

SUPPORTING ACCESS TO JUSTICE IN SOUTH SUDAN

A 2025 JUPITER ASSESSMENT



★ Institutions Global Department



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ABBREVIATIONS

ADR	Alternative Dispute Resolution
BTI	Bertelsmann Stiftung's Transformation Index
CMG	Community Mediation Groups
CMIS	Case Management Information System
CPA	Comprehensive Peace Agreement of 2005
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organization
FCS	Fragile and Conflict-affected Settings
FCV	Fragility, Conflict, and Violence
FIDA	Federation of Women Lawyers of South Sudan
GoSS	Government of South Sudan
ICT	Information and Communication Technologies
IDP	Internally Displaced Persons
JCC	Justice and Confidence Centers
JRC	Judicial Reform Committee
JSC	Judicial Service Commission
JUPITER	Justice Pillars Towards Evidence-based Reform
MGCSW	Ministry of Gender, Child and Social Welfare of South Sudan
MoFP	Ministry of Finance and Planning of South Sudan
MoJCA	Ministry of Justice and Constitutional Affairs of South Sudan
NCAC	National Constitutional Amendment Committee
NGO	Non-Governmental Organization
R-ARCSS	Revitalized Agreement on the Resolution of the Conflict in South Sudan
RRA	Risk and Resilience Assessment
RJMEC	Reconstituted Joint Monitoring and Evaluation Commission
SGBV	Sexual and Gender-based Violence
SSBA	South Sudan Bar Association
SSLRC	South Sudan Law Review Commission
SSLS	South Sudan Law Society
TCRSS	Transitional Constitution of the Republic of South Sudan
UNDP	United Nations Development Programme
UNMISS	United Nations Mission in South Sudan
WBG	World Bank Group



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EXECUTIVE SUMMARY

The weak justice system in South Sudan is widely acknowledged as a primary driver of the country's fragility, as periods of war, internal conflict, and limited institutional resources have hindered its effectiveness. This study arises from the Government of South Sudan's (GoSS) aspiration to enhance justice delivery for its citizens through a practical, data-informed sequence of reforms and capacity development actions. This report assesses the state and performance of the justice system of South Sudan through the JUPITER methodology.

JUPITER uses qualitative and quantitative data to evaluate both *de jure* and *de facto* justice delivery metrics, identifying gaps in the legal framework and its implementation and creating comparable metrics to benchmark against similar indicators and other economies. The study focuses on the system's effectiveness in service delivery across three areas: Access to Justice, Efficiency, and Quality. JUPITER aims to identify strengths and areas of improvement in these key areas, serving as a basis for policy dialogue.

Main Findings

South Sudan has a dual legal system where customary laws and authorities are integrated into the statutory justice system, each governed by their respective jurisdictional rules. The statutory system, regulated by the Transitional Constitution of the Republic of South Sudan of 2011 (TCRSS) and the Judiciary Act of 2008, establishes county courts in each county, one High Court in each of the ten states, three Courts of Appeal circuits at the regional level, and a Supreme Court with national jurisdiction. The customary courts, managed by traditional authorities and governed by the Local Government Act of 2009, also have a hierarchy of appeals and are connected to the statutory courts through appeals from the highest customary court to the statutory county court of first grade. Statutory courts handle all types of disputes, while customary courts are traditionally limited to disputes involving

personal, family, and customary land matters. Customary courts do not have jurisdiction over criminal cases unless referred by a statutory court when there is a "customary interface." This interface has been difficult to interpret, and most disputes, regardless of their subject matter, are handled by the customary system.

Within this framework, the empirical analysis in this report yields three main findings that shed light on the path forward for the delivery of justice services in South Sudan. These findings are documented using a large body of evidence collected in the process of developing this study, as well as empirical evidence from several other studies on the justice system in South Sudan. Altogether, data from 10,839 interviews with users conducted over 15 years support the analysis.¹

1. The team conducted a comprehensive literature review of previous studies on the justice sector in South Sudan. These studies were used to complement the data collected for this study and to support some of the findings. Specific references are provided for each study from which data was extracted, including details on the number of people surveyed, the organization that conducted the study, and the publication reference. Additional details on the specific studies can be found in Annex A on the Methodology.



First, around 80 percent of civil and criminal cases in South Sudan are resolved through customary mechanisms. People prefer them due to their ease of access – both geographically and socioeconomically – efficient proceedings, and the community’s trust and familiarity with customary rules. Also, years of conflict and difficulties in developing judicial infrastructure outside of Juba have hindered the establishment of statutory courts in rural areas, where customary and traditional authorities have prevailed. Customary justice actors provide accessible and culturally attuned dispute resolution mechanisms at the local level. Engaging customary actors is important for justice sector interventions to impact the highest number of citizens. However, recognizing the possible risks and challenges associated with engaging with customary actors is important to address potential harmful and discriminatory practices against minority and vulnerable groups.

Second, courts in South Sudan are largely inaccessible to the majority of citizens due to long distances to the nearest court and high costs. Data collected during this study shows a general absence of formal justice institutions at the state level, especially in rural areas. Many highly populated states outside of Central Equatoria, where the capital city of Juba is located, are underserved by the statutory system. For instance, Unity State, with over one million residents, has no judges operating in the state. Warrap State has only four judges for more than 2.5 million people, meaning each judge serves about 527,897 people. Similarly, Jonglei State has three judges for around one million residents, with each judge serving about 515,603 people. The GoSS, in collaboration with civil society organizations (CSOs), has made efforts to close the geographical gap in access to justice, including the deployment of mobile courts and the establishment of community dispute resolution centers. While these initiatives have increased access to justice in the communities they serve,

their sustainability has largely depended on donor funding.

Despite legal provisions recognizing their equal standing in court proceedings, women tend to face more barriers than men in accessing justice in practice. Systemic issues such as financial constraints, social stigma, and a lack of knowledge about their rights hinder their ability to effectively engage with the justice system. These challenges are more pronounced for rural women, whose forum choices are often limited to the customary system, which is frequently seen as unfair to women. However, enhancing women’s participation in customary justice mechanisms has shown promise. In counties like Torit and Wau, women’s involvement in decision-making as Chiefs has led to more inclusive outcomes. This positive change could also be extended to the statutory system, where women are underrepresented, holding only 24 percent of judicial positions. Therefore, the establishment of a specialized Sexual and Gender-based Violence (SGBV) Court in Juba is a positive step toward addressing women’s specific justice needs, which could eventually be expanded in the future to areas outside of Juba to improve geographical accessibility.

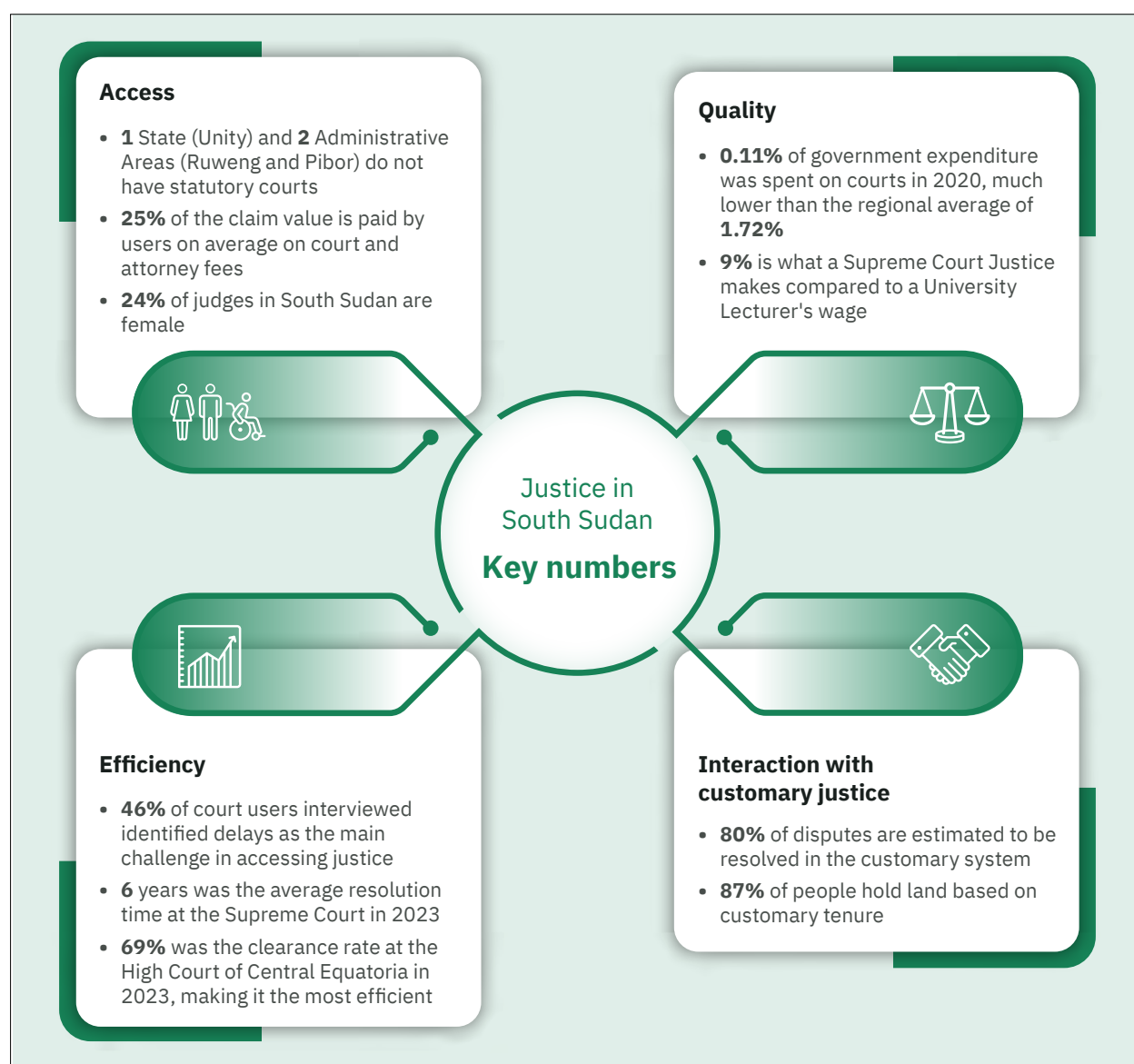
Access to court services is also impacted by limited access to legal information. Some laws are available on the website of the Ministry of Justice and Constitutional Affairs (MoJCA), and the Supreme Court has begun recording some judgments. However, the overall lack of publicly available and updated legal information can undermine the transparency of the legal framework and people’s knowledge about their rights.

Third, courts in South Sudan are characterized by long resolution times. Most court users interviewed during the study identified delays as the primary challenge in their interactions with the judicial system. This is especially the case at the

Supreme Court, where clearance rates dropped from 59 percent in 2021 to 14 percent in 2023, and a case takes on average six years to be resolved (Figure ES1). Lower courts perform significantly better. Even though clearance rates at the High Court of Central Equatoria State decreased from 80 percent in 2022 to 69 percent in 2023, these

remain comparable to those of other high courts in the region like Rwanda (68 percent) and Uganda (75 percent). Meanwhile, the Juba County Court has shown a slight improvement in clearance rates, increasing from 20 percent in 2021 to 25 percent in 2023, though cases still take an average of three years to be resolved, which is longer than other primary courts in neighboring countries.

>>> **Figure ES1:**
Justice in South Sudan: Key Numbers



These delays are mainly due to operational inefficiencies. The current court infrastructure is overwhelmed, with a low ratio of rooms to judges and generally overcrowded courtrooms. Many court offices lack essential equipment like computers, printers, and stationery, and frequent power outages disrupt daily operations. Additionally, courts in South Sudan lack a standardized case management system, sometimes leading to unreliable and inefficient registry processes. Court users interviewed frequently reported issues related to inadequate file management, with documents often lost or damaged, forcing them to restart their processes altogether.

In terms of costs, justice seekers in South Sudan face high court fees, attorney fees, and unofficial payments. The MoJCA has made efforts to provide legal aid in criminal cases, but there is currently no comprehensive and structured government framework for the provision of legal assistance. As a result, many individuals facing socioeconomic barriers receive limited support, relying primarily on local CSOs.

A key cross-cutting issue that emerged during data collection is the judiciary's struggle to maintain independence, which hampers its effectiveness in delivering justice and addressing unethical practices. Crucial safeguards, such as the independent appointment and removal of judges, security of tenure, and financial autonomy, are insufficiently addressed by the current legal framework. For instance, the process for appointing judges often bypasses the Judicial Service Commission (JSC) and lacks transparency. Ambiguities in the rules regulating the removal of judges have led to their dismissal without proper disciplinary procedures.

Additionally, the judiciary is underfunded, resulting in significantly lower salaries for judges compared to other civil servants. Inefficiencies in the justice system allow actors who engage in informal payments and unethical behaviors to act with impunity, as reflected by the prevalence of such practices in the country.

Policy Implications

Four policy implications follow from the main findings and challenges presented above. These policy implications align with current budgetary constraints, and focus on the need for proper sequencing, feasibility, and sustainability. They are designed to support the GoSS in its ongoing efforts to reform the justice system in the country.

1. **Building mutually beneficial and reinforcing linkages between statutory and customary justice:** Customary justice is an essential part of dispute resolution in South Sudan and the most widely used mechanism for most citizens. Fostering stronger collaboration between the two systems can enhance access to justice while

improving the effectiveness and operations of customary courts, ensuring more equitable and transparent processes. Potential steps to enhance these linkages and promote fairer processes within customary courts include: (i) clarifying jurisdictional ambiguities in criminal cases and land disputes over demarcated land

and establishing clear guidelines and criteria for referrals; (ii) collecting data on the volume and types of disputes that are resolved through each system; (iii) considering strategies to ensure the customary system's compliance with international and domestic human rights standards; and (iv) developing rules of conduct for customary justice actors and minimum standards for rights protection.

2. **Strengthening Judicial Independence and Accountability:**

While judicial independence is recognized in the TCRSS and the Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS), there are aspects of the legal framework and its application that could be reviewed to provide stronger guarantees for the independence of the judiciary. These include the rules related to the appointment and removal of judges and strengthening the JSC's role in the discipline and general oversight of the judiciary. Raising awareness among court users about judicial accountability mechanisms can help to build public trust in the justice system and serve to complement these efforts.

3. **Making Courts More Affordable and Accessible:**

Courts in South Sudan are largely inaccessible to citizens, particularly outside of Juba, with barriers such as high costs, limited legal aid, and a lack of updated legal information, all of which disproportionately affect women. Based on experience from other countries with similar challenges, these barriers could be addressed by: (i) deploying mobile courts to reach remote areas and implementing a phased infrastructure expansion program to build court facilities in underserved areas; (ii) establishing a uniform fee schedule that is publicly available to avoid arbitrary charges; (iii) expanding legal aid services beyond criminal cases by developing a legal aid policy with clear eligibility criteria, responsibilities of providers, and oversight

mechanisms; (iv) establishing a coordination framework with current legal aid providers; (v) broadening the market for legal services to include paralegals; (vi) promoting gender-sensitive approaches to access to justice and women's equal participation in judicial decision-making; (vii) harmonizing the legal framework to address conflicts and inconsistencies in the laws; (viii) ensuring public access to legal information by creating a regularly updated database of laws, regulations, and Supreme Court decisions; and (ix) promoting legal awareness through communication campaigns and outreach programs.

4. **Enhancing Judicial Efficiency and Reducing Delays:**

Most South Sudanese interviewed in this study identified delays as the primary challenge in their interactions with the courts. This issue can be addressed through short- and medium-term strategies, tailored to available resources. In the short term, the judiciary can start by standardizing and simplifying case management and filing processes, which does not require a significant upfront investment. This effort will lay the foundation for developing a digitalized and automated case management and filing system. In the medium term, the judiciary can consider investing in improved court infrastructure, new equipment, and additional personnel.



1. INTRODUCTION

South Sudan is navigating a transformative phase. Following the signing of the R-ARCSS in 2018, the country has embarked on implementing structural institutional reforms and is drafting its permanent constitution. As South Sudan progresses through this period of transformation, establishing a robust and independent judiciary is crucial for reinforcing rule-based governance, ensuring the separation of powers, and creating pathways for peaceful conflict resolution. The World Bank Group's (WBG) Strategy for Fragility, Conflict, and Violence supports this vision, recognizing that resilient justice institutions transform the dynamics of fragility and conflict.²

There is urgency for reform in South Sudan, as the weakness of the justice system has been highlighted as a primary driver of the country's fragility.³ South Sudan's history has been marked by periods of war, internal conflict, and power struggles, along with macroeconomic pressures and limited institutional resources. These factors have presented challenges to establishing an effective judicial system, resulting in chronic understaffing, poor infrastructure, limited reach outside the capital, political interference, and prevalent corruption.⁴ In parallel, customary justice mechanisms, which most South Sudanese use to resolve disputes, have been a source of

2. World Bank Group. 2020b. *World Bank Group Strategy for Fragility, Conflict, and Violence 2020–2025*. Washington, DC: World Bank Group.

3. World Bank Group. 2021b. *South Sudan Risk and Resilience Assessment*. Washington, DC: World Bank Group.

4. *Supra* World Bank Group, 2021b, page 21. See also: Deng, D.K. 2021. *South Sudan: Justice Landscape Assessment*. Juba: Transitional Justice Working Group – South Sudan.

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resilience, particularly in rural areas where statutory institutions have yet to be established.⁵

Against this backdrop, the GoSS has an opportunity to create an effective, inclusive, and independent judiciary for South Sudanese citizens. The R-ARCSS requires the GoSS to conduct key reforms during the transitional period, including reviewing judicial legislation, strengthening justice institutions, improving court infrastructure, reconstituting the JSC, and establishing a Constitutional Court. However, the latest report from the Reconstituted Joint Monitoring and Evaluation Commission (RJMEC), the body responsible for overseeing the agreement's implementation, highlights the need to accelerate these critical reforms to reinforce the country's stability.⁶ In September 2024, the Parties to the R-ARCSS agreed to extend the transitional period by two years to allow the implementation of outstanding tasks, including preparing for general elections in December 2026.⁷

This report aims to provide evidence-based insights and policy implications to support dialogue on how to enhance the independence, efficiency, and accessibility of the justice system in South Sudan. It also supports the development of analytics under the WBG's South Sudan Country Engagement strategy, which focuses on building a solid foundation for institutional development, and ongoing engagement under the South Sudan Programmatic Governance and Public Financial Management Technical Assistance project (P180797).⁸

Using the [JUPITER methodology](#), this report benchmarks the effectiveness of South Sudan's justice system in three areas: (1) Access to Justice,

(2) Efficiency, and (3) Quality. JUPITER aims to identify strengths and areas of improvement in key areas, serving as a basis for policy dialogue among the GoSS, the Judiciary, the WBG, development partners, and other relevant stakeholders in the justice sector. JUPITER's standardized approach allows to benchmark South Sudan's performance against other countries and similar indicators, and its successive application enables tracking and monitoring the impact of judicial reforms over time.

This report used data from various sources to ground its findings and policy implications. The team prepopulated the JUPITER data collection tool with information on relevant laws and policies related to the justice system. To understand how these laws are applied in practice, the team conducted interviews with officials and technical teams from key institutions, including the Judiciary of South Sudan and the MoJCA, which provide justice services; Judicial Reform Committee (JRC), National Constitutional Amendment Committee (NCAC), and South Sudan Law Review Commission (SSLRC), which focus on legal and constitutional reform; RJMEC, which monitors the implementation of the R-ARCSS; and international and civil society organizations working in justice and rule of law, like the United Nations Mission in South Sudan (UNMISS), South Sudan Law Society (SSLS), Federation of Women Lawyers of South Sudan (FIDA), and the Max Planck Foundation. Additionally, the team organized a focus group discussion with advocates of the South Sudan Bar Association (SSBA) and surveyed court users in selected courts in Juba to gather their perceptions of the justice system, the challenges they face, and the areas for improvement in judicial service delivery.

5. *Supra* World Bank Group, 2021b, page 24.

6. Reconstituted Joint Monitoring and Evaluation Commission (RJMEC). 2022. *Evaluation Report on the Status of Implementation of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS)*. Juba, South Sudan.

7. RJMEC. 2024. "Statement by H.E. Amb. Maj Gen (rtd) Charles Tai Gituai, Interim Chairperson of RJMEC, 3rd Extraordinary RJMEC Meeting, 18 September 2024." Juba, South Sudan.

8. World Bank Group. 2021a. *Country Engagement Note for South Sudan for the Period FY21–FY23*. Washington, DC: World Bank Group.

The team also gathered administrative data from the Court Registrar, the Supreme Court, the Court of Appeals of Greater Equatoria, the High Court of Central Equatoria, Juba County Court, and the MoJCA. This included court locations, staffing information, caseload data, and financial reports. The team complemented the data collected during this study with reports, studies, and data from other institutions. Altogether, the data gathered during this assessment, along with data from several previous studies referenced in this report, provide solid empirical evidence, including information from 10,839 interviews with users conducted over a span of 15 years – see Annex A for details on the methodology.

Collecting data in fragile and conflict-affected settings (FCS) is always challenging, as data is scarce, often unreliable, and usually not collected in a systematized way. In South Sudan, numerous challenges persist in collecting and standardizing court administrative information and other relevant data on the justice system, such as the exact location and number of courts, and the number of cases received and disposed. The JUPITER methodology attempts to address these challenges by resorting to information provided by the Chief Registrar on the number of judges and their duty stations, as well as manually registering data from physical docket books from the past three years for the courts covered in the study. Additionally, most disputes in the country are resolved through the customary system, which does not systematically collect data on the volume and types of cases brought to customary courts. This posed certain limitations to the data collection exercise, which the team managed by leveraging existing data and studies from other development partners, academics, and international organizations. With this in mind, the report highlights the importance of systematically collecting data in the justice system moving forward to better diagnose its performance, track improvements, and identify areas for reform.

The study is organized as follows: Section 2 presents the main findings based on empirical and historical evidence. Section 3 outlines various policy options for decision-makers to support access to justice in South Sudan. Annex A provides a detailed overview of the JUPITER methodology and its application to South Sudan, including a list of persons who were interviewed for the assessment. Annex B includes the questionnaire and the median coded responses from all respondents consulted by the team in South Sudan.



2. FINDINGS FROM DATA COLLECTION

Fieldwork and empirical analysis in South Sudan reveal three findings highlighting the path toward improving access to justice in the country. First, the customary system is an integral part of the justice system and the most widely used dispute resolution mechanism in South Sudan, but ambiguities in jurisdictional rules complicate the process for justice seekers. Second, the statutory system is perceived as inaccessible due to geographic and financial barriers, as well as a lack of comprehensive

access to legal aid and legal information. Issues with the appointment and disciplinary procedure of judges further affect perceptions of independence and accountability. Third, the statutory system is seen as inefficient, with delays and high costs affecting court users. These findings collectively underscore the need to enhance the accessibility, independence, and efficiency of the justice system in South Sudan, as well as its interaction with the customary system.

2.1. South Sudan has a Dual Justice System and most South Sudanese use Customary Mechanisms for Dispute Resolution

South Sudan has a dual legal system where customary laws and authorities are integrated into the justice system by law and practice. By law, customary courts are part of the local governance structure and are connected to the statutory system via appeals to the county courts. Customary courts handle “customary disputes,” typically involving personal, family, and customary land matters.⁹ However, they lack authority over criminal cases unless referred by a statutory court when there is a “customary interface.”¹⁰ In practice, the situation is more nuanced, and interpreting this interface has proven challenging. Years of conflict and ongoing difficulties in developing judicial infrastructure outside of Juba have hindered the establishment of statutory courts in rural areas, where customary and traditional authorities have prevailed.¹¹

Indeed, customary justice has served as the primary means of dispute resolution in South Sudan.¹² Recognizing this reality, the Anglo-Egyptian Condominium that ruled southern Sudan before independence integrated customary justice through a “Native Administration.”¹³ The Chiefs Courts Ordinance of 1931 established a hierarchy of chiefs’ courts under the British district commissioners, merging administrative and judicial functions.¹⁴

After the conflict broke out between northern and southern Sudan in 1955, the role of chiefs in dispute resolution diminished as they struggled to enforce their authority.¹⁵

Since then, their power and authority have fluctuated as the rise of new state and central government authorities has reshaped their influence. In some communities, especially with urban and younger populations, their authority has diminished. However, some Chiefs have gained power by integrating into the state administration and forming ties with political and military figures.¹⁶ The internal displacement of a large part of the population has also impacted the influence of traditional authorities, particularly in inter-communal disputes, where community outsiders do not see them as legitimate in resolving their conflicts.¹⁷

Previous studies have identified a strong preference for the customary system in South Sudan. The Transitional Justice Working Group’s 2018 justice sector assessment indicated that customary courts adjudicate approximately 80 percent of civil and criminal cases.¹⁸ The predominant reliance on the customary system has been linked to its ease of access, both geographically and socioeconomically,

9. Sections 99 to 102 of the Local Government Act, 2009.

10. Section 98(1) of the Local Government Act, 2009.

11. Deng, D. K. 2013. *Challenges of accountability: An assessment of dispute resolution processes in rural South Sudan*. Juba: South Sudan Law Society. Page 21.

12. *Supra* Deng, 2013, page 11.

13. Hessbruegge, J.A. 2012. “Customary Law and Authority in a State under Construction: The Case of South Sudan.” *African Journal of Legal Studies* 5: 295–311. Page 301.

14. Leonardi, C., L.B. Moro, M. Santschi, and D.H. Isser. 2010. *Local Justice in Southern Sudan*. Washington, DC: United States Institute of Peace. Page 19.

15. Santschi, M. 2010. “Between community and government. Traditional authorities in post-conflict Southern Sudan.” *Tsantsa* 15: 108–111. Page 109.

16. Almeida, B., and J. Ubink. 2024. *Land and Justice Pathways in South Sudan - Research Report*. Leiden, The Netherlands: Van Vollenhoven Institute for Law, Governance and Society.

17. Justin, P.H., and M. Leeuwen. 2016. “The politics of displacement-related land conflict in Yei River County, South Sudan.” *Journal of Modern African Studies* 54(3): 419–442.

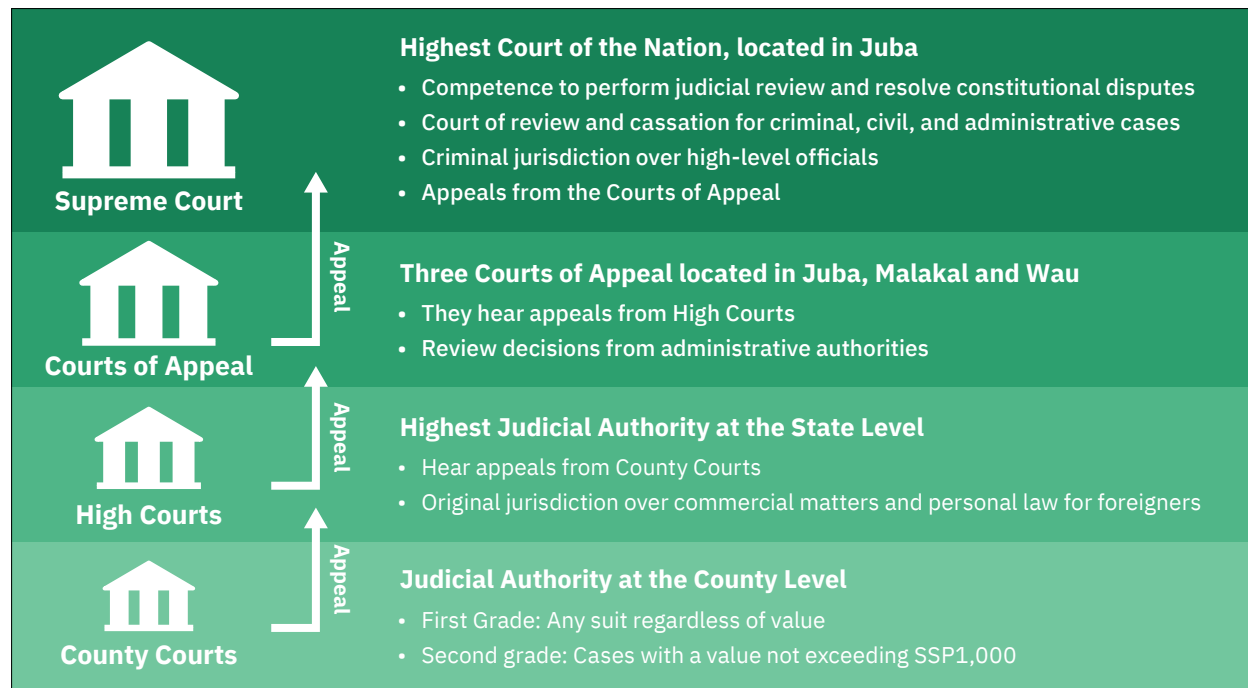
18. *Supra* Deng, 2021.

efficient proceedings, and the community's trust and familiarity with customary rules.¹⁹ Customary dispute resolution does not usually require complex procedures, allowing for faster case resolution. This system also focuses on restoring societal bonds and maintaining community harmony. The flexibility of customary courts is especially valued in multiethnic environments, where rigid statutory laws may be less effective.²⁰ However, these pathways are often patriarchal and may undermine the rights of women, youths, and other vulnerable groups.²¹ To understand the connection between the statutory and the customary system in more detail, the next sections will explore their interaction, both in law and in practice.

a. By Law, Statutory and Customary Courts Operate in Parallel in Terms of Jurisdiction, Except for Criminal Cases

By law, the Transitional Constitution is the foundation of South Sudan's dual legal system, recognizing both statutory and customary courts for dispute resolution according to their respective jurisdictional rules. Three main laws regulate the statutory justice system: the Transitional Constitution of 2011, the Judiciary Act of 2008, and the Judicial Service Council Act of 2008. These laws outline the hierarchy and jurisdiction of the statutory courts, establishing county courts in each county, one High Court in each of the ten states, three Courts of Appeal circuits at the regional level, and a Supreme Court with national jurisdiction (Figure 1).

>>> **Figure 1:**
Hierarchy of the Statutory Courts in South Sudan



Source: Authors' elaboration based on relevant provisions of the Transitional Constitution of the Republic of South Sudan, 2011, Judiciary Act, 2008, and the Code of Civil Procedure Act, 2007.

19. As highlighted by Deng (2013), customary courts are "are able to process cases fairly quickly and at relatively low cost, they are geographically accessible to rural populations and, since their decisions are often based on local norms, they are culturally familiar to rural populations." Supra Deng, 2013, page 23.

20. Supra Leonardi and others, 2010, pages 35 and 39.

21. Supra Deng, 2021, page 20.

The Supreme Court is the highest court for any litigation or prosecution under national and state law, including both statutory and customary law.²² By constitutional mandate, it requires at least eleven judges, including the Chief Justice and Deputy Chief Justice.²³ The Court usually sits in panels of three, except when acting as a Constitutional Panel, which includes at least nine members.²⁴ According to the *Judiciary Act* of 2008, panels include the Constitutional Panel for issues related to the constitutionality of laws and jurisdictional conflicts, the Criminal Panel for appeals and confirmations in criminal matters, and the Civil Panel for appeals in civil, commercial, and other matters.

