

# Outcome evaluation of UNMISS contribution to strengthening the rule of law and accountability in South Sudan

07 July 2023

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## INSPECTION AND EVALUATION DIVISION

Function *“The Office shall evaluate the efficiency and effectiveness of the implementation of the programmes and legislative mandates of the Organization. It shall conduct programme evaluations with the purpose of establishing analytical and critical evaluations of the implementation of programmes and legislative mandates, examining whether changes therein require review of the methods of delivery, the continued relevance of administrative procedures and whether the activities correspond to the mandates as they may be reflected in the approved budgets and the medium-term plan of the Organization;”* ([General Assembly Resolution 48/218 B](#)).

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## Summary

OIOS-IED conducted an evaluation of the contribution of the United Nations Mission in South Sudan (UNMISS) in strengthening the rule of law and accountability in South Sudan between 2018 and 2022.

During the evaluation period, UNMISS operated in a challenging post-conflict context. Barriers to effectiveness cited by respondents included limited political will, persistent cycles of violence and impunity, lack of transparency of public revenues, mistrust among justice actors and citizens, a shrinking civic space, and an impenetrable terrain resulting in limited access to vast swathes of the country.

Overall, UNMISS support was relevant to the exigent needs that the country encountered following the civil war that broke out in 2013, and the consequent signing of the Revitalized Agreement for the Resolution of Conflict in South Sudan (R-ARCSS) in July 2018. However, the mission's work with United Nations country team (UNCT) partners in strengthening the rule of law and accountability could have been more coherent to achieve the shared objectives emanating from the revitalized peace agreement, by leveraging each partner's comparative advantages.

In response to the enormous needs of the state, UNMISS support to strengthening the rule of law and accountability was catalytic in some instances; however, pervasive contextual problems hampered the achievement of systemic change across the justice chain.

The main achievements and results that strengthened the rule of law and accountability in South Sudan during this period achieved through UNMISS support and interventions included:

- Deployment of court sessions, including courts martial, brought the rule of law to areas without access to statutory justice,
- Infrastructure development through quick impact projects,
- Release of children recruited by parties to the conflict,
- Capacity building and mentoring for, and of, justice actors and institutions,
- Growing recognition of sexual and gender-based violence and conflict-related sexual violence as crimes, and provision of small yet fundamental steps to access to justice,
- Establishment of a template on how to harmonize statutory and customary systems through the special courts,
- Partnership with civil society actors and organizations to promote human rights and transitional justice, and
- Support for reforms and legislation, such as security bills, the land policy and the Penal Code.

OIOS makes three recommendations to UNMISS based on the findings of the evaluation. They centre around improving internal Mission documentation, enhancing partnership with UNCT entities, and development of a capacity strengthening strategy, in coordination with UNCT and the Government of the Republic of South Sudan (GoRSS) rule of law and accountability partners.

## I. Introduction and objective

1. This overall objective of this Office of Internal Oversight Services (OIOS) evaluation was to determine, as systematically and objectively as possible, the relevance, coherence and effectiveness of the contribution of the United Nations Mission in South Sudan (UNMISS) to strengthening the rule of law and accountability in South Sudan (see Annex 1 for the theory of change). The evaluation topic emerged from a programme-level risk assessment described in the evaluation inception paper produced at the outset of the evaluation.<sup>1</sup> The evaluation conforms with the norms and standards for evaluation in the United Nations System.<sup>2</sup>
2. UNMISS management comments were sought on the draft report and considered in the final report. The UNMISS response is included in Annex 2.

### Background and Context

3. South Sudan gained independence in 2011 following a referendum after decades of protracted conflict, with UNMISS established under Security Council resolution 1996 in the same year. In December 2013, violence erupted in the capital city of Juba between the two largest ethnic groups in the country and spread to other locations, underpinned by complex conflict dynamics and resulting in humanitarian, political and security crises. By 2014, nearly a million people were displaced, and the number of food insecure civilians tripled from 1.1 million to 3.2 million.<sup>3</sup> In 2014, the UNMISS state-building mandate was curtailed by the Security Council, and, by extension, its support to the rule of law institutions.<sup>4</sup> The signing of the Revitalized Agreement for the Resolution of Conflict in South Sudan (R-ARCSS) in September 2018 reduced fighting between the conventional parties to the conflict and led to a unity government in 2020. Within this peace framework are found the rule of law and accountability objectives driving mission mandates.
4. Subsequent mandate renewals stressed the need to end impunity in South Sudan by bringing perpetrators of human rights violations to justice, with the focus on sexual and gender-based violence (SGBV) and conflict-related sexual violence (CRSV). The 2020 UNMISS Strategic Review recommended an enhanced role for UNMISS in building the capacities of judicial and law enforcement institutions to address widespread impunity, and promote the rule of law, including at the sub-national level. The subsequent 2021 and 2022 mandates included specific instructions for UNMISS to engage in technical assistance to the GoRSS in this sector.
5. According to the World Bank Rule of Law indicator, South Sudan was scored at -2.0 in 2021,<sup>5</sup> well below its regional neighbours. Transparency International ranked South Sudan 178 out of 180 nations on their corruption perceptions index.<sup>6</sup>
6. The rule of law (ROL) is the principle of governance where “all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly

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<sup>1</sup> Outcome evaluation of UNMISS contribution to strengthening the rule of law and accountability in South Sudan. 2 September 2022.

<sup>2</sup> [United Nations Evaluation Group \(UNEG\)](#). Norms and Standards for Evaluation, 2016.

<sup>3</sup> <https://unmiss.unmissions.org/background>

<sup>4</sup> In 2014, the ROL and Security Institutions Office was closed. The ROL advisory section was reintroduced in 2017 with a much-reduced capacity.

<sup>5</sup> <https://databank.worldbank.org/source/worldwide-governance-indicators>

<sup>6</sup> <https://www.transparency.org/en/cpi/2022>

promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.”<sup>7</sup>

## II. Scope and Methodology

7. The evaluation covered the period from the signing of the revitalized peace agreement in July 2018 to the end of 2022. A mixed methods approach was used, including in-person and virtual interviews, quantitative data analysis, desk review, field visits, observations and a spot survey of 15 civil society organization (CSO) actors. A total of 71 individual and 35 group interviews were conducted covering 275 individuals, of whom 46 per cent were women. Stakeholders interviewed included South Sudanese refugees in Uganda, citizens, national justice actors in Juba, Jonglei and Western Bahr-el-Ghazal States, bilateral donors, and Troika members,<sup>8</sup> civil society actors, United Nations Country Team (UNCT) members and UNMISS staff.<sup>9</sup> Table 1 below summarizes the stakeholder groups.

Table 1. Key evaluation stakeholders

South Sudanese Justice Actors	South Sudanese Citizens and Civil Society	UNMISS	UN Partners	Other Partners
<ul style="list-style-type: none"> <li>• Transitional National Legislative Assembly (TNLA)</li> <li>• National Police Service</li> <li>• Military Justice Directorate</li> <li>• National Prisons Service</li> <li>• South Sudan Human Rights Commission</li> <li>• Disarmament, Demobilization and Reintegration Commission</li> <li>• Anti-Corruption Commission</li> <li>• Implementation committee on CRSV</li> <li>• Judiciary</li> </ul>	<ul style="list-style-type: none"> <li>• Refugees settled in Adjumani District, Uganda</li> <li>• Human Rights Defenders Network</li> <li>• Union of the Disabled</li> <li>• Center for Inclusive Governance Peace and Justice</li> <li>• Steward Women</li> <li>• African European Parliamentary Initiative</li> <li>• Citizens and internally displaced persons (IDPs) in</li> </ul>	<ul style="list-style-type: none"> <li>• Rule of Law Advisory Section</li> <li>• Human Rights Division</li> <li>• United Nations Police</li> <li>• Civil Affairs Division</li> <li>• Political Affairs Division</li> <li>• Security Sector Reform (SSR) Working Group</li> </ul>	<ul style="list-style-type: none"> <li>• United Nations Office of Rule of Law and Security Institutions (OROLSI)</li> <li>• Department of Peace Operations Integrated Operational Team (IOT)</li> <li>• United Nations Development Program (UNDP)</li> <li>• United Nations Population Fund (UNFPA)</li> </ul>	<ul style="list-style-type: none"> <li>• African Union</li> <li>• Reconstituted Joint Monitoring and Evaluation Commission (R-JMEC)</li> <li>• Troika members: United States of America, United Kingdom, Norway</li> <li>• South Sudan Reconciliation, Stabilization, and Resilience Trust Fund (RSRTF)</li> <li>• Norwegian Refugee Council</li> </ul>

<sup>7</sup> [S/2004/616](#)

<sup>8</sup> A signatory to the peace agreement, the Troika included the United States of America, the United Kingdom of Great Britain and Northern Ireland, and Norway.

<sup>9</sup> Of the 275 respondents, 117 were based in Juba and 158 in other locations, including Western Bahr-el-Ghazal State, Jonglei State, Adjumani, Uganda, and New York City, in descending order.

