws or provisions inconsistent with the Constitution. It also exercises criminal jurisdiction over certain members of the Executive and Legislature, serves as a final court of appeal in specific cases, reviews instances of the death penalty, and plays a vital role in upholding and protecting human rights and fundamental freedoms.

The establishment of a robust and functional judicial system is crucial for the effective functioning of the rule of law and the protection of rights within South Sudan. Addressing challenges related to the full implementation of County Courts is essential to ensure comprehensive access to justice throughout the country (Deng, 2013).

The Judiciary Act of 2008 plays a crucial role in regulating the establishment and governance of the judiciary in Southern Sudan, addressing various related issues. This legislation provides a comprehensive framework for the organization and functioning of different tiers of the judicial system within the region.

One of the key aspects covered by the Judiciary Act is the provision for the establishment of specific courts, including the Courts

of Appeal, High Courts, County Courts, and Payam Courts. These different levels of courts are integral components of the judicial structure, each serving distinct roles and responsibilities within the legal framework.

The Courts of Appeal, as outlined in the Judiciary Act, play a significant role in the appellate process, providing a venue for the review of decisions made by lower courts. High Courts are established to serve at the state level, ensuring that justice is administered at a regional level. County Courts, while mentioned in the act, may face challenges in practical implementation, as noted in the SSLS report, which pointed out that only a fraction of County Courts had been established in practice.

The inclusion of Payam Courts in the Judiciary Act recognizes the importance of justice at the grassroots level. Payam Courts address legal matters at the local community level, emphasizing accessibility to justice for individuals in more remote or rural areas. By delineating the structure of the judiciary and specifying the types of courts to be established, the Judiciary Act establishes a legal foundation that is essential for maintaining order, upholding the rule of law, and ensuring access to justice for all citizens in Southern Sudan. The Act serves as a critical tool for the governance and regulation of the judicial system, contributing to the overall stability and fairness of the legal framework within the region. Moreover, it is worth recalling that the launch of mobile court in several parts of the country was a positive step in that sense as they contribute to the fight against impunity for child rights violations. Finally, 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.

A culture of judicial independence seems not yet enshrined in the

country. Lack of legal framework and infrastructure; inadequate laws, regulations and enforcement mechanisms have hindered the judicial system's ability to effectively address child protection issues. There is still a wide annual justice gap of almost two million unresolved legal problems. The inability to resolve legal matters in a timely and fair manner contributes to cycles of violence, aggravated crime and insecurity in the country.

Key challenges arise in terms of investigating and prosecuting perpetrators of violence and ensuring that governance institutions respect, protect and fulfil the rights provided for in the Transitional Constitution and other sources of law. South Sudan has not yet established a justice system that affords predictable and reliable legal protection for the poor and marginalised and meets the basic requirements for justice for its people.

The coexistence in the legal tradition and culture of legal concepts and procedures that derive mainly from two distinct and very different legal systems and the inconsistency of approach undermines the country's ability to deliver justice in accordance with the principle of legal certainty.

The ongoing conflict and political instability have disrupted the functioning of institutions, including the judicial system. In conflict-affected areas, children are particularly vulnerable to various forms of violence, including recruitment and displacement.

Many families and communities are unaware of children's rights or the harmful effects of certain practices. This lack of awareness has contributed to a cycle of abuse and exploitation, making it difficult for the judicial system to intervene effectively.

Judicial officers, law enforcement officials, and other relevant professionals in the Judicial system lack adequate training and capacity to handle child protection cases effectively. This, as a result, caused inadequate investigations, legal proceedings, and sentencing.

4.1. Customary law courts

The Local Government Act of 2009 (LGA) outlines a framework for customary law courts in South Sudan, introducing four levels of such judges, namely town bench courts, and A, B, and C courts. The LGA emphasizes the imperative for these customary courts to dispense justice without discrimination and independently, free from interference or favour. The Transitional Constitution recognizes the role of Traditional Authority, according to customary law, and stipulates that courts must apply customary law within the bounds of the Constitution and written law.

While the Supreme Court is designated as the final judicial instance under the Constitution, including for customary law matters, the LGA grants customary law courts the competence to adjudicate customary disputes and issue judgments in accordance with community customs, traditions, norms, and ethics. However, the LGA restricts their authority over criminal cases unless referred by a statutory court.

