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Report on the activities of the Office of Internal Oversight Services

Evaluation of the contribution of the United Nations Mission in South Sudan to strengthening the rule of law and accountability in South Sudan

Report of the Office of Internal Oversight Services

Summary

The Inspection and Evaluation Division of the Office of Internal Oversight Services (OIOS) conducted an evaluation of the contribution of the United Nations Mission in South Sudan (UNMISS) to strengthening the rule of law and accountability in South Sudan from 2018 to 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 on the Resolution of Conflict in the Republic of South Sudan in July 2018. However, the Mission's work with United Nations country team partners in strengthening the rule of law and accountability could have been more coherent in order to achieve the shared objectives emanating from the Revitalized Agreement, by leveraging each partner's comparative advantages.

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



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
- 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 United Nations country team entities, and development of a capacity-strengthening strategy, in coordination with the United Nations country team and the Government of South Sudan rule of law and accountability partners.

I. Introduction and objective

1. The 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. The evaluation topic emerged from a programme-level risk assessment described in the evaluation inception paper produced at the outset of the evaluation.¹ The evaluation conforms with the norms and standards for evaluation in the United Nations system.²
2. UNMISS management comments on the draft report were sought and considered in the final report. The UNMISS response is included in the annex.

II. 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 \(2011\)](#) 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 1 million people were displaced, and the number of food insecure civilians tripled from 1.1 million to 3.2 million.³ In 2014, the UNMISS State-building mandate was curtailed by the Security Council, and, by extension, its support for the rule of law institutions.⁴ The signing of the Revitalized Agreement on the Resolution of Conflict in the Republic of South Sudan 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 and conflict-related sexual violence. The review team for the 2020 independent strategic review of UNMISS ([S/2020/1224](#)) 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 subnational level. The subsequent 2021 and 2022 mandates included specific instructions for UNMISS to engage in technical assistance to the Government of South Sudan in this sector.
5. According to the World Bank Rule of Law indicator, South Sudan was scored at -2.0 in 2021,⁵ well below its regional neighbours. Transparency International ranked South Sudan 178 out of 180 nations on its corruption perceptions index.⁶
6. The rule of law is the principle of governance whereby “all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards” (see [S/2004/616](#)).

¹ Outcome evaluation of the United Nations Mission in South Sudan (UNMISS) contribution to strengthening the rule of law and accountability in South Sudan. 2 September 2022.

² United Nations Evaluation Group, “Norms and standards for evaluation”, 2016.

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

⁴ In 2014, the Rule of Law and Security Institutions Office was closed. The Rule of Law Advisory Section was reintroduced in 2017 with a much-reduced capacity.

⁵ World Bank, Worldwide Governance Indicators database, available at <https://databank.worldbank.org/source/worldwide-governance-indicators>.

⁶ Transparency International, Corruptions Perception Index database, available at www.transparency.org/en/cpi/2022.

III. Scope and methodology

7. The evaluation covered the period from the signing of the Revitalized 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 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,⁷ civil society actors, United Nations country team members and UNMISS staff.⁸ Table 1 summarizes the stakeholder groups.

Table 1
Key evaluation stakeholders

<i>South Sudanese justice actors</i>	<i>South Sudanese citizens and civil society</i>	<i>United Nations Mission in South Sudan</i>	<i>United Nations partners</i>	<i>Other partners</i>
<ul style="list-style-type: none"> • Transitional National Legislative Assembly • National Police Service • Military Justice Directorate • National Prisons Service • South Sudan Human Rights Commission • Disarmament, Demobilization and Reintegration Commission • Anti-Corruption Commission • Implementation committee on conflict-related sexual violence • Judiciary • Ministry of Justice and Constitutional Affairs • Lawyers • Customary justice actors: chiefs and traditional leaders 	<ul style="list-style-type: none"> • Refugees settled in Adjumani District, Uganda • Human Rights Defenders Network • Union of the Disabled • Center for Inclusive Governance Peace and Justice • Steward Women • African European Parliamentarians Initiative • Citizens and internally displaced persons in Jonglei and Western Bahr-el-Ghazal States 	<ul style="list-style-type: none"> • Rule of Law Advisory Section • Human Rights Division • United Nations Police • Civil Affairs Division • Political Affairs Division • Security Sector Reform Working Group 	<ul style="list-style-type: none"> • Office of Rule of Law and Security Institutions • Department of Peace Operations integrated operational team • United Nations Development Programme (UNDP) • United Nations Population Fund (UNFPA) 	<ul style="list-style-type: none"> • African Union • Reconstituted Joint Monitoring and Evaluation Commission • Troika members: United States of America, United Kingdom of Great Britain and Northern Ireland, Norway • South Sudan reconciliation, stabilization, and resilience trust fund • Norwegian Refugee Council • Embassy of the Netherlands • Embassy of France

⁷ A signatory to the peace agreement, the Troika comprised the United States of America, the United Kingdom of Great Britain and Northern Ireland and Norway.

⁸ 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.

8. Secondary data analysed for the evaluation included Mission reports, documents and databases (Comprehensive Planning and Performance Assessment System, Situational Awareness Geospatial Enterprise and UNMISS public opinion survey reports), external reports and databases (including Armed Conflict Location and Event Data Project, PAX Human Security Survey,⁹ UNICEF report on breaking cycles of violence,¹⁰ and a UNDP justice needs and satisfaction survey).¹¹

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 the evaluation was the lack of available and accessible data from the Mission and the Government of South Sudan. Some implementation data from Mission activities relevant to the theory of change and outcomes was not readily available; in addition, gaps in knowledge management systems, processes and culture restricted a full assessment of the Mission contribution to such outcomes. For example, information on incidence of conflict-related sexual violence from the Mission's monitoring, analysis and reporting arrangements was not provided.