Below the Supreme Court are the Courts of Appeal divided into three circuits, located in Juba, Malakal, and Wau.²⁵ Each Court of Appeal has four justices, including its President, and operates in panels of three, led by the most senior judge. These courts hear appeals against decisions made by High Courts and administrative authorities.²⁶ High Courts, in turn, are the highest judicial authority at the state level and should be established in each state's capital.²⁷ Each High Court has three judges and conducts trials with a single judge or a panel of three for appellate matters. They have original jurisdiction over cases involving companies, trademarks, other commercial matters, and personal law cases for foreigners. High Courts also hear appeals from County Court decisions and review administrative decisions by state or county authorities.²⁸

At the lowest level of the statutory system, County Courts are divided into First Grade and Second Grade. First Grade Judges can hear any case regardless of its value, while Second Grade Judges handle cases with a value not exceeding SSP1,000.²⁹ In 2007, when the Code of Civil Procedure was passed, this competence threshold was equivalent to USD 221. However, it has since deteriorated to USD 2.38, rendering it ineffective in limiting jurisdiction due to the lack of regular updates to fee schedule rates to account for current macroeconomic conditions. The Judiciary Act also allows for the establishment of Payam Courts at the sub-county level to handle claims up to SSP500.³⁰ Although the Constitution does not explicitly recognize Payam Courts, it allows for the creation of other courts or tribunals as needed, suggesting that these courts could be consistent with the Constitution.³¹ However, no Payam Courts have been established in South Sudan in practice.

In the customary system, dispute resolution is handled by traditional authorities recognized under the *Local Government Act* of 2009. These traditional authorities are community bodies that administer customary law and justice through customary courts.³² The primary unit of governance in this system is the Chieftainship, based on lineage and clans in rural areas within each County, and Town Council, in urban areas. Chieftainships are further divided into three types of chieftainships: Paramount Chieftainship, Head Chieftainship, and Executive Chieftainship (Figure 2).³³

22. Article 126(1) of the TCRSS.

23. Article 125 of the TCRSS. Section 10 of the Judiciary Act (2008) provides for a different number of judges at the Supreme Court, establishing that it shall be comprised of seven judges. However, the Constitution supersedes the Judiciary Act, as it is considered the supreme law of the land and the laws of the nation shall conform to it, according to Article 3 of the TCRSS.

24. Article 126(3) of the TCRSS.

25. Information obtained from the Judiciary of South Sudan, List of Justices and Judges from the Judiciary of South Sudan as of June 1, 2024.

26. Sections 12 and 13 of the Judiciary Act, 2008, and Section 19 of the Code of Civil Procedure Act, 2007.

27. Section 14 of the Judiciary Act, 2008.

28. Section 20 of the Code of Civil Procedure Act, 2007.

29. Section 21 of the Code of Civil Procedure Act, 2007.

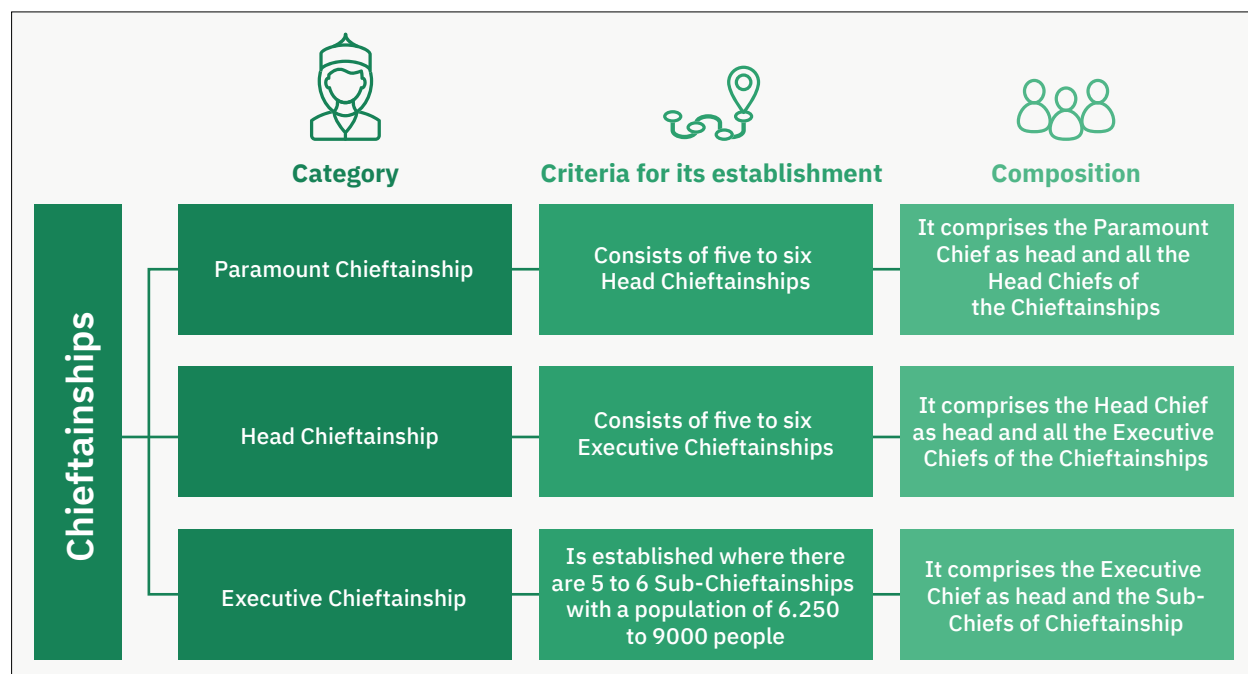
30. Section 22 of the Code of Civil Procedure Act, 2007.

31. Article 123 of the TCRSS.

32. Section 112 of the Local Government Act, 2009.

33. Section 115 of the Local Government Act, 2009.

>>> **Figure 2:**
Structure of the Chieftainships



Source: Local Government Act, 2009.

Customary courts handle “customary disputes,” typically involving personal, family, and customary land matters.³⁴ The Local Government Act defines their hierarchy, subject-matter jurisdiction, and appeal rules. These courts are chaired by Chiefs at the various levels of chieftaincies and are integrated into the statutory court system through appeals to the county courts.³⁵

In this structure, “A” Courts are established in each village or “Boma” and are presided over by Sub-Chiefs, led by the Executive Chief. These courts handle family disputes, marriage suits, traditional feuds, and local administrative cases as the first level of customary courts. Appeals from “A” Courts go to “B” Courts, the intermediate customary courts

at the Payam level. “B” Courts are presided over by Chiefs and led by the Head Chief, handling more complex cases such as major marriage disputes, divorce, inheritance, children’s and women’s rights, and customary land disputes.

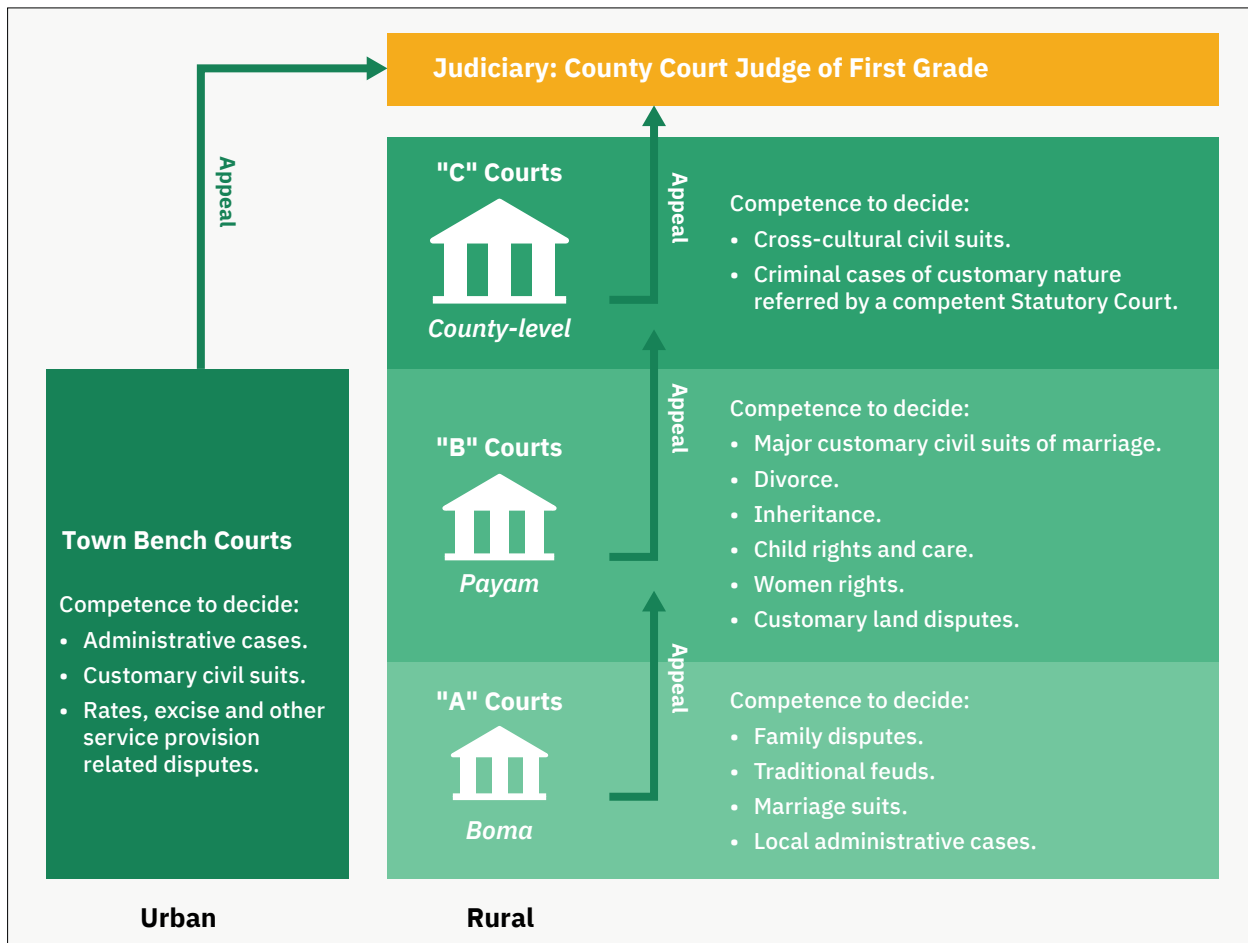
“C” Courts are established in every County and are presided over by Head Chiefs, led by the Paramount Chief. They hear appeals from “B” Courts, cross-cultural civil suits, and customary criminal cases referred by statutory courts. In urban areas, Town Bench Courts handle administrative cases, customary civil suits, and public order cases. Appeals from “C” Courts and Town Bench Courts go to the County Court of First Grade, as illustrated in Figure 3.³⁶

34. Sections 99 to 102 of the Local Government Act, 2009. Section 100(4)(f) particularly refers to the customary courts’ competence over “customary land disputes.” According to the Land Rights Act (2009), customary land rights mean rights conferred by or derived from customs or customary laws and practices.

35. *Supra*Leonardi and others, 2010, page 27.

36. Sections 99 to 102 of the Local Government Act, 2009.

>>> **Figure 3:**
Hierarchy of Customary Courts in South Sudan



Source: Local Government Act, 2009.

Note: The courts in green are customary law courts, while the yellow court is a statutory court. Decisions by "C" Courts and Town Bench Courts can be appealed to the statutory County Court Judge of First Grade, while decisions by "B" and "A" Courts are appealed within the hierarchy of Customary Courts.

Each county establishes a Customary Law Council to oversee the selection, recruitment, training, and discipline of staff in the customary court system.³⁷ Section 104 of the Local Government Act grants immunity from criminal proceedings to members and chairpersons of customary courts during their term, which can only be waived by the County

Commissioner, Mayor, or Town Clerk, depending on the Chief's position. The County Commissioner, Mayor, or Town Clerk also oversee the election or selection of Chiefs and can remove them for gross misconduct, incompetence, or incapacitation, based on the Customary Law Council's recommendation.³⁸

37. Sections 96 and 106 of the Local Government Act, 2009. According to Section 94, the Council must include all Head Chiefs of the "B" Courts within the county, the Council Secretary, three community elders, three women, and one youth representative, and is chaired by the County Paramount Chief.

38. Sections 105 and 106 of the Local Government Act, 2009.

In terms of their operation, most customary courts hold proceedings under large trees. Both parties are allowed to speak, and court members can question and comment before the Chairperson makes the final decision. Since proceedings are mostly oral, evidence is usually in the form of witness testimony. Some courts keep records, but this depends on the literacy of court personnel and the availability of writing materials.³⁹ The public nature of proceedings in customary courts tends to enhance accountability, as traditional leaders who advocate for unfair decisions risk losing their credibility in the community.⁴⁰

b. In Practice, Ambiguities in the Interpretation of Customary Courts' Jurisdictional Rules Complicate their Application

The law establishes that customary courts cannot decide criminal cases unless they have a customary interface. In such instances, “C” Courts are authorized to handle criminal matters when referred by a competent statutory court.⁴¹ In practice, this rule has proven challenging to apply consistently. Indeed, customary law does not distinguish between criminal and civil jurisdictions, as it aims to resolve disputes in all their dimensions.⁴² It also emphasizes restoration over punishment, focusing on maintaining community harmony rather than providing individual retribution.⁴³ As the interactions

between different pathways of justice tend to be unclear, most justice seekers, particularly the most marginalized, struggle to navigate them to achieve fair results.

Customary authorities handle a wide range of criminal cases, despite lacking legal authority when not referred by a statutory court.⁴⁴ For example, a 2016 study in Yambio and Nzara in Western Equatoria found that customary courts handle cases of theft, assault, and murder, among others. In Yambio, 26 percent of cases dealt with by customary authorities were criminal, and in Nzara it was 54 percent.⁴⁵ The limited presence of judges and police in rural areas plays a significant role in the reliance on Chiefs to resolve criminal cases.⁴⁶ In fact, the state of Western Equatoria is one of the most underserved by the statutory system, with only one first-grade county judge in Yambio County.⁴⁷

A 2013 study found similar results, indicating that the preponderance of customary justice has remained largely unchanged.⁴⁸ In a survey conducted in six counties, complainants indicated their preference for more informal mechanisms to address sexual crimes, such as rape. Chiefs and the community (family, friends, and neighbors) were the preferred dispute resolution avenue in 19 percent of rape cases, followed by the police at 17.7 percent and local government officials at 16.5 percent. Statutory court judges were sought in only 5.1

39. *Supra* Leonardi and others, 2010.

40. Mennen, T. 2012. *Customary Law and Land Rights in South Sudan*. Oslo: Norwegian Refugee Council. Page 11.

41. Sections 98(2) and 99(7) of the Local Government Act, 2009.

42. Hessbruegge, 2012, page 306.

43. Mennen, T. 2016. *Study on the Harmonization of Customary Laws and the National Legal System in South Sudan*. New York: United Nations Development Programme (UNDP). Page 9.

44. *Supra* Deng, 2013, page 21.

45. Braak, B. 2016. *Exploring Primary Justice in South Sudan – Challenges, concerns, and elements that work*. The Netherlands: Universiteit Leiden and Cordaid. Page 33.

46. *Supra* Deng, 2013, page 31.

47. Judiciary of South Sudan, List of Justices and Judges from the Judiciary of South Sudan as of June 1, 2024.

48. In March and April 2012, with the assistance of the South Sudan National Bureau of Statistics (NBS), a household survey was undertaken to gauge people's perceptions and experiences with the justice system in rural areas of South Sudan. The goal of the survey was to gather baseline information about people's experiences with the justice system, their perceptions of how well the system served them based on such experiences and their opinions about justice. The NBS developed a sample of 1,520 randomly selected households in six counties (Akobo, Budi, Ikotos, Nasir, Pibor, and Renk). See Deng, 2013.

percent of rape cases.⁴⁹ For homicide and physical assault, complainants preferred local administrative authorities over courts but also frequently turned to Chiefs. In homicide cases, 25.2 percent of respondents went to local government officials, and 19.9 percent did so for assault cases. Chiefs were

the second choice, with 19.4 percent seeking their help for homicide and 18.3 percent for assault. The use of statutory courts was negligible, with only 4.1 percent going to court for homicide and 3.8 percent for assault (Table 1).⁵⁰

>>>

Table 1:
Preference for Dispute Resolution Mechanisms in Criminal Cases (Percentages)

	Homicide	Physical Assault	Rape
Local Government Official	25.2	19.9	16.5
Chief	19.4	18.3	19
Police	14.8	12.9	17.7
Clan headman	9.9	9.2	8.9
Other family/friends/neighbors	7.2	12.7	19
Civil Society	7	9.2	6.3
Self-help	4.3	6.7	0
Legal Advisor	4.1	5.4	3.8
Statutory court judge	4.1	3.8	5.1
Other	1.7	1.8	0
Prosecutor	1.2	0	1.3
Perpetrator	0	0	2.5
Do not know	1.2	0.2	0

Source: Deng, 2013, pages 71,74 and 75.

Note: The study surveyed 1,520 randomly selected households across the counties of Renk, Nasir, Akobo, Pibor, Budi, and Ikotos. Participants were asked about their preferred complaint mechanisms for resolving various types of disputes, and a list of 21 options was provided for selection. The complaint mechanisms presented here are those chosen for the three types of complaints shown in the table. Figures represent the percentage of respondents that chose the specific mechanism per each type of dispute.

49. *Supra* Deng, 2013, page 71.

50. *Supra* Deng, 2013, page 75.

Citizens with disputes over demarcated land in South Sudan are also affected by ambiguities in jurisdictional rules. About 87 percent of people in the country hold land based on customary tenure.⁵¹ In principle, the Local Government Act gives customary “B” Courts the authority to decide on customary land cases, but in practice, they lack jurisdiction over demarcated land disputes. A recent 2024 report by Leiden University researchers found that statutory courts recognize this prohibition, even without specific legislation.⁵² For example, in 2016, the President of the High Court of Eastern Equatoria instructed customary courts not to handle demarcated land cases, a rule also followed in Wau County in Western Bahr al Ghazal. This creates a significant gap for these types of cases in areas where statutory courts are not present.⁵³

Even when these cases reached the courts, the study found that claimants with documentation had higher chances of winning in statutory courts than those relying on traditional methods of proving land ownership, such as witnesses and landmarks. To address this gap, local CSOs like the SSLs created Community Mediation Groups (CMGs), establishing

sixty CMGs in Torit, Wau, Yei, and Minle. Through mediation and legal awareness campaigns, these CMGs played an important role in addressing disputes related to demarcated land, supported by lawyers and trained community members who provided their services for free. However, the CMGs were discontinued due to a lack of funding.⁵⁴

Aside from subject-matter jurisdiction, personal jurisdiction is also an important aspect to consider when clarifying the competence of customary courts, especially in disputes involving members of different communities or displaced individuals. In inter-communal disputes, the decision often requires understanding and harmonizing the traditional practices of different communities, and customary courts are trying to adapt. For instance, courts in Juba and Bentiu have established cross-communal panels of six to eight Chiefs who consult to decide cases.⁵⁵ These solutions are especially relevant given that there are around two million internally displaced persons (IDPs) in South Sudan as of April 2023.⁵⁶ This approach ensures that the diverse legal traditions of various communities are integrated into the decision-making process.

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51. Ubink, J., and B. Almeida. 2023. “Local Self-Governance and the State in South Sudan: Studying Gender Tenure Relations in Times of Uncertainty.” *Politics and Governance* 11(2): 357–367. Page 360. See also Mennen, 2016, page 16.
52. *Supra* Almeida and Ubink, 2024.
53. *Supra* Almeida and Ubink, 2024, page 21.
54. *Supra* Almeida and Ubink, 2024, pages 25 and 26.
55. The study was conducted in the regions of Juba, Rumbek, Bentiu, and Yambo. See Mennen, T. 2010. “Yambio: Legal Pluralism and Customary Justice Reform in Southern Sudan.” *Hague Journal on the Rule of Law* 2: 218–252. Page 227.
56. International Organization for Migration - IOM. *Global Data Institute Displacement Tracking Matrix. South Sudan*. Switzerland: IOM. Consulted on September 26, 2024.

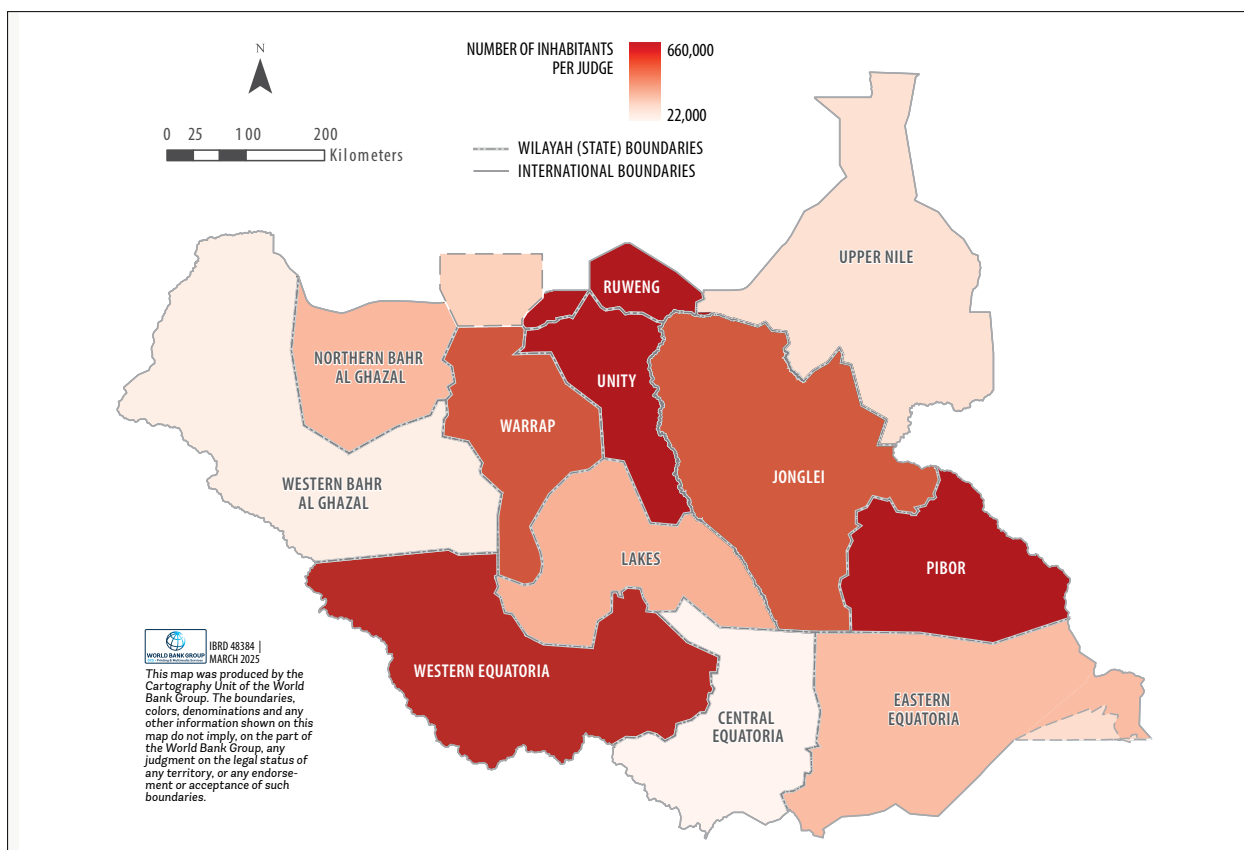
2.2. Statutory Courts are Perceived to be Inaccessible

South Sudanese reliance on the customary system is primarily due to its ease of access compared to the statutory system and its cultural relevance in local communities. In contrast, statutory courts tend to be geographically and financially inaccessible and take longer to resolve disputes than customary means. Geographical accessibility is frequently cited as a significant barrier to accessing the statutory system in South Sudan.

The chronic shortage of financial and human resources, along with security concerns in certain

areas, undermines the operation of statutory courts, particularly outside of urban centers. Data on the number of judges provided by the Judiciary shows that most states outside of Central Equatoria are severely underserved by the statutory system, including many of the most populated states (Figure 4). For example, Unity State, with over one million residents, has no judges operating in the state. Warrap has only five judges for more than 2.5 million people, meaning each judge serves about 527,897 people. Similarly, Jonglei has two judges for around one million residents, with each judge serving about 515,603 people.

>>> **Figure 4:**
Judges Per Capita Per Region in South Sudan



Source: Data was extracted from the List of Justices and Judges from the Judiciary of South Sudan as of June 1, 2024, provided by the Judiciary; and South Sudan Subnational Population Estimates of the United Nations Office for the Coordination of Humanitarian Affairs.

Note: This map was produced by the Cartography Unit of the World Bank Group. The darkest colors on the map indicate areas with fewer judges relative to the population, meaning that a single judge must serve a larger number of inhabitants. Conversely, the lightest colors indicate areas with more judges relative to the population, meaning that a single judge serves fewer inhabitants.

For this reason, 73 percent of experts interviewed by the team believe that courts are significantly more accessible in urban regions than rural areas.⁵⁷ The highest ratio of judges to population, in fact, is seen in Central Equatoria, where the capital city of Juba is located. Lawyers noted that “Some counties or even states have no courts of law;” “Most of the courts are situated in urban areas;” and “People in rural areas have difficulties traveling to urban areas to access formal courts due to distance, lack of transportation, financial constraints, and lack of accommodation in cities.”⁵⁸ This last observation is consistent with interviews conducted with court users, who reported an average travel time of one hour to reach the nearest court, with some experiencing travel times of up to two and a half hours. One user even mentioned taking a two-hour flight to Juba from Unity State, which currently lacks statutory courts.⁵⁹

To tackle the issue of geographical accessibility, UNMISS and UNDP have supported the establishment of mobile courts to provide justice services in areas with limited presence of statutory courts. These have included general mobile courts, special courts for inter-communal violence,⁶⁰ and circuit courts that deploy local judges to different areas within their jurisdiction. Since 2021, UNMISS has supported the deployment of mobile courts in eight states.⁶¹ The mission has also facilitated the deployment of Joint Special Mobile Courts to address cattle migration-related conflicts in the border areas of Western Bahr al Ghazal and Warrap States. In 2024, UNMISS also supported three mobile courts in Unity State to tackle sexual and gender-based violence-related offenses.⁶²

UNDP established five mobile courts in 2022 in collaboration with the Judiciary, the MoJCA, the National Police Service, and legal aid organizations. These courts provided justice to 246 claimants and over 250 detainees in Mundri, Tambura, Abyei, Malakal, and Bentiu counties. Of the 246 cases handled, 223 were resolved, resulting in a 91 percent reduction in the case backlog in these locations.⁶³ While these donor efforts are valuable for temporarily expanding the reach of the statutory justice system in remote areas, without a sustainable plan for human and financial resources, they risk becoming untenable in the long term.

a. Access to Justice for the Poor

Both court users and lawyers perceive that courts in South Sudan are out of reach for those lacking financial resources. JUPITER benchmarks access to justice for poor individuals by examining whether the legal system has mechanisms to support them. In this respect, experts interviewed noted that courts are more accessible to individuals from higher socioeconomic classes.⁶⁴ Many of the interventions echoed this sentiment: “People who are financially better [off] have more advantage in accessing the courts because every procedure requires money;” “Justice to some extent is commercialized in this country, there is a lot of bribery and corruption that impedes access to justice to a person from low socioeconomic class;” and “Persons of lower socioeconomic classes are suffering and struggling with court fees.”⁶⁵

57. Respondents were asked to characterize the accessibility of the courts in the country to people in urban regions as compared to those in rural regions. (JUPITER Data Collection Tool, question 13).

58. Interviews with lawyers, June 2024.

59. Interviews with court users, June 2024.

60. These incorporate Chiefs as special advisors to the judge.

61. According to information shared by UNMISS in July 2024, these mobile courts were deployed to the counties of Bentiu, Bor, Gette, Koch, Kuanja, Juba, Makuok, Malakal, Mapel, Maridi, Mayom, Raja, Renk, Rocrocdong, Tonj Town, Torit, Warbet, Wau, and Yei.

62. Interview with UNMISS, July 2024.

63. UNDP. 2022. *Support to Access to Justice, Security and Human Rights Strengthening Programme in South Sudan*. Juba, South Sudan.

64. Respondents were asked to characterize the accessibility of the courts of the country for persons of different socioeconomic classes. (JUPITER Data Collection Tool, question 29).

65. Interviews with lawyers, June 2024.

The inaccessibility of the courts for poor persons is exacerbated by the absence of government-funded legal aid in civil cases. For the purposes of this report, legal aid is defined as the “free provision of assistance to people who are unable to afford legal representation and can include representation in court, legal advice before the proceedings, payment of court fees, payment of technical experts, enforcement fees, and even travel costs.”⁶⁶ Although the Constitution guarantees the right to legal aid when an person cannot afford a lawyer,⁶⁷ the implementing legislation remains fragmented, with unclear rules regarding the mandate, criteria, and procedure for providing legal aid. In fact, there is no specific policy that comprehensively regulates legal aid in South Sudan.⁶⁸ Due to this legal vacuum, experts interviewed by the team mentioned that “most people are not aware of legal aid” and that “legal aid is mostly not understood by both advocates and judicial officers.”⁶⁹

By law, the Constitution mandates public attorneys and MoJCA’s legal advisors to provide legal aid.⁷⁰ This mandate is also included in the Ministry’s *Organization Act* of 2008, which requires the Minister of Justice to provide legal services to the public, including “legal advice and legal aid.”⁷¹ Despite the law not distinguishing between criminal and civil cases, the MoJCA indicated that it only considers applications for legal aid in criminal cases. Responsibility for legal assistance in civil cases is delegated to the Bar Council under the *Advocates Act* of 2013, which provides legal assistance upon request from a person proven to be a “pauper and unable to pay an advocate’s

fee.”⁷² However, this law does not provide any details regarding eligibility thresholds, the process for securing assistance, and the duties of the advocates acting as legal aid providers. Even so, the new leadership of the SSBA seeks to prioritize the provision of legal aid and has already established a Legal Aid Secretariat responsible for conducting assessments of legal needs in the prisons. Still, it has yet to develop a comprehensive strategy for its implementation, especially in civil cases.⁷³

In practice, MoJCA faces challenges in providing legal aid services due to financial and operational constraints. Legal aid is not separately accounted for in the institution’s budget, and the Ministry recognizes that improper funding impacts its ability to offer these services.⁷⁴ Additionally, there is lack of clarity regarding the staff’s specific responsibilities regarding legal aid, as legal advisors have a broad range of duties, including advising the Government on legal issues, recommending law reforms, and other tasks beyond legal aid.⁷⁵ Also, the Ministry’s roster of legal counsels includes 230 officials, with 225 based in Juba alone and one each in Eastern Equatoria State, Unity State, and the Abyei Administrative Area. While staffing shortages do not seem to be the primary issue in Juba, the limited personnel may affect the availability of legal aid services in other regions.