In practice, there have been instances where customary courts adjudicated criminal cases, including homicide, exceeding their jurisdiction. The lack of oversight and monitoring mechanisms contributes to difficulties in quantifying such occurrences. Notably, there have been reported instances of customary courts imposing death sentences, a prerogative reserved for statutory courts according to criminal procedure law.

The LGA establishes Customary Law Councils in each county as the highest customary law authority. These councils are entrusted with preserving community traditions, customs, and values, as well as regulating and administering customary law.

In South Sudan, the majority of day-to-day criminal and civil cases are resolved by customary courts rather than statutory courts. Several factors contribute to this trend, including the lower cost

associated with customary court proceedings, the familiarity with customary court procedures, and the challenges of accessing statutory courts due to limited availability and logistical difficulties. Additionally, customary courts are perceived as more durable and better suited to function in areas prone to insecurity.

This reliance on customary courts reflects the intricate interplay between legal, cultural, and practical considerations in the South Sudanese justice system, highlighting the need for a comprehensive and context-aware approach to legal administration and reform. The dynamic between statutory and customary courts in South Sudan is complex, often influenced by public perceptions that highlight concerns about bribery vulnerabilities within the statutory court system and the perceived disadvantages faced by the poor. A prevalent sentiment is the preference for negotiated and flexible settlements offered by chief's courts, contrasting with the perceived rigidity of the statutory court system. However, the choice of dispute resolution means is frequently driven by confusion and uncertainty about the court system rather than an informed decision.

One common complaint is that statutory courts are perceived as susceptible to bribery, creating a perception of inequity within the legal system. Many individuals express a preference for the chief's courts due to the perceived accessibility and adaptability of their dispute resolution methods. However, this choice is often constrained by practical considerations, as statutory courts may be physically inaccessible to individuals due to the shortage of judicial officers and infrastructure in certain areas of the country. The lack of comprehensive information further complicates the accurate assessment of public perceptions regarding the functioning of the South Sudanese justice sector and the efficacy of statutory versus customary courts. This underscores the need for a nuanced understanding of the factors influencing individuals'

choices in seeking legal remedies and the imperative for a holistic approach to justice reform that addresses both practical and perceptual challenges within the legal system.

5. Crimes against and affecting children: quantitative and qualitative results

South Sudan remains exposed to various crises, with children being mainly affected. They face risks of violence, recruitment into militant groups, and psychosocial issues, among other concerns. Children comprise the majority of the displaced population and face acute hardships and deprivations, including lack of access to adequate food and education, and are subjected to exploitation. Schools are often used as military bases, depriving children of the right to education. Even where forces relocate from a school, they often remain nearby, perpetuating a climate of fear and disruption. The armed forces and armed groups, including the South Sudan People's Defence Forces, SPLM/A-IO and NAS, continue to recruit and abduct children despite commitments to end the practice. Most children associated with the armed forces and armed groups have experienced multiple human rights violations or abuses. They have performed combat roles, the preparation of food and spying, among others. Children and their families are threatened with harm if they resist or try to escape. Initiatives to release children from armed forces and groups have been inadequate.

Women and girls are particularly susceptible to gender-specific violence. Socio-cultural barriers have left a shocking 2.8 million children (52% of whom are girls) without schooling. Malnutrition rates have surged by 25% in 2022 compared to the previous year, impacting women and children the most. Essential healthcare, especially for children and teenagers, remains hard to access. Safe

water and proper sanitation remain challenges, with only 40% of residents having access to clean water. These water and sanitation issues continue to affect health and nutrition adversely.

Although few statistics are available, the UN Commission on Human Rights reported in March 2022 that conflict-related sexual violence against women and girls was widespread and systematic throughout the country, with one recent study finding that 65 % of women and girls in conflict areas had experienced some form of gender-based violence. Intimate partner violence against women, including spousal abuse, is common, although there are no reliable statistics on its prevalence. According to NGOs, some women reported that police tried to charge them when they attempted to file criminal complaints of rape or abuse. While not mandatory, police often told women they needed to complete an official report prior to receiving medical treatment. Families of rape survivors encourage marriage to the rapist to avoid public shaming. Instances of girl compensation – compensating the family of a crime victim with a girl from the perpetrator’s family – occurs. Survivors are generally between ages 11 and 15, do not attend school, and often are physically and sexually abused and used as servants by their captors. Child abuse, including sexual abuse, is reportedly widespread. Child rape occurs frequently in the context of child, early, and forced marriage, and armed groups also perpetrated it. Authorities seldom prosecuted child rape due to fear among survivors and their families of stigmatization and retaliation. Child abduction is also problem. Rural communities often abducted women and children during cattle raids.