IV. Evaluation results

A. **Relevance: overall, the Mission's support was relevant and appropriate to 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 the Government of South Sudan 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; and support for the monitoring of strategic and action plans. For example, the Mission supported Transitional National Legislative Assembly priorities and the defence forces committee in addressing conflict-related sexual violence and bolstered forums such as the police-community relations committees and police-community watch groups, which began to increase 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 team brought, especially considering that the Section was resurrected only in 2017. In the 2021 UNMISS public opinion survey,¹² three quarters of respondents (75 per cent, 3,232 respondents) reported that UNMISS efforts in investigating and 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 Government of South Sudan institutions and

⁹ PAX Human Security Survey (conducted from 2018 to 2022). PAX is a Netherlands-based civil society organization focused on peace.

¹⁰ UNICEF, OHCHR and UNDP, "Breaking the cycle of violence: rehabilitating justice and accountability mechanisms in South Sudan – a baseline, perception study" (2021).

¹¹ UNDP in partnership with the Ministry of Justice and Constitutional Affairs of South Sudan, "Justice needs and satisfaction in South Sudan: legal problems in daily life" (2022).

¹² UNMISS perception survey: final report, 2021.

citizens was perceived to be inadequate, given the enormity of challenges that the nation continued to grapple with.

13. The Rule of Law Advisory Section 2021–2022 workplan and United Nations Focal Point Network terms of reference for rule of law and accountability were well aligned with the Sustainable Development Goal 16, which promotes access to justice and accountability institutions. This priority was also identified in the South Sudan National Development Strategy for 2018–2021.

14. Nevertheless, gaps remained. The Revitalized Agreement mandated 35 per cent women’s participation in road map bodies and entities;¹³ 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.¹⁴ 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, in particular regarding 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 Miraya¹⁵ to disseminate information and public service announcements to build awareness of 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 for which lessons learned were documented in after-action reports and notes to file, which allowed improvements to be incorporated into subsequent deployments. Institutional support for the National Prisons Service’s agricultural strategy allowed the documentation of adaptations in promoting livelihood skills for prisoners and food security within prisons. The reconciliation, stabilization and resilience trust fund 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.

B. Coherence: cooperation within the Mission was integrated; however, inadequate coordination with United Nations country team 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 and 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

¹³ Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan of 2018. As at 2023, 32 per cent of seats in the Transitional National Legislative Assembly are held by women.

¹⁴ Security Council resolution 1325 (2000).

¹⁵ One of the largest radio stations in South Sudan with programming mostly in English.

vision (2021–2024). The Rule of Law Advisory Section and the Human Rights Division aligned their workplans accordingly. Functioning coordination among and between uniformed and civilian components such as the police component (United Nations police), the Human Rights Division and the Rule of Law Advisory Section led to the successful implementation of training programmes, court deployments, support for Penal Code reform and for the Transitional National Legislative Assembly. Decentralized authority given to UNMISS field offices afforded greater flexibility and responsiveness at the local level.¹⁶ 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 United Nations action for accountability in the country. However, there was no evidence of tangible results as yet from this working group.

18. UNMISS coordinated with national institutions such as the Law Review Commission, the Information Commission, the Transitional Justice Working Group and the National Prisons Service with regard to their strategic plans, in alignment with the objectives of the Government of South Sudan and the Revitalized 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 with regard to leveraging its comparative advantages. Difficulties in collaborating with UNDP limited the strategic support for 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 UNDP and UNMISS had improved in recent years, opportunities for enhanced cooperation remained untapped. In another instance, while the two entities collaborated on some mobile court deployments (see para. 24 and table 2) and on the UNMISS-supported deployments of the joint special mobile court, there was a lack of communication on the court strategy and approach of involving customary actors.

20. In an independent evaluation of the South Sudan country programme, UNDP found that its collaboration with the Mission “was not geared towards a more united response to strengthening governance processes, especially in areas such as rule of law”.¹⁷ This was echoed in the 2020 independent strategic review of UNMISS (S/2020/1224). 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 the reconciliation, stabilization and resilience trust fund 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.

C. Effectiveness: support of the United Nations Mission in South Sudan for strengthening the rule of law and accountability was catalytic in some instances; however, pervasive contextual problems hampered the achievement of systemic change across the judicial system

21. Violence remained persistent during the period covered by the evaluation, as can be seen in figure I. Persistent contextual challenges limited UNMISS achievements towards the rule of law and accountability results envisaged. For 2023–

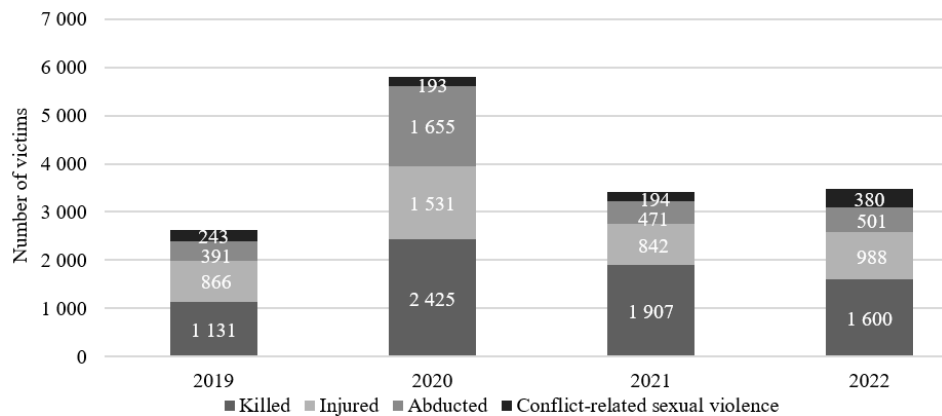
¹⁶ Effectiveness of Peace Operations Network, *Assessing the Effectiveness of the United Nations Mission in South Sudan/UNMISS* (Oslo, Norwegian Institute of International Affairs, 2019).