Given these limitations, several CSOs have stepped in to support financially disadvantaged individuals. For instance, the SSLS has a memorandum of understanding with the MoJCA to provide pro-bono legal aid, offering services to low-income

66. Bosio, E., and V. Upegui Caro. 2023. *Improving Access to Justice in Liberia – A 2023 JUPITER Assessment*. Washington, DC: World Bank Group.

67. Article 19.7 of the TCRSS.

68. Interview with the Department of Legal Aid of the MoJCA, June 2024.

69. Interviews with lawyers, June 2024.

70. Article 135.3 of the TCRSS.

71. Section 25(K) of the Ministry of Legal Affairs and Constitutional Development Organization Act, 2008.

72. Section 31(2) of the Advocates Act, 2013.

73. Meeting with South Sudan Bar Association, June 6, 2024.

74. Interview with the Department of Legal Aid of the MoJCA, June 2024.

75. Section 42(2) of the Ministry of Legal Affairs and Constitutional Development Organization Act, 2008.

clients and detainees through legal aid clinics in Eastern Equatoria, Central Equatoria, Upper Nile, and Western Bahr al Ghazal. The SSLS is funding its operations through international donors, but it is struggling to continue its services for its 300 active legal aid cases without sustainable financing from the GoSS.⁷⁶ FIDA also provides legal aid, specifically for women and children. It has a memorandum of understanding with the Ministry of Gender, Child, and Social Welfare (MGCSW) to assist victims of sexual and gender-based violence and finances its operations through international donors without financial support from the government.⁷⁷

Since 2020, UNDP has partnered with several CSOs to establish Justice and Confidence Centers (JCCs) in five states, focusing on supporting vulnerable groups in South Sudan, including women and girls, the elderly, IDPs, and returnees.⁷⁸ The consortium employed various strategies, such as setting up help desks at police stations, utilizing mobile legal clinics, recruiting and training community volunteers, and strengthening connections with Special Protection Units. This initiative has supported 7,872 beneficiaries through two grants. An ODI study found that the JCCs reduced costs as they scaled up, with unit costs dropping from USD 77.9 in 2021 to USD 36.2 while nearly doubling the number of beneficiaries. Despite their success, these initiatives still rely heavily on donor funding, posing challenges for long-term sustainability.⁷⁹

To provide legal aid services more effectively and sustainably, the MoJCA is considering transforming the directorate of legal aid into an independent body under its supervision, and developing a comprehensive legal aid policy.⁸⁰ This offers a

valuable opportunity to improve coordination and oversight in providing legal aid services, addressing the current issue of fragmented responsibilities among different institutions involved in the legal aid process. Additionally, developing a comprehensive legal aid policy would clarify the responsibilities of providers, strengthen the monitoring and assessment of services, establish more precise eligibility criteria, and expand legal aid to encompass noncriminal cases.

The law offers fee waivers for low-income litigants to help pursue cases in court. Rule 6 of the Schedule to the *Code of Civil Procedure Act* of 2007 regulates cases filed by a “pauper,” defined as someone who cannot afford the prescribed court fees.⁸¹ To apply as a pauper, the applicant must submit a list of their property with estimated values, a certificate signed by two witnesses verifying their financial status, and their complaint. The court may also require the applicant to take an oath or affirmation about their inability to pay the fees. If the court is not convinced, it may reject the fee waiver application. In practice, it is unclear how often these waivers are granted, as the judiciary does not collect data on this.

b. Access to Justice for Women

The Constitution and laws of South Sudan guarantee equal access to justice for women. Article 16 of the TCRSS affirms that women “shall be accorded full and equal dignity of the person with men.” Article 122.5(a) further states that “justice shall be done to all irrespective of their social, political or economic status, gender, religion or beliefs.” Additionally,

76. Interview with the South Sudan Law Society, June 2024.

77. Interview with FIDA, May 2024.

78. UNDP. 2022. “Call for Proposals from Civil Society Organizations (CSOs), legal aid including legal representation, legal awareness and legal advice, and psychosocial support to vulnerable groups including women, girls, and SGBV survivors in EE, WE, WBG, NBG, CE.” Juba, South Sudan.

79. Manuel, M., and C. Manuel. 2023. “‘Small is beautiful, but scale is necessary’: front-line justice services in lower-income countries with the potential to scale-up.” *ODI Policy Brief*. London: ODI.

80. Interview with the Department of Legal Aid of the MoJCA, June 2024.

81. Clauses 12 and 13 of Rule 6 of the Schedule to the Code of Civil Procedure Act, 2007.

Section 128 of the *Code of Evidence Act* of 2006 mandates that testimony or evidence presented by a wife be given the same consideration in legal proceedings as that presented by a husband.

In practice, however, women face significant barriers to accessing justice. They have limited representation in decision-making bodies, with only 24 percent of South Sudanese judges being female.⁸² In Tanzania, 48 percent of new judicial recruits are women, while in Kenya, 42 percent of superior court judges are female.⁸³ Women also face financial constraints that restrict their ability to cover court-related expenses and access adequate legal representation.⁸⁴ Experts interviewed highlighted additional issues such as social stigma, vulnerability, and a lack of education about their rights, which further hinder women's ability to effectively seek and obtain justice.⁸⁵

This finding aligns with previous studies indicating that women frequently encounter barriers when accessing the justice system, particularly in rural areas where formal courts are often inaccessible. A 2013 study conducted across six counties found that 25.3 percent of spousal neglect cases were brought to the immediate community, including family, friends, and neighbors. Around 15.7 percent of these cases were taken to the Chief and 15.3 percent to the Clan Headman. Only 3.1 percent of spousal neglect cases involved a judge.⁸⁶ Serious crimes such as rape, which should be adjudicated

by statutory courts, are often handled by customary courts.⁸⁷ During the same study, 37.5 percent of respondents considered that the process of resolving rape cases in customary courts was either very unfair or somewhat unfair.⁸⁸ In many instances, male chiefs tend to favor men in their decisions and discourage women from advocating for their rights.⁸⁹ While there are instances where chiefs assist women, this largely depends on the individual chief's personality.⁹⁰

Enhancing women's participation in customary justice mechanisms could be an important step toward eliminating discrimination within these systems. A 2024 study by researchers from Leiden University revealed that women are increasingly selected for chieftaincy positions, particularly at the lower levels in counties such as Torit and Wau. Many observed that women's involvement in decision-making led to more inclusive outcomes. However, this is not a silver bullet, as some criticized the election of certain women who were perceived as proxies for powerful male chiefs, expressing a desire to see more influential and independent women in these roles.⁹¹ Other effective initiatives have involved peer learning, where Chiefs visit other communities to observe different ways of resolving similar issues and enabling them to adopt new approaches.⁹²

To probe these observations, the team consulted the legal framework and its practical application

82. Judiciary of South Sudan, List of Justices and Judges from the Judiciary of South Sudan as of June 1, 2024.

83. The Judiciary of Kenya. 2024. *State of the Judiciary and the Administration of Justice, Annual Report 2022/23*. Nairobi, Kenya; and Judiciary of Tanzania. 2024. *Comprehensive Performance Report of the Judicial Functions – 2023*. Dar es Salaam, Tanzania.

84. Interview with FIDA, May 2024.

85. Interviews with lawyers, June 2024.

86. *Supra* Deng, 2013, pages 70 and 71.

87. According to Article 98 of the Local Government Act, a "Customary Law Court shall not have the competence to adjudicate on criminal cases except those criminal cases with a customary interface referred to it by a competent Statutory Court."

88. *Supra* Deng, 2013, page 84.

89. In their recent study for Leiden University, Almeida and Ubink (2024) highlighted that "in many cases, male chiefs tend to favor men in their decisions and discourage women to fight for their rights." *Supra* Almeida and Ubink, 2024, page 35.

90. *Supra* Almeida and Ubink, 2024, page 35.

91. *Supra* Almeida and Ubink, 2024, page 36.

92. Denney, L., and P. Domingo. 2023. "Taking people-centred justice to scale: the role of customary and informal justice in advancing people centred justice." *ODI Policy Brief*. London: ODI.

in the hypothetical case of a woman seeking civil remedies for sexual harassment in the workplace. By law, the *Labor Act* of 2017 prohibits sexual harassment in the workplace, providing the possibility to resort to the courts in case of violation of this prohibition.⁹³ When discussing this hypothetical case with lawyers, however, it became evident that significant obstacles persist due to the stigma women associate with reporting such conduct and the fear that doing so may jeopardize their employment.⁹⁴ Lawyers also pointed out that men, who predominantly hold positions of power in the workplace, are more likely to be available as witnesses in these cases.⁹⁵ FIDA emphasized the difficulties in proving cases of rape and sexual harassment, citing the strict evidentiary standards imposed by the courts as a major challenge.⁹⁶

Acknowledging these challenges, the Judiciary of South Sudan recently established a specialized Sexual and Gender-based Violence Court in Juba, which is a positive step towards improving access to justice for women and ensuring the accountability of perpetrators.⁹⁷ According to a UNDP report, in 2022, the specialized Court managed a total of 325 cases, which included 189 new cases filed during the year and 136 unresolved cases from 2021. Among these, 300 cases were brought forward by women and 25 by men. By the end of the year, the Court had resolved 144 cases, with 122 favorable outcomes for complaints by women and 22 for men. While acknowledging this progress, it is important to note that the initiative

is currently limited to the capital city, leaving rural women with restricted access to these services.⁹⁸ Furthermore, the persistent lack of legal aid and support services for victims continues to present substantial barriers to justice for many women.

c. Access to Justice for Persons Facing Linguistic Barriers

Experts and court users identified linguistic barriers as a challenge to accessing justice in South Sudan. Some noted that “Some judges and lawyers only speak Arabic,” and “Most documents are in Arabic, which requires a translator or interpreter to read for you.”⁹⁹ This challenge arises from both legal and practical factors. Legally, the Constitution designates English as the official working language of South Sudan,¹⁰⁰ while the Code of Civil Procedure Act provides that both English and Arabic are the official languages of the courts, contravening the Constitution.¹⁰¹ In practice, many judges and lawyers who were trained in the Arabic civil and Sharia law traditions of northern Sudan before independence continue to operate primarily in Arabic.¹⁰²

To assist individuals facing linguistic barriers, Section 66 of the Code of Civil Procedure Act states that “a Court may hear parties or witnesses who are ignorant of English and Arabic in any other language through an interpreter on oath.” Despite this provision, lawyers have indicated

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93. Section 7 of the Labor Act (2017) provides that the affected party can submit a written complaint to the Commission for Conciliation, Mediation, and Arbitration if a dispute arising from this prohibition occurs. Should conciliation not resolve the issue, the dispute can then be appealed to the Labor Court for adjudication.
94. Respondents were asked how likely women were to bring a civil case for sexual harassment against their employer and how likely they were to win if the harassment was proven beyond reasonable doubt (JUPITER Data Collection Tool, questions 18 and 19).
95. Interviews with lawyers, June 2024.
96. Interview with FIDA, May 2024.
97. UNDP. 2020. *South Sudan's Gender Based Violence Court Inaugurated During #16DaysOfActivism*. Juba, South Sudan.
98. *Supra* UNDP, 2022.
99. Interviews with court users, May-June 2024.
100. Article 6 of the TRCSS.
101. Section 66 of the Code of Civil Procedure Act, 2007.
102. Interview with Judges of Court of Appeal, May 2024.

that translation and interpretation services are “Somewhat unlikely” to be provided by the courts due to a shortage of available personnel.¹⁰³ Additionally, the linguistic challenges extend beyond the Arabic-English differences, which could be more easily solved through technological tools like online translation services. South Sudan’s 65 ethnic groups each have their distinct languages, further complicating the provision of interpretation services at the courts. Consequently, parties must often arrange and fund their interpreters, adding to the already substantial costs of pursuing disputes in the courts.¹⁰⁴

d. Access to Justice for Persons with Disabilities

JUPITER evaluated the accessibility of the courts for persons with disabilities, both legally and in practice. Article 30 of the TCRSS mandates that the government guarantee that persons with disabilities fully enjoy their rights and freedoms. South Sudan ratified the Convention on the Rights of Persons with Disabilities (CRPD) on February 5, 2024. According to Article 13.1 of the CRPD, States Parties must “ensure effective access to justice for persons with disabilities on an equal basis with others,” which includes providing procedural and age-appropriate accommodations to facilitate their full participation in legal proceedings. In terms of policy, the MGCSW introduced the *National Disability Action Plan* in 2020, which includes provisions for developing a CRPD training program for the judiciary and integrating sign language and braille communication into court processes.¹⁰⁵

Regarding participation in legal proceedings, Sections 114 and 119 of the Code of Civil Procedure Act require that individuals deemed “of unsound mind” or unable to protect their interests due to “mental or physical infirmity” must be represented by a guardian ad litem. While the law allows these individuals to have a guardian in court, the right to legal capacity includes broader guarantees, such as the ability to engage in transactions and manage legal relationships as independently as possible.¹⁰⁶ Article 12 of the CRPD, as interpreted by the Committee on the Rights of Persons with Disabilities, requires governments to shift from substitute decision-making models like guardianship, conservatorship, and forced treatment, to supported decision-making. According to the Committee, this approach must respect the rights, will, and preferences of persons with disabilities and should not involve imposing a decision-maker against their will.

In practice, most courts in South Sudan are not equipped to meet the needs of persons with disabilities. For instance, they lack accessible infrastructure and do not provide braille or sign language interpretation during court proceedings. For this reason, all lawyers interviewed during the assessment rated the implementation of policies supporting individuals with disabilities as either “Low” or “Very Low.”¹⁰⁷

f. Access to Legal Information

To ensure fair and equitable outcomes, the law should be clear, easily accessible, predictable, and

103. Respondents were asked how likely people were to receive translation and interpretation services at the courts (JUPITER Data Collection Tool, question 17.2).

104. Interview with Judges of Court of Appeal, May 2024.

105. Ministry of Gender, Child and Social Welfare of the Republic of South Sudan. 2020. *National Disability Action Plan 2020*. Juba, South Sudan.

106. United Nations, Committee on the Rights of Persons with Disabilities. 2014. “General Comment No. 1.” Committee on the Rights of Persons with Disabilities, Eleventh Session.

107. Respondents were asked to assess the level of implementation of policies to support persons with disabilities during court proceedings (JUPITER Data Collection Tool, question 15).

108. Bedner, A. 2018. “The promise of a thick view.” In Christopher May and Adam Winchester (eds.). *Handbook on the Rule of Law*. United Kingdom: Edward Elgar Publishing.

uniformly applied by an independent judiciary.¹⁰⁸ This can only be achieved when legal information, including court decisions, is publicly available to ensure adherence to the law and judicial precedent. However, South Sudan currently lacks a comprehensive and updated national repository of all laws and regulations, which limits citizens' understanding of the legal framework and can lead to inconsistencies in the application of the law.¹⁰⁹ During the assessment, all lawyers interviewed by the team indicated that it was either "Difficult" or "Somewhat Difficult" to stay abreast with changes in the legal framework, as consolidated versions of laws and regulations are not available.¹¹⁰

By law, the MoJCA is mandated to publish written laws in the Southern Sudan Gazette.¹¹¹ In line with this mandate, the MoJCA has made some laws and regulations available on its official website, which is public, free, and openly accessible. Nevertheless, the website lacks timely updates, as evidenced by the fact that the last regulation published was in 2017, corresponding to the Labor Act. Since then, numerous laws have been enacted in compliance with the 2018 R-ARCSS, but these have not been posted on the platform. Furthermore, the repository of laws is not a searchable database, making it challenging to filter by type of legislation, topic, keywords, or year of publication. This limits its practicality for users seeking specific information.

Regarding access to court information, although the MoJCA's website provides some information about the court hierarchy, it lacks details on court locations, hours and days of operation, and

guidance on filing a claim or self-representation. The website contains a few paragraphs about the provision of free legal aid, but the process, entities, and eligibility criteria are not clearly explained.

The transparency of the legal framework in South Sudan is further undermined by the fact that most laws have not been harmonized with the TCRSS, the R-ARCSS, and newly enacted legislation. Many experts interviewed highlighted that these conflicting laws create opportunities for misinterpretation and arbitrary decisions.¹¹² To address this issue, the SSLRC was established to update and harmonize national laws, enhance legislative drafting capabilities, and engage the public in legal reforms. However, the Commission faces significant operational challenges, as it lacks essential materials and internet access for research, is understaffed, and its employees are poorly compensated, with some not receiving salaries for up to seven months.¹¹³

For access to judicial decisions, there is no legal mandate requiring them to be made publicly accessible. Parties involved in a case can request copies of judgments or parts of the record by paying a fee.¹¹⁴ The absence of publicly available court decisions poses a significant challenge in South Sudan, as the country operates under a common law system where judicial decisions establish legal precedents. This means that judges, citizens, and legal practitioners are deprived of a crucial component of the legal framework, potentially compromising the accountability and transparency of judicial decision-making. To address this issue, the Max Planck Foundation has supported the

109. The most comprehensive repository available is the MoJCA's [website](#), which was updated until 2017. Additionally, laws pertaining to specific ministries or agencies can sometimes be found on their respective websites, such as the Ministry of Finance and Planning's [website](#).

110. Respondents were asked to assess how difficult it is to stay abreast of the legal framework (JUPITER Data Collection Tool, question 2).

111. The Southern Sudan Gazette is an official government publication that is used to communicate new laws, regulations, and policies to the public, according to the Interpretation of Laws and General Provisions Act of 2006.

112. This problem was highlighted by various stakeholders, including members of the JRC, the NCAC, and the RJMEC in June 2024.

113. Interview with member of the South Sudan Law Review Commission, June 2024.

114. Section 111 of the Code of Civil Procedure Act, 2007.

judiciary in compiling written records of Supreme Court judgments for 2011 and 2012, and law reports for 2016 and 2017 are in the works. While this is a positive step towards legal transparency, the judiciary has yet to make the compendium public.¹¹⁵

A possible reason for the unavailability of judicial decisions and the inaccessibility of court information is the low level of digitization within the courts. The JUPITER methodology examines the use of information and communication technologies (ICT) in court proceedings, finding that almost no courts have access to the Internet and there are frequent electricity outages disrupting court operations. In addition, judges and clerical staff rarely have access to computers to draft documents and enter case data.¹¹⁶ Consequently, users can accomplish very little online, as electronic filing, electronic service, and virtual hearings are generally not permitted. An exception to this was a recent virtual trial for a criminal case conducted in the county of Malakal in the state of Upper Nile, supported by UNMISS.¹¹⁷

g. Quality of Judgments

To enhance the quality of decisions made by justice institutions in South Sudan, it is important to ensure the full independence of the judiciary. Indeed, judicial independence is fundamental to rule-based governance and the separation of powers, allowing judges to make decisions based

solely on law and evidence without external pressures or interference. Research highlights several key mechanisms for safeguarding judicial independence, including transparent and independent processes for appointing, promoting, and removing judges; the length and security of tenure; and sufficient resources to support the judiciary's effective functioning to avoid corrupt behavior.¹¹⁸

Since its establishment, the Judiciary of South Sudan has faced significant challenges in maintaining its independence. The country scored 25 out of 100 in the 2024 Africa Integrity Indicator measuring the guarantee of judicial independence in practice.¹¹⁹ Previous studies have identified several contributing factors to this situation, including undue pressure from the executive branch and military on judicial officials, lack of human and financial resources, and inadequate infrastructure and capacity.¹²⁰ Another key aspect is the government's control of the judiciary, as highlighted in a recent report by Transparency International.¹²¹ In fact, the process for appointing and removing judges, although defined by the Constitution and law, often faces criticism due to its lack of transparency and the role played by the executive branch in this process.¹²²

In terms of judicial appointment, the TCRSS empowers the President to appoint the Chief Justice without JSC's involvement. The President also appoints the Deputy Chief Justice and other Justices of the Supreme Court and Courts of Appeal based on JSC recommendations. These

115. Interview with Max Planck Foundation, April 2024.

116. Respondents were asked what percentage of judges and staff drafting documents and entering case data use computers (JUPITER Data Collection Tool, question 94).

117. UNMISS. 2024. "First ever full virtual court takes place in South Sudan with support from UNMISS." Juba, South Sudan.

118. Bosio, E. 2024. "A Survey of Judicial Effectiveness: The Last Quarter Century of Empirical Evidence." *The World Bank Research Observer*.

119. Global Integrity and Mo Ibrahim Foundation. 2024. [Africa Integrity Indicators](#).

120. International Commission of Jurists - ICJ. 2013. *South Sudan: An Independent Judiciary in an Independent State?* Geneva: International Commission of Jurists.

121. Harutyunyan, K. 2023. *South Sudan: Overview of corruption and anti-corruption efforts*. Transparency International and Chr. Michelsen Institute.

122. *Supra* International Commission of Jurists, 2013.

appointments are required to be confirmed by a two-thirds majority of all members of the National Assembly.¹²³ For lower courts, the Chief Justice appoints judges to the High Courts and County Courts based on JSC recommendations.¹²⁴

The Judiciary Act further provides that judicial appointees must be South Sudanese citizens of sound mind and free from convictions involving dishonesty or moral turpitude.¹²⁵ Appointees must be at least 25 years old for County Courts, 35 for the High Court and Court of Appeal, and 45 for the Supreme Court. Supreme Court candidates need 15 years of experience from the MoJCA or private advocacy, or 18 years from academia, if coming from outside the Judiciary. For the Court of Appeal, High Court, and County Court, the required experience ranges from 4 to 15 years, respectively, depending on the candidate's background in private practice, the MoJCA, or academia.¹²⁶

In practice, while the criteria for eligibility for a judicial position are set by law, the process for screening and selecting potential candidates is not clearly regulated. Although the TCRSS stipulates that appointments must be made upon the recommendation of the JSC, neither the Judiciary Act nor the Judicial Service Council Act provide detailed procedures for the screening and recommendation process. The JSC has not participated in the appointment of judicial officials since 2013, as it only convenes once a year to approve the Judiciary's budget.¹²⁷

Consequently, judicial appointments are often made by the Judiciary's leadership without the recommendation of the JSC, as highlighted in a report by Amnesty International.¹²⁸ Lawyers interviewed by the team echoed this finding, noting that recruitment prioritizes "loyalty rather than experience."¹²⁹ For this reason, many experts argue in favor of reconstituting the JSC to ensure its independence from the executive branch and the judicial leadership, enabling it to function more independently and effectively.¹³⁰

Regarding the discipline of judges, international best practices recommend that this responsibility be managed by an independent body, operating under well-defined procedural rules and codes of conduct. Ideally, a preferable structure would separate investigation from adjudication. Its composition should aim for balance, avoiding an overly corporatist nature while ensuring independence by excluding members from the executive or legislative branches. This could involve judges, along with members of the legal profession and other independent appointees.¹³¹

In South Sudan, many of these criteria are reflected in the law. The Judiciary Act establishes Boards of Discipline to investigate and hear the defense of investigated judges. The findings of these Boards are submitted to the JSC for review, which has the authority to confirm, modify, dismiss, or return the recommendations made by the Board.¹³² These recommendations are then sent to the Chief

123. Article 133 of the TCRSS.

124. Section 21(3) of the Judiciary Act, 2008.

125. Section 20 of the Judiciary Act, 2008.

126. Sections 22 to 25 of the Judiciary Act, 2008.

127. Article 10(2) of the Judicial Service Council Act mandates the JSC to hold quarterly sessions, however, the Commission only meets once a year. Interview with the Chief Registrar of the Judiciary of South Sudan, June 2024.

128. Amnesty International. 2019. "Do you think we will prosecute ourselves? No prospects for accountability in South Sudan." London: Amnesty International. Page 15.

129. Interviews with lawyers, June 2024.

130. Interviews with members of the JRC and NCAC, June 2024.

131. Organization for Security and Co-operation in Europe's (OSCE) Office for Democratic Institutions and Human Rights. 2018. *Note on International Standards and Good Practices of Disciplinary Proceedings Against Judges*. Warsaw, Poland: OSCE.

132. Section 53 of the Judiciary Act, 2008 and Section 8(1)(d) of the Judicial Service Council Act, 2008.

Justice for final confirmation.¹³³ Regarding the Board's composition, however, the JSC includes members of the executive and legislative branches, potentially compromising its independence.

In practice, ambiguities in the interpretation of the constitutional provision related to the dismissal of judges have raised issues regarding the executive branch's role in removing judges.¹³⁴ The TCRSS grants the President the power to remove justices and judges for "gross misconduct, incompetence and incapacity and upon the recommendation of the Judicial Service Commission."¹³⁵ The ambiguous drafting of this provision has led to the arbitrary dismissal of judges without following a disciplinary procedure, as it can be interpreted to mean that the President has the authority to remove judges without the recommendation of the JCS. For instance, in 2017, the President dismissed 11 judges from office without obtaining a recommendation from the JSC, a decision that was subsequently challenged in the East African Court of Justice. The regional court ruled that the President's failure to adhere to the constitutional requirement for a recommendation from the JSC and to follow the disciplinary process established in the Judiciary Act prior to the dismissal of the judges constituted a violation of the TCRSS.¹³⁶

In terms of ethical standards, judges in South Sudan must avoid any trade, employment, or business that conflicts with their judicial duties and undermines their independence. According to the Code of Judicial Conduct, judges must not be members of a political party, hold elective office, or contest elections for clubs, societies, or other associations, except in law-related societies or associations.¹³⁷ They must also refrain from practicing law and engaging in financial and business dealings that interfere with their judicial duties or be involved in transactions with lawyers or others likely to appear in court.¹³⁸ The Code allows judges to write, lecture, teach, and participate in activities related to the law and the administration of justice. They may also engage in civic, charitable, educational, cultural, and other social and recreational activities, provided these do not interfere with their judicial responsibilities.¹³⁹

Experts highlighted that, in practice, judges very rarely engage in political activities or occupy temporary employment in political offices.¹⁴⁰ Many judges take on teaching roles at the country's law schools and engage in research and publication activities, which is permitted under the Code of Judicial Conduct. Lawyers interviewed by the team viewed this positively, as it enhances the judges' capacity and keeps them current with developments in legal scholarship. However, they also pointed out that these activities may interfere with the judges' performance, leading to delays in case resolution within the already lengthy disposition times in South Sudanese courts.¹⁴¹

133. Article 134 of the TCRSS.

134. East African Court of Justice. 2017. *Justice Malek Mathiang Malek v Attorney General of the Republic of South Sudan and Secretary General of the East African Community*. [2017]. Reference No. 9 of 2017. Arusha: East African Court of Justice.

135. Article 134.2 of the TCRSS.

136. *Supra* East African Court of Justice, *Justice Malek v. Attorney General of the Republic of South Sudan*, 2017.

137. Section 4.8 of the Code of Judicial Conduct, 2017.

138. Section 4.12 of the Code of Judicial Conduct, 2017.

139. Section 4.17 of the Code of Judicial Conduct, 2017.

140. Interviews with lawyers, June 2024.

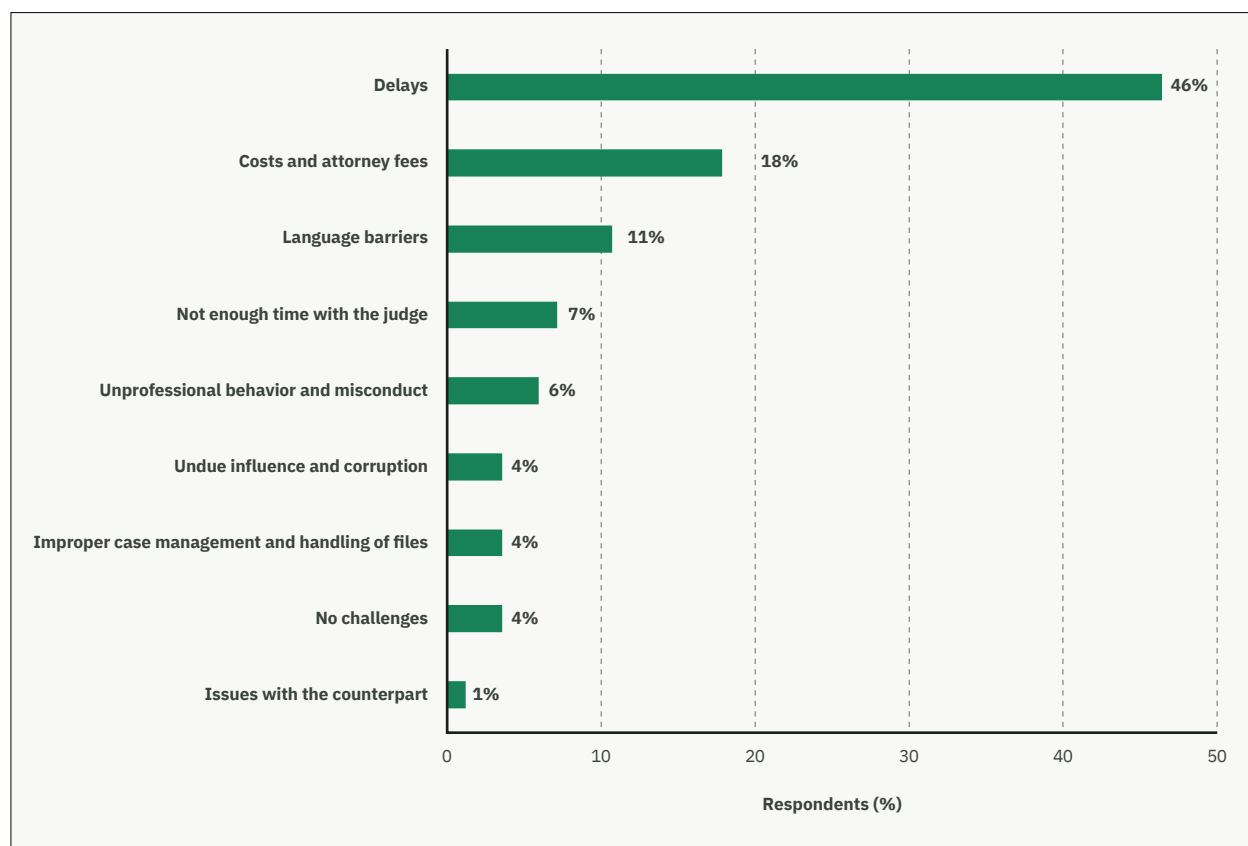
141. Interviews with lawyers, June 2024.