In May 2022 a court in Aweil, Northern Bahr el-Ghazal State, convicted a Sudanese national of raping and murdering a four-year-old girl in a rare example of a rape conviction. The court sentenced the accomplice to five years in prison for helping the accused to dispose of the body in a pit latrine. On 20 October

2022, a Juvenile Court in Juba sentenced a man to 10 years in jail for raping a 15-year-old girl in one of several cases presided over by the court since 2021.

The research could confirm 457 serious incidents involving 409 children (287 boys, 114 girls, and 8 with unspecified gender) during various periods. In particular, 60 incidents were recorded in the latter half of 2020, 168 in 2021, and 183 in the first half of 2022. The remaining 46 incidents began earlier but extended into the documented timeframe. Notably, there was a surge in these incidents from July 2021 to June 2022. This increase can be attributed to both continued armed confrontations due to defections and fragmentation among conflict parties and improved monitoring and reporting mechanisms after unified forces were established.

The national task force retrospectively confirmed 11 severe breaches involving 11 children (2 boys and nine girls), occurred few years ago. These incidents encompassed cases such as the injury of 2 boys, instances of sexual violence and rape against five girls, and the abduction of 4 girls. The recruitment and use of children (182) was the most verified grave violation, accounting for 39 % of the total, followed by killing and maiming (117) at 25 % and rape and other forms of sexual violence (74) at 17 %. Attacks on schools and hospitals (11) decreased by 50 % compared with the previous reporting period (22).

The United Nations verified 466 grave violations against 335 children in 2022 underscoring the alarming extent of the challenges faced by children in various contexts. Among the affected children, there were 201 boys, 129 girls, and five cases where the sex was unknown. It is particularly distressing to note that 25 children experienced multiple violations, emphasizing the vulnerability and complex situations some children endure.

Grave violations against children can encompass a range of issues, including but not limited to recruitment, sexual exploitation,

abduction, attacks on schools or hospitals, and denial of humanitarian access. These violations represent a blatant disregard for the rights and well-being of children, causing significant physical, emotional, and psychological harm.

Furthermore, the verification of three violations from previous years in 2022 underscores the persistence and lasting impact of these challenges. It highlights the need for sustained efforts to address and prevent such violations, with a focus on accountability, protection mechanisms, and support for affected children.

The data provided by the United Nations serves as a crucial call to action for the international community, governments, and organizations to intensify efforts to protect children from grave violations, uphold their rights, and create a safer and more secure environment for their growth and development.

5.1. Killing and maiming

UN reports that in 2022 the killing and maiming of children in conflict zones is a tragic and deeply distressing reality. In this specific instance, a total of 80 children, comprising 61 boys, 17 girls, and 2 cases where the sex was unknown, fell victim to such violence. These brutal acts were perpetrated by unidentified individuals in 37 cases, and the circumstances included incidents involving explosive ordnance (30 cases) and crossfire between various armed groups.

The entities involved in the incidents were diverse, including the South Sudan People's Defence Forces (SSPDF), the Sudan People's Liberation Movement-Army in Opposition Kit-Gwang (SPLM/A-IO Kit-Gwang), forces loyal to General Stephen Buay Rolnyang, the Sudan People's Liberation Movement-Army in Opposition Agwelek (SPLM/A-IO Agwelek), and the National Salvation Front (NAS). Such acts highlight the urgent need for concerted efforts

to protect children in conflict zones, bring perpetrators to justice, and address the root causes of violence. It is crucial for the international community, governments, and humanitarian organizations to work collaboratively to ensure the safety and well-being of children in areas affected by armed conflict, and to promote a culture of accountability and respect for children's rights. The research outcomes highlight that between July 2020 and 2022, 117 children, including 91 boys, 25 girls, and one of unknown gender, aged 2 to 17, were either killed (58) or maimed (59). Most incidents were reported in Unity State (36), primarily due to village attacks and crossfires. SSPDF was responsible for 29 of these violations, with other groups and explosive remnants of war (ERW) also being major contributors. ERW alone accounted for the killing and maiming of 69 children, making up nearly 60% of the child casualties. For instance, in November 2020, 13 boys were impacted by an explosive device in Lakes State, and in July 2021, five girls were injured by a hand grenade in Northern Bahr el-Ghazal. The country task force is collaborating with the Mine Action Service on demining to create safer environments for children.