¹⁷ United Nations Development Programme (UNDP), *Independent Country Programme Evaluation: South Sudan* (2022).

2024, 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:

- Limited political will to advance the rule of law and accountability exhibited by the Government of South Sudan and a lack of trust among Revitalized Agreement signatories leading to delayed implementation of the Agreement. For example, the African Union-backed Hybrid Court for South Sudan to investigate and prosecute war crimes and other human rights violations committed during the civil war had not yet been created. The same was true for the Commission for Truth, Reconciliation and Healing and the Compensation and Reparation Authority (A/HRC/52/26, para. 95).
- Pervasive cycles of violence and impunity leading to politicized intercommunal conflict and opportunities for land-grabbing.
- 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 throughout the country, especially in rural areas.
- 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.
- 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.
- 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.

Figure I
Number of victims by type of crime, 2019–2022



Source: Annual briefs on violence affecting civilians, Human Rights Division, UNMISS (2020, 2022).

The Mission 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 judicial system should work to strengthen rule of law and accountability in South Sudan. Most interviewees reported notable successes in ad hoc interventions of mobile courts and quick impact projects. 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 with having made justice visible, however temporarily, in areas without statutory justice institutions since at least the time of the civil war. UNMISS supported predeployment missions, monitored and mentored justice actors and provided transport and per diem allowances for them. There were reports of increased awareness and confidence in the mobile courts on the part of South Sudanese citizens. This was reflected in the increased number of cases reported and requests by other states for further deployment of mobile courts. Community members acknowledged a reduction in crimes committed, especially in UNMISS-run protection of civilians sites following court sessions at these sites. Justice actors mentioned the deterrent effect of the mobile courts in relation to crime levels. Interviewees reported seeing improvement in the quality of judgements issued by mobile courts following the training of justice actors, including judges, investigators and prosecutors.

24. UNMISS had supported 39 court deployments since 2018, including circuit courts, general courts-martial, mobile general courts-martial, mobile courts at protection of civilians sites, special courts and UNDP mobile courts (see table 2). The deployments ramped up in 2021 and 2022, with 17 and 12 courts, respectively. The majority were 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 sexual and gender-based violence/conflict-related sexual violence (67) but, in those cases, 65 suspects were convicted.

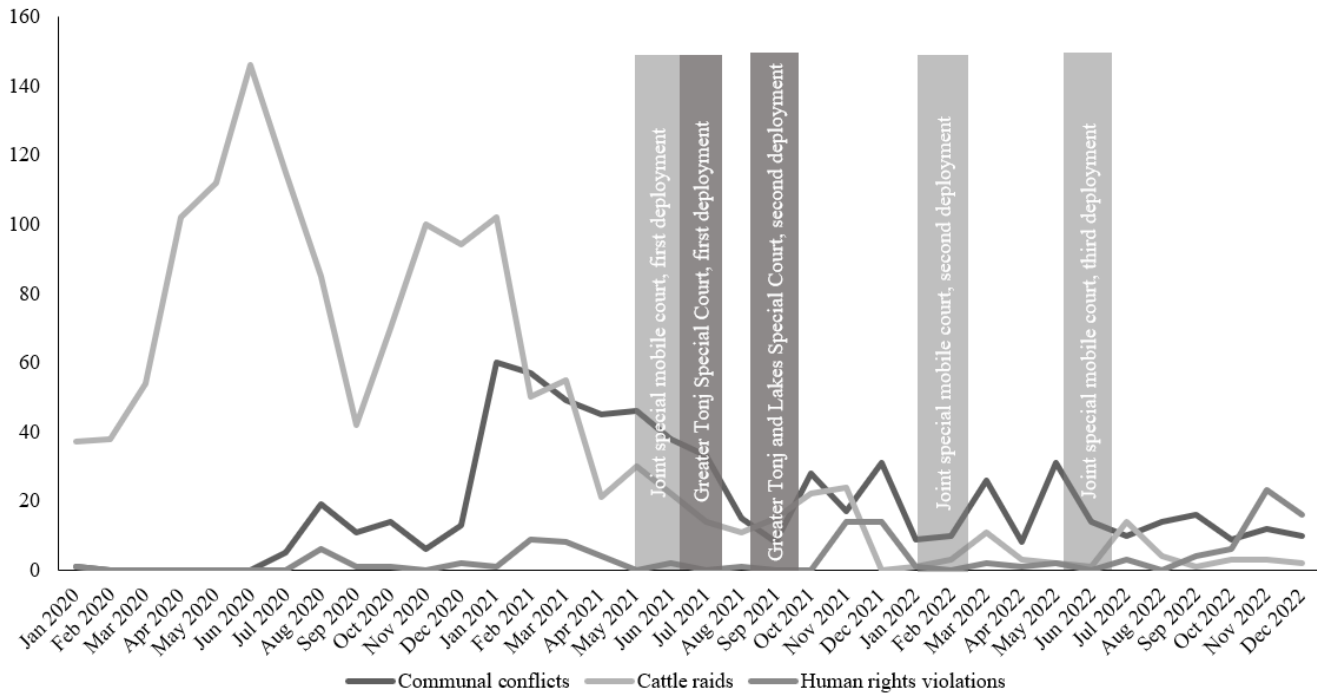
Table 2
Mobile court cases and convictions, 2018–2022

<i>Court type</i>	<i>Court deployments</i>	<i>Cases</i>	<i>Suspects convicted</i>	<i>Sexual and gender-based violence/conflict-related sexual violence cases</i>	<i>Sexual and gender-based violence/conflict-related sexual violence convictions</i>
Circuit court	3	12	12	10	10
General court martial	1	8	–	–	–
Mobile general courts-martial	10	87	93	5	8
Protection of civilians mobile court	7	49	43	22	19
Special court	11	259	269	12	12
UNDP mobile court	7	367	245	18	16
Grand total	39	782	662	67	65

Source: Rule of Law Advisory Section, UNMISS.