2.3. Statutory Courts are Perceived to be Inefficient

Courts in South Sudan are frequently perceived as inefficient. Eighty-seven percent of court users interviewed by the team reported that their cases took significantly longer than anticipated, while 80 percent noted that costs were higher than expected.¹⁴² Respondents highlighted issues such as prolonged delays and escalating costs (Figure 5),

with remarks like “This case is already going to five years because I can’t afford a lawyer;” “You can follow up on a case for months without receiving proper feedback;” “Frequent adjournments week after week are a major challenge;” and “If a client lacks money for facilitation, the court may delay proceedings.”¹⁴³

>>> **Figure 5:**
Delays and Costs are Identified as Main Challenges in Accessing Statutory Courts



Source: Interviews with court users, May-June 2024.

Note: Authors' calculations based on participants' answers to the question “What has been the most challenging part of your interaction with the courts?” Respondents could not choose multiple answers.

142. Interviews with court users, May-June 2024.

143. Interviews with court users, May-June 2024.

As evidenced in the analysis of judges' geographical distribution in Section 2.2, staffing shortages are frequently cited as a major contributing factor to inefficiency within the judiciary. Currently, there are 116 judges across South Sudan.¹⁴⁴ Of these, 61 are stationed in the state of Central Equatoria, with 60 in the capital city of Juba and one in Yei County. The distribution of judges in other regions includes 14 judges in the state of Western Bahr al Ghazal; 10 in Upper Nile; nine in Northern Bahr al Ghazal; five in Eastern Equatoria; five in Lakes; five in Warrap; two in Jonglei; one in Western Equatoria; and one in Abyei. Notably, Unity State, as well as the administrative areas of Ruweng and Pibor, currently have no judges assigned.

This underscores the understaffing of the judiciary, especially outside of Juba. Due to these shortages, county court judges are often given the powers of high court judges, leading to the same case being heard in both the first instance and on appeal by the same presiding judge. This situation also means that the number of judges in certain locations falls short of the mandated requirements for specific panels. For instance, the Judiciary Act mandates that the Court of Appeal operate with a panel of at least three judges,¹⁴⁵ yet Upper Nile state has only one Court of Appeal judge, who is currently stationed in Juba due to security issues.¹⁴⁶ Similarly, the Supreme Court, which is constitutionally required to have at least eleven judges and needs a panel of nine judges for constitutional cases, currently has only six judges on the bench.¹⁴⁷

When asked about the reasons for this understaffing, experts indicated that it may be due to the absence of incentives to join the judicial profession and the lack of promotions for judges, leading to limited opportunities for new recruits.¹⁴⁸ Indeed, although the law stipulates that judicial officials are eligible for promotion every five years¹⁴⁹, some judges have served for up to fifteen years without promotion.¹⁵⁰ This circumstance is evident in the current imbalance between First Grade and Second Grade County judges, with 19 in the First Grade and 64 in the Second Grade (Figure 6). This imbalance can impact the judiciary's ability to manage incoming caseloads effectively, as Second Grade judges have restricted jurisdiction under the Code of Civil Procedure Act. The delay in promotions also undermines the goal of recognizing and incentivizing high-performing judges, potentially deterring skilled and experienced individuals from remaining in the judiciary.

144. The team obtained a list of justices and judges from the Judiciary of South Sudan. According to this document, there are 113 judges assigned to a specific court location, while two judges are suspended, and one judge is on leave without pay.

145. Section 13(2) of the Judiciary Act, 2008.

146. Interviews with Judges of Court of Appeal, May 2024.

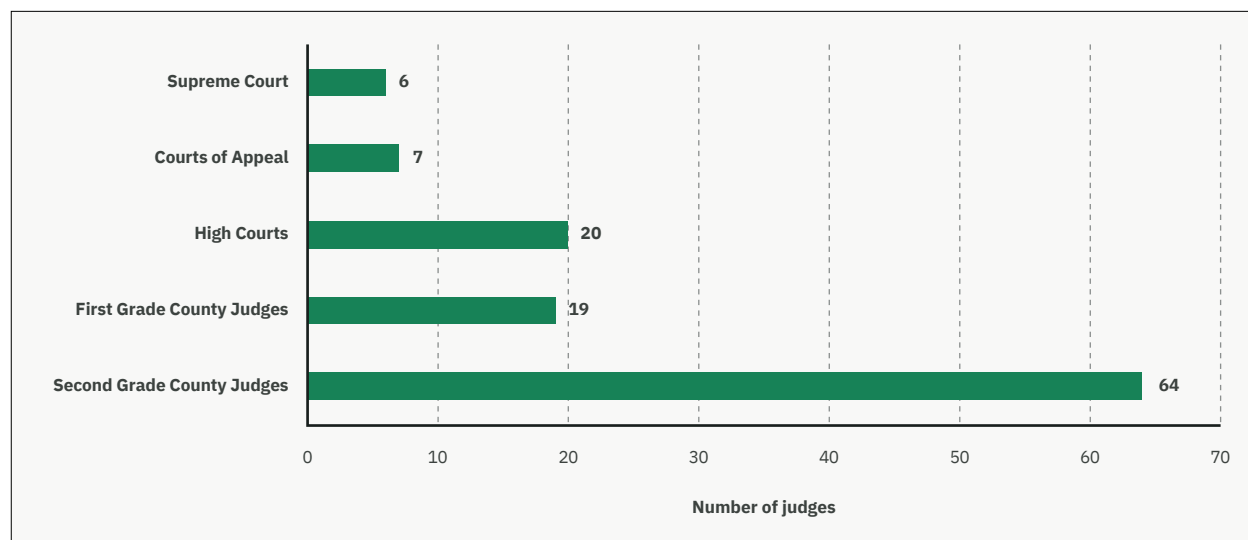
147. Articles 125 and 126.3 of the TCRSS.

148. Interviews with judges of the Court of Appeal and with a member of the JRC, June 2024.

149. Section 40(3) of the Judiciary Act, 2008.

150. Interviews with Judges of Court of Appeal, May 2024.

>>> **Figure 6:**
Distribution of Judges Per Staffing Level



Source: Judiciary of South Sudan, List of Justices and Judges from the Judiciary of South Sudan as of June 1, 2024.

Additionally, the lack of adequate incentives and poor working conditions in the judiciary further contribute to the system's understaffing problem. Judges receive lower salaries compared to those in similar professions and face challenging working conditions. In 2017, this dissatisfaction led to a strike by judicial officials, some of whom were subsequently dismissed by presidential order.¹⁵¹ The current infrastructure for court buildings is overwhelmed, with a low ratio of rooms to judges and generally overcrowded courtrooms.¹⁵² Many court offices are missing essential equipment such as computers, printers, and stationery, and frequent power outages further disrupt operations. According to the World Bank Group, in 2022, only 8.4 percent of the population in South Sudan had access to electricity.¹⁵³ In rural areas, the absence of vehicles and poor road infrastructure often prevent judicial

officials from reporting to work regularly and can also pose security risks.¹⁵⁴ Delays in salary payments are a recurring issue, exacerbated by disruptions in oil exports due to the ongoing conflict in Sudan, which has significantly impacted South Sudan's primary revenue source and further strained government finances.¹⁵⁵

In terms of public sector salaries, South Sudan's Budget Books present a multispine approach to setting pay scales, with a general public service pay scale and sector-specific pay scales (for example, education, justice), which is presented as a basis for budget formulation.¹⁵⁶ This multispine approach supports judicial independence by enabling the Judiciary to set specialized service remuneration packages, a common practice in other countries such as Mauritania and the United

151. *Supra* Amnesty International, 2019, page 15.

152. Interview with Judges of Court of Appeal, May 2024.

153. World Bank Group. n.d. "Access to electricity (% of the population) – South Sudan." Washington, D.C.: World Bank Group.

154. Interview with the Human Resources Department of the Judiciary of South Sudan, March 2024.

155. International Crisis Group. 2024. "South Sudan on Edge as Its Neighbour's War Disrupts Oil Exports." Brussels: International Crisis Group.

156. Ministry of Finance and Planning, Budget Book FY2022/3.

States. A comparative mapping of base pay and allowances for judicial positions with equivalently remunerated public service grades in Table 2, however, suggests a mismatch between base pay rates and responsibilities: the base monthly income of a Justice of the Supreme Court corresponds with the equivalent expected base pay of a Ministry Department Director. This mismatch is particularly more pronounced at junior levels of the corps, with the monthly base salary of a Second Grade Judge corresponding to the expected remuneration of a Computer Operator on the general public sector scale.

The Judiciary has tried to address low base salaries by using monthly allowances, which comprise 51 percent of total compensation for judicial positions. This is higher than the 38 percent in Higher Education and 13 percent in Public Administration. This low percentage of base pay in the wage contributes to a lack of transparency, as discretionary non-pay benefits are often unaccounted for and managed in a decentralized and often opaque manner.¹⁵⁷ While these risks are somewhat offset by the low absolute value of allowances received per position, there will be a need to review pay grading and nonwage incentives more holistically prior to raising base pay and allowance levels in view of the currency's depreciation and current inflation rates.

Moreover, as the respective websites of the MoJCA, the Civil Service Commission, and the Ministry of Finance and Planning (MoFP) are not consistently maintained, the legislative framework for public employment – and the pay scales and allowance instructions in particular – are not publicly available, and only partially disclosed through annual Budget Books accompanying the Appropriation Acts, on an inconsistent basis.¹⁵⁸

In any case, these allowances have helped align the total compensation of Supreme Court Justices, Court of Appeal Justices, and High Court Judges with those in the “Leadership” Public Service Grade Category. However, the impact is less significant for junior judges. For example, a First Grade Judge and a Second Grade Judge earn similarly to IT Officers and Chief Storekeepers, respectively (Table 2). Finally, while senior judicial positions now have compensation comparable to public service leadership roles, they still earn much less than those in the education sector, with a Supreme Court Justice earning only about nine percent of a University Lecturer's wage.

157. Van Acker, W., and Z. Hasnain. 2019. “Wage Bill and Pay Reform: A First Glance and Look Forward.” *Governance Notes No. 16*. Washington, D.C.: World Bank Group.

158. The Staffing Structure Tables by Grade in the FY2023/4 Budget Book only provide a headcount of workers by grade, whereas Budget Books for FY2019/20 – FY2022-3 provide the monthly base wage, housing allowance, and total other allowances at a granular level.

>>> **Table 2:**
Comparison of Judicial Base Pay with General Public Service Pay

Position	Pay element (Monthly)	Value ¹⁵⁹			Public Service Employee Equivalences		
		SSP	USD (Jul, 2022)	USD (Oct, 2024)	Pay	Grade Category	Examples of Title or Post ¹⁶⁰
Justice of the Supreme Court	Base Pay (BP)	10,800	\$23.31	\$2.83	Grade 2 BP (99%)	Leadership	Director of Department of Ministry
	Total Compensation (TC)	26,350	\$56.88	\$6.91	Grade 1 TC (165%)	Leadership	Director General of Directorate of Ministry
Justice of the Court of Appeals	Base Pay	8,400	\$18.13	\$2.20	Grade 6 BP (99%)	Super Grade	Assistant Chief Technical Officer
	Total Compensation	19,050	\$41.12	\$4.99	Grade 1 TC (119%)	Leadership	Director of Department of Ministry
High Court Judge	Base Pay	4,800	\$10.36	\$1.26	Grade 10 BP (74%)	Para-Professional & Technical	Head Staff Clerk/ Head Accountant/ Chief Cashier/ Chief Storekeeper
	Total Compensation	11,900	\$25.69	\$3.12	Grade 3 TC (98%)	Leadership	First Deputy Director of Department
First Class Judge	Base Pay	3,600	\$7.77	\$0.94	Grade 11 BP (90%)	Skilled Worker	Senior Technician/ Senior Bookkeeper/ Land Officer/ Head Driver/ Head Mechanic
	Total Compensation	8,230	\$17.77	\$2.16	Grade 8 TC (101%)	Administrative and Professional	Inspector/ Technical Officer/ IT Officer
Second Class Judge	Base Pay	3,000	\$6.48	\$0.79	Grade 12 BP (97%)	Para-Professional & Technical	Senior Clerk/ Computer Operator/ Secretary
	Total Compensation	6,385	\$13.78	\$1.67	Grade 10 TC (91%)	Para-Professional & Technical	Head Staff Clerk/ Head Accountant/ Chief Cashier/ Chief Storekeeper

Source: Authors' elaboration based on data from Ministry of Finance and Planning, Budget Book FY2022/3 and Civil Service Act, 2011.

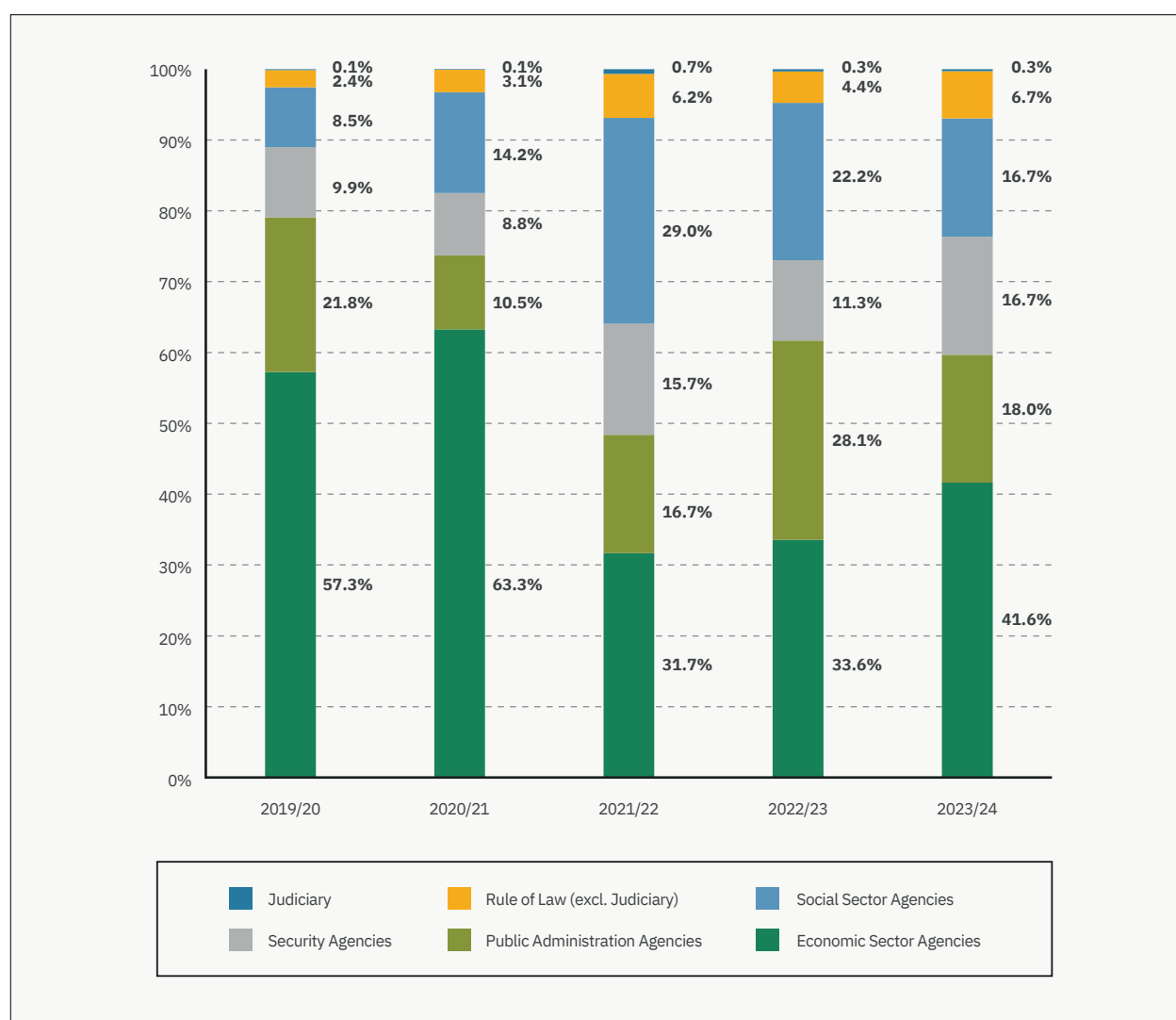
159. Given high geospatial variation and variation in exchange rate pricing between official and parallel exchange markets, South Sudanese Pound to United States Dollar exchange rates are taken as the overall market average rate from WBG (2024) "Microdata SSD_2023_RTFX_v01_M." As the FY2023/4 budget tables do not present staffing by grade and pay consistently with prior years, the October 01, 2024, USD price equivalence of the FY2022/3 salaries used in the comparative analysis are presented to illustrate the rapid currency depreciation only; the Government may have since updated the scales but has not made this public as usually presented in annual budget documentation.

160. Civil Service Act, 2011.

In FY2022/23, the Judiciary generated SSP 512 million from court user fees, representing roughly a quarter of planned expenditure for the fiscal year. However, increasing judicial pay through these revenues could make justice services more expensive and less accessible, especially given the levels of economic hardship in the country. Moreover, addressing nonwage motivators of judicial officials through improved working

conditions and expanding service delivery for citizens will necessarily require additional funds from the Consolidated Fund. Although the budget share for the Judiciary has returned to pre-COVID levels, it remains a small portion of the government budget due to the prioritization of other sectors, such as infrastructure, natural resources and rural development, and public administration (Figure 7).

>>> **Figure 7:**
Judiciary Share of Total Budget Compared with Other Sectors

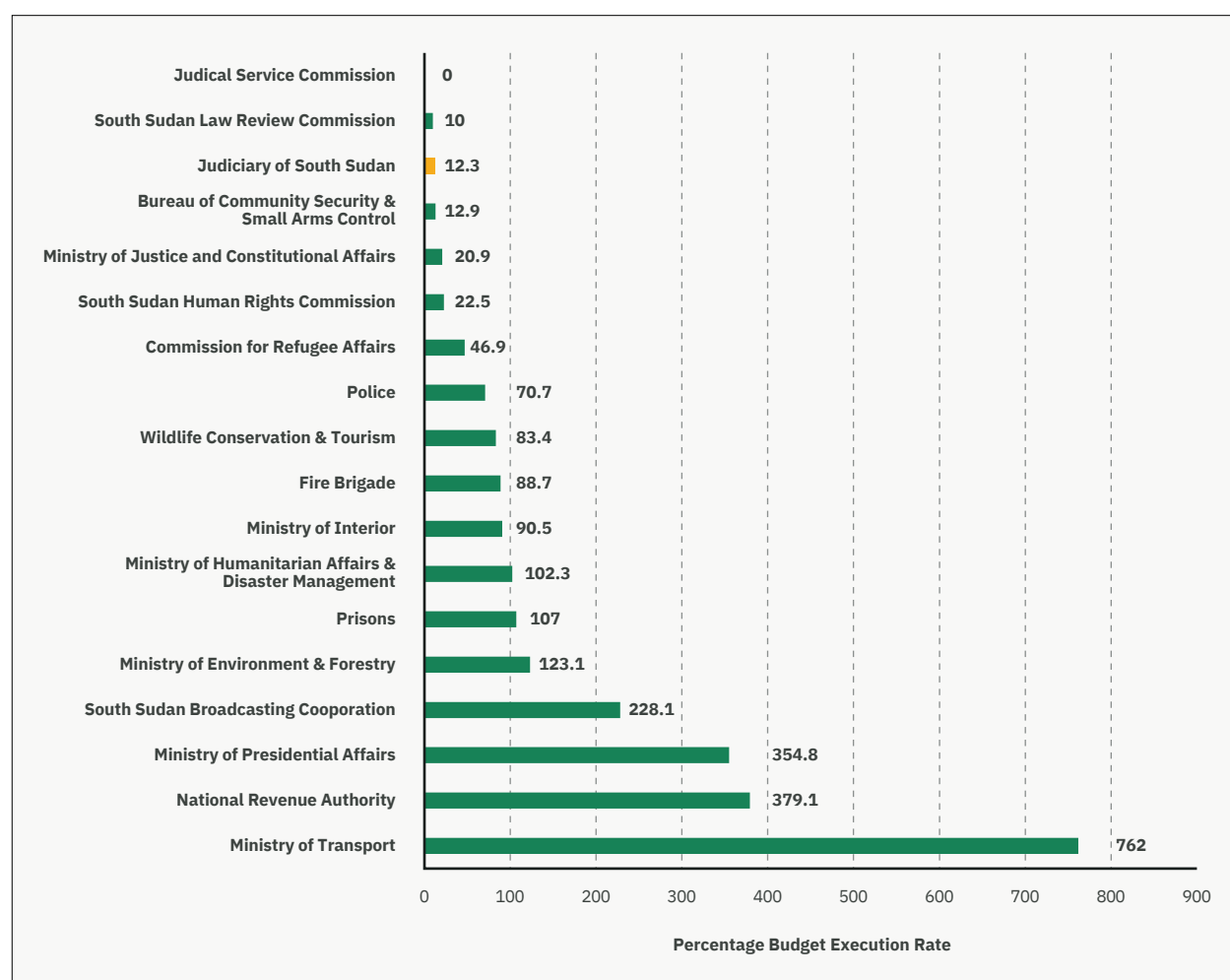


Source: Ministry of Finance and Planning Website, Annual Budget Books FY2018/9 – FY2023/4.

Midyear budget execution reports also suggest that the Judiciary spending is being deprioritized (Figure 8). The GoSS' FY2023/24 midyear budget report¹⁶¹ highlights revenue collection over-performance with total revenues collected in Quarter 2 (Oct–Dec) of the FY 2023/4 fiscal year amounting to 84.2 percent of the annual revenue target, of which oil revenues collected by midyear amounted to 80 percent of

annual targets, and nonoil revenues amounted to 325 percent of their annual forecast. This revenue-side over-performance is partially mirrored in spending, with 52 percent of the annual aggregate expenditure target reached by midyear.¹⁶² Despite this over-performance at the aggregate level, only 12.3 percent of the Judiciary's budget was executed during the same period.

>>> **Figure 8:**
Percentage Annual Budget Execution Rates by Midyear for Selected Agencies



Source: Ministry of Finance and Planning, Midyear Budget Execution Report FY2023/4 (as reported with no calculations by WBG Staff).

Notes: The Y axis represents the agencies included in the Budget Book, while the X axis represents the percentage execution rate for each agency according to the Mid-year Budget Report FY2023/24.

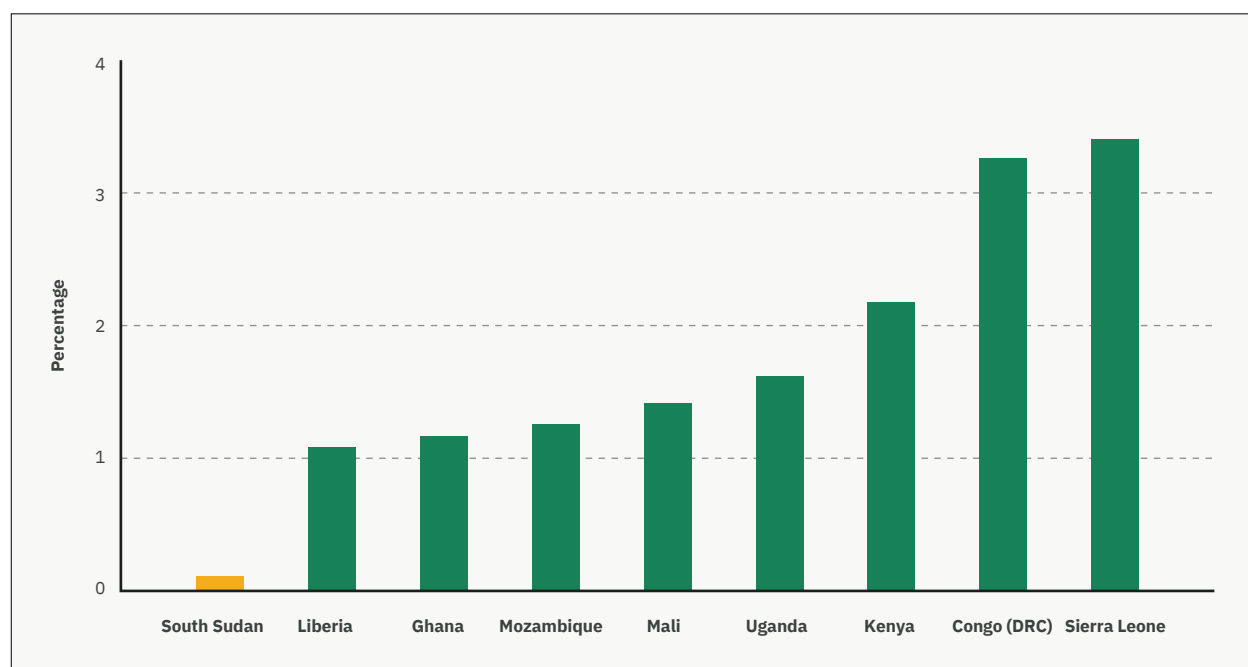
161. Ministry of Finance and Planning, Second Quarter Revenue and Expenditure Report FY2023/4, page 3, Table 2, and Figures 1–6 for monthly actuals to budget comparisons by oil and non-oil revenue streams for July – December 2023, which all exceed estimated forecasts.

162. Ministry of Finance and Planning, Second Quarter Revenue and Expenditure Report FY2023/4, Tables A1 and A4.

Among the 88 budgetary agencies identified in the MoFP report, 25 percent had execution rates above 50 percent of their annual approved budgets by midyear, and 17 percent were within the 15 percent PEFA tolerance threshold. While 72 percent of the sectoral Rule of Law spending target was met by midyear, the Judiciary's under-execution highlights its relative de-prioritization¹⁶³ within Rule of Law agencies compared to its executive counterpart (MoJCA) and closely interfaced institutions like the Police and Prisons. This in-year de-prioritization is further evidenced in seven agencies having more than exhausted their agency annual appropriations by midyear.¹⁶⁴

The de-prioritization of government spending on the Judiciary in South Sudan becomes starkly apparent when compared to judicial budget allocations in other countries. According to a WBG database on judicial budgets, South Sudan allocates the lowest percentage of its government expenditure to the judiciary among countries in the region with similar income levels (Figure 9). Specifically, the Judiciary in South Sudan received only 0.11 percent of government expenditure in 2020. This is significantly lower than the allocations in other countries: Liberia (1.08 percent), Ghana (1.16 percent), Mozambique (1.25 percent), Mali (1.41 percent), Uganda (1.62 percent), Kenya (2.18 percent), the Democratic Republic of Congo (3.26 percent), and Sierra Leone (3.40 percent).¹⁶⁵

>>> **Figure 9:**
South Sudan's Judicial Budget is Lower Than in Other Economies in the Region (FY2020)



Source: World Bank database, 2024.

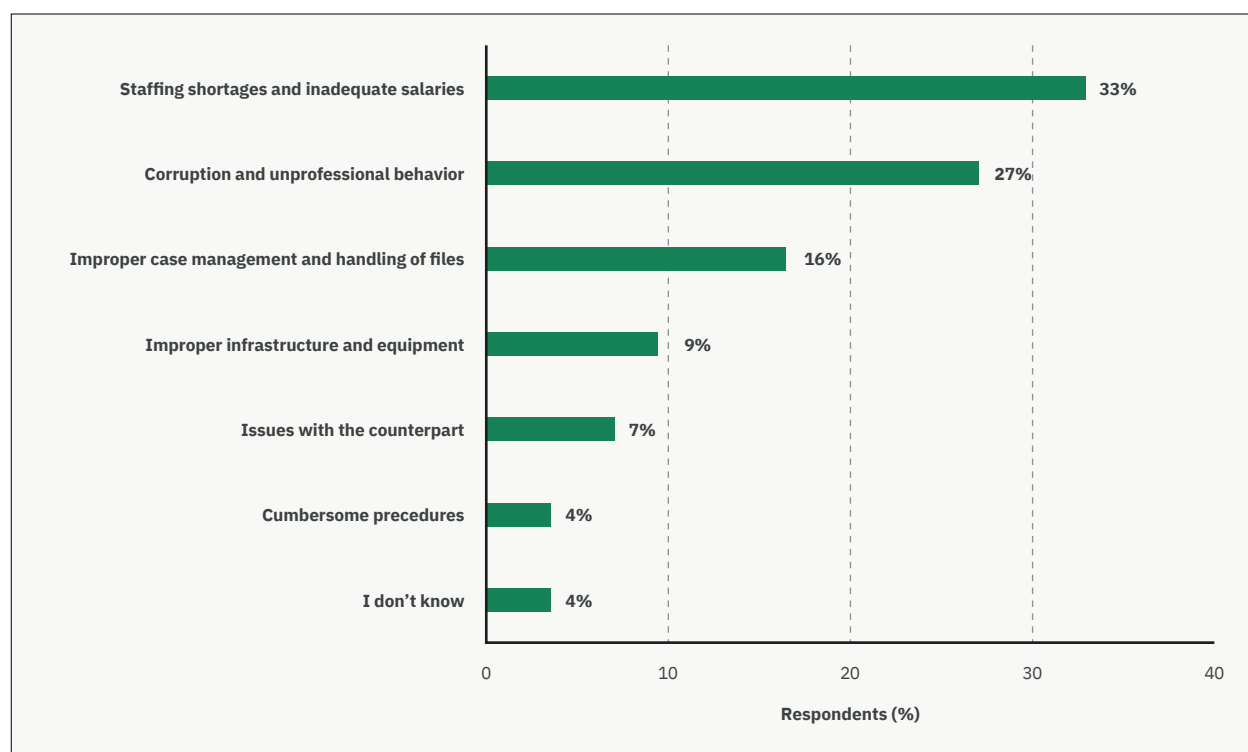
163. Under-execution may be driven by other factors beyond the funds' liquidity and cash rationing decisions made by the Treasury, including MDAs not meeting financial compliance requirements, their own administrative capacity to implement their budgets, and the credibility and reliability of their own budget proposals and costing estimates.
164. Agencies having exhausted their annual budget by midyear furthermore points to issues in both the credibility of agency annual budget submissions to the Ministry of Finance and Planning, as well as spending control failures given reported spending above authorized budget ceilings.
165. Bosio, E. 2024. *Reforming Justice. Engaging with Countries on Judicial Budgets*. Washington, DC: World Bank Group.

a. Delays

The limited resources of South Sudan's statutory courts significantly hinder their ability to resolve cases in a timely manner. Ineffective case management practices further exacerbate these constraints and undermine efficient case processing. The Judiciary in South Sudan lacks a systematized case management system, resulting in unreliable and inefficient registry processes. Court users frequently report issues such as inadequate file management, with documents

often lost or damaged, forcing them to restart their processes (Figure 10). Additionally, in the absence of a proper case tracking system, court users often face repeated visits to the court due to misplaced files and clerks' inability to locate case records. This results in an average wait time of approximately three hours per visit, with peaks of five hours among court users interviewed by the team.¹⁶⁶ This situation imposes opportunity costs on justice seekers, as the time spent traveling to the court and waiting for case updates represents time lost from work or other productive activities.¹⁶⁷

>>> **Figure 10:**
Main Causes of Delays as Identified by Court Users



Source: Interviews with court users, May–June 2024.

Note: Authors' calculations based on participants' answer to the question "In your view, what is the main reason for delays in courts"? Respondents could not choose multiple answers.