5.2. Recruitment and Use of Children

The recruitment and utilization of children in conflict is a deeply concerning and an egregious violation of their rights. In 2022, a total of 110 children, comprising 107 boys and 3 girls, were recruited and deployed by various armed entities in South Sudan. This includes groups such as the Sudan People's Liberation Movement-Army in Opposition Kit-Gwang (SPLM/A-IO Kit-Gwang), the Sudan People's Liberation Movement-Army in Opposition (SPLM/A-IO), the South Sudan People's Defence Forces (SSPDF), forces loyal to General Moses Lokujo, forces loyal to General James Nando, the South Sudan National Wildlife Services, the South Sudan National

Police Service, the South Sudan Opposition Alliance, and the National Prison Service of South Sudan.

The roles assigned to these recruited children were diverse and included involvement in combat, serving as bodyguards, porters, and cooks. This exploitation places children in extremely dangerous and harmful situations, exposing them to physical and psychological trauma. It is essential for the international community, governments, and relevant organizations to collaborate and take decisive action to end the recruitment and use of children in armed conflicts. Such actions should include efforts to hold those responsible accountable, provide rehabilitation and reintegration support for the affected children, and implement preventive measures to safeguard the rights and well-being of children in conflict zones. The research could find that between 2018 and the first half of 2022, 182 children aged 9 to 17, were verified as being recruited and used in conflict in South Sudan. Most of these children were boys, with a significant number under the age of 15. They were taken by non-State actors like the SPLA-IO, various factions loyal to different generals, and government forces, including the SSPDF and the National Police Service. These children served in various capacities, from bodyguards to porters, cooks, and messengers. Some were visibly active in military events, such as parades. Many of these children were taken directly from their homes and villages. The country task force continued to work on implementing plans to prevent violations against children in armed conflicts. No child was verified as being detained due to associations with armed groups during the reporting period.

5.3. *Sexual Violence*

The perpetration of sexual violence against girls, some as young as age 7, is a deeply distressing and reprehensible occurrence. In

this instance, a total of 94 girls became victims of sexual violence, with the alleged perpetrators including the South Sudan People's Defence Forces (SSPDF) in 74 cases, the Sudan People's Liberation Movement-Army in Opposition Kit-Gwang (SPLM/A-IO Kit-Gwang) in 10 cases, the Sudan People's Liberation Movement-Army in Opposition (SPLM/A-IO) in 4 cases, the South Sudan National Police Service in 2 cases, the SPLM/A-IO Agwelek in 2 cases, and unidentified perpetrators in 2 cases.

These acts underscore the urgent need for comprehensive measures to prevent, respond to, and address sexual violence in conflict zones. It is imperative for the international community, governments, and organizations to work collaboratively to ensure the protection of individuals, particularly vulnerable populations such as children, and to hold perpetrators accountable for their actions. Efforts should also focus on providing support and care for the survivors of sexual violence and addressing the root causes that contribute to such heinous crimes. The research confirmed 74 cases of sexual violence against girls aged 9 to 17 during various periods: 7 in the latter half of 2020, 7 in 2021, and 60 in the first half of 2022. Of these, 57 cases were linked to SSPDF, and the rest to SPLA-IO and associated factions. The majority of these violations, over 80%, took place in Unity State. Of the confirmed cases, there were 64 instances of rape, 9 of gang rape, and 1 of attempted rape. Notably, attacks on Unity State villages by armed youths associated with SSPDF in April 2022 led to the rape of 51 girls, two of whom died due to their injuries. Many girls were targeted during military actions or daily activities, with some abducted before facing sexual violence. Gang rape was a particular concern, as exemplified by incidents involving SPLA-IO soldiers. These incidents are rooted in gender inequality, power imbalances, and broader humanitarian and security challenges. Despite these grave violations, accountability in South Sudan remained

low, with the situation marked by limited rule of law and a prevailing culture of impunity. Efforts are being made to strengthen accountability mechanisms, such as initiating mobile courts. Yet, many cases of sexual violence go unreported due to stigmatization, potential retaliation, and inadequate support services.