<ul style="list-style-type: none"> <li>• Ministry of Justice</li> <li>• Lawyers</li> <li>• Customary justice actors: chiefs and traditional leaders</li> </ul>	<p>Jonglei and Western Bahr-el-Ghazal States</p>		<ul style="list-style-type: none"> <li>• Embassy of The Netherlands</li> <li>• Embassy of France</li> </ul>
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8. Secondary data analysed for this evaluation included Mission reports, documents and databases (Comprehensive Planning and Performance Assessment System, and Situational Awareness Geospatial Enterprise, UNMISS public opinion survey reports), external reports and databases (including Armed Conflict Location & Event Data Project, PAX Household Security Survey, UNICEF Breaking Cycles of Violence report, and UNDP Justice Needs and Satisfaction Survey).
9. A workshop was conducted in early March 2023 to validate findings with UNMISS stakeholders, seek feedback and supplement evidence with other relevant information. This workshop helped generate the recommendations presented in Section V.
10. A limitation to this evaluation was the lack of available and accessible data from the Mission and GoRSS. Some implementation data from Mission activities relevant to the theory of change and outcomes was not readily available; further, gaps in knowledge management systems, processes and culture restricted a full assessment of the Mission contribution to said outcomes. For example, information on incidence of CRSV from the Mission’s Monitoring, Analysis and Reporting Arrangements (MARA) was not provided.

### III. Evaluation Results

- A. **Relevance:** Overall, UNMISS support was relevant and appropriate toward the needs of national rule of law and accountability institutions. Nevertheless, women’s representation in the design and implementation of some priority activities was inadequate.
  11. UNMISS support offered to GoRSS was perceived by recipients to be relevant and based on identified needs. Areas of relevant support included protection of civilians within the sites that the Mission administered during the period under review, institutional and individual capacity building to national justice institutions and justice actors, as well as support to the monitoring of strategic and action plans. For example, the Mission supported TNLA priorities and the defence forces committee to address CRSV and bolstered fora like the Police Community Relations Committees and police community watch groups, which started increasing community ownership of law and order. With a few exceptions, UNMISS built trust with national stakeholders, which created space for negotiation of priorities and action planning.
  12. External stakeholders expressed strong appreciation of the technical skills that the Rule of Law Advisory Section (RoLAS) team brought, especially considering that the section was only resurrected in 2017. In the 2021 UNMISS public opinion survey,<sup>10</sup> three quarters of respondents (75 per cent, N=3,232) reported that UNMISS efforts in investigating and

<sup>10</sup> UNMISS Public Opinion Survey Report (2021).

reporting on human rights, including sexual violence as well as threats to freedom of expression and opinion, were making the situation in South Sudan better. There existed an awareness among stakeholders that the country had not again descended into civil war, in part because of UNMISS presence. However, the support provided to GoRSS institutions and citizens was perceived to be inadequate, given the enormity of challenges the nation continued to grapple with.

13. The RoLAS 2021-22 work plan and United Nations Focal Point Network terms of reference for ROL and accountability were well aligned with the sustainable development goal (SDG) 16, which promotes access to justice and accountability institutions. This priority was also identified in South Sudan's National Development Strategy for 2018-2021.
14. Nevertheless, gaps remained. The peace agreement mandated 35 per cent women's participation in roadmap bodies and entities;<sup>11</sup> yet UNMISS struggled to achieve this threshold in its programme, and to incorporate a gender inclusive lens that would reduce barriers to the crucial role in conflict prevention and peacebuilding that women play.<sup>12</sup> Little evidence was found within the design and documentation of court deployments promoting full and meaningful participation of women legal actors. However, the Mission did include women in consultations for legal reform, especially the land bill. The Mission found application of the Human Rights Due Diligence Policy challenging, struggling with how to maximize effectiveness and legitimacy within a context where obligations existed to partner with actors with criminal records, with little progress made.

*A few examples of adaptive approaches were found, but overall opportunities for learning by doing, and the documentation of such, remained untapped.*

15. Opportunities were leveraged to overcome challenges through good offices and political engagement at the highest level. UNMISS deployed its Radio Miraya<sup>13</sup> to disseminate information and public service announcements to build awareness on human rights and justice avenues. When special court deployments were planned in zones of intercommunal violence to contribute to peace, UNMISS provided logistics, security and transport, which was a unique contribution that only the Mission could offer.
16. Evidence of learning by doing was found in a few Mission activities. UNMISS supported court deployments that documented lessons learned in after-action reports and notes to file, which allowed improvements to be incorporated into subsequent deployments. Institutional support to the National Prisons Service's (NPS) agricultural strategy documented adaptations in promoting livelihood skills for prisoners and food security within prisons. The RSRTF promoted a culture of information sharing, flexibility and regular monitoring of its funded projects. However, documentation on lessons learned from other activities, including capacity building, technical support, good offices, and human rights monitoring, was found to be inadequate. Coupled with the high turnover of staff, institutional memory was found to be weak.

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<sup>11</sup> Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) (2018). As of 2023, 32% of seats in the TNLA are held by women (<https://www.idea.int/data-tools/data/gender-quotas/country-view/314/35>).

<sup>12</sup> [S/RES/1325](#).

<sup>13</sup> One of the largest radio stations in South Sudan with programming mostly in English.



B. Coherence: Cooperation within the Mission was integrated, however, inadequate coordination with UNCT entities led to duplication of efforts and other inefficiencies.

17. Mission leadership understood the integrated nature of the rule of law towards South Sudan's future durable peace, with "Support rule of law institutions, promote accountability and access to justice" appearing fourth in the five tracks of engagement in the Mission Plan, which was the tool developed to operationalize the Mission's vision (2021 – 2024). RoLAS and the Human Rights Division (HRD) aligned their work plans accordingly. Functioning coordination among and between uniformed and civilian components such as the police component (UNPOL), HRD and RoLAS led to successful implementation of training programmes, court deployments, support to Penal Code reform and to the TNLA. Decentralized authority given to UNMISS field offices afforded greater flexibility and responsiveness at the local level.<sup>14</sup> An accountability working group commenced efforts in 2022 to articulate a common understanding of transitional justice, including justice and accountability, in sustaining peace and development in South Sudan, and to coordinate UN action for accountability in the country. However, there was no evidence of tangible results yet from this working group.
18. UNMISS coordinated with national institutions such as the Law Review Commission, Information Commission, Transitional Justice Working Group and NPS with strategic plans, in alignment with the objectives of GoRSS and the revitalized peace agreement. However, most entities had not implemented their strategic plans because of insufficient resources and lack of political will.
19. External coordination presented challenges for the Mission to leverage its comparative advantages. Difficulties in collaborating with UNDP limited the strategic support to the shared objectives of enhancing access to justice and the rule of law within the country. One example was that despite the existence of terms of reference for a Focal Point Network for Justice and Rule of Law and an acknowledgment that relations between the two entities had improved in recent years, opportunities for enhanced cooperation remained untapped. In another instance, while UNDP and UNMISS collaborated on some mobile court deployments (para. 24, Table 2), on the UNMISS-supported deployments of the joint special mobile court (JSMC), there was a lack of communication on the court strategy and approach of involving customary actors.
20. An independent evaluation of the South Sudan country programme of UNDP found that its collaboration with the Mission lacked alignment with "strengthening governance processes, especially in areas such as rule of law".<sup>15</sup> This was echoed in the 2020 Strategic Review of UNMISS.<sup>16</sup> A lack of coherence with partners plagued the Mission; organizations complained of top-down approaches instead of collaborative ones. A lack of clear procedures on how various sections of the Mission used RSRTF funds limited how the Mission leveraged resources to further its mandated objectives. For instance, restrictions existed on the amount that could be drawn as a cash advance per activity.

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<sup>14</sup> Effectiveness of Peace Operations Network (2019). Assessing the Effectiveness of the United Nations Mission in South Sudan.

<sup>15</sup> UNDP (2022). Independent Country Programme Evaluation: South Sudan.

<sup>16</sup> S/2020/1224

C. Effectiveness: UNMISS support to strengthening the rule of law and accountability was catalytic in some instances; however, pervasive contextual problems hampered the achievement of systemic change across the justice chain.