166. Interviews with court users, May–June 2024.

167. According to Gramatikov and others (2011), opportunity costs are defined as "non-monetary costs for which markets exist and whose shadow costs could be estimated." These costs arise in forms other than money but can be converted into monetary values, such as the time spent resolving a dispute or the earnings lost due to the ongoing procedure. See Gramatikov, M. A., J. M. Barendrecht, and J. H. Verdonchot. 2011. "Measuring the costs and quality of paths to justice: Contours of a methodology." *Hague Journal on the Rule of Law* 3 (2): 349–379. Page 360.

Delays are exacerbated by the lack of proper recording of caseload data, which impedes the ability to monitor individual judges' workloads and track the number of pending cases per court. Currently, case recording is performed manually by court clerks, who log individual case details into physical docket books without tracking the total number of cases that have been received and disposed of. Electronic recording is nearly nonexistent due to limited internet access in courts and the lack of computers for judges and clerical staff. As a result, to verify information on incoming and disposed cases, the World Bank team had to manually count the number of cases by hand with the help of the court clerk, obtaining caseload information from Juba County Court, the High Court of Central Equatoria State, the Court of Appeal of Greater Equatoria and the Supreme Court. Based on the data obtained, the team calculated the clearance rate, case turnover, and disposition times for the courts at the different levels.

The analysis of caseload data reveals a steep decline in clearance rates at the Supreme Court over the past three years (Figure 11). This trend began in 2022, when the number of incoming cases surged by 50 percent, increasing from 135 cases in 2021 to 202 cases in 2022. The Supreme Court operates in panels of three judges, and the rise in

cases nearly doubled the workload of the existing two panels.¹⁶⁸ Although the rate of resolved cases remained steady in 2022, the growing backlog from the increased caseload adversely affected clearance rates, falling from 44 percent in 2022 to just 14 percent in 2023. Judges interviewed cited the approval of appeal requests that were backlogged from COVID-19 in the lower courts and court users' increased knowledge of appeal mechanisms as key reasons behind the surge in cases at the Supreme Court.¹⁶⁹

Consequently, disposition times at the Supreme Court have quadrupled in the last three years, from 259 days in 2021, to 473 in 2022 and 2201 in 2023. This corresponds to more than six years. Comparatively, the highest courts of other countries in the region have much higher clearance rates: 43 percent in Uganda, 83 percent in Rwanda, 100 percent in Tanzania, and 127 percent in Kenya.¹⁷⁰ The backlogs affecting the Supreme Court in South Sudan may also be attributed to the Court's current composition. With only six judges on the bench, the Court is below the constitutional requirement of eleven judges. Expanding the Court's capacity by increasing the number of judges to meet the constitutional requirement could enhance the clearance rate and help manage both the backlog and the rising number of incoming cases.

168. Article 126.3 of the TCRSS stipulates that the Supreme Court is to make decisions in panels of three judges, except when functioning as a constitutional panel, which requires a minimum of nine judges. With the Supreme Court currently composed of six judges, this configuration allows for the formation of only two panels.

169. Follow-up interview with judges of the Court of Appeal, August 2024.

170. Clearance rates higher than 100 percent indicate that the court is clearing previous backlog by solving more cases than it receives. See: The Judiciary of Kenya. 2024. *State of the Judiciary and the Administration of Justice, Annual Report 2022/23*, Nairobi, Kenya; Judiciary of Rwanda. 2024. *Performance of the Judiciary During the Year 2022-2023*, Kigali, Rwanda; Judiciary of Tanzania. 2023. *Comprehensive Performance Report of the Judicial Functions – 2022*, Dar es Salaam, Tanzania; and The Judiciary of Uganda. 2023. *Annual Performance Report FY 2022/2023*, Kampala, Uganda.

>>> **Figure 11:**
The Supreme Court Saw a Steep Decline in Clearance Rates



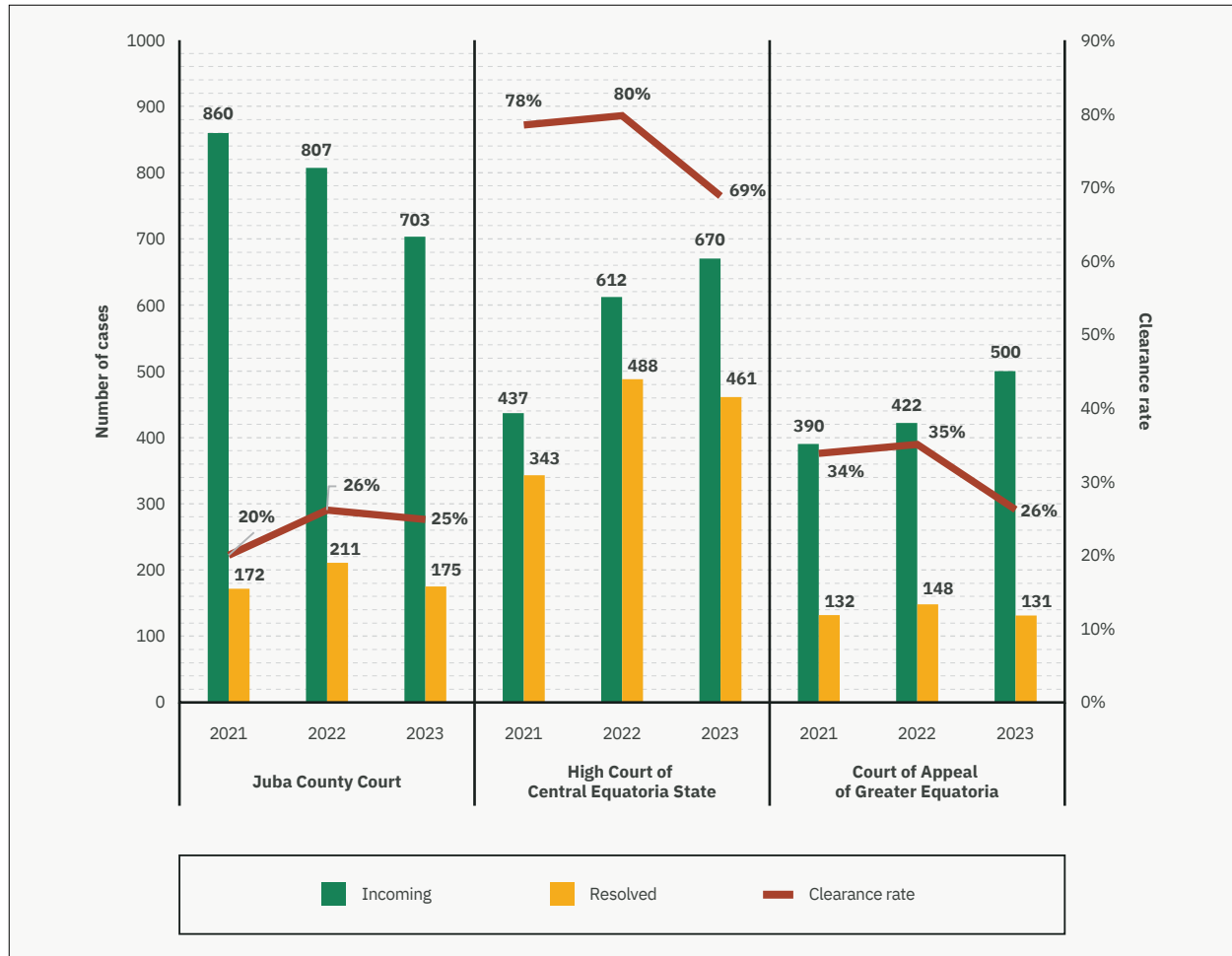
Source: Caseload data obtained by the team from the Judiciary of South Sudan, June 2024.

Clearance rates are higher in lower courts, but a similar downward trend is evident in both the Court of Appeal of Greater Equatoria and the High Court of Central Equatoria. At the Court of Appeal of Greater Equatoria, clearance rates dropped from 35 percent in 2022 to 26 percent in 2023. This decline nearly doubled disposition times, increasing from 676 days in 2022 to 1028 days in 2023. It may be attributed to a 28 percent increase in incoming cases in the last three years, which rose from 390 in 2021 to 500 in 2023. In comparison, Courts of Appeal in neighboring countries perform significantly better, with clearance rates of 67 percent in Uganda, 70 percent in Kenya, 92 percent in Rwanda, and 102 percent in Tanzania.¹⁷¹

The High Court of Central Equatoria also faces challenges, with a 53 percent increase in new cases from 437 in 2021 to 670 in 2023. As a result, clearance rates declined from 80 percent in 2022 to 69 percent in 2023. Disposition times increased from 93 days in 2022 to 165 days in 2023 (Figure 12). Still, a clearance rate of 69 percent is relatively consistent with that of High Courts in the region, with 68 percent in Rwanda and 75 percent in Uganda.¹⁷² The presence of nine judges at the High Court of Central Equatoria, located in Juba, may contribute to a more balanced distribution of the increased workload, mitigating the impact of the rising case volume. In contrast, the Court of Appeal of Greater Equatoria, which serves Western Equatoria, Central Equatoria, and Eastern Equatoria, operates with only three judges, highlighting the difficulties of facing an increased caseload with less human resources.

171. *Supra* Annual Reports for the Judiciary of Kenya, 2024; Judiciary of Rwanda, 2024; Judiciary of Tanzania, 2023; and Judiciary of Uganda, 2023.
172. *Supra* Annual Reports for the Judiciary of Kenya, 2024; Judiciary of Rwanda, 2024; and Judiciary of Uganda, 2023.

>>> **Figure 12:**
Clearance Rates Are Higher in Lower Instance Courts



Source: Caseload data obtained by the team from the Judiciary of South Sudan, June 2024.

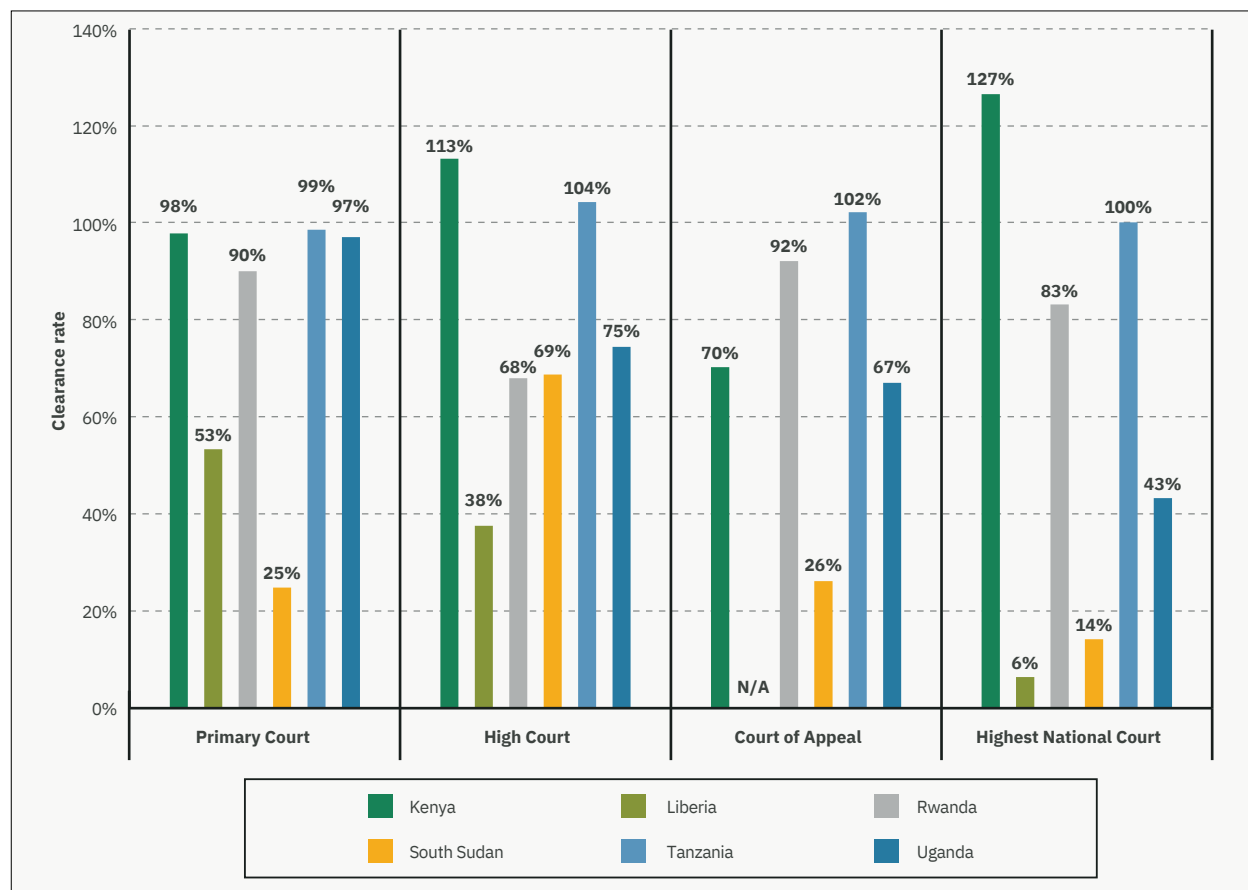
In contrast, the Juba County Court has seen a decline in incoming cases, decreasing from 860 in 2021 to 703 in 2023. This reduction has led to a modest improvement in clearance rates, which increased from 20 percent in 2021 to 26 percent in 2022, and slightly decreased to 25 percent in 2023. Despite the decline in incoming cases, the number of resolved cases has remained steady, marginally decreasing from 211 in 2022

to 175 in 2023. Therefore, disposition times have remained high, averaging around 1101 days in 2023, or approximately three years, to reach a final decision.¹⁷³ This performance contrasts sharply with primary courts in other countries in the region, where clearance rates are significantly higher: 53 percent in Liberia, 90 percent in Rwanda, 97 percent in Uganda, 98 percent in Kenya, and 99 percent in Tanzania (Figure 13).¹⁷⁴

173. Based on caseload data obtained by the team from the Judiciary of South Sudan, June 2024.

174. Judiciary Branch of Government of Liberia. 2023. *Annual Report 2021–2022*, Monrovia, Liberia. Also see *supra* Annual Reports for the Judiciary of Kenya, 2024; Judiciary of Rwanda, 2024; Judiciary of Tanzania, 2023; and Judiciary of Uganda, 2023.

>>> **Figure 13:**
Clearance Rates in South Sudan are Significantly Lower than in Countries in the Region¹⁷⁵



Source: Comparative clearance rates from the Highest National Court (Supreme Court or Highest Court of Appeal), Court of Appeal, High Court and Primary Court in Kenya, Liberia, Rwanda, South Sudan, Tanzania and Uganda, as reported in the Annual Reports of the Judiciary.¹⁷⁶

Note: For comparative purposes, courts in each country were classified into four categories: Primary Courts (typically first instance or magistrate courts), High Courts (typically second instance courts or highest regional courts), Courts of Appeal, and the highest national court (highest court of appeal at the national level or supreme court). In Liberia, the justice system comprises Magistrate Courts (equivalent to Primary Courts), Circuit Courts (equivalent to High Courts), and the Supreme Court. It does not include Courts of Appeal, which is noted as “N/A” in the figure.

As referenced earlier when analyzing the issue of understaffing, court inefficiency can be attributed, in part, to the low salaries and poor working conditions of judicial officials. A 2018 report by the African Development Bank highlighted that civil servants in the country frequently experienced delays in the payment of their salaries because of

limited revenue. These delays in remuneration can lead to low motivation, high staff turnover, and the loss of experienced personnel. Consequently, the quality of outputs can be compromised, and civil servants may resort to illicit activities to sustain their livelihoods.¹⁷⁷

175. Comparator countries were selected based on two main criteria: (i) regional proximity, specifically countries within Sub-Saharan Africa, and (ii) the availability of recent public reports on the performance of their justice systems. Additionally, the team utilized data from the previous [JUPITER assessment conducted in Liberia](#), which collected information on identical data points using the same methodology.

176. *Supra* Annual Reports for the Judiciary of Kenya, 2024; Judiciary of Rwanda, 2024; Judiciary of Liberia, 2023; Judiciary of Tanzania, 2023; and Judiciary of Uganda, 2023.

177. African Development Bank (AfDB). 2019. *The Political Economy of South Sudan*. Abidjan: AfDB.

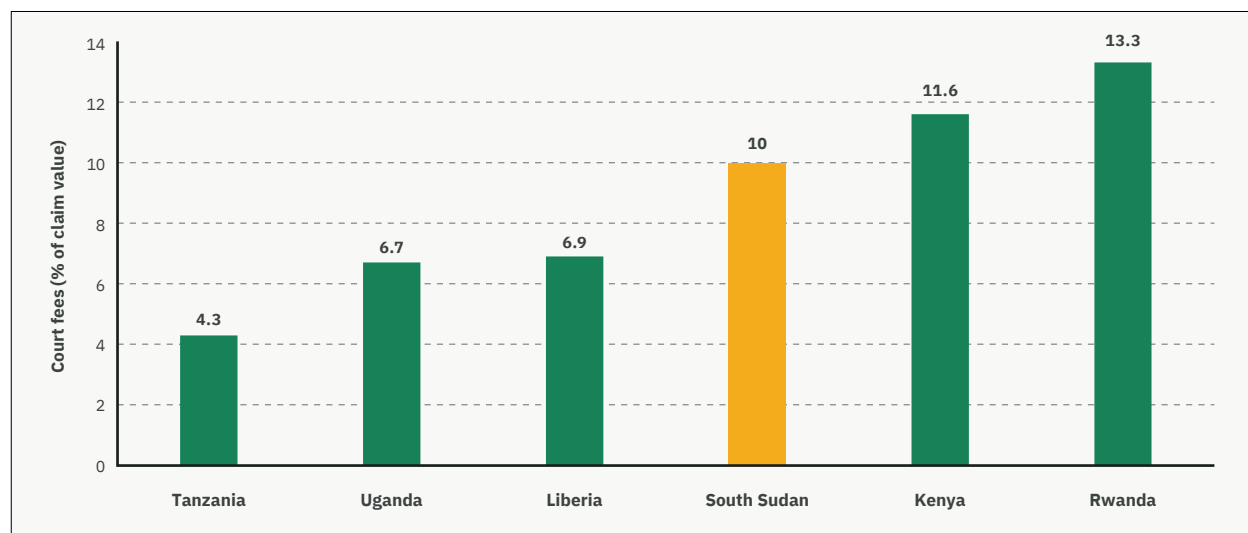
b. Costs

Inefficiencies in the courts not only lead to delays but also increase the overall costs of legal proceedings. As disputes take longer to resolve, the accumulating costs contribute to higher expenses throughout the process. Costs related to court proceedings encompass three main components: court fees, attorney fees, and additional fees for expediting case processing.

In South Sudan, the court fee schedule [published](#) on the MoJCA website was issued in 2007 and has not been updated to reflect the country's episodes of hyperinflation¹⁷⁸ and the currency's significant depreciation.¹⁷⁹ However, this is not the schedule currently used to calculate court fees, which the

team was unable to obtain even after several visits to the courts. Due to the lack of public availability of updated schedules, lawyers interviewed by the team considered that information about court fees was difficult to understand and highlighted inconsistencies in its application.¹⁸⁰ In addition, when information on fees is not publicly available, it is easier to demand ad-hoc fees from litigants. When asked for an estimate, judges and advocates mentioned that court fees tend to be around 10 percent of the claim amount, similar to what previous studies have estimated.¹⁸¹ When compared to court fees levied in other countries, South Sudan tends to be at the higher end of the spectrum, markedly higher than Tanzania (4.3 percent), Uganda (6.7 percent), and Liberia (6.9 percent) (Figure 14).

>>> **Figure 14:**
Court Fees in South Sudan Tend to be Higher than in Other Countries in the Region



Source: Doing Business 2020, World Bank Group.

Note: Costs are recorded as a percentage of claim value, assumed to be equivalent to 200 percent of income per capita or USD 5,000, whichever is greater. For court fees, the percentage includes all costs that the plaintiff must advance to the court.¹⁸²

178. Since its independence in 2011, South Sudan has faced episodes of hyperinflation, notably in 2015 when inflation soared to 346.1 percent, and more recently in 2024, with inflation rising to 120.6 percent.

179. According to an interview with Judges of the Court of Appeal in June 2024, the Chief Justice has already appointed a subcommittee to review and update the current fee schedule, which completed its review in April 2024, and submitted it to the Ministry of Finance and Planning for approval.

180. Interviews with lawyers, June 2024.

181. According to the World Bank's Doing Business indicator on "Enforcing Contracts," court fees represent 10 percent of the value of the claim in South Sudan in 2020. See World Bank Group. 2020a. *Doing Business 2020: Comparing Business Regulation in 190 Economies*. Washington, DC: World Bank.

182. World Bank Group. n.d. *Doing Business. Enforcing Contracts Methodology*. Washington, DC: World Bank.

Many court users have also expressed concerns about the overall financial burden due to the extended duration of proceedings and the accumulation of various administrative fees required at each step. The total cost of filing a claim becomes substantial when factoring in expenses for transport, printing, photocopying, and other requirements. Each payment requires interactions with court clerks, who often demand additional payments beyond the official fees, which are hard to estimate due to the unavailability of information about how court fees are calculated and applied. For example, one court user noted that while an official receipt might state a fee of SSP150, they are sometimes required to pay up to SSP2000.¹⁸³

Unofficial fees are often also paid to judges to expedite or influence cases, a problem exacerbated by the low compensation and delayed payments of salaries.¹⁸⁴ Users have reported various instances of these practices, noting: “People with connections influence judges with money and this delays the cases of the poor people;” “My documents got lost and I am sure it was due to the money given to the judge;” “Some judges are friends with owners of law firms, who sometimes meet to discuss the cases and influence decisions with friendship and money;” and “Delays in salaries for judges has demotivated them hence they are demanding a lot of money.”¹⁸⁵ According to the latest report from Bertelsmann Stiftung on South Sudan, there is a widespread perception that political and military elites abuse their power to influence court cases, including through direct bribery and intimidation.¹⁸⁶

This finding is consistent with other recent indicators of public sector corruption. The 2023 [Corruption Perceptions Index](#) by Transparency International scored South Sudan 13 out of 100 points, placing it as the third worst-performing country globally, just ahead of Somalia and Venezuela. Transparency International also notes that petty corruption is prevalent in the country, with citizens often facing demands for bribes when engaging with government institutions, affecting their adequate access to public services.¹⁸⁷ Similarly, the Bertelsmann Stiftung’s Transformation Index (BTI) gives South Sudan the lowest possible score of 1 out of 10 on its anti-corruption policies indicator.¹⁸⁸ Reasonably, addressing corruption and implementing measures to prevent abuse of power is crucial for the people of South Sudan. A recent survey revealed that 63.2 percent of South Sudanese across various regions consider that being able to hold the government accountable is essential, underscoring the critical importance of this issue in their interaction with the state.¹⁸⁹

Attorney fees are also part of the costs incurred by individuals and businesses to pursue claims in statutory courts, which many court users identify as a challenge in their interaction with the courts. Users highlighted that “If you do not have money you will not get a lawyer;” “My challenge is that the judge is telling me to get a lawyer to help me but I cannot afford that;” and “The issue is getting someone to help with the case if you do not have a lawyer to follow the law in the court.”¹⁹⁰ Lawyers

183. Interviews with court users, May–June 2024.

184. A report by the African Development Bank on the political economy of South Sudan found that the government’s failure to pay its staff due to limited revenue drives civil servants to seek income through illicit activities, including bribery. *Supra* African Development Bank, 2019.

185. Interviews with court users, May–June 2024.

186. Bertelsmann Stiftung. 2024. *Bertelsmann Stiftung’s Transformation Index: South Sudan Country Report 2024*. Gütersloh, Germany: Bertelsmann Stiftung.

187. *Supra* Harutyunyan, 2023.

188. *Supra* Bertelsmann Stiftung, 2024.

189. Deng, D., S. Dawkins, C. Oringa, and J. Pospisil. 2022. “Policy Brief on security and governance: National survey on perceptions of peace in South Sudan.” The Peace and Conflict Resolution Evidence Platform, University of Edinburgh. This briefing note presents the headline findings about citizens’ perceptions of security and governance from a survey of South Sudanese in 2021–2022. The three-wave survey recorded the views of 8,843 people from 12 counties across nine states and special administrative areas, covering urban, rural and IDP camp environments. Respondents were asked questions about their daily experiences of safety, based on indicators of everyday peace developed through focus groups. They also shared their views on a wide range of governance topics, from power sharing to the implications of army unification.

190. Interviews with lawyers, June 2024.

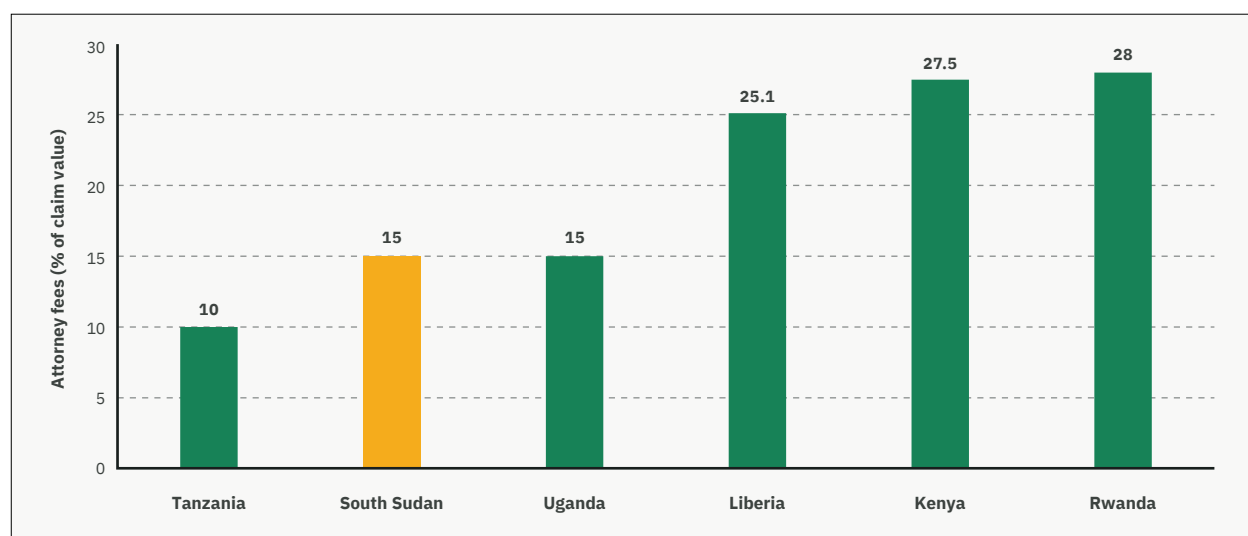
interviewed by the team mentioned that their compensation varies as they charge a percentage of the claim's value. However, the law does not define a minimum or maximum rate to be paid to lawyers, nor has it been established by the SSBA. Previous studies suggest that attorney fees tend to be lower in South Sudan than those charged in countries in the region (Figure 15).

To understand how this may impact potential litigants, JUPITER examines the likelihood that the winning party will receive full reimbursement of attorney fees. By law, the costs of the legal process, which include attorney fees as well as expenses for experts and witnesses, are to be paid by the judgment debtor in the amount determined by the court.¹⁹² In practice, however, practicing lawyers have highlighted that obtaining full reimbursement of fees is very difficult, as it

requires an additional procedure to enforce the decree.¹⁹³ This challenge is exacerbated by the fact that court users have noted significant difficulties in presenting a claim without legal representation, as there are no publicly available lay documents or guides to facilitate self-representation.

Overall, the combination of official and unofficial costs makes the court process in South Sudan too expensive for most users. In fact, 80 percent of court users interviewed by the team reported that costs were higher than anticipated, and 18 percent identified costs and access to representation as a significant challenge they faced in their interactions with the court.¹⁹⁴ This makes the statutory courts inaccessible for people who do not have enough money to overcome the financial burden related to judicial proceedings.

>>> **Figure 15:**
Attorney Fees in South Sudan are Lower than in Countries in the Region



Source: Doing Business 2020, World Bank Group.

Note: Costs are recorded as a percentage of claim value, assumed to be equivalent to 200 percent of income per capita or USD 5,000, whichever is greater. In terms of attorney fees, the percentage includes the average fees the plaintiff must advance to a local attorney to be represented in a case, regardless of final reimbursement.¹⁹¹

191. *Supra* World Bank Group, n.d., *Doing Business. Enforcing Contracts Methodology*.

192. Section 110(3) of the Code of Civil Procedure Act, 2007.

193. Section 216 of the Code of Civil Procedure Act, 2007.

194. Interviews with court users, May–June 2024.



3. POLICY IMPLICATIONS

After years of conflict and power struggles, the parties to the R-ARCSS have laid the foundations for a transition to a peaceful society founded on “justice, equality, respect for human rights and the rule of law.”¹⁹⁵ The Peace Agreement emphasizes the importance of establishing an independent and effective judiciary, calling for a range of specific reforms. These include structural constitutional reforms, such as establishing a Constitutional Court, and legal reforms, such as reviewing judicial legislation and reconstituting the JSC. Justice reform is often most effectively implemented during periods of extraordinary politics, such as transition from conflict.

To guide these reforms, the R-ARCSS established the JRC to study and make recommendations on judicial reform for consideration of the GoSS. The JRC submitted a draft report in February 2024. Subsequently, the GoSS organized a workshop to validate the findings and recommendations with stakeholders, which took place in October 2024, and a final report was presented to the President of South Sudan in December 2024.¹⁹⁶ The JRC’s draft report identified 88 recommendations, ranging from large-scale reforms, such as establishing specialized courts, to smaller interventions, like providing IT equipment to judges.¹⁹⁷ Despite the extensive and ambitious list of reforms, the draft report does not provide insights on prioritization or feasibility.

195. Preamble of the 2018 R-ARCSS.

196. See RJMEC. 2024. *Implement JRC report expeditiously, RJMEC urges government*. RJMEC official website; and Sudans Post. December 22, 2024. “President Kiir receives final report of Judiciary Committee,” Sudans Post website.

For instance, although there is evidence that specialized courts may achieve greater efficiency, higher-quality decisions in complex areas of the law, and greater uniformity, they also have limitations in a resource-constrained environment like South Sudan that could factor into the prioritization.¹⁹⁸ Creating specialized courts may divert human and financial resources from courts of general jurisdiction, which is particularly important given South Sudan's challenges in staffing and adequately funding its general courts. With these resource limitations, it may be prudent to prioritize other areas before focusing on the establishment of specialized courts. Additionally, a feasibility study should be conducted to understand the specific needs and case types that would justify the creation of these courts.