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) began to decline in mid-2020 and remained low throughout 2021 and 2022, during which period UNMISS supported the joint special mobile court and special courts (see figure II) in those 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 courts were organized at the invitation of the administration. The administrative stability of local government may therefore also have played a role in the decline in crime in those areas.

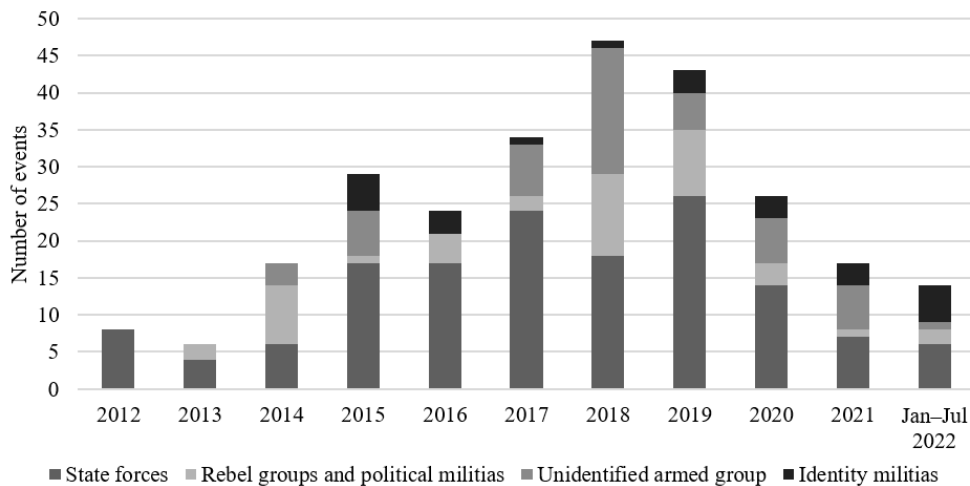
Figure II
Communal conflict, cattle raids and human rights violations in three states, 2020–2022



Source: Situational Awareness Geospatial Enterprise and Rule of Law Advisory Section, UNMISS.

26. In the absence of monitoring, analysis and reporting arrangements data, data from the Armed Conflict Location and Event Data Project 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 (see figure III). 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.

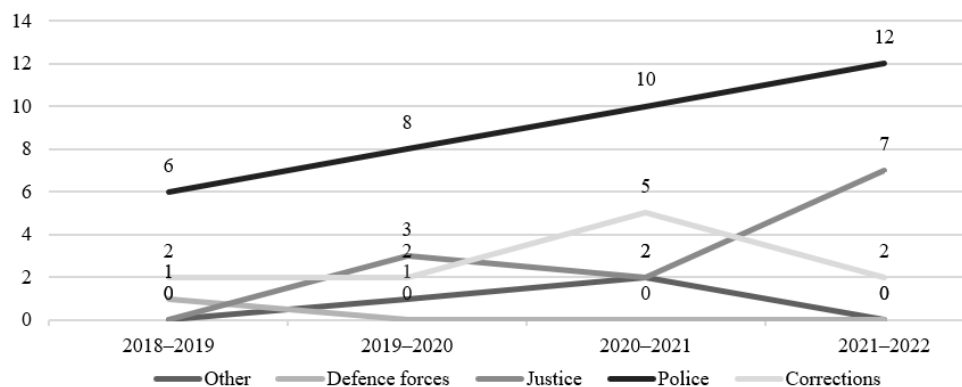
Figure III
Sexual violence events, by alleged perpetrator, 2012–mid-2022



Source: Armed Conflict Location and Event Data Project.

27. To broaden the Mission's outreach, UNMISS implemented small-scale, low-cost quick impact projects to address urgent judicial system needs. The projects included 63 buildings constructed or refurbished for police, judiciary, defence forces and prisons since 2018 (see figure IV). The quick impact project model was appreciated by most stakeholders as a stopgap, yet effective approach, to address critical needs of the rule of law institutions in areas where there had been none or where they had been destroyed in the civil war.

Figure IV
Number of justice-related quick impact projects, 2018–2022



Source: Rule of Law Advisory Section, UNMISS.

28. A severe shortage of key judicial system 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,¹⁸ nor were official figures available from the Government of South Sudan. While the United Nations police had an estimate of South Sudan National Police Service 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 judicial system 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 judicial system actors

29. The general perception on the part of stakeholders was that UNMISS contributed to laying a foundation for statutory justice in South Sudan. Prior to independence, a Sharia-based legal system prevailed. Since 2018, UNMISS engagements and activities had promoted an increased sense of national ownership, more awareness of duties and growing levels of engagement from justice actors. UNMISS made considerable efforts to raise awareness of professional responsibilities and ethics, including sexual and gender-based violence and conflict-related sexual violence. Most stakeholders noted that, because of UNMISS capacity-strengthening, there was increased due diligence on the part of police, prosecutors, investigators, military justice actors/South Sudan People's Defence Forces, other institutions (National Human Rights Commission, parliamentary committees, inter alia) 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.

¹⁸ While the Comprehensive Planning and Performance Assessment System included an indicator on number of justice actors deployed, only one data point each from 2022 was available for judges, police and prosecutors, and included caveats that it should be considered unofficial.