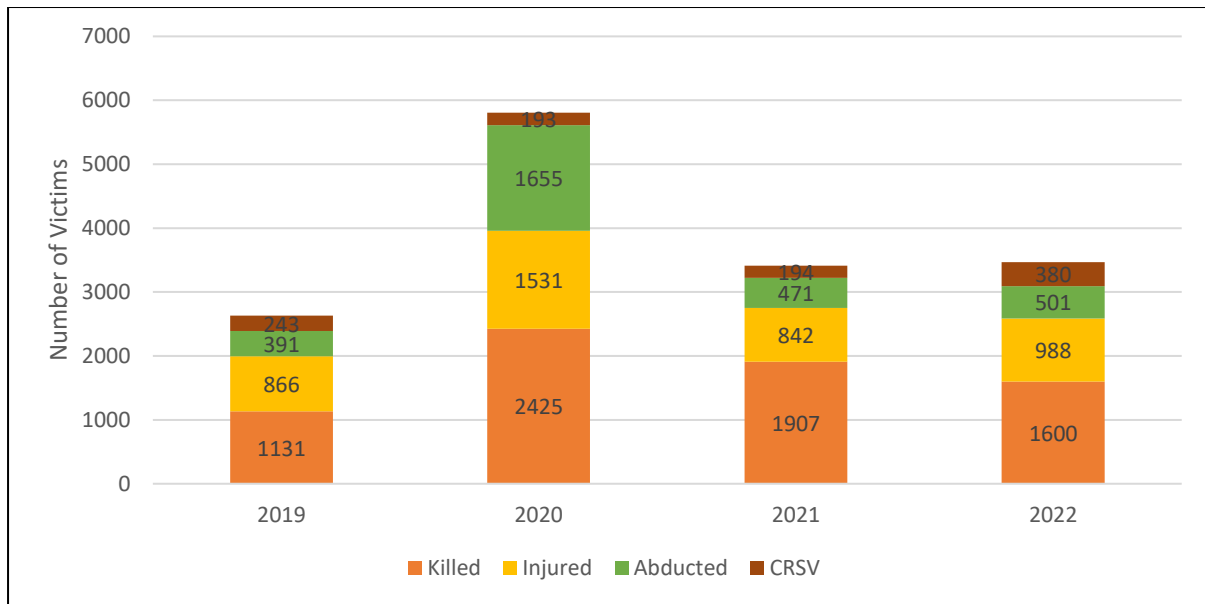
21. Violence remained persistent during the period covered by the evaluation as can be seen in Figure 1 below. Persistent contextual challenges limited the UNMISS support in achieving the envisaged rule of law and accountability results. For 2023-24, UNMISS had a budget of \$1.16 billion, of which 0.4 per cent was allocated to programmatic funding. The disabling factors as articulated by stakeholders included:

- a. Limited political will to advance the rule of law and accountability exhibited by the GoRSS and a lack of trust among R-ARCSS signatories leading to delayed implementation of the agreement. For example, the African Union-backed Hybrid Court for South Sudan (HCSS) to investigate and prosecute war crimes and other human rights violations committed during the civil war had not been created thus far. The same was true for the Commission on Truth, Reconciliation and Healing, and the Compensation and Reparation Authority.<sup>17</sup>
- b. Pervasive cycles of violence and impunity leading to politicized intercommunal conflict and opportunities for land grabbing.
- c. A lack of transparency of public revenues from the oil sector leading to limited budgetary resources for ministries and undermining the deployment, support and retention of rule of law and justice actors across the country, especially in rural areas.
- d. Citizens' mistrust towards justice actors stemming from the latter's lack of presence, professionalism, including basic literacy, and enforcement. Citizens lacked awareness of their rights.
- e. A shrinking civic space for human rights activists and civil society actors leading to a reduction in media houses, abounding censorship and detention of journalists, thereby curtailing dialogue for the advancement of rights and accountability.
- f. Impenetrable terrain and limited air assets available, compounded by four years of floods and lengthy rainy seasons, limiting the mobility of justice and humanitarian actors.

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<sup>17</sup> [A/HRC/52/26](#) (2023) para. 95.

Figure 1. Number of victims by type of crime, 2019 - 2022



Source: Annual Briefs on Violence Affecting Civilians, HRD UNMISS. (2020, 2022)

*UNMISS contributed to a demonstration effect that illustrated how justice could be dispensed and administered through the statutory system, which was perceived as a deterrent for ordinary crimes.*

22. Notwithstanding the pervasive contextual problems, UNMISS demonstrated how the justice chain should work to strengthen rule of law and accountability in South Sudan. Most interviews reported notable successes in *ad hoc* interventions of mobile courts and quick impact projects (QIP). The extension of these institutions and infrastructures illustrated what was possible when criminal justice actors were equipped to do their jobs with functioning police stations, corrections facilities, and courts.
23. Mobile courts supported by UNMISS were credited to have made justice visible, however temporarily, in areas without statutory justice institutions since at least the time of the civil war. UNMISS supported pre-deployment missions, monitored and mentored justice actors, as well as provided transport and per diem allowances for the same. There were reports of increased awareness and confidence in the mobile courts from South Sudanese citizens. This was reflected in the increased number of reported cases, and requests for further deployment of mobile courts by other states. Community members acknowledged a reduction in crimes committed, especially in UNMISS-run protection of civilian (POC) sites following court sessions at these sites. Justice actors mentioned the deterrent effect of the mobile courts on crime levels. Interviewees reported on seeing improvement in the quality of judgements issued by mobile courts following the training of justice actors, including judges, investigators and prosecutors.
24. UNMISS supported 39 court deployments since 2018, including circuit courts, general courts martial (GCM), mobile GCM, mobile courts at POC, special courts, and UNDP mobile courts (see Table 2 below). The deployments ramped up in 2021 and 2022, with 17 and 12 courts, respectively. The majority concentrated in volatile security environments: Lakes, Upper Nile and Unity States. In total, 782 cases were heard involving 1,026 suspects, and 662 convictions were pronounced. Less than 10 per cent of cases dealt with SGBV/CRSV (67), but of those, 65 suspects were convicted.

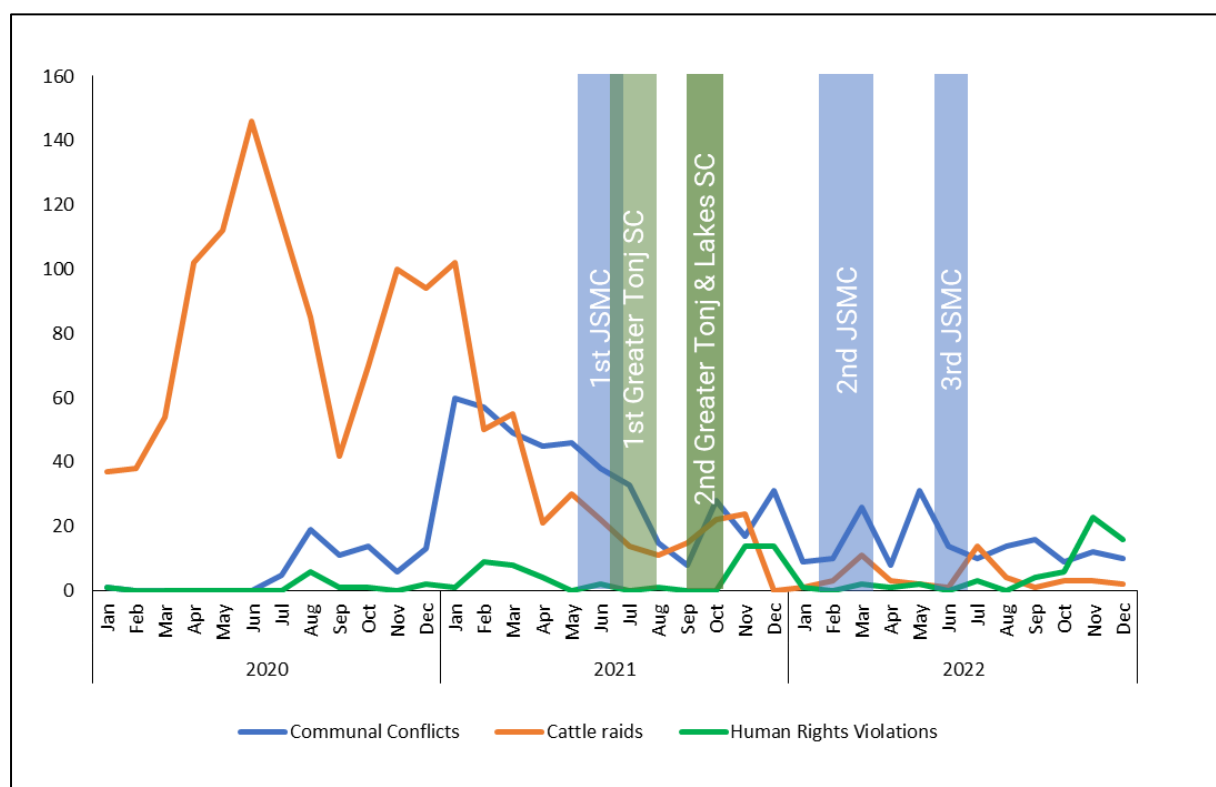
Table 2. Mobile Court Cases and Convictions, 2018 – 2022

Court type	Court deployments	Cases	Suspects convicted	SGBV/CRSV Cases	SGBV/CRSV Convictions
Circuit Court	3	12	12	10	10
General Court Martial	1	8	-	-	-
Mobile GCM	10	87	93	5	8
POC Mobile Court	7	49	43	22	19
Special Court	11	259	269	12	12
UNDP Mobile Court	7	367	245	18	16
<b>Grand Total</b>	<b>39</b>	<b>782</b>	<b>662</b>	<b>67</b>	<b>65</b>

Source: UNMISS RoLAS

25. The deterrent effect of mobile courts, which was often cited by UNMISS key informants, could not be verified with certainty. Communal conflict, cattle raids and human rights violations in three states (Lakes, Warrap and Western Bahr-el-Ghazal) started declining in mid-2020 and remained low through 2021 and 2022, during which period UNMISS supported the JSMC and special courts (Figure 2) in these areas. However, it should be noted that in June 2020, the President of South Sudan appointed governors and other civil administrators in these three states. The establishment of local administration allowed for the mobile courts to be deployed, as the latter were organized by invitation from the former. As such, the administrative stability of local government could also have played a role in the decline in crime in those areas.