Complementing the JRC's efforts and recognizing that some reforms may require constitutional amendments beyond the scope of this report, JUPITER's key objective is to provide empirical evidence to assist the GoSS in identifying and prioritizing legal and operational reforms to improve the efficiency, accessibility, and transparency of the justice system in South Sudan. JUPITER's strength lies in its ability to provide data that supports more concrete and practical actions. This is crucial because the proper sequencing of reforms is essential to their success. Some reforms are propaedeutic to others—for example, implementing an electronic case management system requires first standardizing rules for manual case management. Additionally, certain reforms may require building greater capacity and securing more resources before they can be implemented. The policy implications outlined below are grounded in three guiding principles.

First, policies need to correspond to current realities and realistic expectations of development and reform, including from a budgetary perspective, rather than to an ideal image of the justice system traditionally tailored to high-income countries. Given the country's current financial and capacity limitations, the recommendations will adopt a staggered approach, focusing on potential interim and medium-term measures to alleviate some of the most urgent constraints in access to justice while long-term solutions can be implemented. Considering these limitations, it is crucial to ensure the recommendations are realistic and actionable. For example, while establishing an independent legal aid body could enhance the oversight and coordination of legal assistance services, it would entail significant upfront costs in terms of financial and human resources, which may not be feasible in the short- to medium term. The same conclusion applies to the introduction of electronic case management, digitalization, and e-services, which are put on a future list, since, at present, courts are not ready to implement them, as they do not have standardized analog case management and filing processes.

Second, the concurrent usage of the formal and customary justice systems in South Sudan, and the reliance of most users on the customary system, suggest that policies for improving justice should focus on both systems and the interplay between them. While it is crucial to lay the foundations of a strong statutory justice system, mutually beneficial and regulated coexistence between the two systems can widen access to justice for all citizens. Neglecting the customary system – or, worse, trying to alienate it – can carry consequences, including creating vacuums, exacerbating the negative

197. The team had access to the draft report shared by members of the Judicial Reform Committee, but not the final version of the report. The draft report highlights specific issues such as political interference with the judicial appointment and removal process, poor working conditions for judges and staff, and insufficient training and capacity building for judicial personnel.

198. Gramckow, H.; and B. Walsh. 2013. "Developing specialized court services : International experiences and lessons learned." *Justice and Development Working Paper Series 24*. Washington, DC: World Bank Group.

impact of pluralism, threatening the values of large segments of the population, and placing undue pressure on justice seekers. In contrast, engaging with the customary system can legitimize its role in alleviating court backlogs, as well as start a process of socioeconomic transformation that leads to the elimination of harmful practices from the customary system.¹⁹⁹

Third, the policy implications build on earlier interventions and attempt to address or circumvent some of the main reasons for their failures. Many locally led efforts and donor-supported programs, such as the CMGs and the JCCs, have improved access to justice and legal empowerment. However, these initiatives have struggled with sustainability due to their dependence on external funding. The policy implications discussed below prioritize feasibility.

3.1. Building Mutually Beneficial and Reinforcing Linkages Between Statutory and Customary Justice

Customary justice is an essential part of dispute resolution in South Sudan. As explored in Section 2.1 of this report, the legal framework reflects this reality, as customary rules are constitutionally recognized as a source of law, and customary authorities are integrated into the local governance structure. In principle, the jurisdiction of customary authorities is clear in excluding criminal cases unless these have a “customary interface.” However, this has been difficult to interpret and apply consistently, presenting challenges, particularly for serious cases. Other areas where unclear boundaries between statutory and customary systems have created gaps in access to justice include land cases involving demarcated land. In these cases, statutory authorities have precluded customary authorities from making decisions, even without specific legal provisions.

The existence of a clear interface between state and nonstate justice can increase transparency

and avoid corrupt behavior. When high discretion is vested in decision-makers—whether they be judges, police, or customary leaders—regarding where a certain case should be adjudicated, and there is material variation in the outcomes available from these different fora, this situation creates inroads for corruption and abuse. By contrast, when the interface is strong, predictable, and reliable, potential injustices and unfair decisions can be curtailed.²⁰⁰ Unclear rules of engagement can also enable predatory forum shopping, where the politically and economically powerful have more possibilities to take advantage of forum choices.

Thus, building mutually beneficial linkages between statutory and customary justice in South Sudan could help close the justice gap in many ways. First, leveraging the prevalence of customary justice actors, especially in rural areas, brings dispute resolution services to regions where statutory courts are largely absent. Second, the current

199. *Supra* Bosio and Upegui, 2023.

200. Harper, E. 2011. *Customary Justice: From Program Design to Impact Evaluation*. Rome: International Development Law Organization, pages 79 and 89.

integration of customary courts into the statutory system via appeals allows the former to address cases that are less complex, thereby helping to manage the caseload of statutory courts. Third, improving integration can help mitigate and prevent harmful practices, particularly against women.

Given the notable prevalence of customary justice in South Sudan, improving the service and functioning of the system may be useful. This could include strategies to enhance the fairness of outcomes, increase predictability, and promote the alignment with human rights, such as the adoption of standardized processes, the introduction of procedural safeguards, and the documentation of customary laws.²⁰¹

The standardization of processes involves introducing uniform practices, which, along with the establishment of procedural safeguards, can enhance procedural fairness, transparency, and protect vulnerable populations from unfair outcomes. These measures may include creating codes of conduct for Chiefs, setting minimum standards for rights protection, establishing basic rules for evidence admissibility, and developing protocols for record-keeping.²⁰² Indeed, establishing some form of written records could help facilitate the review of customary decisions by statutory courts, if needed, and create more transparency. These records should include basic details sufficient for an outsider to review the facts and the decision in a dispute. Traditional and customary leaders could be trained in case recording and reporting with support from paralegals.

The documentation of customary rules is also an important step in improving the functioning of the customary system and its relationship with the statutory system. Given the diversity of customary legal frameworks in South Sudan, this could help facilitate the resolution of inter-ethnic disputes and the review of decisions by statutory authorities who are not necessarily knowledgeable of customary law.²⁰³ Documentation, however, does not mean codification. It implies describing – not prescribing – key customary principles to guide dispute resolution, which is essential to maintain the flexibility and focus on reconciliation that characterize customary justice.

Documentation efforts can include certain safeguards to prevent the crystallization of discriminatory norms and power imbalances within the customary justice system. As with codification, documentation raises the question of whose version of customary law should be considered. This risk may be mitigated by ensuring the participation of community members in the documentation process and by creating mechanisms for the endorsement and periodic review of documented customary rules. Documenting customary law is also important to reduce the discretion that Chiefs have, which can often lead to harsher decisions for women and minorities, and to address other human rights concerns.²⁰⁴

201. *Supra* Bosio and Upegui, 2023, pages 68 to 71.

202. International Development Law Organization (IDLO). 2019. “Practitioner Brief. Navigating Complex Pathways to Justice: Engagement with Customary and Informal Justice Systems.” Rome: IDLO.

203. Bosio, E., and P. McGrath. Forthcoming. *Reforming Justice: Fostering Engagement Between Statutory Courts and Customary Law Systems*. Washington, DC: World Bank Group.

204. *Supra* Bosio and Upegui, 2023, page 71.

Potential steps to enhance the linkages between statutory and customary justice and improve the functioning of customary mechanisms include:

3.1.1. *Clarifying jurisdictional ambiguities.*

Consider clarifying the interpretation of the “customary interface” in criminal cases and the jurisdiction regarding land disputes over demarcated land and establish clear guidelines and criteria for referrals. In line with this, consider developing public information campaigns on different pathways to justice, explaining the process, requirements, advantages, and disadvantages of both the statutory and customary systems.

3.1.2. *Ensuring the customary system’s compliance with international and domestic human rights standards.* Identifying and eliminating harmful practices within customary systems is crucial for protecting human rights and ensuring that these systems contribute to equitable and just outcomes for all community members, particularly vulnerable groups. Promoting opportunities to raise awareness among customary leaders and communities can help promote practices that are more attuned to human rights and the Constitution. This can be further enhanced by promoting the participation of underrepresented groups in decision-making.

3.1.3. *Developing rules of conduct for customary justice actors and minimum standards of rights protection.* To potentially enhance the procedural and substantive fairness of customary decisions, Customary Law Councils could consider developing rules of conduct and standards for rights protection in customary trials in line with the Constitution.

3.1.4. *Collecting data about the usage of the different dispute resolution mechanisms.* Consistently collect data to diagnose the volume and type of disputes that are solved through the statutory and the customary system to better understand justice seekers’ preferences and needs. To do so, consider the establishment of protocols for case recording in customary courts through the Customary Law Councils.

3.1.5. *Operationalizing the Customary Research Center under the MoJCA.* The MoJCA created a Customary Research Center aimed to build the capacity of traditional leaders, conduct research on customary law issues, and document customary rules. Although the Center has not resumed activities since 2009, it could be a good platform to promote better linkages with the customary system and promote documentation of customary rules.

3.2. Strengthening Judicial Independence and Accountability

Judicial independence is essential for upholding the rule of law and strengthening citizens' trust in the judiciary. Independence is ensured not only through strong legislative and constitutional guarantees, but also through their effective implementation in practice. As highlighted in Section 2.2., subsection (g) of this report, although the principle of independence of the judiciary is enshrined in the TCRSS and the R-ARCSS, there are aspects of the legal framework and its application that could be reviewed to better safeguard the independence of judges.

For instance, while the Constitution provides that the appointment of judges shall be done under the recommendation of the JSC, the process for screening and selecting potential candidates is not clearly delineated by law. For this reason, judges are often appointed without the JSC involvement and without a transparent and objective recruiting process. In addition, ambiguities in Article 134(2) of the TCRSS regulating the removal of judges have allowed their dismissal by presidential decree without following proper disciplinary procedures, an issue that has been brought to the East Africa Court of Justice. These two aspects affect crucial safeguards of judicial independence, such as ensuring independent processes for the appointment and discipline of judges without external interference and the security of judicial tenure.

To strengthen the independence and accountability of the Judiciary in South Sudan, the following actions could be considered:

3.2.1. Ensuring the Effective Participation of the Judicial Service Commission in the Appointment of Judges. According to Article 133.2 of the TCRSS, the Judicial

Service Commission plays a crucial role in the nomination of candidates for judicial appointments in South Sudan. This role could be further enhanced by establishing detailed regulations for the screening and selection procedures of potential candidates by the JSC, as the necessary institutional and procedural frameworks have not yet been implemented.

3.2.2. Strengthening the role of the Judicial Service Commission in the Oversight of the Judiciary. The role of the JSC in the discipline and general oversight of the judicial function can be strengthened by amending Section 48 of the Judiciary Act to ensure that complaints against justices and judges are presented before the JSC. Additionally, the JSC could adhere to the regular quarterly meetings, and convene more frequently as needed, in accordance with Article 10(2) of the Judicial Council Act.

Another key area for strengthening the role of the JSC is its oversight over judicial wages and the regulation of allowances, which currently lack transparency. Establishing an accountable and transparent judicial wage bill will be critical to secure increased financing for the sector and address pay-related demotivators. Furthermore, the JSC's oversight capability will also be critical in ensuring that the judiciary can systematically update both its revenue streams – starting with court fee schedules – and expenditures, including pay and allowance policy reviews, based on prevailing macroeconomic and labor market conditions.

3.2.3. *Raising Awareness About Mechanisms for Judicial Accountability.* Raising public awareness about the mechanisms to receive complaints against judges can empower citizens to act when they are

aware of unethical behavior. Informing users about the appropriate cases and authorities for filing complaints could help achieve this goal.

3.3. Making Courts more Affordable and Accessible

Courts in South Sudan are largely inaccessible. Evidence presented in Section 2.2 indicates that most areas outside Juba are severely underserved by the statutory system, creating significant justice gaps. Even when justice seekers reach a court premise, they encounter additional barriers that make the court process unsustainable due to the expenses involved in pursuing a case, including court fees, attorney fees, and unofficial fees. To exacerbate these issues, there is no comprehensive government policy to provide legal aid services, leaving people facing socioeconomic barriers with few options for support from local CSOs. Moreover, updated legal information is not publicly available, affecting the transparency of the legal framework and hindering people's knowledge about their rights. The following subsections will delve into each of these issues and provide policy implications for the Government's consideration.

a. Increase Geographical Accessibility of the Courts

For many citizens in South Sudan, particularly outside of Juba, courts are not geographically accessible. As highlighted in Section 2.2, some areas have no courts and certain states only have courts in their respective capitals, making courts inaccessible for rural inhabitants. A two-step

process is often used to increase geographical access to justice. Mobile courts and mediation centers can be used in the short- to medium term to address urgent needs in the most underserved areas, while phased infrastructure programs can be rolled out in the long term.

3.3.1. *Mobile Courts.* Consider deploying mobile courts to areas with a low number of courts and a high number of inhabitants, such as in the states of Unity, Warrap, and Western Equatoria. Special attention can be given to areas with gaps in access to justice within the customary system, particularly in regions with a higher prevalence of SGBV and land disputes over demarcated land. These mobile courts can also serve to raise legal awareness and conduct outreach programs, informing citizens about the availability of mobile dispute resolution and providing legal assistance. It is important to consider the sustainability of these initiatives by securing human and financial resources to maintain mobile services.

3.3.2. *Community Mediation Centers.* Donors have supported successful initiatives that have significantly reduced the justice gap in rural and underserved areas. Notably, the Community Mediation Groups established

by SSLS to address land disputes, and the Justice and Confidence Centers set up by a coalition of CSOs with UNDP support have proven to be highly effective in addressing disputes at the local level. Expanding and scaling these initiatives could be considered as part of the strategies to broaden the reach of justice services.

3.3.3. *Phased Infrastructure Expansion Program.*

At a later stage, consider designing a phased infrastructure expansion program based on a structured court mapping reform. These reforms could enhance access to justice by expanding the court network based on factors like population density, transportation accessibility, administrative distribution, and telecommunication and technological infrastructure, among others. For example, Morocco and Senegal developed new court maps in the last decade, increasing the judiciary's presence in areas with growing population and commercial activity. To make these reforms effective, it is helpful to design them with clear objectives, reliable baseline data, and measurable criteria. In the case of South Sudan, enhancing the collection of judicial and administrative data, as discussed in policy implication 3.4.1, is a key short-term step to provide the evidence to support court mapping reforms. It would also be useful to consider internal displacement caused by conflict and anticipated population growth, similar to the approach taken by Central African Republic. Additionally, investing early in developing human capital is key to ensure the efficient and effective operation of an expanded court network.

b. Improve Affordability of Justice Services

The high costs associated with court procedures in South Sudan make justice inaccessible for many citizens. According to the findings presented in Section 2.3, court fees are around 10 percent of the claim's value, which is significantly higher than in neighboring countries like Tanzania and Uganda.²⁰⁵ Additionally, the lack of publicly available fee schedules creates opportunities for arbitrariness in their application. Many court users also end up paying more than what is officially required to expedite services.

The MoJCA does not have a comprehensive policy to deliver effectively on its mandate of providing legal aid. There is no clarity or consistent criteria on eligibility thresholds, the available services, or the responsibilities of legal aid providers. Moreover, the Ministry's current budget does not include a dedicated allocation for legal aid services, leading CSOs like SSLS and FIDA to fill the gap, often relying on donor funding. To address these issues and enhance the affordability of justice services, several actions could be considered:

3.3.4. *Establishing a uniform fee schedule and making it publicly available.* A subcommittee appointed by the Chief Justice to review and update the fee schedule completed its review in April 2024. The revised fee schedule is pending approval of the MoFP. Once the fee schedule is approved, it should be widely disseminated on the MoJCA's website and at the different court locations to ensure transparency and prevent arbitrary charges. Given the characteristics of the economy in South Sudan, the fee schedule could also include a mechanism that allows for annual adjustments based on inflation and exchange rate.

205.

See Figure 14 of this report.

3.3.5. *Expanding legal aid services.* Consider developing a comprehensive legal aid policy with clear eligibility criteria, expanding legal services to include noncriminal cases. This policy can define the responsibilities of legal aid providers and establish robust oversight mechanisms. Also, ensuring that legal aid services are clearly costed and budgeted within the MoJCA's budget can help to guarantee dedicated allocations for these services.

3.3.6. *Establishing a comprehensive coordination framework with legal aid providers.* By comprehensively coordinating efforts with CSOs like SSLS and FIDA, the MoJCA can ensure that more individuals receive the legal aid they need. This initiative could include conducting regular meetings among legal aid providers, sharing information and networks of collaborators, and conducting joint training programs to enhance the capacity and reach of legal aid services.

3.3.7. *Broadening the market for legal services.* Consider broadening the market of legal services beyond lawyers to include paralegals, who can contribute to keeping costs low and bridge the statutory and customary systems, as they often work with local communities. This can include (i) clearer definition of the roles and responsibilities of paralegals through a specific regulatory framework, outlining their scope of work and how they can complement the work of licensed attorneys,²⁰⁶ and (ii) integrating paralegals into existing legal service models, including community legal clinics and nongovernmental organizations (NGOs).

c. Strengthen Access to Justice for Women

Women face particular barriers in accessing justice, especially in FCS. During times of conflict and post-conflict, women are more vulnerable to various forms of SGBV, which can be exacerbated by other conflict dynamics, such as forced displacement. The breakdown of state and social structures designed to protect women's rights during these periods hinders proper redressal and accountability. In these contexts, women also face greater challenges in overcoming systemic barriers to accessing justice, such as financial and geographical constraints. Women tend to have less access to economic opportunities than their male counterparts and may depend financially on their relatives. Many are also limited by household and childcare responsibilities or gender-related restrictions on movement, preventing them from spending the day in court. Additionally, in many FCS countries, the judiciary and legal profession are dominated by men, and women are underrepresented in decision-making bodies. This can affect the fairness of outcomes and undermine women's willingness to appear in court, as their views are not equally represented.²⁰⁷

As explored in Section 2.2(b) of this report, many of these barriers are currently present in South Sudan. Systemic issues such as financial constraints, social stigma, and a lack of knowledge about their rights hinder South Sudanese women's ability to effectively engage with the justice system. These challenges are more pronounced for rural women, who often have no choice but to resolve disputes within the customary system, which is frequently seen as unfair to women. However, enhancing women's participation in customary justice mechanisms can be a promising strategy to promote fairer outcomes. In counties like Torit and Wau, women's involvement in decision-

206. Other countries' experience suggests that paralegal licensing requirements should be optional to avoid reducing the number of community-based paralegals. See Dereymaeker, G. 2016. *Formalizing the role of paralegals in Africa: A review of legislative and policy developments*. Open Society Justice Initiative and Paralegal Advisory Service Institute.

207. Bosio, E. and A. Palacio Jaramillo. 2023. *Increasing Access to Justice in Fragile Settings*. Equitable Growth, Finance and Institutions Insight – Governance. Washington, DC: World Bank Group.

making as Chiefs has indeed led to more inclusive outcomes. This positive change could also be extended to the statutory system, where women are underrepresented, holding only 24 percent of judicial positions. To address some of these barriers, the Judiciary of South Sudan established a specialized Sexual and Gender-based Violence Court in Juba, which could eventually be expanded to rural areas to improve geographical accessibility. Other opportunities to address gender-specific barriers and improve women's access to justice may include:

- 3.3.8. *Strengthening gender-disaggregated data collection.* As part of the efforts to strengthen and standardize data collection in the judiciary, the government can consider institutionalizing gender-disaggregated data collection and analysis to diagnose obstacles to women's access to justice and understand the specific needs of women and girls.
- 3.3.9. *Incorporating special mechanisms and gender-sensitive processes in the justice system.* While the establishment of a specialized SGBV Court in Juba is a commendable step toward improving access to justice for women, it is important to ensure that gender-sensitive measures are integrated throughout the entire justice value chain. This may include creating dedicated spaces in courtrooms to provide a safe and supportive environment for women and girls, adopting evidentiary rules and procedures that are considerate of their unique challenges, and offering counseling and support services to help them navigate the legal process.
- 3.3.10. *Training judges, paralegals, and justice providers on women's rights and gender-sensitive processes.* Consider

implementing gender awareness programs within the judicial community as part of legal and judicial capacity building. These programs can be developed in collaboration with civil society organizations that advocate for women's access to justice, such as FIDA, to ensure they are effective and aligned with women's needs.

- 3.3.11. *Promoting women's leadership in decision-making and their participation in legal reform processes.* Ensure the effective involvement of women in decisions that drive structural changes within the justice sector, and actively promote their representation in judicial decision-making roles. Other countries have tried to achieve more gender balance by developing and implementing policies that prioritize gender diversity and inclusion within the Judiciary, including by (i) setting specific targets for the recruitment and promotion of women judges and support staff; (ii) conducting targeted outreach and recruitment campaigns to attract women candidates; and (iii) establishing targeted mentorship and training programs to provide women with opportunities for skill-building, networking, and career advancement.

d. Ensure Access to Legal Information and Promote Legal Awareness

Access to clear and updated legal information is a cornerstone of legal empowerment. When citizens are informed about their rights, the mechanisms to enforce them, and the services available to them, they are better equipped to effectively interact with the justice system. As highlighted in Section 2.2, subsection (f), addressing the lack of access to legal

information in South Sudan is important to empower its citizens and prevent gaps in information from being exploited. Furthermore, strategies to address this issue could extend to harmonizing existing laws with the TCRSS, the R-ARCSS, and newly enacted legislation. Many experts interviewed emphasized that conflicting laws create opportunities for misinterpretation and arbitrary decisions, undermining the transparency and fairness of the justice system.

A comprehensive strategy to address this issue can include the harmonization of pre-constitutional and newly enacted laws to ensure alignment with constitutional provisions and the peace agreement; consistent publication of updated laws, regulations, and court decisions; providing user-friendly legal resources about how the courts work, along with guides for self-representation; and implementing communication and outreach campaigns through various media channels to ensure accessibility for people of all literacy levels and in different languages. Specific actions to consider to enhance access to legal information and legal awareness include:

3.3.12. *Harmonizing conflicting laws to have a clear and transparent legal framework.* To harmonize pre-constitutional and newly enacted laws with constitutional provisions and the peace agreement, the MoJCA and the SSLRC can (i) conduct a comprehensive legal review to identify inconsistencies and conflicts between laws; (ii) draft amendments or new legislation, when necessary, to address these conflicts and inconsistencies; (iii) conduct capacity-building programs for lawmakers, legal practitioners, and enforcement agencies to ensure effective knowledge and implementation of the harmonized laws; and (iv) implement a mechanism to consistently and regularly

review new legislation for conflicts with existing laws that could be repealed.

3.3.13. *Regulating the publication of laws and regulations in more detail.* Although the MoJCA's Organization Act provides that the Ministry shall publish "written laws," it can be important to clarify (i) the venues for publication beyond the gazette, to include a centralized and dedicated website, (ii) the timeframe to publish the updates of the laws, and (iii) a specific requirement to integrate amendments to the published text of the law.

3.3.14. *Establishing a requirement to make decisions of the Supreme Court publicly available.* Decisions of the Supreme Court could be made more widely available by legally requiring their publication. These can be published in the centralized system managed by the MoJCA.

3.3.15. *Ensuring the update of the MoJCA's website.* Ensure timely updates of the website by providing the Ministry with the equipment required to comply with this function, such as reliable access to the internet, hardware equipment, and capacity building of the persons in charge of this function. At a later stage, consider updating the platform by facilitating navigation through a search engine, allowing it to filter laws by year, subject matter, and/or keywords.

3.3.16. *Establishing communication campaigns and outreach programs.* Consider implementing communication campaigns that ensure the clarity and practicality of legal information. This can include designing lay documents and guides that explain the most common types of

cases and the mechanisms to resolve these disputes. Additionally, establishing outreach campaigns could help reach a wider audience through television, radio, and community gatherings. These

efforts would make legal information more accessible and understandable, empowering citizens to navigate the justice system more effectively.

3.4. Enhancing Judicial Efficiency and Reducing Delays

Most South Sudanese identified delays as the primary challenge in their interactions with the courts and many have spent years awaiting the resolution of their disputes. According to findings presented in Section 2.3, these delays are primarily due to operational inefficiencies, including inadequate courtrooms and equipment, frequent power outages, staffing shortages, lack of standardized case management, and poor filing infrastructure and processes.

To address these issues, in the short term, the Judiciary can start by standardizing and simplifying court and registry processes. In the medium term, if additional resources are secured, the Judiciary can invest in improving court infrastructure, buying equipment, and allocating additional human resources to the courts. This approach combines the immediate need to enhance operational efficiency with the need to plan and roll out sustainable, long-term improvements.

a. Standardize and Streamline Court Processes

Any court procedure relies on several sequential stages to arrive at a decision, including registering the case, filing the evidence exchanged by the parties, assigning the case to a judge, tracking procedural stages, and notifying the parties of

case developments. Courts in South Sudan do not currently use a standardized method to follow these stages, process cases and register files. Court users interviewed by the team highlighted that court clerks frequently face issues tracking their files, finding the record of their case, and even losing some of the documentary evidence.

To address this issue, the Judiciary of South Sudan can adopt guidelines to support consistent filing processes and refine manual case management, building the foundations for automating these processes with a future electronic case management system. In doing so, the Judiciary can leverage the role of the Chief Registrar, who holds delegated powers from the Chief Justice to prepare directives and circulars related to the regulation of court operations and performance.

3.4.1. Possible steps to standardize and streamline these processes include:

- *Process mapping and standardization.* Begin by mapping the process of resolving a court case to identify bottlenecks and areas for simplification. Once mapped, develop detailed standard operating procedures that outline each step, establish clear timelines, and assign responsibilities to ensure accountability.

- *Implementing a case tracking and filing system.* Assign unique identifiers to each case upon registration to facilitate tracking and retrieval of files. Ensure that this identifier is used consistently across all documents and communications related to the case so that documents can be easily placed in the case file and retrieved. Implement a standardized filing system, using color coding or labels, to ensure uniform registration and storage.
- *Staff training, monitoring, and evaluation.* Conduct training sessions for court clerks and staff on the new procedures, providing ongoing support to help them adapt to the new processes. Establish a monitoring and evaluation system to assess compliance and gather feedback for further improvements.
- *Active caseload monitoring and management.* Based on the standardized rules, establish a data collection system to monitor incoming and resolved cases to analyze judges' workloads and allocate resources more efficiently. This could be a simple Excel-based system at first while building the groundwork for a fully digitalized and automated system. In doing so, it is important to build consensus on the methodology and data to be collected.

To ensure the smooth implementation of these changes, it is important to engage all relevant stakeholders, including judges, lawyers, and court users. By clearly explaining the benefits and expected outcomes of these changes, it will be more likely to secure their support. Additionally, the Judiciary could consider piloting the new processes in a select number of courts before a nationwide rollout. This approach would allow for

refinements based on the challenges and areas of improvement identified during the initial phase.

Additionally, standardizing analog case management, filing, and registration processes will lay the groundwork for future automation and digitalization. Technology does not work in a vacuum, and if layered on top of complex processes, it is likely to perpetuate the system's inefficiencies. Addressing organizational complexities by mapping and streamlining procedures can help to rationalize and reengineer these analog processes before digital adoption. Moreover, adopting digital technologies in the justice sector involves significant upfront costs for hardware and software, and it requires building the necessary expertise within the Judiciary to manage these systems effectively without creating premature load bearing. Therefore, standardizing and streamlining court processes is a crucial first step to enable the successful future adoption of digital technologies that, in turn, can help to improve the efficiency of the system in the short term.

b. Improve Courtroom Infrastructure and Equipment

Court users, litigators, and members of the Judiciary have identified inadequate court infrastructure as a major challenge to the adequate provision of justice services. Courts frequently suffer from power outages, affecting their normal operations.²⁰⁸ Additionally, there are no appropriate storage facilities for archiving files and documentation presented by the parties. Sometimes, even the court clerks lack basic equipment, such as chairs, desks, and writing supplies, to properly receive and attend to court users.²⁰⁹ Addressing this issue is crucial to providing judges and staff with a conducive working environment while ensuring users receive high-quality and efficient services.

208. Interview with Judges of Court of Appeal, May 2024. According to the World Bank's indicators, as of 2022, only 8.4 percent of the population in South Sudan had access to electricity. See World Bank Group. "Access to electricity (% of the population) – South Sudan." Washington, DC: World Bank Group.

209. Interviews with court users, May-June 2024.

Given the need to achieve a greater impact on court efficiency with limited resources, the GoSS could consider refurbishing and rehabilitating court premises in a phased manner. This approach would prioritize areas with higher demand for court services in the shorter term while creating a plan to rehabilitate court infrastructure in areas with lower demand in the medium term. In this process, the GoSS could consider:

3.4.2. *Rehabilitating courts in selected locations.*

Consider remodeling and furnishing courthouses in areas with higher demand for judicial services. This can include leveraging the use of solar panels to avoid disruptions caused by power shortages. Court spaces can also be rehabilitated to accommodate all staff, procuring desks, chairs, and necessary equipment.

3.4.3. *Constructing adequate filing rooms in court buildings.* Consider constructing filing rooms in courthouses, ensuring they are adequately spaced to accommodate all files in the courtroom, and integrate the new standardized filing guidelines.

3.4.4. *Deploying a structural court rehabilitation plan.* Consider developing a long-term countrywide court rehabilitation plan to refurbish courtrooms and filing rooms in line with the Phased Infrastructure Expansion Program mentioned in Policy Implication 3.3.3.

c. *Address Staffing Shortages*

Staffing shortages significantly impact the efficient functioning of courts in South Sudan. According to current administrative data from the Judiciary of South Sudan, only 116 judges serve a population of over 12 million. In comparison, neighboring countries with similar income levels and fewer inhabitants, such as Liberia, have 393 judges for approximately 5.5 million inhabitants—nearly four times the number of judges in South Sudan.²¹⁰ Moreover, the distribution of judges is inefficient not only in terms of the overall number but also in their allocation across the most populated regions. As highlighted in Section 2.2, some of the most densely populated areas, such as Warrap, Lakes, and Jonglei, each have five or fewer judges serving the entire state. In Unity, which has a population exceeding 1 million, there are currently no judges assigned at all.

This situation leads to significant inefficiencies for three main reasons. First, the limited number of judges means that a single judge must often review a case both in the first instance and on appeal, compromising not only the efficiency of the process but also the impartiality of the appeal. Additionally, the current staffing distribution affects the legal quorum required for certain panels, such as the three-judge panel for appeals at the High Courts and Courts of Appeals and the nine-judge constitutional panel at the Supreme Court. Third, the analysis of caseload data reveals that there has been a surge in cases, especially at the Court of Appeal of Greater Equatoria and the Supreme Court, which these courts are unable to effectively address without the necessary human resources.

210.

Number of judges in Liberia was extracted from supra Bosio and Upegui (2023), while the number of inhabitants was obtained from the [World Bank Open Data Portal](#).

POLICY IMPLICATIONS

The lack of incentives to join the judicial profession may contribute to staffing shortages and inefficiency. Judges and judicial staff often face poor working conditions, including significant delays in salary payments and freezes on new hires and promotions. Addressing these issues by ensuring timely salary payments and creating a robust incentive structure for judicial officials could be important steps toward improving efficiency, attracting talent, and maintaining staff motivation. Once these conditions are improved and a clear system for monitoring caseloads is established, the Judiciary will be better equipped to assess the performance of judges based on data and evidence, within the framework of a structured evaluation process.