30. While most respondents perceived that capacity had been strengthened owing to UNMISS support, often their next comment was to request more support in this area, based on the recognition that there remained glaring knowledge and skill gaps for rule of law 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. The United Nations police was the only UNMISS division able to report training attendance figures and which notably achieved 35 per cent participation of women.

32. UNMISS supported the development of the plan for absorption, registration, training and deployment of the necessary unified forces into the National Prisons Service of South Sudan. The curriculum included familiarization with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)¹⁹ 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 uniformed institutions in the fight against impunity whereby low-ranking personnel were held accountable. Notable progress was achieved in releasing children recruited by parties to the conflict

33. The Government of South Sudan established a general court-martial following the horrific attack against civilians by soldiers at the Terrain Hotel in July 2016.²⁰ 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.²¹ The Government of South Sudan has since established a joint military implementation committee on conflict-related sexual violence and developed an action plan addressing children and armed conflict within the South Sudan People's Defence Forces, with UNMISS support.

34. During the period under review, UNMISS supported the deployment of courts-martial to Bentiu, Bor, Malakal, Maridi, Renk, Juba and Yei in the form of 1 general court-martial and 10 mobile general courts-martial. Stakeholders noted that only low-ranking military officers were prosecuted during this period; no high-ranking officers or generals were arraigned. Stakeholders generally acknowledged that the courts-martial were symbolic yet helpful for South Sudan People's Defence Forces 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

¹⁹ General Assembly resolution 70/175, annex.

²⁰ United Nations, "Perpetrators of violence against civilians at Terrain Hotel held accountable for their crimes", 6 September 2018.

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

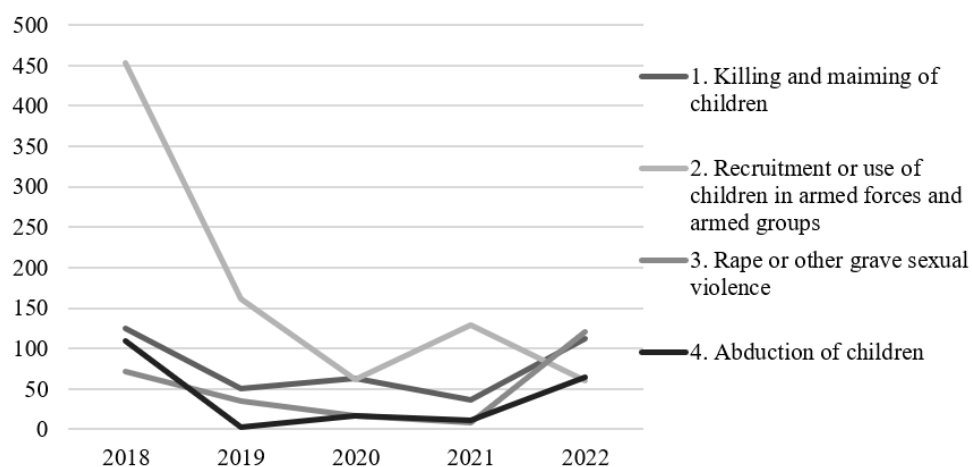
to hold these perpetrators to account, considering also that many remained employed within the security sector and could continue to assert influence over the transitional government of national unity.

36. In June 2021, UNMISS supported the launch of the Joint Action Plan for the Armed Forces on addressing conflict-related sexual violence 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 related to sexual and gender-based violence and/or conflict-related sexual violence (6 per cent), leading to eight convictions. Most stakeholders from government and partners applauded the steps taken by the Government of South Sudan and security forces to address conflict-related sexual violence, while stakeholders from civil society organizations 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 Revitalized Agreement. A total of 1,279 children were released with UNMISS support, including 393 girls.²² In the 2021 report of the Secretary-General on children and armed conflict (A/76/871-S/2022/493), the South Sudan People's Defence Forces were delisted for attacks on schools and hospitals, but remained listed for the other five violations. As shown in figures V and VI, the grave violations declined from 2018. Some violations hovered at or around the same level until 2021, when they increased again, including the killing and maiming of children, rape or other grave sexual violence, abduction of children and use of schools and hospitals.²³ The increase in these four 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 (S/2023/99). Furthermore, the escalating intercommunal violence in the country continued to have a devastating impact on children's rights.

Figure V

Children and armed conflict: grave violations 1–4, 2018–2022^a



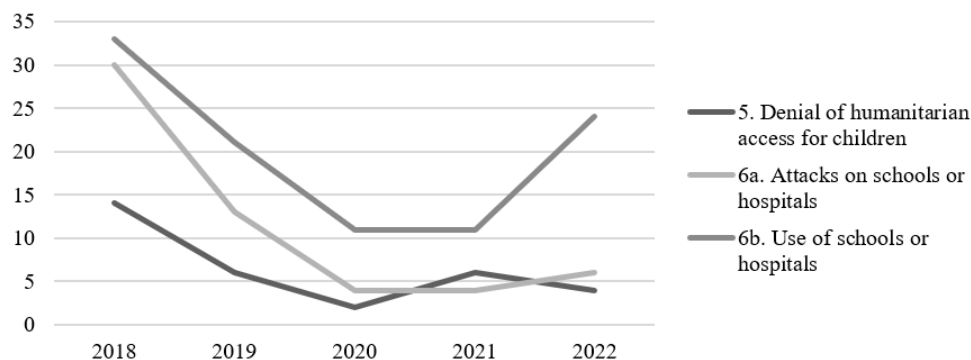
Source: Reports of the Secretary-General on children and armed conflict: [A/73/907-S/2019/509](#); [A/74/845-S/2020/525](#); [A/75/873-S/2021/437](#); [A/76/871-S/2022/493](#); and [S/2023/99](#).

^a Figures for 2022 represent a half year only and have been annualized for comparison.