Figure 2. Communal conflict, cattle raids, and human rights violations in three states, 2020 - 2022

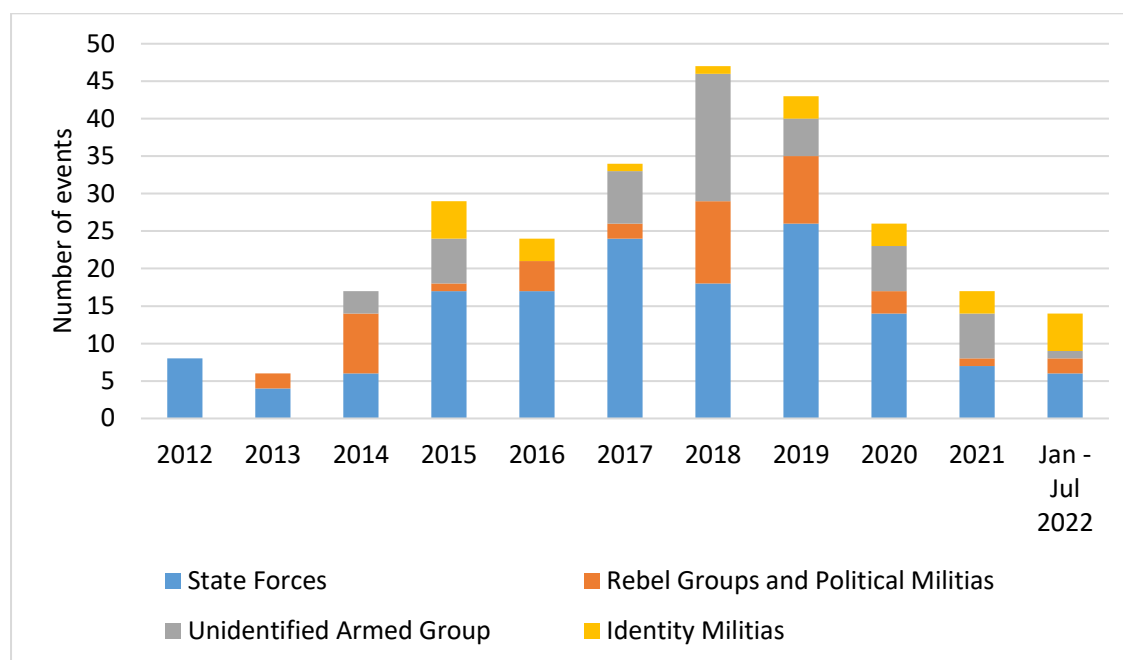


Source: UNMISS SAGE and RoLAS

26. In the absence of MARA data, ACLED data was used to plot the incidence of sexual violence which also showed a decreasing trend since 2018, although the proportion of alleged perpetrators belonging to state forces remained high (Figure 3). The number of sexual

violence incidents is one indication of any change in measures adopted to address conflict and crime contributing to breaking cycles of violence.

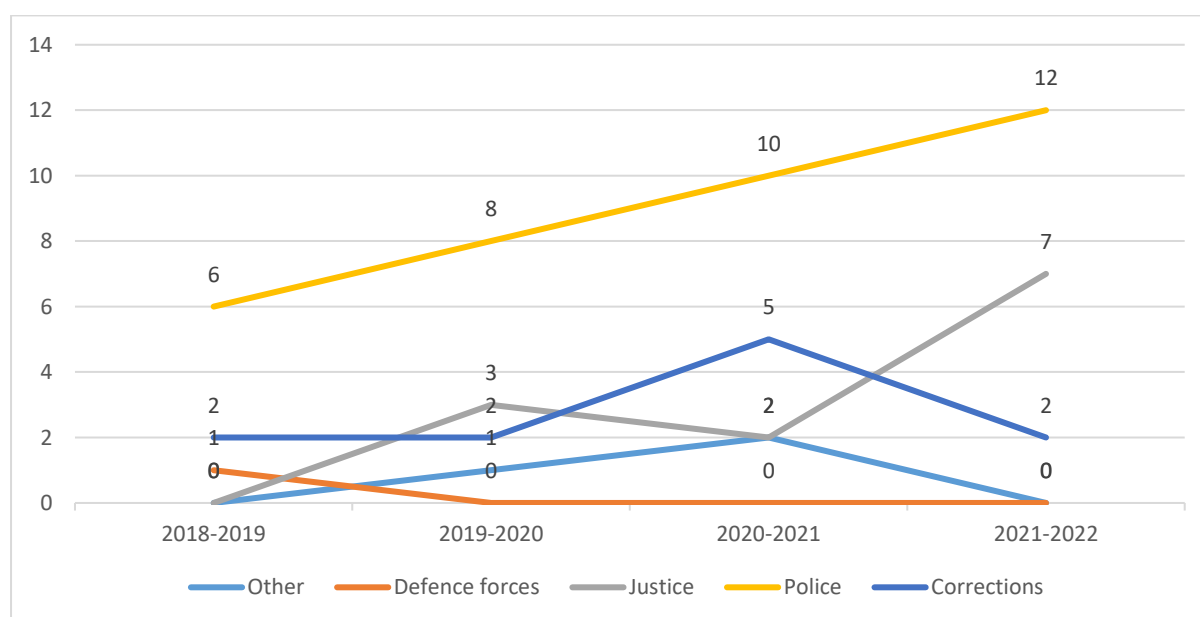
Figure 3. Sexual violence events, by alleged perpetrator, 2012 - mid-2022



Source: ACLED

27. To broaden the mission’s outreach, UNMISS implemented small scale, low-cost QIPs to address urgent justice chain needs. The projects included 63 buildings constructed or refurbished for police, judiciary, defence forces and prisons, since 2018 (see Figure 4). The QIPs model was appreciated by most stakeholders as a stopgap, yet effective approach, to address critical needs of the ROL institutions in areas where there was none or had been destroyed in the civil war.

Figure 4. Number of justice-related QIPs, 2018 – 2022



Source: UNMISS RoLAS

28. A severe shortage of key justice chain actors, such as judges, prosecutors and clerks, was one of the areas mentioned by stakeholders as a barrier to dispensing justice. There was no systematic tracking or database of these actors by UNMISS,<sup>18</sup> nor official figures available from the GoRSS. While UNPOL had an estimate of South Sudan National Police Service (SSNPS) police officers by stations and posts, it came with caveats that it was neither accurate nor up to date.

*Capacity building was delivered but without an overarching strategy; there was no evidence of how the justice chain was better able to systematically address crimes. However, improvements in willingness to engage with duties and a growing sense of national ownership were observed among criminal justice chain actors.*

29. The general perception of stakeholders was that UNMISS contributed to laying a foundation for statutory justice in South Sudan. Prior to independence, Sharia-based legal system prevailed. Since 2018, UNMISS engagements and activities promoted an increased sense of national ownership, more awareness of duties and growing levels of engagement from justice actors. UNMISS made considerable effort raising awareness on professional responsibilities and ethics, including SGBV and CRSV. Most stakeholders noted that because of UNMISS capacity strengthening, there was increased due diligence on behalf of police, prosecutors, investigators, military justice actors / South Sudan People's Defence Force (SSPDF), other institutions (National Human Rights Commission, parliamentary committees, and so on) to fulfil their duties. UNMISS monitoring and backstopping with technical support on legal reforms and court deployments helped justice actors deliver a higher quality service than previously.
30. While most respondents perceived that capacity had been strengthened due to UNMISS support, often their next comment was to request for more support in this area, based on the recognition that there remained glaring knowledge and skill gaps for ROL professionals and institutions in South Sudan.
31. In the absence of a coherent capacity building and measurement strategy, it was difficult to establish how UNMISS identified training needs, targeted trainees, and monitored any application and impact of skills. There were reports of duplication of efforts with UNDP where similar training courses were delivered to the same group of stakeholders. UNPOL was the only UNMISS division able to report training attendance figures, which notably achieved 35 per cent women's participation.
32. UNMISS supported the development of the plan for absorption, registration, training and deployment of the necessary unified forces (NUF) into the National Prisons Service of South Sudan. The curriculum included familiarization with Mandela Rules,<sup>19</sup> and references to the needs of vulnerable populations such as juvenile offenders. The training was planned to be imparted at the state level after deployment to lower ranks.