5.4. Abduction

The abduction of 76 children (36 boys, 37 girls, 3 of unknown sex) is a distressing and reprehensible act that has been verified in this report. Various entities have been implicated in these abductions, including the Sudan People's Liberation Movement-Army in Opposition Kit-Gwang (SPLM/A-IO Kit-Gwang) in 33 cases, the South Sudan People's Defence Forces (SSPDF) in 18 cases, the National Salvation Front (NAS) in 10 cases, the National People's Alliance Movement in 6 cases, the Sudan People's Liberation Movement-Army in Opposition Agwelek (SPLM/A-IO Agwelek) in 3 cases, the Sudan People's Liberation Movement-Army in Opposition (SPLM/A-IO) in 3 cases, unidentified perpetrators in 2 cases, and the South Sudan United Front/Army in 1 case.

The research verified the abduction of 63 children aged between 4 months and 11 years, with 18 instances in the latter half of 2020, 13 in 2021, and 32 in the first half of 2022. An additional 27 abduction reports were still under verification. Over 80% of these abductions were carried out by non-State actors, including the National Salvation Front (18), NPAM (12), SPLA-IO (10), and the SPLA-IO Kitgwang faction (7). The SSPDF was responsible for the remaining 12 cases. These incidents mostly occurred in Unity (30), Central Equatoria (15), Western Equatoria (9), and Western Bahr el-Ghazal (5). Abductions ranged in duration from a few hours to several months. Examples of these incidents include a July 2020 case where four children were abducted in

Western Equatoria by the National Salvation Front and a January 2022 incident where NPAM abducted two boys from a displacement camp in Unity State. Reasons for these abductions varied, from recruitment and use in conflict and sexual violence to the advancement of military agendas. In some cases, the purpose behind the abductions remained unknown.

5.5. Attacks against schools and hospitals

The UN reports that in 2022 the occurrence of attacks on schools and hospitals is deeply troubling and has severe implications for the safety and well-being of communities. In this report, a total of 62 attacks on schools (51 cases) and hospitals (11 cases) have been attributed to various entities, including the South Sudan People's Defence Forces (SSPDF) in 30 cases, unidentified perpetrators in 20 cases (including incidents of crossfire between different factions), the National Salvation Front (NAS) in 8 cases, the Necessary Unified Forces in 2 cases, the Sudan People's Liberation Movement-Army in Opposition Agwelek (SPLM/A-IO Agwelek) in 2 cases, the Sudan People's Liberation Movement-Army in Opposition Kit-Gwang (SPLM/A-IO Kit-Gwang) in 2 cases, and the Sudan People's Liberation Movement-Army in Opposition (SPLM/A-IO) in 1 case.

Furthermore, military use of schools and hospitals was verified, with the South Sudan People's Defence Forces (SSPDF) using 16 schools, the Necessary Unified Forces using 2 schools, the Sudan People's Liberation Movement-Army in Opposition Agwelek (SPLM/A-IO Agwelek) using 2 schools, the Sudan People's Liberation Movement-Army in Opposition Kit-Gwang (SPLM/A-IO Kit-Gwang) using 2 schools, the Sudan People's Liberation Movement-Army in Opposition (SPLM/A-IO) using 1 school, and the National Salvation Front (NAS) using 1 hospital.

These attacks not only endanger the lives of civilians but also disrupt essential services and access to education and healthcare. Urgent and concerted efforts are required to protect schools and hospitals from attacks, uphold the rights of children to education, and ensure access to healthcare in conflict-affected areas. Accountability for such attacks is crucial for fostering a safe and secure environment for communities in South Sudan.

The research confirmed 11 attacks on educational and medical facilities in South Sudan: 3 on schools and eight on hospitals, distributed over a span of three years, with four attacks in the latter half of 2020, four in 2021, and three in the first half of 2022. These attacks were attributed to various factions: SSPDF, the National Salvation Front, SPLA-IO, and some unidentified perpetrators. The incidents occurred across multiple regions, including Central Equatoria, Unity, and Western Equatoria. The primary motivation behind these attacks was looting, driven by severe shortages of food and other essentials, especially in cantonment sites. Specific incidents included the theft of all medical supplies from an Upper Nile health facility by SPLA-IO forces, an attack on a healthcare centre in Central Equatoria by the National Salvation Front, and the looting of a primary school in Yei County by SSPDF soldiers, disrupting children's education.