²² See the following reports of the Secretary-General on the children and armed conflict: [A/73/907-S/2019/509](#); [A/74/845-S/2020/525](#); [A/75/873-S/2021/437](#); and [A/76/871-S/2022/493](#).

²³ The actual number of violations was estimated to be much higher.

Figure VI
Children and armed conflict: grave violations 5 and 6, 2018–2022



Source: Reports of the Secretary-General on children and armed conflict: [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](#).

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

38. Blurred boundaries existed between the jurisdictions of the customary and statutory justice systems, especially in rural areas, despite growing awareness of the jurisdiction of the two systems.²⁴ Traditional leaders presided over the mitigation and resolution of most local conflicts, as statutory justice was inaccessible to many.²⁵ The general lack of systematic harmonization of the customary system actors with the overall justice system resulted in their 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, the Rule of Law Advisory Section and the Human Rights Division held workshops with traditional justice actors on human rights and justice standards to clarify how the two systems interfaced. UNMISS, in coordination with civil society organizations, 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 through deployments of special courts.²⁶ In these special courts, assessors²⁷ were invited to consult on the courts and offer the judge advice according to local traditions and customs. For example, the joint special mobile court, designed with Government of South Sudan actors under the auspices of the reconciliation, stabilization and resilience trust fund, convicted 11 individuals of sexual and gender-based violence/conflict-related sexual violence out of a total of 29 cases referred to the courts (see table 3).²⁸ 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.

²⁴ South Sudan, Local Government Act of 2009, provided the legal basis for traditional authorities to administer customary law and justice.

²⁵ UNDP and Ministry of Justice and Constitutional Affairs of South Sudan, “Justice needs and satisfaction in South Sudan” (see footnote 12).

²⁶ While the special court mechanism was catered for within the Penal Code, UNMISS facilitated the special court deployments in important ways.

²⁷ Often chiefs or traditional leaders, who lent courts legitimacy in the eyes of the community.

²⁸ The second joint special mobile court deployments, to Greater Tonj and Lakes did not report complete case outcomes.

Table 3
Special courts deployed with support from the Mission, 2018–2022, with outcome

<i>Type of court</i>	<i>Cases referred</i>	<i>Cases decided</i>	<i>Convicted (individuals)</i>	<i>Acquitted (individuals)</i>	<i>Sexual and gender-based violence/conflict-related sexual violence convictions (individuals)</i>
Joint special mobile court, first deployment	8	6	4	2	–
Joint special mobile court, second deployment	35	18	12	6	–
Joint special mobile court, third deployment	30	5	2	3	2
Greater Tonj	46	–	54	4	8
Lakes	184	–	197	5	1
Total	303	29	269	20	11

Source: Rule of Law Advisory Section, UNMISS.

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 people with a legal issue), land problems (34 per cent) and crime/security problems (23 per cent).²⁹

There was no evidence of a judicial system holistically more responsive to citizens’ needs, especially for vulnerable populations. However, there were some areas where Mission support appeared to gain early traction, such as a growing recognition of aspects of sexual and gender-based violence and conflict-related sexual violence as crimes

41. Grounded in historical and pervasive gender inequalities within a patriarchal society, aspects of sexual and gender-based violence and conflict-related sexual violence were not considered as crimes and remained widespread in the conflict (A/HRC/49/CRP.4), despite a 2014 communiqué by armed groups committing to address it. UNMISS contributed to awareness and dialogue on sexual and gender-based violence and conflict-related sexual violence as criminal behaviour, through technical support and facilitation of implementation committees to address conflict-related sexual violence. Other initiatives represented steps forward, such as the creation of a juvenile and gender-based violence court in Juba. UNMISS contributed to the establishment of the Juvenile Reformatory Centre, which separated juvenile from adult prisoners in Juba. However, there were many detainees held on remand without conviction or warrants, owing to the ineffectiveness of the court system, gaps in communication and coordination between the judicial system actors, police, courts and prisons and a lack of infrastructure and transport.

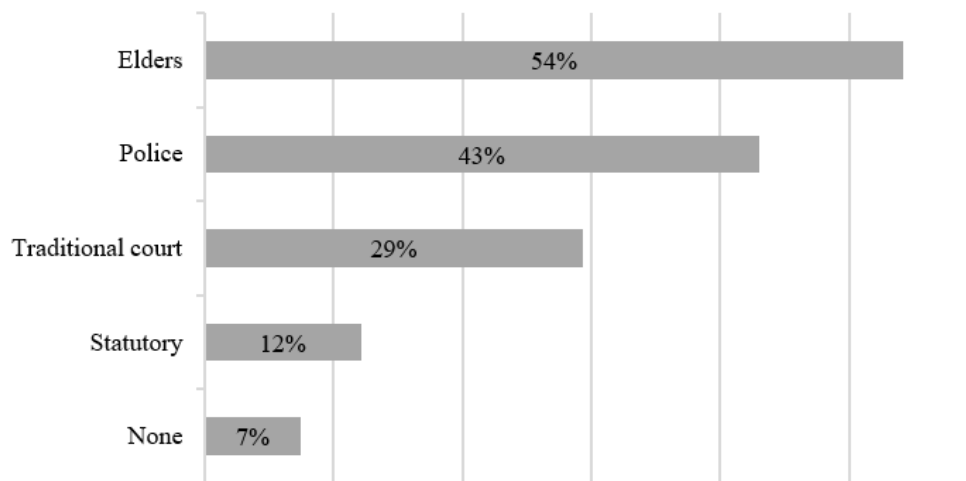
42. Support for victims and witnesses of sexual and gender-based violence and conflict-related sexual violence remained isolated throughout the country. There was a lack of shelters for victims; indeed, there were reports that some were kept in prison and forced to face their aggressors in court without any psychosocial support. Through UNMISS, together with other United Nations country team actors via the gender-based violence subcluster, civil society organizations provided ad hoc transport,