*Small steps were taken within unformed institutions in the fight against impunity by which low ranking personnel were held accountable. Notable progress was achieved in releasing children recruited by parties to the conflict.*

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<sup>18</sup> While CPAS included an indicator on number of justice actors deployed, only one data point from 2022 was available for judges, police, and prosecutors each, and included caveats that it should be considered unofficial.

<sup>19</sup> A/RES/70/175: United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

33. The GoRSS established a general court-martial following the horrific attack against civilians by soldiers at the Terrain Hotel in July 2016.<sup>20</sup> Two years later, in September 2018, the military court handed down lengthy prison terms for murder, rape, and other crimes to 10 soldiers and ordered the government to pay damages to the victims. The Terrain trial became a landmark for the military justice initiatives in South Sudan; it sent a message that impunity would not be tolerated, built some confidence towards the military, and became a basis for increased demand and appetite for military justice and accountability.<sup>21</sup> The GoRSS has since established a joint military implementation committee on CRSV and the development of an action plan addressing children and armed conflict within the SSPDF, with UNMISS support.
34. During the period under review, UNMISS supported courts-martial to Bentiu, Bor, Malakal, Maridi, Renk, Juba and Yei in the form of one GCM and 10 mobile GCM. Stakeholders noted that only low-ranking military officers were prosecuted during this period; no top brass or generals were arraigned. Stakeholders generally acknowledged that the courts-martial were symbolic yet helpful for SSPDF officers to see a demonstration effect of the enforcement of law, which raised awareness. Overall, 95 cases were heard, and 81 officers convicted. With support from UNMISS, the courts offered support for witnesses, compensation for victims, and fair trials for defendants, a first for the nation.
35. Despite these efforts, a climate of impunity and a lack of accountability for serious human rights violations and abuses persisted in South Sudan, especially when it came to the prosecution of top officials. No highly ranked personnel, including those who may have acted with command responsibility, were brought to justice for their involvement in human rights violations. Most stakeholders noted that a key impediment to the prosecution of high-profile individuals was a lack of political will to hold these perpetrators to account, considering also that many remained employed within the security sector and could continue to assert influence over the transitional government of national unity.
36. In June 2021, UNMISS supported the launch of the Joint Action Plan for the Armed Forces on addressing CRSV in South Sudan, the implementation of which became one of the key benchmarks for review of the arms embargo measures by the Security Council. Within the mobile courts-martial supported by UNMISS, five of 87 cases prosecuted were SGBV / CRSV related (6 per cent), leading to eight convictions. Most stakeholders from government and partners applauded the steps taken by GoRSS and security forces to address CRSV, while stakeholders from CSOs and community observed that much more needed to be done, as survivors continued to face significant barriers in accessing justice and support services.
37. There was notable progress in the release of children recruited by parties to the conflict since 2018, following the signing of the R-ARCSS. A total of 1,279 children were released with UNMISS support, including 393 girls.<sup>22</sup> The 2021 United Nations Children and Armed Conflict (CAAC) report delisted the SSPDF for attacks on schools and hospitals, but the force remained listed for the other five violations. As shown in Figures 5 and 6 below, the grave violations declined from 2018. Some violations hovered at or around the same level until 2021, when they increased again, including killing and maiming of children, rape or other grave sexual violence, abduction of children and use of schools and hospitals.<sup>23</sup> The increase of these four

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<sup>20</sup> <https://peacekeeping.un.org/en/perpetrators-of-violence-against-civilians-terrain-hotel-held-accountable-their-crimes>

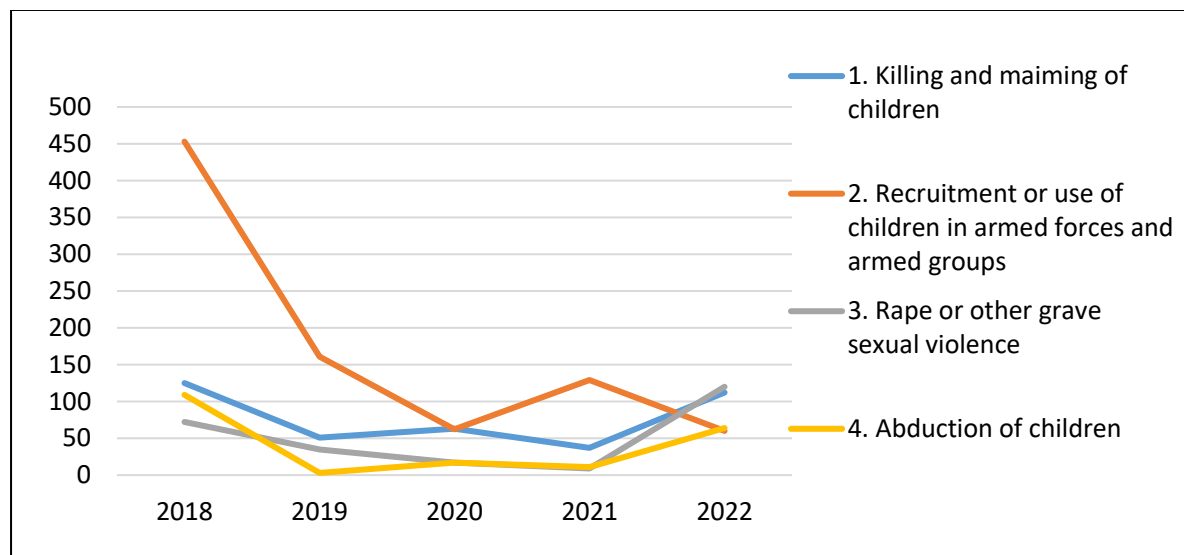
<sup>21</sup> However, the case file reportedly disappeared in 2018 and has held up appeals, essentially delaying justice. [A/HRC/45/CRP.4](#), para. 58.

<sup>22</sup> Children and armed conflict: Reports of the Secretary-General. A/73/907-S/2019/509; A/74/845-S/2020/525; A/75/873-S/2021/437; A/76/871-S/2022/493.

<sup>23</sup> The actual number of violations was estimated to be much higher.

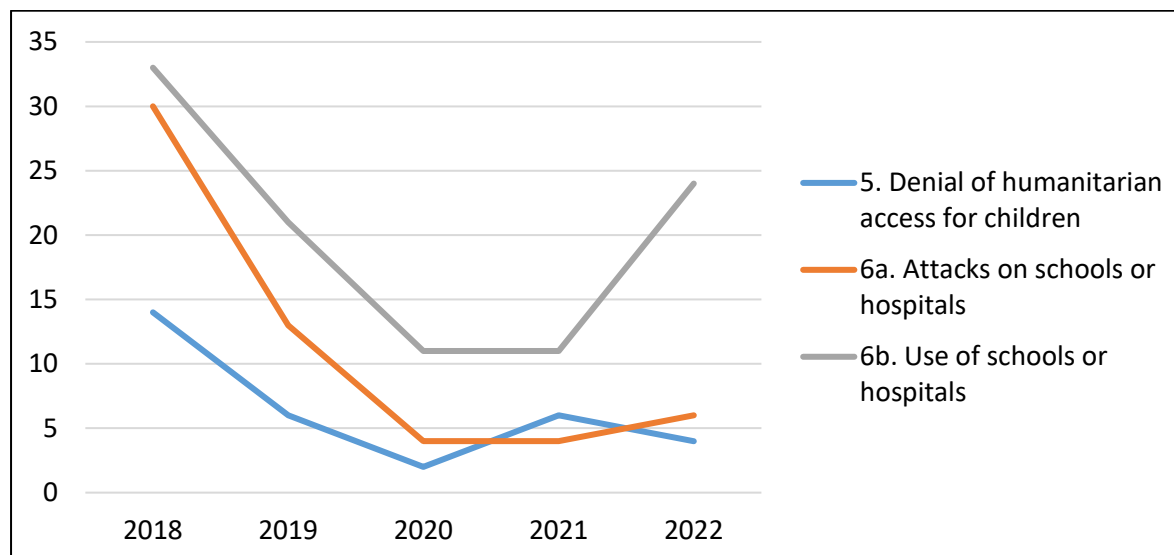
verified grave violations from 2021 to 2022 was attributed to the fragmentation of parties to the conflict and notable splintering of and defections between armed forces and groups which threatened trust among the parties.<sup>24</sup> Furthermore, the escalating intercommunal violence in the country continued to have a devastating impact on children’s rights.

Figure 5. Children and Armed Conflict: Grave Violations 1-4, 2018 - 2022<sup>25</sup>



Source: Children and armed conflict: Reports of the Secretary-General. A/73/907–S/2019/509; A/74/845–S/2020/525; A/75/873–S/2021/437; A/76/871-S/2022/493; and S/2023/99.

Figure 6. Children and Armed Conflict: Grave Violations 5-6, 2018 - 2022



Source: Children and armed conflict: Reports of the Secretary-General. A/73/907–S/2019/509; A/74/845–S/2020/525; A/75/873–S/2021/437; A/76/871-S/2022/493; and S/2023/99

*UNMISS supported a template for the harmonization of the statutory and customary systems through the special courts, which increased access to justice in some areas.*

<sup>24</sup> Children and armed conflict in South Sudan: Report of the Secretary-General, February 2023.