The United Nations verified 26 incidents of the military use of schools (25) and hospitals (1), of which nine occurred in the second half of 2020, 5 in 2021, and 12 in the first half of 2022. The violations were attributed to government security forces, namely SSPDF (20), the National Security Service (1), SPLA-IO (2), the SPLA-IO Kitgwang faction (2), and forces loyal to General Nando (1). The violations occurred in Central Equatoria (12), Unity (7), Western Equatoria (2), Eastern Equatoria (2), Jonglei (2), and Western Bahr el-Ghazal (1). Most of the facilities were used for accommodation services, while six schools were used to store am-

munition, five to launch military offences, and one as a base for military training. The status of military use remained unknown at the time of reporting.

5.6. Denial of humanitarian access

The UN reported in 2022 the denial of humanitarian access in 44 incidents, perpetrated by various entities including the South Sudan People's Defence Forces (SSPDF), the National Salvation Front (NAS), the South Sudan National Police Service, the Sudan People's Liberation Movement-Army in Opposition (SPLM/A-IO), unidentified perpetrators, SPLM/A-IO Agwelek, and SPLM/A-IO Kit-Gwang, is a grave concern and a violation of essential humanitarian principles.

The research verified ten instances of denied humanitarian access impacting children's assistance, with two incidents in the latter half of 2020, six in 2021, and two in the first half of 2022. SSPDF and the SPLA-IO Kitgwang faction were responsible for one violation each, but unidentified perpetrators carried out the majority (8). Unity was the most affected region, with five occurrences, followed by other regions, including Jonglei and Central Equatoria. These denials manifested as entry restrictions for aid workers, threats, violence, and looting of humanitarian convoys, with NGOs being the primary victims. Notably, an August 2020 ambush in Central Equatoria saw medical supplies for displaced persons stolen, while a February 2021 incident in Unity State resulted in the looting of UNICEF-funded medical supplies valued at about \$2,500, causing a suspension of services. Additionally, humanitarian workers faced life-threatening risks, as evidenced by the killing of two in April 2022 in Unity State, leading to the relocation of around 20 other staff for safety reasons.

For this study, interviewees were asked whether they believe that

in the past decade believe the situation for children in South Sudan has improved, deteriorated, or remained the same.

The responses indicate a mosaic of perspectives on the state of children in South Sudan over the past decade revealing a narrative that reflects the intricate tapestry of challenges and glimpses of progress. These diverse viewpoints offer a nuanced understanding of the multifaceted landscape experienced by the young generation.

One resounding theme echoes the sentiment of deterioration, with the ceaseless conflicts casting a long and dark shadow over the lives of many children. The profound impact of war is palpable, infiltrating the realms of education, health, and overall well-being. The narrative unfolds further, painting a stark picture where efforts to enhance access to education and healthcare are thwarted by the persistent spectre of sporadic violence. This dichotomy encapsulates a sobering reality: while there are endeavours to improve, the disruptive nature of conflict often leaves progress suspended, resulting in a situation that, in many ways, has remained static.

Some respondents acknowledge a modicum of improvement, albeit not significantly. While international organizations provide support, particularly in the area of health and nutrition, internal challenges impede the realisation of significant progresses. This viewpoint underscores the delicate balance between external assistance and the pressing need for internal laws and mechanisms able of impacting on the country's potential for change.

Respondents also differentiate between the urban and rural areas. In the capital glimmers of progress are discernible, marked by improved services. However, the glow of improvement dims in rural regions, where the situation remains stagnant or, in some instances, worsens. This geographic disparity emphasizes the imperative of comprehensive development strategies that bridge urban-rural gaps.

Economic hardships emerge as a recurrent theme, pushing more children into the harsh realities of child labour and early marriage, diverting them from the pathways of education and innocence.

While the phenomenon of child soldiers persists, respondents noted a shift in societal consciousness, highlighting more awareness, in particular, about the pivotal importance of education and healthcare for children in order to avoid recruitment. However, said awareness does not translate This into implementation which faces difficulties with conflicts, economic strains, and internal discord.