²⁹ UNDP and Ministry of Justice and Constitutional Affairs of South Sudan, “Justice needs and satisfaction in South Sudan” (see footnote 12).

interpretation and psychosocial support to some victims. UNMISS supported South Sudan in its journey to ratify the Convention on the Rights of Persons with Disabilities.³⁰ Persons with disabilities were trained by the Human Rights Division 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 judicial system institutions to public safety and citizens' needs but, overall, large gaps in the system persisted. As compared with the civil war period (2013–2016), citizens and justice actors interviewed perceived the judicial system to be more functional during the evaluation period. In contrast, in a survey jointly conducted by the United Nations Children's Fund (UNICEF), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and UNDP,³¹ 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 (see figure VII). 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.³² 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 obtaining 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 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 VII
Institution of choice for dispute resolution



Source: UNICEF, OHCHR and UNDP, “Breaking the cycle of violence: rehabilitating justice and accountability mechanisms in South Sudan: a baseline, perception study” (2021).

³⁰ The Convention was signed in February 2023.

³¹ UNICEF, OHCHR and UNDP, “Breaking the cycle of violence: rehabilitating justice and accountability mechanisms in South Sudan – a baseline, perception study” (2021).

³² PAX, Human Security Survey (2018–2022).

The Mission supported mechanisms in addressing 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 in cooperation with the Human Rights Division, were able to effect change to coordinate the justice system to advocate for the release of prisoners. UNMISS trained National Prisons Service 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. National Prisons Service officers, at the receiving end of a dysfunctional judicial system, were put in a precarious position in relation 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.³³

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 related to lack of training on how to manage such a system, lack of salaries, infrastructure, vehicles and coordination with other justice institutions. Prison 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 in which to demand justice and influence accountability for human rights violations. The Mission partnered with civil society organizations at an operational level, with limited evidence of strategic partnerships for civil society actors to claim their rights

47. Civil society, in particular activists working in the rule of law and human rights arena, endured a shrinking space during the evaluation period (A/HRC/49/78), 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.³⁴

48. The Human Rights Division and the Rule of Law Advisory Section engaged with civil society actors with a view to empowering them to sensitize the population and effectively promote and demand accountability and transitional justice. Some examples are as follows. The Community Empowerment for Progress Organization partnered with the Human Rights Division 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

³³ Figure from UNMISS corrections team.

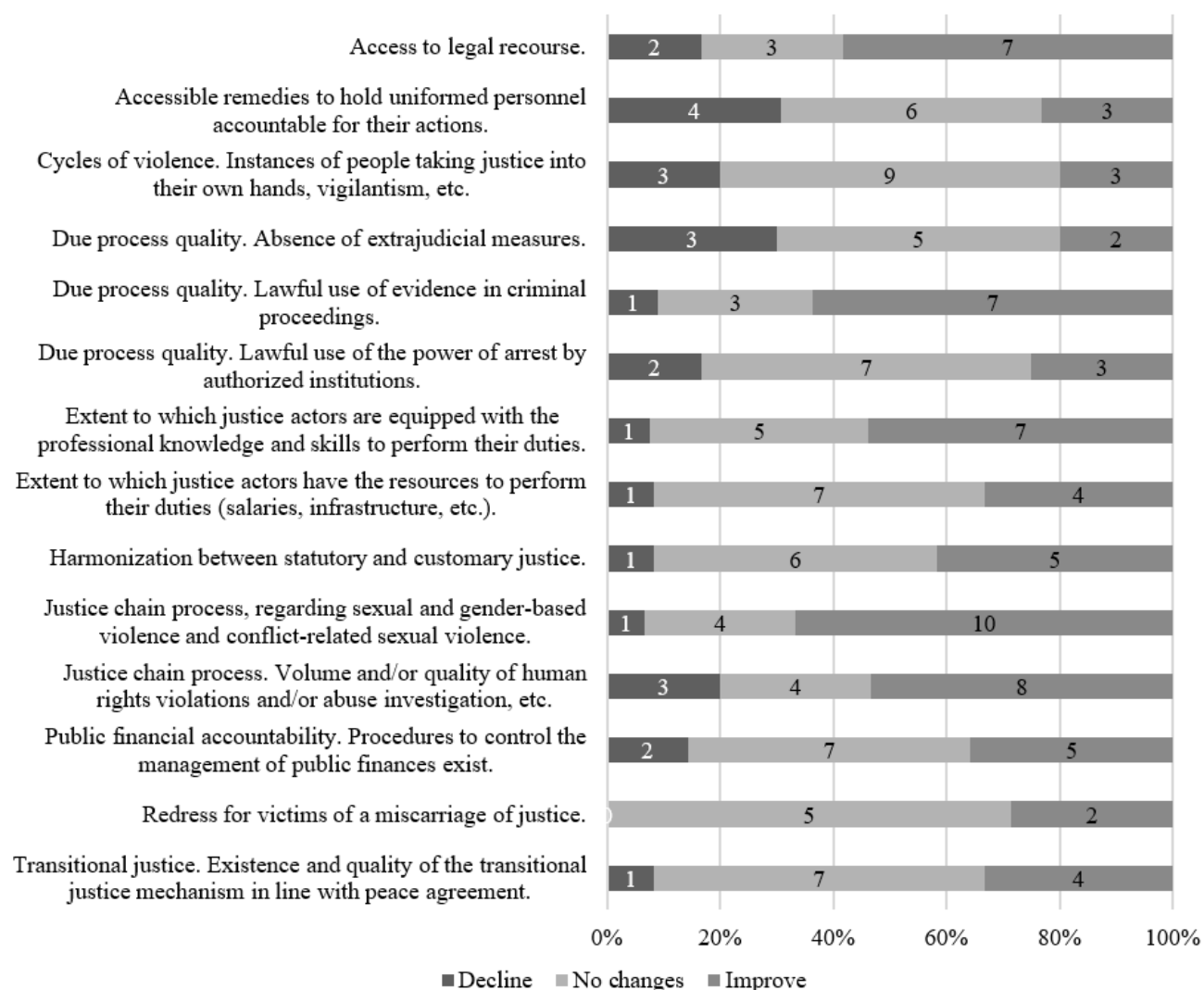
³⁴ Volker Türk, United Nations High Commissioner for Human Rights, remarks delivered at the fifty-second session of the Human Rights Council, Geneva, 7 March 2023.