<sup>25</sup> 2022 figures represent a half year only and have been annualized for comparison.



38. Blurred boundaries existed between the jurisdictions of the customary and statutory justice systems, especially in rural areas, despite growing awareness on the jurisdiction of the two systems.<sup>26</sup> Traditional leaders presided over the mitigation and resolution of most local conflicts, as statutory justice was inaccessible to many.<sup>27</sup> The general lack of systematic harmonization of the customary system actors into the overall justice system resulted in the former not being aware of the rights of children and women, or that they did not have jurisdiction over criminal cases. To mitigate this problem somewhat, RoLAS and HRD held workshops with traditional justice actors on human rights and justice standards to clarify how the two systems interfaced. UNMISS, in coordination with CSOs, hosted an annual pre-seasonal cattle movement conference to bring together farmers, cattle keepers, and members of the Inter-State Co-ordination Committee for Cattle Seasonal movement. Nevertheless, in a spot survey that OIOS conducted in Juba with 15 civil society actors, 42 per cent considered there to be an improvement in the harmonization of the two systems over the past four years.
39. UNMISS contributed to a new model of weaving together the customary and statutory justice systems together through deployments of special courts.<sup>28</sup> In these special courts, assessors<sup>29</sup> were invited to consult on the courts and offer the judge advice according to local traditions and customs. For example, the JSMC, designed with GoRSS actors under the auspices of the RSRTF, convicted 11 individuals of SGBV/CRSV out of a total of 29 cases referred to the courts (Table 3).<sup>30</sup> The deployments were perceived by UNMISS and justice actors to have brought peace to the borderlands of Warrap and Western Bahr-el-Ghazal, where cattle herders and farmers often clashed, leading to revenge attacks.

Table 3. Special courts deployed with UNMISS support 2018 - 2022, with outcome

Type of Court	Cases Referred	Cases Decided	Convicted (Ind.)	Acquitted (Ind.)	SGBV/CRSV Convictions (Ind.)
JSMC 1st deployment	8	6	4	2	0
JSMC 2nd	35	18	12	6	0
JSMC 3rd	30	5	2	3	2
Greater Tonj	46		54	4	8
Lakes	184		197	5	1
<b>Total</b>	<b>303</b>	<b>29</b>	<b>269</b>	<b>20</b>	<b>11</b>

Source: UNMISS RoLAS

40. Nevertheless, the divide between the two systems remained too wide to bridge with such limited and sporadic initiatives. According to the UNDP Justice Needs and Satisfaction in South Sudan report, the formal justice system, its leaders and professionals did not see 72 per cent of the legal problems encountered by the respondents. The main categories of legal issues reported by the respondents to this survey were domestic violence (affecting 38 per cent of

<sup>26</sup> Local Government Act, 2009, provided the legal basis for traditional authorities to administer customary law and justice.

<sup>27</sup> Justice Needs and Satisfaction in South Sudan: Legal problems in daily life (2022). UNDP in partnership with the Ministry of Justice and Constitutional Affairs of South Sudan.

<sup>28</sup> While the special court mechanism was catered for within the Penal Code, UNMISS facilitated the special court deployments in important ways.

<sup>29</sup> Often chiefs or traditional leaders, who lent courts legitimacy in the eyes of the community.

<sup>30</sup> The 2<sup>nd</sup> JSMC, Greater Tonj and Lakes deployments did not report complete case outcomes.

people with a legal issue), land problems (34 per cent), and crime/security problems (23 per cent).<sup>31</sup>

*There was no evidence of a justice chain holistically more responsive to citizens' needs, especially for vulnerable populations. However, there were some areas where UNMISS support appeared to gain early traction, such as a growing recognition of aspects of SGBV and CRSV as crimes.*

41. Grounded in historical and pervasive gender inequalities within a patriarchal society, aspects of SGBV and CRSV were not considered as crimes and remained widespread in the conflict,<sup>32</sup> despite a 2014 communique by armed groups committing to address it. UNMISS contributed to awareness and dialogue on SGBV and CRSV as criminal behaviour, through technical support and facilitation of implementation committees to address CRSV. Other initiatives represented steps forward, such as the creation of a juvenile and gender-based violence (GBV) court in Juba. UNMISS contributed to the establishment of the Juvenile Reformatory Centre, which separated juvenile from adult prisoners in Juba. Yet, there were many detainees held on remand without conviction or warrants, due to the ineffectiveness of the court system, gaps in communication and coordination between the justice chain actors, police, courts and prisons, and a lack of infrastructure and transport.
42. Support for victims and witnesses of SGBV and CRSV remained isolated across the country. There was a lack of shelters for victims; in fact, there were reports that some were kept in prison and forced to face their aggressor in court without any psycho-social support. Through UNMISS, along with other UNCT actors via the GBV sub cluster, CSOs provided ad hoc transport, interpretation and psychosocial support to some victims. UNMISS supported South Sudan in its journey to ratify the International Convention on the Rights of Persons with Disabilities.<sup>33</sup> Persons with disabilities (PwD) were trained by HRD on their rights and benefited from Radio Miraya broadcasts, yet experienced barriers to justice, such as court delays, legal fees and facilitations and physical impediments.
43. There were divergent perceptions on the contribution of justice chain institutions to public safety and citizens' needs, but overall, large gaps in the system persisted. Compared to the civil war period (2013 - 2016), citizens and justice actors interviewed perceived the justice chain to be more functional during the evaluation period. In contrast, in a survey jointly conducted by United Nations Children's Fund (UNICEF), the Office of the High Commissioner for Human Rights (OHCHR) and UNDP,<sup>34</sup> more than half of the respondents preferred resolving conflict through elders (54 per cent) and/or family members (52 per cent). Only 12 per cent of respondents mentioned statutory courts as their preferred mechanism for conflict resolution (Figure 7). This is consistent with the PAX study conducted in three states (Jonglei, Lakes, and Unity States), where findings indicate that of the 1,517 respondents, only 18 per cent reported that the dispute resolution was best handled by the state court system.<sup>35</sup> The majority (79 per cent) preferred to work with local elders and chiefs to resolve conflict. The reason for such a preference was expressed by more than half (51 per cent) as a lack of confidence in getting a fair trial in courts, which in turn was based on the perception that the courts were biased (59 per cent). Other reasons mentioned were that judges feared retaliation (29 per cent), courts

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<sup>31</sup> Justice Needs and Satisfaction in South Sudan: Legal problems in daily life (2022). UNDP in partnership with the Ministry of Justice and Constitutional Affairs of South Sudan.

<sup>32</sup> [A/HRC/49/CRP.4](#)

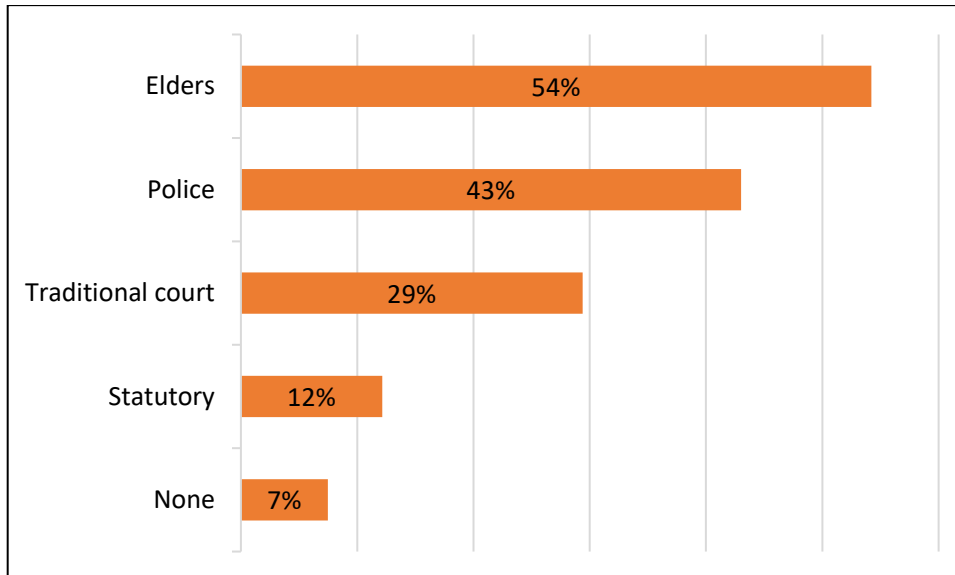
<sup>33</sup> The Convention was signed in February 2023.

<sup>34</sup> Breaking the Cycle of Violence: Rehabilitating justice and accountability mechanisms in South Sudan. A baseline, perception study. On behalf of UNICEF, OHCHR and UNDP. (2021)

<sup>35</sup> PAX Household Security Survey (2018 to 2022). PAX is a Netherlands-based civil society organization focused on peace.

not being available (26 per cent), and courts being ill-equipped (22 per cent). Refugee populations interviewed in Uganda were likewise sceptical of any stability in the rule of law situation in South Sudan that would pave the way for their return.