Establishing a framework with objective criteria and a structured evaluation process for the promotion of judges could help create transparency and incentivize the retention of talent. Section 40(3) of the Judiciary Act,²¹¹ which regulates the promotion of judicial officials, can be amended to provide guidance to establish a more detailed process and related performance metrics to ensure objectivity and transparency in this process.



211.

Currently, Section 40 of the Judiciary Act does not clearly define the process for the promotion of judges and vaguely outlines the criteria by referring to “judicial performance” and the “report of a direct superior authority on the conduct of the Judge.”

Annex A.

JUPITER Methodology and its Application to South Sudan

A.1. JUPITER Methodology

This section provides details on five aspects of the JUPITER methodology: questionnaire design (Section a), data sources and data collection process (Section b), variable categories (Section c), variables description (Section d), and data management and review (Section e).

a. Questionnaire Design

To collect the data, the team used a questionnaire with 152 questions and 81 sub questions, for a total of 233 questions. The questionnaire is divided into three parts, following the main determinants of judicial effectiveness: access, efficiency, and quality.²¹² The total universe of questions is referred to as the “Master Survey.” Between November 2022 and February 2023, the Master Survey was thoroughly peer-reviewed by 15 experts from the WBG and academia.

Throughout the questionnaire, questions on the legal framework are matched with questions on its practical application. For example, Q.4 tests whether there is a legal requirement to make all judgments public, while Q. 6 tests what share of the court(s)’ judgments are in fact made public. For the purposes of this data collection exercise, the term “legal framework” refers to the body of instruments (laws, acts, regulations, etc.) that are of mandatory application. Guidelines, court circulars and internal court documents are not included if they are self-imposed by the courts or are for “recommended” use only. Questions by law are yes/no questions, with an additional field to provide a reference to the exact legal basis.

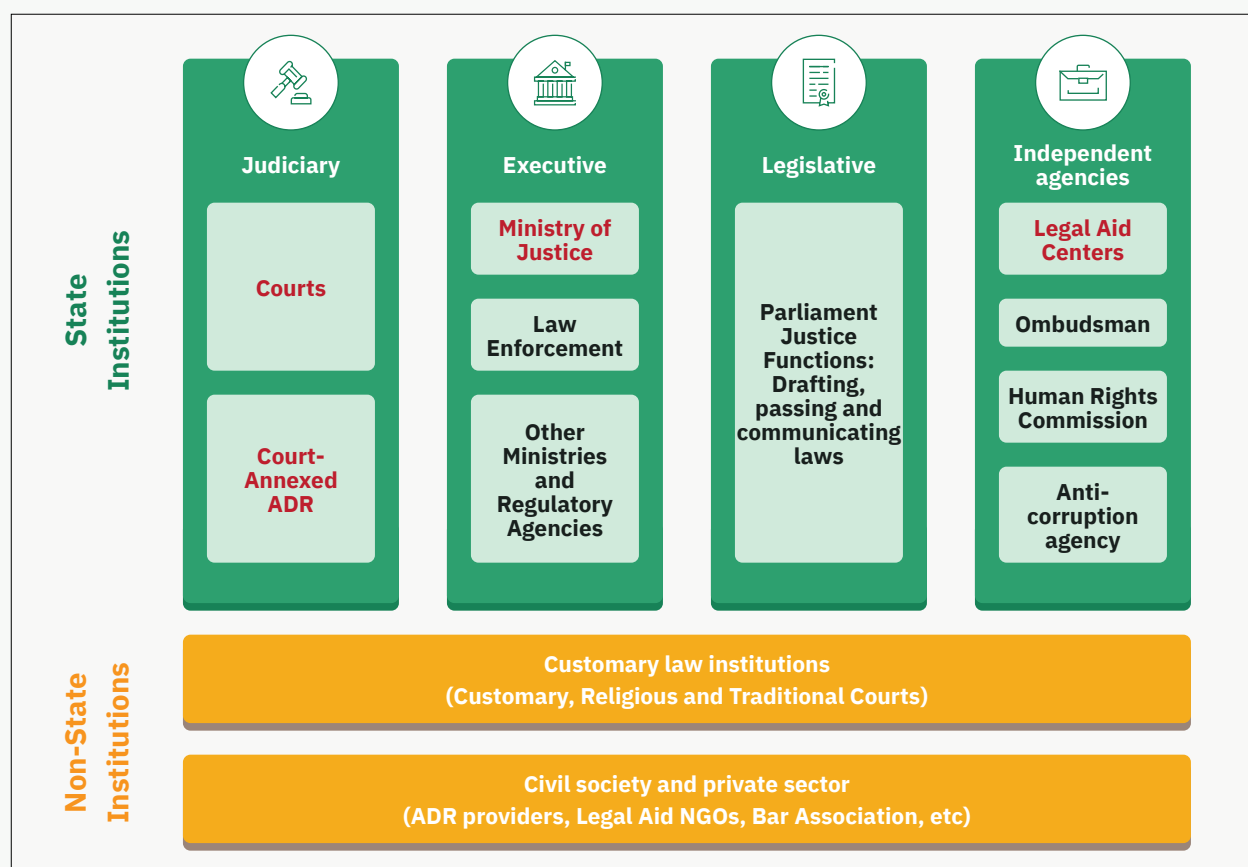
Questions on the practice are of three types: yes/no, multiple choice, and quantitative. Multiple choice questions elicit the respondent’s opinion on how frequently an event takes place and provide the respondent with 4 answer options: (1) less than 25 percent of cases; (2) between 25 percent-50 percent of cases; (3) between 50 percent-75 percent of cases; and (4) more than 75 percent of cases. Q.25, for example, tests the level of implementation of policies facilitating equal access to justice for persons with disabilities and provides four answer options: less than 25 percent of courts; between 25

212. *Supra* Bosio, 2024.

percent-50 percent of courts; between 50 percent-75 percent of courts; and more than 75 percent of courts have such policies in place. Quantitative questions are filled with administrative data provided by the court administrators. Administrative data was the preferred source of practice data, whenever feasible. Thus, Q.68 and Q.69, for example, test the number of incoming cases in first and second instance civil courts.

JUPITER focuses on civil, commercial, and administrative justice, not on criminal justice and prosecution offices. In terms of institutional coverage, there are numerous state and nonstate actors involved in the provision of justice, and their functions vary widely across countries. To simplify matters, this version of JUPITER focuses on three institutions – the Judiciary, the Ministry of Justice, and Legal Aid Services (highlighted in red in Figure A1). Other institutions and services, such as Alternative Dispute Resolution (ADR) mechanisms or legal aid offered by nongovernmental organizations (NGOs) or other organizations, are captured only for their effects on the key institutions' performance.

>>> **Figure A1:**
Institutional focus of JUPITER



Source: Bosio and Upegui, 2023.

Note: Institutions highlighted in red correspond to the institutions covered by the assessment. Other institutions and services, such as ADR mechanisms or legal aid offered by NGOs or other organizations, are captured only for their effects on the key institutions' performance.

Given the recognition of customary law as a source of law and the prevalence of customary justice actors in resolving disputes in South Sudan, JUPITER incorporates the customary law aspects of dispute resolution in the country. The team relied on an extensive body of data and research from various sources to assess the effectiveness of the customary system.

WBG's work in the justice field shows large variations in the structures, internal processes, resource endowments, and country contexts, shaping each system's effectiveness and the needs of the population it serves. Some differences are reflected in the traditional civil law vs. common law dichotomy, but other national characteristics of relevance include the relationship between the judiciary and other branches of government or whether judicial processes are based on an adversarial or inquisitorial system. The purpose of the JUPITER metrics is to establish whether there are ways for the government to improve effectiveness within the existing system, regardless of its tradition. In that sense, the focus on actual service delivery and implementation is an important mitigant when comparing different legal systems.

To address challenges such as limited electricity and internet connectivity in South Sudan, a Microsoft Word questionnaire was adopted for the assessment and data collection. This format enabled the printing of the questionnaire and collecting data on paper. The data was then transcribed and coded into an Excel coding sheet for further analysis, as will be explained below in Section b.

b. Data Sources and Data Collection Process

Data collection is done through a combination of readings of the laws, administrative data, and interviews with government officials, judges, lawyers, and court users. The questions in the JUPITER questionnaire cannot be answered in their entirety by one category of legal professionals. Most questions are designed for lawyers with expertise in civil law, commercial law, administrative law, civil procedure, administrative procedure, and civil litigation. The remaining questions require the input of government officials, judges, and users. Questions requiring the input of the government include questions related to the Judiciary's budget, for example. Questions requiring judges' input relate to internal court processes, such as the availability of a case management system. Questions requiring the input of users include those related to individuals' perception of the access, efficiency, and quality of the system.

For this reason, questions from the Master Survey were divided into four shorter questionnaires, one per group of respondents—lawyers, government officials, judges, and users. Whenever possible, special care was placed on having at least two types of respondents for each question. Table A1 shows the total number of questions per respondent.

>>> **Table A1:**
Number of questions per respondent type

Respondent Type	Number of Questions
Lawyers	137
Government (i.e., MOJ and MOF)	85
Judges and the Judiciary (e.g., Office of the Chief Justice)	127
Users	53

Information provided by the respondents is complemented with administrative data and an in-depth study of laws, regulations, and publicly available information. If answers by local experts differ, inquiries continue until the data are reconciled, including through locally-based WBG staff conducting interviews on the ground. The median is used to aggregate numeric answers. Datasets produced by other organizations may also be used to corroborate respondents' answers and for analysis.

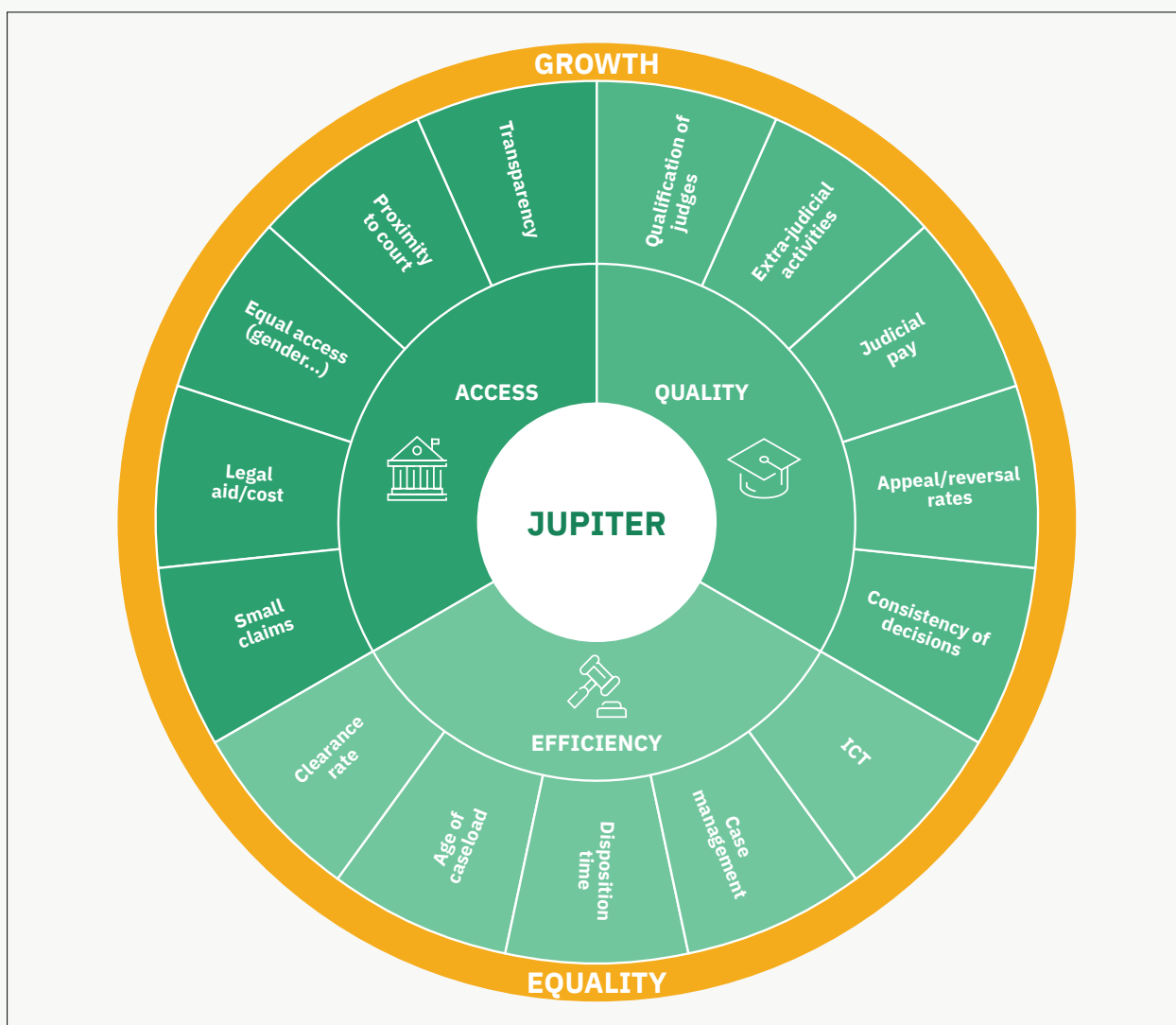
The user questionnaire is complemented by twelve questions that are asked to randomly selected users during field visits to the courts. These questions include:

1. Who do you prefer to go to resolve a dispute? Why?
2. Did you seek or receive any legal advice? From whom?
3. Did you know where to find information about the courts or how to find legal assistance?
4. Did you seek/receive any legal aid? If yes, from whom?
5. Has the cost to process your case been lower, equal, or higher than what you expected?
6. What has been the most challenging part of your interaction with the court?
7. If you could change one thing in the functioning of the courts, what would it be?
8. Has the time taken to process your case been shorter, equal to or longer than you expected?
9. In your view, what is the main reason for delays in courts?
10. How do people with connections influence judges?
11. How long did it take you to come to the court today, i.e., how far did you have to travel? (Minutes)
12. How many hours did you spend at the court today (or last time if you just arrived)? (Minutes)

c. Variable Categories

JUPITER has 373 datapoints, grouped in three pillars: access, efficiency, and quality (Figure A2). The Access to Justice Pillar measures whether individuals have equal access to the legal system. The Efficiency Pillar benchmarks the ability of courts to deliver justice in a timely and cost-effective manner. The Quality Pillar examines the quality of decisions in terms of inputs, such as the selection process of judges, and outputs, such as appeal rates and the consistency of decisions. Each pillar has five sub-pillars. The pillars and sub-pillars were determined based on an extensive literature review published in the pilot's report "[Improving Access to Justice in Liberia – A 2023 JUPITER Assessment](#)" as Annex C.

>>> **Figure A2:**
JUPITER's substantive focus



Source: Bosio and Upegui, 2023.

d. Variables Description

The *Access to Justice Pillar* contains 103 questions, equivalent to 185 datapoints, and comprises five sub-pillars: (1) transparency; (2) proximity to court; (3) equal access; (4) legal aid and cost; and (5) small claims court and procedure (Table A2). Verbatim questions can be found in Annex B, Table B1.

>>> **Table A2:**
Access to Justice sub-pillars

Sub-pillar	Questions (#)	Datapoints (#)
Transparency	42	81
Proximity to court	3	4
Equal access	20	40
Legal aid and cost	28	42
Small claims court and procedure	10	18
TOTAL	103	185

The transparency sub-pillar measures the level of public knowledge about the judicial system and, specifically, the legal framework, previous judgments, and general information about the courts. For the purposes of this pillar, “public” means that documents can be accessed without a fee and not upon request, while “publicly available” means that documents are made public with an additional step, such as a request to an office, payment of a fee, etc.

Transparency of the legal framework is benchmarked through practice questions on the availability of a centralized – operated, managed, and administered by a single government unit – and comprehensive website of all national laws and regulations in the country’s official language. If such a website exists, information is solicited on the percentage of laws and regulations available, the presence of draft bills, the integration of amendments and repeals, the timeliness of changes, the openness of the website, and its searchability. If such a website does not exist, information is solicited on whether laws and regulations are published in a manner that makes it possible to consult the latest consolidated version for free – for example, in a gazette, newspaper, ministries’ webpages, or through private providers. Respondents are also asked how difficult it is to stay abreast of the legal framework—it is considered difficult whenever consolidated versions of updated laws and regulations are either not available or very delayed, and easy when they are immediately available in most cases. They are also asked how consistent and precise the legal framework is—it is considered consistent and precise if laws are well drafted, do not create ambiguity that can be exploited by the parties, and conflicting laws are repealed in a timely manner.

Transparency of court judgments has two questions by law, benchmarking whether there is a legal requirement to make all judgments public and who is responsible for the publication. The first mirroring practice question tests what share of all judgments is in fact public – online, or in a manner where anyone can access them without submitting a request or paying a fee – for first instance courts, appellate courts, the highest court, first instance administrative courts, and second instance administrative courts. The second mirroring practice question tests, for the same courts, what share of judgments is publicly available – online or otherwise, but access must be requested and/or paid, for example, through the purchase of the official gazette or by requesting a copy at the court – if judgments are not public. The last practice question tests whether judgments are made public or publicly available in a timely manner.

Transparency of court information tests how easy it is to find information about the courts and their functioning – answer options are “mostly available” and “mostly unavailable” – and how accurate that information is, with answer options as “mostly accurate” and “mostly inaccurate.” Answers are sought for the following categories of court information: court location, court hours and days of operation, basic information on how to file a claim, basic information on common types of cases, lay documents and guides to enable self-representation, information on court fees, and information on legal aid.

The proximity to courts sub-pillar benchmarks the availability and geographical distribution of first instance civil courts, including courts of general jurisdiction, specialized courts, and small claims courts, if different. Respondents are asked to confirm a list of courts prepared by the team through publicly available information and Google Maps. Further, the questionnaire investigates the perceived accessibility of these courts in terms of urban and rural divides. The respondents are asked to characterize the accessibility of the courts in their country to people in urban regions as compared to those in rural regions. This aspect is measured on a four-point scale, ranging from “equally accessible to people in all regions” to “much more accessible to people in urban regions than those in rural regions.” If the courts are found to be more accessible in urban regions than in rural regions, this could indicate a potential barrier to justice for rural populations, which may lack the same level of access to legal services. Respondents are encouraged to provide additional comments to elaborate on their selection, allowing for a more nuanced understanding of accessibility issues.

The equal access sub-pillar measures the ability of all to have access to court services, including women, persons with disabilities, nonnative speakers facing linguistic barriers, and individuals from varying socioeconomic classes. For women, the questionnaire focuses on both the legal rights granted to them and their real-world implementation. Respondents are asked to confirm whether women have the same rights as men to file a claim with the court and whether their testimony carries the same evidentiary weight. The questionnaire also explores the practical realities of these legal provisions, such as potential societal stigma and the likelihood of women bringing forward and winning civil cases for sexual harassment. Respondents are also asked to rate the overall accessibility of courts for women.

For persons with disabilities, the questionnaire examines their legal recognition and treatment within the court system. Respondents are asked about the legal provisions regarding their right to legal capacity, equal standing in courts and tribunals, and equal opportunities to testify. The questionnaire

also investigates whether courts are legally required to facilitate equal access for persons with disabilities and the level of implementation of such policies in practice. Respondents rate the overall accessibility of courts for persons with disabilities.

For nonnative speakers, the questionnaire investigates legal requirements for translation and interpretation services in civil cases. Respondents are asked about the availability of these services for hearings and documents, the likelihood of people receiving these services, and whether they are provided free of charge for indigent people. Respondents rate the overall accessibility of courts for persons with linguistic barriers.

In each of the above areas, the questions in the sub-pillar probe both the legal framework and its practical application, recognizing that equal access to justice is determined not only by law but also by other factors, such as the availability of resources. For people of different socioeconomic classes, the questionnaire asks respondents to characterize the accessibility of courts. This question aims to identify whether there are barriers in place that might disproportionately affect the poor, potentially compromising their ability to access justice.

The legal aid and cost sub-pillar measures the availability of legal aid – defined as the free provision of assistance by the government in noncriminal cases to people who are unable to afford legal representation – and rules related to court fees.

For the legal aid segment, the questionnaire examines whether a dedicated law on legal aid exists and if government-funded legal aid is available. Other legal aid providers, such as NGOs, bar associations, or universities, are also considered. The questionnaire seeks information about the regulation of legal aid, including criteria for eligibility, processes for securing it, and the duties of providers. Respondents are also asked about the authorities in charge of administering and monitoring legal aid services.

The segment further explores the applications of government-funded legal aid, such as representation in court, legal advice before proceedings, and payment of court fees. It investigates the approval process for legal aid requests and the number of requests received and approved. It also investigates the evidentiary burden on those seeking legal aid, the availability of providers, and the likelihood of obtaining legal aid when eligible. Additionally, it probes the time standards and actual decision times for legal aid requests and the budget allocation for government-funded legal aid.

The court fees segment of the questionnaire investigates whether court fees are set by law and if detailed information about these fees is readily available to the public. It asks whether court fees are retained by the Judiciary and if litigants are required to pay a court fee to initiate a proceeding. The questionnaire explores the likelihood of the winning party receiving full reimbursement of court fees and attorney fees, and whether court fees are set at a level that deters individuals and businesses from filing a claim. It also investigates the existence of a court fee waiver program with clear eligibility criteria and the likelihood of an eligible candidate obtaining such a waiver. It concludes by asking for the total number of fee waiver requests received and approved.

The small claims court and procedure sub-pillar measures the process by which the judicial system handles claims below a legally established monetary value. The sub-pillar starts by inquiring whether there are small claims courts or divisions and/or a fast-track procedure for small claims. If such a system exists, it asks for the types of cases that fall under this court or the procedure's jurisdiction. To understand the accessibility of the small claims system, further investigation is done on whether it is legally possible to file small claims orally or without legal representation. It also seeks to gauge the practical difficulty of using the small claims court or procedure without legal representation, asking respondents to rate the ease of use based on the average citizen's background and education level.

The availability of standardized templates to file small claims is also sought. To evaluate the efficiency of the small claims system, the sub-pillar inquires whether there is a legally established time standard for resolving small claims and what the average resolution time is in practice. The sub-pillar also addresses the cost-effectiveness of the small claims system. It asks if there is a dedicated fee schedule for small claims and whether the court fees are set at a level that might deter individuals and businesses from filing a claim.

The *Efficiency Pillar* benchmarks 74 questions, equivalent to 99 datapoints, and comprises five sub-pillars: (1) clearance rates; (2) age of caseload; (3) disposition times; (4) case processing and case management; and (5) information and communications technology (ICT) (Table A3). Verbatim questions can be found in Annex B, Tables B2.1 and B2.2.

>>> **Table A3:**
Efficiency Subpillars

Sub-pillar	Questions (#)	Datapoints (#)
Clearance rate	30	30
Age of caseload	6	6
Disposition time	12	12
Case processing and case management	8	15
ICT	18	36
TOTAL	74	99

The clearance rate sub-pillar seeks administrative data on the number of incoming and resolved cases for the past three years, allowing for trend analysis and identifying any significant changes or anomalies. The number of judges is also sought to understand the resources available to the judiciary and provides context for the rest of the information collected. It also asks for the number of female judges to capture insights into gender representation within the judiciary.

The age of caseload sub-pillar seeks administrative data on the number of cases that have been pending before the court for more than three years. Data is sought for the first instance civil courts, which are often the first point of contact for individuals seeking redress in civil matters; second instance civil courts, which are appellate courts for civil matters; highest court of general jurisdiction, typically the supreme court or the highest appellate court; first instance administrative courts, which deal with disputes involving public authorities or administrative acts; second instance administrative courts; and the highest court of administrative jurisdiction.

The disposition time sub-pillar seeks administrative data on the number of pending cases at the end of the past three years for both civil and administrative courts at the first and second instances.

Based on the data collected under the previous three pillars, the team calculates the following metrics, using the methodology set forth by the European Commission for the Efficiency of Justice – CEPEJ (Table A4).

>>> **Table A4:**
Metrics on court efficiency

Term	Definition	Formula
Clearance Rate (CR)	Relationship between the new cases and completed cases within a period.	$CR(\%) = \frac{\text{Resolved Cases}}{\text{Incoming Cases}} \times 100$
Case Turnover Ratio (CTR)	Relationship between the number of resolved cases and the number of unresolved cases at the end of a period.	$CTR = \frac{\text{Resolved Cases}}{\text{Unsolved Cases at the end}}$
Disposition Time (DT)	Measure of how quickly the judicial system (of the court) turns over received cases.	$DT (\text{days}) = \frac{365}{CTR}$

Source: European Commission for the Efficiency of Justice, 2018.

The case processing and case management sub-pillar measures case processing by referring to the handling of individual cases, while case management refers to the overall effort to control how cases in the aggregate move through the court system. Both can be accomplished manually, automatically, or with a combination of the two.

The assignment of cases within the courts is a key aspect of case management, and its transparency is benchmarked through questions on legal provisions for the random assignment of cases, as well as on rules in place to prevent potential abuses of the system. The practice is also tested by trying to understand how the process is carried out, focusing on how often the assignment process is abused, as reported by users and NGOs, among others. The questionnaire also inquires on how easy it is for parties to influence the assignment of their cases.

The Case Management Information System (CMIS) sub-pillar examines whether there is a single electronic CMIS used in all courts, or if multiple systems exist, and to what extent they are interoperable. In cases where no electronic system exists, the questionnaire seeks to understand if manual data collection at the court level tracks incoming and disposed cases. The extent of functionalities available to judges and lawyers through the CMIS is also probed. For judges, the questionnaire assesses the system's capacity to automatically generate hearing schedules, send and receive notifications, track case status, manage case documents, view court orders and decisions, and assist in writing judgments. For lawyers, it assesses whether they can access forms, send and receive notifications, track case status, manage case documents, view court orders and decisions, and file documents with the court through the CMIS.

The ICT sub-pillar refers to the use of information and communications technology during court proceedings. The questions in the sub-pillar explore the level of access to and use of technology among judges and court staff, the digital infrastructure available in courts, and the scope of electronic procedures permitted by law and practice. One of the key areas this sub-pillar examines is the percentage of judges and court staff who have and use computers for drafting documents and entering case data. It also evaluates the extent to which courts are equipped with internet and intranet facilities, highlighting the level of connectivity within and between courts' systems.

The sub-pillar delves into the legal provisions and practical utilization of electronic procedures. These include the electronic filing and service of initial complaints and the filing of requests for legal aid. For each of these procedures, the questionnaire identifies whether there is a legal requirement to follow up with a paper copy, and it assesses the percentage of cases or requests filed electronically in practice.

The questionnaire also examines the treatment of small claim procedures, and the admissibility of evidence filed electronically. It assesses whether small claims can be filed electronically by law and what percentage of them are filed electronically in practice. It further investigates whether evidence filed electronically is legally admissible and the percentage of evidence filed electronically in practice.

The potential usage of remote or virtual hearings is another important element of the ICT sub-pillar. The questionnaire identifies whether hearings can be conducted remotely by law and what percentage of hearings are conducted remotely in practice.

The *Quality Pillar* contains 56 questions, equivalent to 89 datapoints, and comprises five sub-pillars: (1) qualification of judges; (2) extra-judicial activities; (3) judicial pay; (4) appeal rates and reversal rates; and (5) consistency of decisions (Table A5). Verbatim questions can be found in Annex B, Table B3.

>>> **Table A5:**
Quality Sub-pillars

Sub-pillar	Questions (#)	Datapoints (#)
Qualification of judges	17	21
Extra-judicial activities	11	25
Judicial pay	16	23
Appeal rates and reversal rates	4	4
Consistency of decisions	8	16
TOTAL	56	89

The sub-pillar on the qualification of judges examines the requirements to become a judge, as well as how these reflect on the quality of decisions. The sub-pillar considers the legal requirements for the appointment of judges. This can encompass a range of qualifications, such as the necessity of a law degree, a minimum number of years of experience in the legal field and passing a bar exam or a judge-specific examination. The questionnaire also identifies whether these legally established criteria are consistently followed in practice. To gauge the competence and integrity of judges, the sub-pillar asks respondents to evaluate the knowledgeability and honesty of judges across various courts. This includes first instance courts, appellate courts, the highest court, and first and second instance administrative courts. The responses provide insights into the perceived ability of judges to correctly apply the law and resist taking bribes or other incentives. This sub-pillar's questions also focus on the quality of judge-rendered decisions. Respondents are asked to assess the quality of judgments across different court instances, considering factors such as grammatical errors, precise and consistent application of the legal framework, technical errors, assessment of evidence, and whether they address essential arguments.

The extra-judicial activities sub-pillar refers to the employment of judges outside of the judiciary, which can be of political or nonpolitical nature. Political activity refers to any activity that is directed towards the success or failure of a political party, candidate for political office, or partisan political group. This may include employment in political offices, participating in political campaigns, volunteering on a political campaign, manifesting political opinions, and serving on an electoral commission.

The sub-pillar addresses a range of concerns, including ethical oversight, temporary political employment, and other nonjudicial work activities. The questionnaire starts by ascertaining if an institution or body exists to provide opinions on ethical questions related to judges' extra-judicial conduct. If such an institution exists, its composition is investigated to understand the diversity of perspectives within the body.

A significant concern for judicial quality is the temporary employment of judges in political offices, and the questionnaire explores the safeguards in place to manage such situations. Beyond political offices, the sub-pillar investigates whether judges can combine their judicial work with other activities such as teaching, research, and publication, unremunerated membership in organizations, remunerated service on boards, and roles as arbitrators or mediators. If these activities are permitted, the questionnaire further investigates whether any safeguards are in place during such employment. Respondents are asked to evaluate how often judges engage in these activities and whether such engagement interferes with their judicial duties or undermines their independence, integrity, or impartiality.

The judicial pay sub-pillar examines how judges' pay compares to that of other professionals with comparable qualifications. It begins by asking if the law regulates judges' remuneration by position or grade. If remuneration is not regulated by law, the questionnaire inquires who decides on it and what criteria are used. Next, the transparency of judicial salaries is explored. The questionnaire asks if the law mandates the publication of judicial salary schedules and if these schedules are, in fact, published in practice. To gather more detailed information on salary levels, the subpillar requests the yearly salary of a first-instance judge with 10 years of experience, the Minister of Justice, and a partner in a local law firm in the last year. These data points can provide a comparative perspective on judicial salaries within the wider context of professional compensation in the country. Furthermore, respondents are asked about variations in salary among judges in comparable positions. The subpillar concludes with questions about the budget of the largest first-instance civil court and the number of judges serving in it. Additionally, it requests specific salary figures for both male and female judges at the beginning of their career in first-instance courts, and for judges of the Supreme Court or highest appellate court.