In concluding, respondents underscore the urgency for concerted efforts, both internal and external, to untangle the web of challenges and foster an environment where children can thrive, learn, and dream unencumbered by the shadows of conflict and hardship. The discourse invites reflection on the collective responsibility to advocate for and enact meaningful change, ensuring that the next decade paints a brighter and more hopeful portrait for the children of South Sudan.

6. Reintegration and Resocialization of Children

Reintegration and resocialisation processes meet several challenges. Reintegration services include prolonged psychosocial support, vocational training, quality education, health care, and catering to other vital needs. The National Disarmament, Demobilization and Reintegration Commission (NDDRC) leads the release and reintegration programme in South Sudan in partnership with the Ministry of Gender, Child and Social Welfare. They are supported by international and local NGOs such as UNICEF.

The National Disarmament, Demobilization, and Reintegration Commission, in collaboration with UNICEF and other partners, supported 567 children (436 boys and 131 girls) by offering them

temporary care, helping them find their families, offering mental health support, and providing livelihood training under the UNICEF's three-year reintegration initiative in South Sudan. This support extended to children released in earlier years who were still benefiting from the program. However, truly reintegrating these children remained difficult due to the scarcity of educational and vocational training centres. While some children finish primary education, they often can't continue to secondary levels due to a lack of nearby facilities. Moreover, those with limited vocational training available face challenges applying their skills and finding work due to the country's economic situation.

7. Conclusion and Recommendations

The research confirms that situation of children is deeply concerning marked by severe violations of their rights and well-being. Grave violations, including recruitment and use in armed forces, killing, maiming, sexual violence, attacks on schools and hospitals, abduction, and denial of humanitarian access, paint a grim picture of the challenges faced by children. The impact is not only physical but also extends to the psychological and emotional well-being of these young lives. Ongoing child abuses and the fragility of the peace agreement affect deeply the children situation.

The international community must recognize the urgency of addressing these issues and take concerted action to protect the rights and dignity of children in South Sudan enhancing comprehensive and sustained efforts from national and international stakeholders. Understanding the situation in South Sudan necessitates a recognition of the interconnectedness of ethno-political dynamics, elite competition, and the government's role in perpetuating violence. Addressing the root causes of conflict requires a commitment to

transparency, accountability, and a genuine effort to break the cycle of impunity that has allowed violence to persist. Ignoring these complexities risks perpetuating a narrative that obscures the true drivers of conflict and hinders the prospects for lasting peace and stability in the country.

To achieve sustainable peace, the country needs structural reforms including a comprehensive framework for the protection of children's rights.

Recommendations

- Prioritize the protection of children through legislative initiatives and enforcement of laws.
- Enhance efforts to improve the status of women and girls and address the normalization of sexual violence against them, including by implementing existing commitments and instituting a zero-tolerance policy on all forms of gender-based violence, including among public officials.
- Take measures to reverse the culture of impunity by implementing the provisions of the Revitalized Agreement on accountability and transitional mechanisms.
- Develop the criminal justice system, ensuring that discrimination (in particular by gender and age) is not tolerated.
- Create monitoring and enforcement mechanisms. This could involve setting up an independent oversight body responsible for regularly evaluating the implementation of the legislative framework and ensuring that violations are promptly addressed. Strengthening partnerships with civil society organizations, including those working on child protection, can provide additional resources for monitoring and reporting on violations.

- Create comprehensive reintegration programs focussing on immediate and long-term needs. Recognize the trauma many of these children have faced and ensure long-term psychological support is available. Collaboration with international organizations specializing in trauma can be beneficial.
- Engage communities through awareness programs to reduce the stigmatization of returnee children, emphasizing that many were forcibly involved in the conflict and deserve support and understanding.
- Enhance community-based child protection networks, allowing for early identification and response to child protection concerns.
- Prioritize the establishment of more educational institutions, especially secondary schools for continuity in learning.
- Increase the number of vocational institutions and ensure they align with market needs. Additionally, provide support mechanisms for young people to practice and monetize their skills in the local environment.
- Prioritize tracing initiatives for children separated from their families and facilitate reunification processes. If immediate family reunification is impossible, look for alternative care within the extended family or community.
- Partner with international organizations, NGOs, and donor agencies to gain from their expertise, resources, and best practices in child protection and reintegration.

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