Figure 7. Institution of choice for dispute resolution



Source: Breaking the Cycle of Violence: Rehabilitating justice and accountability mechanisms in South Sudan. A baseline, perception study. On behalf of UNICEF, OHCHR and UNDP. (2021)

*UNMISS supported mechanisms to address prolonged and arbitrary detention, however, in the continued absence of a functional case management system, it was difficult to effect systemic change.*

44. UNMISS addressed the issue of prolonged and arbitrary detention with a project in Juba in 2018, which led to the release of 122 prisoners. Prison development committees, supported by UNMISS and existing where the corrections officers had a state presence and together with HRD, were able to effect change to coordinate the justice system to advocate for the release of prisoners. UNMISS trained NPS officers and directors of prisons on prisoner record management and contributed with training on prison forms and the printing of prison forms delivered to prisons. Anecdotal evidence existed that where the officers were trained and forms delivered, better record keeping resulted. However, the system was non-functioning overall.
45. The inability of the police, prosecution and the courts to dispense timely justice resulted in increased pressure on the prisons system, which was not equipped to deal with high levels of prolonged and arbitrary detention of accused individuals. NPS officers, at the receiving end of a dysfunctional justice chain, were put in a precarious position relating to human rights. Before the 2013 civil war, there were 101 prisons in South Sudan, but during the conflict over half were destroyed, and by 2022, only 46 remained, albeit in bad shape, leading to deplorable conditions for prisoners in terms of overcrowding and squalor.<sup>36</sup>
46. Evidence of an ineffective case management system was recognized as a root cause of the problem. Many post-conflict challenges existed which prevented any system from being established, including those related to lack of training on how to manage such a system, lack of salaries, infrastructure, vehicles and coordination with other justice institutions. Prison

<sup>36</sup> Figure from UNMISS Corrections team.

food vendors did not receive payment, causing food insecurity. UNDP attempted to promote an automated case management system, which failed as the precondition of a manual system did not exist.

*Civil society experienced diminishing space to demand justice and influence accountability for human rights violations. UNMISS partnered with CSOs at an operational level, with limited evidence of strategic partnerships for civil society actors to claim their rights.*

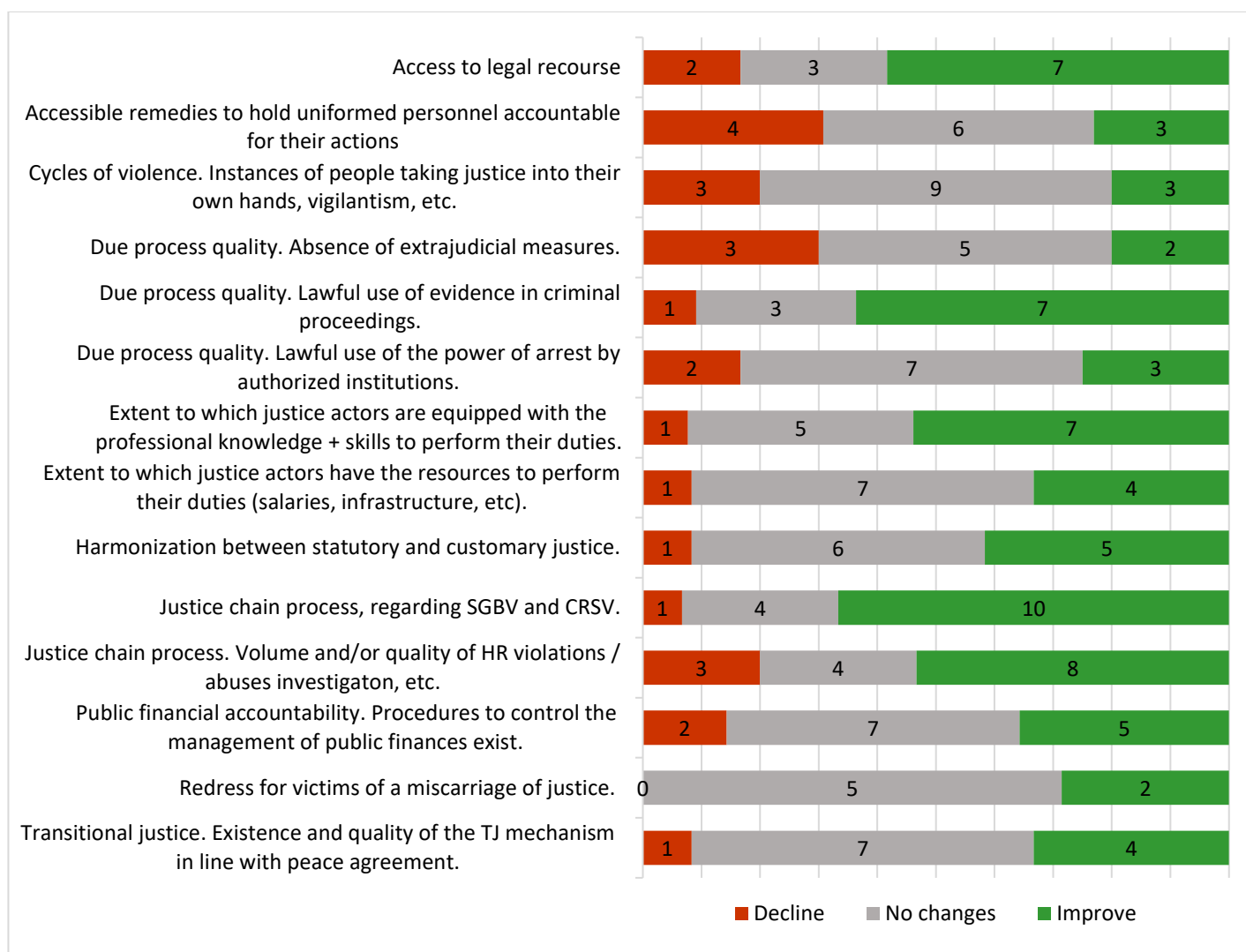
47. Civil society, particularly those working in the rule of law and human rights arena, endured shrinking space during the evaluation period,<sup>37</sup> which was also alluded to by civil society activists. There was increased government censorship of media, a sense of intimidation experienced by civil rights actors, and those who did speak up or exercise freedom of expression were often harassed or disappeared. Local and foreign reporters were exposed to execution, torture, kidnapping, arbitrary detention, or harassment. In the face of these dangers, many closed their publications or left the country.<sup>38</sup>
48. HRD and RoLAS engaged with civil society actors with a view to empower them to sensitize the population and effectively promote and demand accountability and transitional justice. Some examples included, the Community Empowerment for Progress Organization (CEPO) partnered with HRD to establish Transitional Justice Resource Centres in Juba, Yei, Wau and Yambio. In collaboration with civil society actors (of prominence, the Transitional Justice Working Group, a network of civil society organisations working on transitional justice), HRD held fora with civil society organizations, government representatives, religious and traditional leaders, media representatives, the South Sudan Human Rights Commission, and members of the regional/international community participating.
49. The Mission's approach to partnership had observable inefficiencies. RoLAS did not have a list of CSOs that it worked with, nor was there a centralized or standardized contact list of partners that either RoLAS or field offices managed.
50. Civil society actors held varying opinions on the change in the rule of law and accountability in South Sudan, since 2018. In a spot survey of 15 respondents, most improvements were perceived in access to justice, regarding SGBV and CRSV, and justice chain process; however, many differences in opinions were found (Figure 8).

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<sup>37</sup> [A/HRC/49/78](#) (2022).

<sup>38</sup> Remarks delivered by United Nations High Commissioner for Human Rights at the 52<sup>nd</sup> Session of the Human Rights Council on 7 March 2023: <https://www.ohchr.org/en/statements-and-speeches/2023/03/strengthening-accountability-and-civic-space-critical-south-sudans>

Figure 8. Change in the rule of law and accountability in South Sudan, since 2018



Source: OIOS spot survey of civil society actors, 2022.

*UNMISS supported legislative reviews through consultative processes, inclusion of vulnerable groups, strengthening of oversight bodies, and promotion of gender responsive strategies, with some legislation recently enacted into law. Overall, progress remained slow, despite strong technical support from UNMISS.*

51. UNMISS efforts to support legislative reviews and oversight bodies yielded legal reforms mainly in the recent passage of five security acts<sup>39</sup> in December 2022. UNMISS consulted with the National Constitutional Amendment Committee (NCAC), supporting amendments to the Transitional Constitution of the Republic of South Sudan (TCRSS). Ongoing support included inclusive reviews of the Criminal Procedure Code and the Penal Code, among others, such as the reforms to the Political Parties Act and the Elections Act. Oversight bodies struggled with staff retention in the face of unpaid wages and office evictions, for those that were functional, it was in part thanks to UNMISS facilitation of reviews, consultations, technical advice, and facilitation of travel to states. South Sudan participated in the Universal Periodic Review and

<sup>39</sup> Namely, the Police Service Act, the Prison Service Act, the National Security Service Act, the Sudan Liberation Army Act, and the Wildlife Service Act.

implemented recommendations with support from HRD. For example, the Mission supported the ratification of the Convention on the Rights of the Persons with Disability.