organizations working on transitional justice), the Human Rights Division held forums with civil society organizations, government representatives, religious and traditional leaders, media representatives, the South Sudan Human Rights Commission and members of the regional and international community participating.

49. The Mission's approach to partnership had observable inefficiencies. The Rule of Law Advisory Section did not have a list of civil society organizations that it worked with; nor was there a centralized or standardized contact list of partners that either the Rule of Law Advisory Section 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 sexual and gender-based violence and conflict-related sexual violence and judicial system process; however, many differences in opinions were found (see figure VIII).

Figure VIII

Change in the rule of law and accountability in South Sudan since 2018

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

The Mission 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 the Mission

51. UNMISS efforts to support legislative reviews and oversight bodies yielded legal reforms mainly in the recent adoption of five security acts³⁵ in December 2022. UNMISS consulted with the National Constitutional Amendment Committee, supporting amendments to the Transitional Constitution of the Republic of South Sudan. Ongoing support included inclusive reviews of the Criminal Procedure Code and the Penal Code, inter alia, such as the reforms to the Political Parties Act and the National 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 implemented recommendations with support from the Human Rights Division. For example, the Mission supported the ratification of the Convention on the Rights of Persons with Disabilities.

52. Gender-responsive strategies such as the action plans to address conflict-related sexual violence with defence forces and national police were developed with UNMISS support. Patriarchal norms prevented women from accessing land in South Sudan,³⁶ 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, together with the Ministry of Land, Housing 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.

V. 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 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 among citizens. Nevertheless, large-scale displacement and human rights violations during and beyond the civil war remained unaddressed. UNMISS efforts towards strengthening the rule of law and accountability were undermined by its weak coordination with United Nations country team entities and lack of a strategic approach towards partnerships, outreach and capacity development, which were further compounded by inadequate knowledge management.

³⁵ Namely, the Police Service Act, the Prison Service Act, the National Security Service Act, the Sudan Liberation Army Act and the Wildlife Service Act.

³⁶ Intergovernmental Authority on Development, "The IGAD women's land rights agenda 2021–2030."

VI. Recommendations

54. The Inspection and Evaluation Division of OIOS makes three important recommendations to UNMISS 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 the significance of each immediate outcome in contributing to enhancing the rule of law and accountability in the country.

Table 4
Recommendations

<i>Evaluation criteria and paragraph reference</i>	<i>Recommendation</i>	<i>Indicators of achievement</i>
Relevance (para. 16)	R1. UNMISS should develop a strategy to document best practices and lessons learned from initiatives.	R1.1 Best practices strategy developed encompassing Rule of Law Advisory Section and Human Rights Division processes and practices. The strategy should include evidence of inclusive design, covering vulnerable groups such as women, people with disabilities and youth.
Coherence (paras. 19, 49)	R2. UNMISS should strengthen partnerships to leverage comparative advantages working with United Nations country team entities.	R2.1 Partnership strategy developed, jointly with the United Nations country team, to include outreach strategies for civil society organizations and the Government of South Sudan. R2.2 Evidence of enhanced collaboration with the United Nations country team, especially UNDP, in court deployments, rule of law partner mapping and information-sharing under the aegis of the Rule of Law Focal Point Network or similar.
Effectiveness (paras. 29, 30, 31) (para. 46)	R3. UNMISS should coordinate with the United Nations country team and Government of South Sudan rule of law and accountability partners to conduct a capacity assessment leading to a joint strategy for strengthening rule of law and accountability-related actors, institutions and the enabling environment.	R3.1 Capacity-development strategy developed, incorporating adult learning approaches, including a measurement strategy, a gender analysis, and evidence of coordination efforts with other entities, including United Nations country team, rule of law and accountability partners, and donors. R3.2 Within the capacity development strategy, documentation of plans to create a sustainable case management process, and support for justice sector actors to build on rule of law forums at the state level.

(Signed) Fatoumata Ndiaye
Under-Secretary-General for Internal Oversight Services
February 2024

Annex***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 the contribution of UNMISS 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 United Nations country team (recommendation 2), including through the creation of joint strategies 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 Rule of Law Focal Point Network, sector working groups and an internal civil society organization task force to ensure comprehensive and inclusive rule of law and human rights programming and support.

Concerning the recommendation that UNMISS coordinate with the United Nations country team and Government of South Sudan rule of law and accountability partners to conduct a capacity assessment (recommendation 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 Government of South Sudan. The United Nations country team and UNMISS have the responsibility of assisting in the development of national capacities, while also ensuring adherence to international norms, standards and United Nations principles. For this reason, the Mission can only commit to advocating for and engaging national partners, including the Ministry of Justice and Constitutional Affairs and the judiciary, to support the development of strategies 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.

* In the present annex, the Office of Internal Oversight Services sets out the full text of comments received from the United Nations Mission in South Sudan. The practice has been instituted in line with General Assembly resolution [64/263](#), following the recommendation of the Independent Audit Advisory Committee.