52. Gender responsive strategies such as the action plans to address CRSV with defence forces and national police were developed with UNMISS support. Patriarchal norms prevented women from accessing land in South Sudan,<sup>40</sup> with land registry systems at the state and federal levels remaining incongruous and inconsistent. Land tenure depended on local customs, and land grabbing by powerful people persisted. UNMISS, along with the Ministry of Housing, Land and Urban Development and other partners, supported the drafting of an inaugural land policy for the nation. Consultations including those with vulnerable groups were held, facilitated by UNMISS since 2017. It remained unclear to what extent the land policy retained inclusive language, as the bill had yet to be passed into law.

## IV. Conclusion

53. The needs of the rule of law and accountability system, institutions and personnel were immense in South Sudan following the transition from the Sharia legal system of Sudan, and the brutal civil wars that followed independence. The revitalized peace agreement provided the impetus for UNMISS to contribute towards strengthening these systems and institutions. However, the pervasive contextual issues, often beyond the mission's control, made the progress slow and sporadic, with some notable exceptions resulting in judicial actions taken against perpetrators, thereby building confidence in the fledgling statutory justice institutions amongst citizens. Nevertheless, large-scale displacement and human rights violations during and beyond the civil war remained unaddressed. UNMISS efforts toward strengthening the rule of law and accountability were undermined by its weak coordination with UNCT entities, lack of a strategic approach towards partnerships, outreach and capacity development, which were further compounded by inadequate knowledge management.

## V. Recommendations

54. OIOS-IED makes three important recommendations to UNMISS below in Table 4. The recommendations are aligned with the findings and identified in consultation with the Mission counterparts based on the cumulative progress achieved, and significance of each immediate outcome in contributing to enhancing the rule of law and accountability in the country.

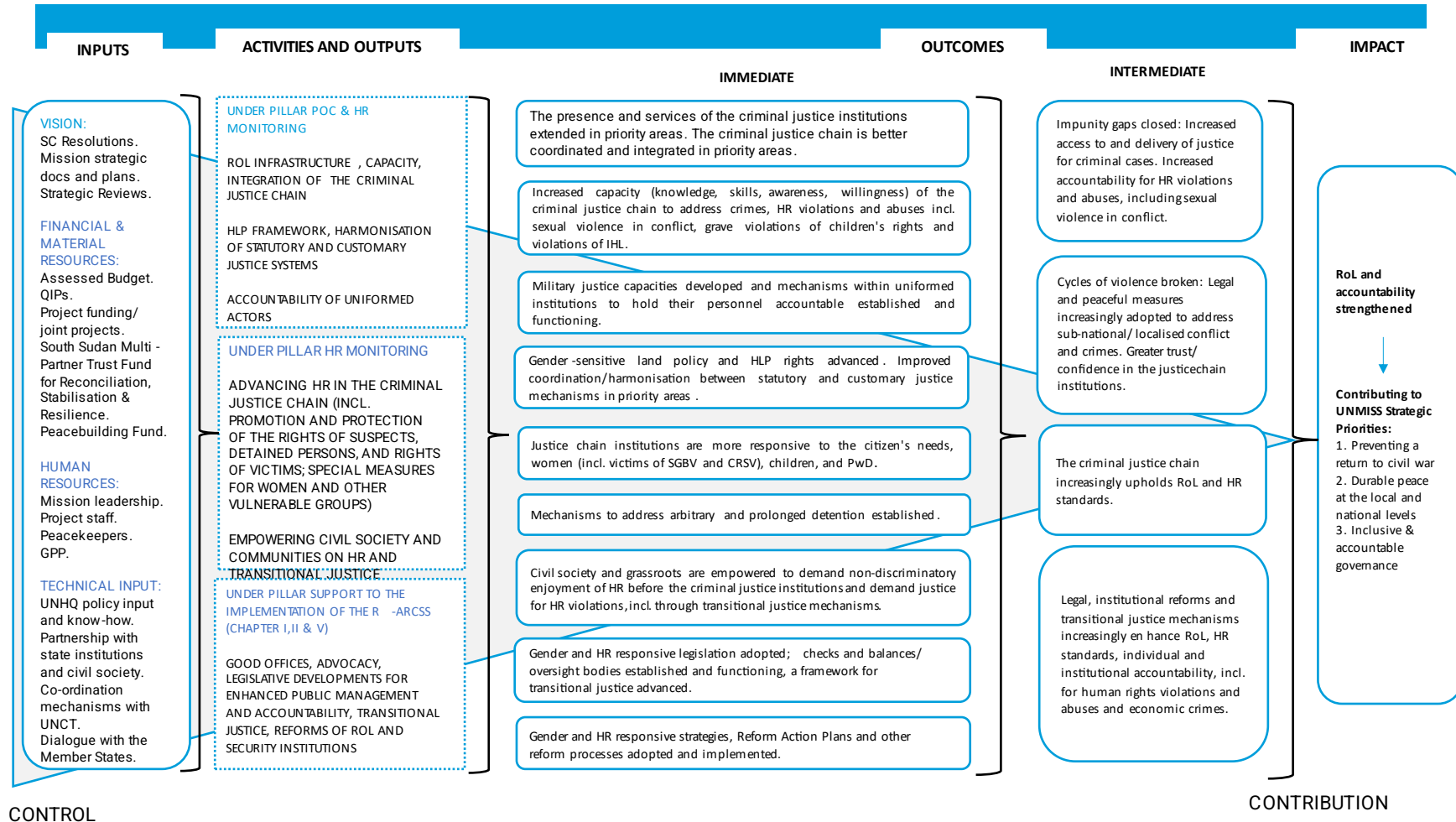
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<sup>40</sup> Intergovernmental Authority on Development (IGAD) and GoRSS (2022). Women's Land Rights Agenda.

Table 4. Recommendations

Evaluation Criteria	Recommendation	Indicators of Achievement
<b>Relevance</b>	<b>R1.</b> UNMISS should develop a strategy to document best practices and lessons learned from initiatives.	<b>R1.1</b> Best practices strategy developed encompassing RoLAS and HRD processes and practices. The strategy should include evidence of inclusive design, covering vulnerable groups such as women, people with disabilities and youth.
<b>Coherence</b>	<b>R2.</b> UNMISS should strengthen partnerships to leverage comparative advantages working with UNCT entities.	<b>R2.1</b> Partnership strategy developed, jointly with UNCT, to include outreach strategies for civil society organizations and GoRSS.  <b>R2.2</b> Evidence of enhanced collaboration with UNCT, especially UNDP, in court deployments, RoL partner mapping and information sharing under the aegis of the RoL Focal Point Network or similar.
<b>Effectiveness</b>	<b>R3.</b> UNMISS should coordinate with the UNCT and GoRSS rule of law and accountability partners to conduct a capacity assessment leading to a joint strategy for strengthening RoL and accountability-related actors, institutions and the enabling environment.	<b>R3.1</b> Capacity development strategy developed, incorporating adult learning approaches, including a measurement strategy, a gender analysis, and evidence of coordination efforts with other entities, including UNCT, rule of law and accountability partners, and donors.  <b>R3.2</b> Within the capacity development strategy, documentation of plans to create a sustainable case management process, and support to justice sector actors to build on RoL forums at the state level.

# Annex 1: Theory of Change





## Annex 2: Comments received from UNMISS

### Comments received from the Special Representative of the Secretary-General and Head of the United Nations Mission in South Sudan on the draft report

UNMISS acknowledges receipt of the interoffice memorandum reference OIOS-2023-00884 dated 30 May 2023 requesting a response to the draft report on the outcome evaluation of UNMISS' contribution to strengthening the rule of law and accountability in South Sudan.

UNMISS accepts the recommendations of the draft report while noting that the Mission has already taken steps to meet the requirements to strengthen partnerships to leverage comparative advantages with the UNCT (rec. 2), including through the creation of joint strategics and programming, as well as dissemination of integrated guidance. In parallel, UNMISS continues to participate and capitalize on existing or recently established networks, including the ROL Focal Point Network, Sector-Working Groups, and internal CSO task force to ensure a comprehensive and inclusive rule of law and human rights programming and support.

Concerning the recommendation that UNMISS coordinate with the UNCT and GORSS rule of law and accountability partners to conduct a capacity assessment (rec. 3), UNMISS accepts the recommendation. However, the Mission would like to underline that capacity development remains a nationally-owned process under the responsibility of the GORSS. The UNCT and UNMISS have the responsibility of assisting in the development of national capacities, while also ensuring adherence to international norms, standards, and UN principles. For this reason, the Mission can only commit to advocating for and engaging national partners, including the MoJCA and the judiciary, to support the development of strategics and joint capacity assessment.

Please find attached the Mission's comments on the recommendations and opportunities for improvement as provided in the UNMISS Action Plan for Implementation of the Recommendations.

Thank you for your consideration.