The appeal and reversal rates sub-pillar measures the percentage of first instance decisions that are appealed to a second instance court in both civil and administrative cases, and the percentage of decisions that are reversed on appeal (sometimes also referred to as abolishment rate), respectively. This rate could indicate the accuracy and quality of first-instance court decisions.

The consistency of decisions sub-pillar measures to what extent similar cases are treated consistently. The first question investigates whether judicial decisions are a source of law. If they are, the subsequent question probes deeper into the mechanisms in place to maintain consistency in case law by asking whether only decisions from the highest court constitute such a source, to assess the role of the highest court in shaping the jurisprudence of the country. Whether there is a requirement for courts to state and motivate departures from previous case law, and how often this happens in practice, is sought next to reveal how much weight is given to previous decisions and the degree to which judges are required to justify deviations from established case law. The sub-pillar also explores the mechanisms available for the highest court to ensure consistency in case law across lower courts. These can vary from advisory opinions of general application to obligatory decisions relevant only to a specific case or to all courts.

The questionnaire concludes by exploring whether there are legal sanctions for lower courts that do not decide consistently with case law and, if so, how frequently these sanctions are imposed. This provides an indication of the measures in place to ensure judicial consistency and the extent of their enforcement in practice.

e. Data Management and Review

Questionnaires were printed and handed personally to potential respondents from all categories. Once these are filled out by the respondent and sent back to the team, they are scanned and stored in a WBG shared folder. Personal respondent information includes first and last name, place of business and contact information. For users approached at the courts, the team records only their first name, age, and gender. Personal data is treated in compliance with WBG policies.

Extensive follow-ups through email and phone calls are done once questionnaires are received, and a record of these follow-ups is saved in the shared folder. The team also saves a copy of all laws and regulations that are relevant to the questionnaire. The team follows the same protocol for storing data received from government officials regarding administrative data, budgets, and so on, other development partners, if applicable, and desk research. When data is collected through in-person interviews, the team drafts meeting minutes. Records are kept of every information received by respondents or collected independently by the team through desk research.

Once all the data is received, each questionnaire is transcribed to Excel for data coding (“Master Coding Sheet”). Data coding is the process whereby the JUPITER team (i) compiles information received from experts, interviewees, laws, and other valid sources, (ii) files it in the Master Coding Sheet, (iii) verifies to validate information received, and (iv) processes it into a median answer. Follow-ups and information collected during in-person interviews are also incorporated in the Master Coding Sheet, alongside the relevant legal provisions and pertinent desk research.

Numerical and practice estimates are coded using Excel formulas to calculate the median of all valid contributor responses. Legal or regulatory estimates are coded by the team’s review of the applicable legal instruments supported by the interpretation of local experts. The team has taken rigorous and systematic steps to ensure that coding is based on the composite review of multiple perspectives. Thus, the median answer to any question is not merely a matter of reporting what officials convey but relies on a juxtaposition of such claims with the accounts of many key witnesses and parties based on their viewpoints and roles as stakeholders within the system. Data is first coded by a WBG staff in the field, then validated by a WBG staff at headquarters (HQ) in Washington, DC, before it is finalized through a third round of review by the JUPITER Task Team Leader (TTL). This is an iterative process, where clarifications are requested at each level of review, requiring the relevant staff to provide additional information or further support a coding decision.

A.2. Application to South Sudan

This section outlines the application of the JUPITER methodology, as detailed in Section 2 of the main text, to the assessment in South Sudan, covering the entire process from project initiation to the final report, including questionnaire design, data collection, and data analysis. South Sudan was chosen for this assessment due to two primary factors: (1) the GoSS's interest in reforming justice and enhancing judicial service delivery, as articulated in the R-ARCSS; and (2) the WBG's interest in collaborating with the GoSS on justice reform and access to justice initiatives. The background research for the report commenced in January 2024. Field research began in mid-March and concluded in June 2024. The phases of data coding, validation, and review were conducted from June to August 2024. Finally, the report was written between August and September 2024. The Decision Review meeting was held on November 18, 2024, where peer reviewer comments were reviewed and discussed.

a. Background research

JUPITER assessments begin with extensive background research on publicly available information. The team initiated the project by gaining a comprehensive understanding of South Sudan's judicial landscape and justice system, including its history and evolution, its relationship with the government, society, and the customary system. The team tracked and researched all major indicators produced by international organizations, academia, survey organizations, and civil society organizations, which report the views and experiences of citizens, enterprises, lawyers, and experts. These indicators included major indices such as the Bertelsmann Transformation Index, Corruption Perceptions Index, Fragile States Index, and Freedom in the World Index. The criteria for the selection of such indicators were:

- Perception Data – indicators that reflect the sentiments of stakeholders on the effectiveness of judicial services.
- Primary Data – indicators that have sourced their own data through surveys, interviews, and other methods. Indicators that aggregate data from several other datasets or use secondary data were not considered.
- Focus on civil law (not criminal law) and its system.
- Currently active, revised periodically and consistently – only indicators that are currently active, have at least five published assessments, and have consistent calculation exercises with launched results have been considered.
- Publicly available.
- Focus on service delivery and benchmark areas that are relevant to JUPITER.
- Focus on FCV countries, given South Sudan's context.

As part of the desk research, the team studied reports from organizations such as Amnesty International, Hiil, International Commission of Jurists, Norwegian Refugee Council, ODI, SSLS, Transparency International, UNDP, UNMISS, United States Institute of Peace, UN Women, and WBG. Specific insights from some of these studies were used for the report after consent and permissions from the authors (where data were used) and have been cited (where insights were referred to).

b. Questionnaire Design and Identification of Stakeholders

Through desk research, the JUPITER team at the WBG HQ, alongside a WBG Consultant in South Sudan who is familiar with the laws and judicial system, prepopulated the questionnaire with answers by law. This allowed the team to compile a list of documents and information to be further sought from the GoSS and the Judiciary.

Once the questionnaire was ready for distribution, the team identified key stakeholders, including:

- Institutional actors in the judicial branch of the government, such as judges from the Supreme Court, Court of Appeal of Upper Nile, Court of Appeal of Greater Equatoria, the Chief Registrar, the Director of Human Resources, the Director General of Finance, court clerks, and key staff members of the Judiciary.
- Actors in the executive branch of the government, such as the Ministry of Justice and Constitutional Affairs and all its relevant departments (Legal Aid, Civil Litigation, Training and Research, Legislation, and Business Registrations).
- Independent Peace Agreement and Constitutional Bodies, such as JRC, NCAC, RJMEC, and SSLRC.
- Professional associations of lawyers, such as the SSBA and FIDA.
- Stakeholders influencing the judicial ecosystem in South Sudan, including CSOs such as SSLS and the Berberi's Academy for Training and Learning.
- External stakeholders, including several international development institutions like Hiil, Max Planck Foundation, UNDP, UNMISS, and the Rule of Law Focal Points Network for South Sudan.

Future assessments will include interviews with stakeholders from the private sector, to understand their perspectives on judicial service delivery and its impact on the business and investment environment.

c. Data Sources

For the legal framework, laws and documents that were found relevant for the JUPITER assessment included:

- Advocates Act, 2013.
- Code of Civil Procedure Act, 2007.
- Code of Criminal Procedure Act, 2008.
- Code of Evidence Act, 2006.
- Code of Judicial Conduct, 2017.
- Constitution Making Process Act, 2022
- Judiciary Act, 2008.
- Judicial Service Council Act, 2008.
- Labor Act, 2017.
- Land Rights Act, 2009.
- Law Review Commission Bill, 2012.
- Local Government Act, 2009.
- Ministry of Legal Affairs and Constitutional Development Organization Act, 2008.
- National Disability Action Plan, 2020.
- Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan, 2018
- Transitional Constitution of the Republic of South Sudan, 2011.
- Strategic Plan of the Ministry of Justice and Constitutional Affairs 2023-2026.

To capture the application of the law in practice, the team collected data from a total of 133 experts, selected to include key sociodemographic differences—gender and socioeconomic status, in particular. Experts consulted by the team included:

- Judges.
- Lawyers.
- Court Users across selected courts in Juba County and Central Equatoria State.
- Court Administrators and Clerks.
- Heads of key directorates of the Judiciary: Chief Registrar, Director for Human Resources, Director for Finance and Administration, and Presidents of the Court of Appeal of Greater Equatoria and Upper Nile.
- Head of key directorates of the MoJCA: Administration and Finance, Legal Aid, Civil Litigation, Training and Research, Legislation, and Business Registrations.

- Members and Chairpersons of key independent peace agreement and constitutional bodies: JRC, NCAC, RJMEC, and SSLRC.
- FIDA.
- SSBA.
- SSLS.
- Representatives of WBG development partners: HiIL, Max Planck Foundation, UNDP, and UNMISS.

The WBG team also relied on administrative data to assess the practical application of the law. However, obtaining this data proved challenging due to scattered and often incomplete records. To gather the necessary information, the team made multiple visits to the courts, obtaining information such as the list of judges, the list of active courts, financial reports, salary schedules, and the Code of Judicial Conduct. The team also collected data on the number of incoming, pending, and resolved cases for the Supreme Court, the Court of Appeal of Greater Equatoria, the High Court of Eastern Equatoria, and selected County Courts in Juba. This data was not readily available and had to be counted manually with the assistance of clerks, who referred to the registry docket books. The team faced limitations in the data collection, not being able to obtain information on the rate of first instance decisions overturned on appeal, as this data is not collected by the courts. Additionally, the current fee schedule used by the courts was requested but not provided.

To complement these data collection efforts, the team also used data produced by other parties. The total number of individuals whose views were incorporated in the final report is 10,839. All due permissions and consent were obtained while using these datasets, which are publicly available. These datasets included:

- 154 respondents from the *“Research report: Land and Justice Pathways in South Sudan”* (2024), by the Van Vollenhoven Institute for Law, Governance and Society of Leiden University.
- 8,843 people from 12 counties across 9 states for the *“Policy Brief on Security and Governance: National Survey on Perceptions of Peace in South Sudan”* (2022), by the Peace and Conflict Resolution Evidence Platform of the University of Edinburgh.
- 1,520 randomly selected households in six counties (Akobo, Budi, Ikotos, Nasir, Pibor, and Renk) in the study, *“Challenges of Accountability: An Assessment of Dispute Resolution Processes in Rural South Sudan”* (2013), by the South Sudan Law Society and Pact, with the assistance of the South Sudan National Bureau of Statistics.
- 100 interviews for the study, *“Local Justice in Southern Sudan”* (2010), by the United States Institute of Peace and the Rift Valley Institute.
- 89 women interviewed in the context of the study, *“Lessons from Yambio: Legal Pluralism and Customary Justice Reform in Southern Sudan”* (2010), by Tiernan Mennen of the Open Society Justice Initiative.

Some of these reports covered the whole country, others only certain regions. They were especially useful in providing additional insights into the customary system, as several had conducted interviews with Chiefs and users of the customary system.

Data collected by the team were either in the form of a filled-out questionnaire or in the form of recorded meeting minutes that were then incorporated into a questionnaire. A focus group was organized with the SSBA, which was recorded and scripted. The team used the protocol for data storage and management detailed in “Section 2.5. Questionnaires,” extracting the information to Excel and coding it as described in the same section. The data analyzed in this report represents a snapshot of the development of the judicial system in South Sudan as of September 2024.

Annex B. Data for South Sudan

This Annex presents the aggregated data for South Sudan at the data point level. Questions by law are presented alongside their mirror in practice, whenever possible.

B.1. Access to Justice Pillar

The Access to Justice Pillar contains 103 questions, equivalent to 185 datapoints, and comprises five sub-pillars: (1) transparency; (2) proximity to court; (3) equal access; (4) legal aid and cost; and (5) small claims court and procedure. The following table presents the findings related to each question.

>>> **Table B1:**
Access to Justice

Legend: Q=Question; A=Answer; C=Comment; LB= Legal Basis.

LAW	PRACTICE
Transparency	
	Q1: Does a centralized and comprehensive website of all national laws and regulations (i.e., operated, managed, and administered by a single government unit) exist in the country's official language(s)? A: No, laws are scattered across different websites. C: The Ministry of Justice and Constitutional Affairs (MoJCA) is mandated to publish written laws, according to Section 9(e) of the Ministry's Organization Act.²¹³ In compliance with this function, the Ministry has published some laws and regulations on its official website. With internet available, the website is public, free, and openly accessible for all. However, it does not have timely updates, as evidenced by the gaps in information available. The last regulation published was in 2017, corresponding to the Labor Act.

213. The Ministry of Legal Affairs and Constitutional Development Organization Act of 2008 established the Ministry's structure and functions. Following independence on July 9, 2011, the Ministry became known as the Ministry of Justice and Constitutional Affairs.

	Sometimes, laws pertaining to specific ministries or agencies can be found on their respective websites, as observed, for example, on the Ministry of Finance and Planning's website. If “No” to Q1, are laws and regulations published in a manner that makes it possible to consult the latest consolidated version for free? A: No. C: Although it is the statutory responsibility of the MoJCA to publish laws passed or amended, the Ministry has not done so consistently neither in print nor on their official website. Consolidated versions are not available on other websites either.
	Q2: How difficult is it to stay abreast of the legal framework? A: Difficult (consolidated versions of updated laws and regulations are either not available or very delayed; timely updates occur in less than 25% of cases). C: All the lawyers interviewed by the team found it “somewhat difficult” or “difficult” to keep up with changes in the legal framework.
	Q3: How consistent and precise is the legal framework (i.e., laws are well drafted, do not create ambiguity that can be exploited by the parties, and conflicting laws are repealed in a timely manner)? A: Somewhat inconsistent and imprecise (the above conditions are not met in most cases). C: During the interviews conducted by the team, experts from the Judicial Reform Committee (JRC), the National Constitutional Amendment Committee (NCAC), and the Revitalized Joint Monitoring and Evaluation Commission (RJMEC) identified the lack of harmonization of laws as a challenge to the clarity and consistency of the legal framework. Although laws are generally well-drafted, they often lack supporting implementing regulations. In addition, when new laws are enacted, delays in harmonization can lead to conflicting provisions in different laws. Indeed, several pre-independence laws, such as the Code of Civil Procedure Act of 2007, the Code of Criminal Procedure Act of 2008, the Judicial Service Council Act of 2008, and the Judiciary Act of 2008, have not been updated to align with the Transitional Constitution of 2011.
	Q6: What share of the court(s)' judgments is public (i.e., online, or in a manner where anyone can access them without submitting a request or paying a fee)? • <i>County Courts:</i> N/A (not public). • <i>High Courts:</i> N/A (not public). • <i>Courts of Appeal:</i> N/A (not public). • <i>Supreme Court:</i> N/A (not public).

Q4: Is there a legal requirement to make all judgments public?**A:** No.**LB:** There is no legal requirement to make judgments public. However, copies of judgments or any part of the record can be requested by any of the parties upon the payment of fees (Section 111 of the [Code of Civil Procedure Act](#)).**Q7: If judgments are not public, what share is publicly available (i.e., online or otherwise, but access must be requested and/or paid, for example through purchase of the official gazette or by requesting a copy at the court)?**

- *County Courts:* <25%. Access to judgements is limited even upon request of the parties.
- *High Courts:* <25%. Access to judgements is limited even upon request of the parties.
- *Courts of Appeal:* <25%. Access to judgements is limited even upon request of the parties.
- *Supreme Court:* <25%. Access to judgements is limited even upon request of the parties.

Q8: Are judgments made public or publicly available in a timely manner?

- *County Courts:* No.
- *High Courts:* No.
- *Courts of Appeal:* No.
- *Supreme Court:* No.

Q5: Who is responsible for the publication of judgments (including online, if applicable)?**A:** There is no legal requirement to make judgments public.**C:** The Max Planck Foundation has supported the Judiciary to prepare written records of Supreme Court judgments for the years 2011 and 2012. However, the Judiciary has not made the Compendiums public yet.**Q9: How easy is it to find the following information?**

- *Court location:* Information is mostly unavailable. There is no publicly available list of court locations.
- *Court hours and days of operation:* Information is mostly unavailable. Court users interviewed by the team mentioned that electric power outages alter the normal operation of the courts and impact working hours, making schedules unreliable.
- *Basic information on how to file a claim:* Information is mostly unavailable. Court users emphasized the significant challenges of presenting a claim without adequate legal representation.
- *Basic information on common types of cases:* Information is mostly unavailable (see previous answer).
- *Lay documents and guides that enable self-representation:* Information is mostly unavailable. There are no publicly available lay documents or guides to allow self-representation.
- *Information on court fees:* Information is mostly unavailable. More than half of the experts interviewed noted that information about court fees is not available and their application is unpredictable.
- *Information on legal aid:* There is no publicly available information on legal aid. Sixty-seven percent of lawyers interviewed noted that information on legal aid is mostly unavailable and that most people are unaware of how to access such assistance.

	Q10: How accurate and up to date is the information? • <i>Court location:</i> N/A (information is not available). • <i>Court hours and days of operation:</i> N/A (information is not available). • <i>Basic information on how to file a claim:</i> N/A (information is not available). • <i>Basic information on common types of cases:</i> N/A (information is not available). • <i>Lay documents and guides to enable self-representation:</i> N/A (information is not available). • <i>Information on court fees:</i> Mostly inaccurate (more than 50%). The court fee schedule published on the MoJCA's website is not the one currently in use. The current regulation applied to calculate fees is not made publicly available, either online or in the courts. In April 2024, the Judiciary prepared a revised fee schedule that is pending approval by the Ministry of Finance and Planning. • <i>Information on legal aid:</i> N/A (information is not available).
Proximity to court	
	Q11: Confirm list of courts (of general jurisdiction and specialized). A: According to data provided by the Judiciary of South Sudan in August 2024, there are 34 active courts in the country. These include 1 Supreme Court, 2 Courts of Appeal, 7 High Courts, 1 Specialized Gender-Based Violence Court, and 23 County Courts.
	Q12: Confirm list of small claim courts (if different from first instance courts). A: County Courts of the Second Grade can be categorized as small claim courts in South Sudan given their jurisdiction to hear suits below SP 1,000 (Section 21(2) of the Code of Civil Procedure Act (2007)).
	Q13: How would you characterize the accessibility of the courts of your country to people in urban regions as compared to those in rural regions? A: Much more accessible to people in urban regions than those in rural regions. C: According to data provided by the Judiciary of South Sudan, most courts are in the states' capitals. In certain regions, such as Unity State and the administrative areas of Ruweng and Pibor, there are no courts available even in the capitals. Lawyers interviewed during the assessment highlighted that people in rural areas face significant challenges in accessing formal courts due to geographic inaccessibility. These challenges are exacerbated by inadequate transportation, financial constraints, and the lack of accommodation in cities. On average, court users surveyed by the team in Juba said they had to travel 56 minutes to reach the nearest court, with some taking up to 150 minutes. One respondent mentioned having to take a two-hour flight from Unity State to access a statutory court.

ANNEX B

Equal access	
Q14: By law, do women have the same rights as men to file a claim with the court? A: Yes. LB: Article 16 of the Transitional Constitution of the Republic of South Sudan (TCRSS) guarantees that women “shall be accorded full and equal dignity with men.” Additionally, Article 122(5)(a) stipulates that “justice shall be done to all, regardless of their social, political, or economic status, gender, religion, or beliefs.”	Q15: In practice, are women able to file a claim with the court in the same way as a man (consider, for example, the stigma of being seen entering a court)? A: Vastly true. C: According to most lawyers surveyed by the team, women can, in practice, file a claim with the court in the same way as men. However, discussions with the Federation of Women Lawyers of South Sudan (FIDA) revealed that women still face significant barriers to access justice. These barriers include financial constraints and a lack of access to adequate legal representation. In rural areas, where formal courts are scarce, women often resolve their disputes through the customary system. This system tends to uphold patriarchal values and lacks equal representation of women in decision-making processes.
Q16: By law, does a woman’s testimony carry the same evidentiary weight in court as a man’s? A: Yes. LB: Article 16 of the TCRSS provides that women “shall be accorded full and equal dignity of the person with men”. Article 122.5(a) of the TCRSS further states that “justice shall be done to all irrespective of their social, political or economic status, gender, religion or beliefs.” Additionally, Section 128 of the Code of Evidence Act (2006) ensures that the testimony or evidence presented by a wife is treated with the same regard in legal proceedings as the one presented by the husband.	Q17: In practice, does a woman’s testimony carry the same evidentiary weight in court as a man’s? A: Vastly true. C: Once established, the testimony of a woman holds the same evidentiary weight as that of a man in court proceedings. However, some lawyers have noted that men predominantly occupy positions of power in the workplace and are thus more likely to have opportunities to serve as witnesses. FIDA also reported that women often face challenges in acting as witnesses due to language barriers, as non-native speakers, and that interpreters are seldom provided to assist them.
Q18: Civil remedies for sexual harassment. A: Under the Labor Act of 2017, sexual harassment in the workplace is expressly prohibited and deemed an offense against an employee (Section 7(1)). Section 5 of the Act defines sexual harassment as “[d]eliberate sexual comments or gestures, or any conduct of a sexual nature that is unwanted, embarrassing, demeaning, or compromising.” If a dispute arises regarding this prohibition, as outlined in Section 7, the affected party can submit a written complaint to the Commission for Conciliation, Mediation, and Arbitration. Should conciliation not resolve the issue, the dispute can then be appealed to the Labor Court for adjudication.	Q18: By law, there are civil remedies for sexual harassment in employment. In practice, how likely is a woman to bring a civil case for sexual harassment against her employer? A: Unlikely (<25%). C: Experts interviewed by the team observed that women often hesitate to report harassment due to fears of job loss and the stigma associated with making such claims. Additionally, FIDA highlighted the difficulties in proving cases of rape and sexual harassment, noting that the strict evidentiary standards applied in the courts pose significant challenges.
	Q19: In practice, how likely is the woman to win the case once it is established that she was indeed harassed beyond reasonable doubt? A: Likely (>75%). C: Once harassment is clearly established, cases are generally adjudicated according to the law. FIDA reports that the establishment of a specialized Gender-Based Violence Court in Juba has improved women’s access to justice. However, this court currently serves only the capital region, limiting access for rural women.

	Q20: How would you characterize the accessibility of the courts of your country for women? A: A lot more accessible to men than women. C: In South Sudan, although the legal framework guarantees equal access to justice for women, substantial barriers impede their effective participation in practice. Social norms often discourage women from filing complaints, due to social stigma. Economic constraints also restrict their ability to cover court-related expenses. While specialized institutions like the Gender-Based Violence Court in Juba have improved access to justice, their services are limited to the capital, leaving women in rural areas with fewer options. The scarcity of legal aid and support services further exacerbates these challenges, making it difficult for many women to access justice.
Q21 & 22: By law, are persons with disabilities (including intellectual disabilities) recognized the right to legal capacity (i.e., the power to engage in transactions and create, modify, or end legal relationships)? Are they recognized as having equal standing in courts and tribunals? A: No. LB: Article 14 of the TCRSS provides that “[a]ll persons are equal before the law and are entitled to the equal protection of the law without discrimination.” Article 30 of the Constitution further guarantees the rights of persons with disabilities, including their equal participation in society and the enjoyment of rights and freedoms. However, regarding participation in legal proceedings, Sections 114 and 119 of the Code of Civil Procedure Act require that individuals deemed “of unsound mind” or unable to protect their interests due to “mental or physical infirmity” must be represented by a guardian ad litem. While the law allows these individuals to have a guardian in court, it is important to understand that the right to legal capacity includes broader guarantees, such as the ability to engage in transactions and manage legal relationships as independently as possible. Article 12 of the Convention on the Rights of Persons with Disabilities (CRPD), as interpreted by the Committee on the Rights of Persons with Disabilities, requires governments to shift from substitute decision-making models (like guardianship, conservatorship, and forced treatment) to supported decision-making. This approach must respect the rights, will, and preferences of persons with disabilities and should not involve imposing a decision-maker against their will.	
Q23: By law, are persons with disabilities granted legal capacity to testify on an equal basis in court? A: Yes. LB: Section 125(2) of the Code of Evidence Act (2006) determines that “[a] mentally disordered person or a lunatic is not incompetent to testify unless he or she is prevented by his or her condition from understanding the questions put to him or her and giving rational answers to them”.	

Q24: By law, are courts required to have policies in place facilitating equal access to justice for persons with disabilities, allowing them to participate on an equal footing in court proceedings as parties, witnesses, victims, etc.? A: Yes. LB: Article 30 of the TCRSS mandates that the government ensure persons with disabilities fully enjoy the rights and freedoms outlined in the Constitution. Additionally, the Government of South Sudan ratified the CPRD on February 5, 2024. Article 13.1 of the CPRD provides that States Parties are required to “ensure effective access to justice for persons with disabilities on an equal basis with others,” including through procedural and age-appropriate accommodations to support their full participation in legal proceedings. Furthermore, the Ministry of Gender, Child and Social Welfare introduced the National Disability Action Plan in 2020, which calls for the development of a CPRD training program for the judiciary and the integration of sign language and braille communication in courts.	Q25: In practice, if such policies exist, what is their level of implementation? (i.e., wheelchair accessibility; elevators accessibility; washrooms accessibility, alternative seating arrangements in courtrooms; sign language interpretation; tactile language interpretation; allowing guide dogs into courtrooms; screen readers; etc.) A: Very low level of implementation (< 25% of courts). C: In practice, there are not many measures in place to support persons with disabilities in participating in court proceedings.
	Q 26: How would you characterize the accessibility of the courts of your country for persons with disabilities? A: A lot more accessible to persons without disabilities. C: Most courts in South Sudan lack special accommodations for persons with disabilities, such as wheelchair access or sign language interpretation services. Additionally, individuals with disabilities face other significant barriers to court access, including inadequate public transportation options and long distances between their residences and the courts.
Q27: By law, is there a requirement to provide translation and interpretation services in civil cases for: A & LB: Hearings: Yes. Section 66 of the Code of Civil Procedure Act (2007) determines that “a Court may hear parties or witnesses who are ignorant of English and Arabic in any other language through an interpreter on oath”. It is important to note that Article 6 of the TCRSS designates English as the official working language of South Sudan. Therefore, any references to Arabic are inconsistent with the Constitution. Documents: Yes. The law allows the translation of documents that are presented as evidence (Section 171(3) of the Code of Evidence Act).	Q27.1: Are translation and interpretation services free of charge for indigent people in civil cases? A: No. C: Given that the current fee schedule is not publicly available, it is unclear whether interpretation services are provided free of charge or at a cost to the parties. However, interviews with litigants revealed that individuals typically must pay the court for these services. Q27.2: How likely are people to receive such services? A: Somewhat unlikely (between 25% and 50%). C: Even though the law recognizes the need to provide interpretation services for people who do not speak English, this is somewhat unlikely to occur due to shortages in personnel and the availability of interpreters. Q.27.3: How likely are indigent people to receive such services? A: Somewhat likely (between 50% and 75%). C: Indigent individuals are somewhat more likely to receive interpretation services if they can provide strong evidence of their financial need. However, litigants interviewed by the team noted that the provision of these services varies from case to case and that the criteria are not applied consistently.

	Q28: How would you characterize the accessibility of the courts of your country for persons with linguistic barriers? A: A lot more accessible to persons without linguistic barriers. C: In South Sudan, courts mainly use Arabic and English, but the country has 64 ethnic groups, each with its own language. This makes it hard to provide adequate interpretation services. Experts noted that these language differences create significant difficulties for courts in supporting individuals who face language barriers during legal proceedings.
	Q29: How would you characterize the accessibility of the courts of your country for persons of different socio-economic classes? A: A lot more accessible to persons of higher socioeconomic classes. C: Court users interviewed identified costs and access to representation as major barriers to justice. South Sudan lacks a robust legal aid system to assist litigants with financial disadvantages, a topic that will be explored in more detail in the next section.
Legal aid	
Q30: Is there a dedicated law on legal aid? A: No. LB: The TCRSS guarantees that “[a]ny accused person has the right to defend himself or herself in person or through a lawyer of his or her own choice or to have legal aid assigned to him or her by the government where he or she cannot afford a lawyer to defend him or her in a serious offense” (Article 19.7). However, implementing legislation is scattered, and the criteria and procedure to provide legal aid are unclear. Section 31(2) of the Advocates Act (2013) mandates the Bar Council, an independent body managing and supervising legal practice in South Sudan, to provide legal aid “[i]f any of the parties in a civil suit applied to the Council seeking legal aid and the Council is satisfied that he or she is a pauper and unable to pay an advocate’s fee”. A case approved by the Council for legal aid is allocated to a selected advocate member of the South Sudan Bar Association (SSBA).	Q31: Is government-funded legal aid available in your country? A: No. C: The Directorate of Contracts, Conventions, Treaties, and Legal Aid (hereinafter, “Legal Aid Directorate”) of the MoJCA stated that, currently, the Ministry lacks funding and personnel to adequately provide legal aid to litigants facing financial disadvantages. To guarantee legal aid while securing a designated budget, the Ministry has signed a memorandum of understanding with the South Sudan Law Society to provide legal aid on a pro-bono basis. The Ministry indicated that it only considers applications for legal aid in criminal cases and not in civil cases.
	Q32: Are there other providers of legal aid (i.e., NGOs, bar associations, universities, etc.)? A: Yes. C: (i) <i>South Sudan Law Society (SSLS)</i>. The SSLS has legal aid clinics to advise low-income clients and detainees. They have branch offices in Eastern Equatoria, Western Bahr al Ghazal, Upper Nile, and Central Equatoria State. They also provide training to community paralegals and currently have a network of over 300 paralegals in the country. The organization receives funding from United Nations Development Programme (UNDP), UN Women, Norwegian People’s Aid, and the Government of the Netherlands. However, without financial contributions from the Government, the organization is struggling to continue providing services for its 300 active legal aid cases.

	(ii) <i>Federation of Women Lawyers of South Sudan (FIDA)</i>. The organization provides legal aid for women and children. It has signed a memorandum of understanding with the Ministry of Gender, Child, and Social Welfare to support victims of sexual and gender-based violence. Currently, it receives funding from UNDP, the German Agency for International Cooperation (GIZ), and the United Nations Mission in South Sudan (UNMISS). (iii) <i>South Sudan Bar Association</i>.
Q33: Which of the following aspects of legal aid are regulated by law? A: The law does not provide many details on the eligibility criteria and the procedure to grant legal aid. The Advocates Act (2013) only mentions that it may be granted by application of the claimant, demonstrating that he or she is a “pauper” as admitted by the Bar Council. LB: Sections 184 of the Code of Criminal Procedure Act and 31(2) of the Advocates Act.	Q38: Which of the following best describes the legal requirement on the evidentiary burden over eligibility criteria? A: Before the request is granted, the party intending to proceed as a “pauper” must produce evidence of the lack of resources.
	Q34: Is there a body or authority in charge of providing, administering, coordinating, and monitoring the quality of legal aid services? A: Yes. C: The MoJCA is responsible for providing legal aid in South Sudan. According to Article 135.3 of the Constitution, legal advisors under the Ministry are tasked with delivering legal aid. Additionally, the Ministry’s Organization Act stipulates that the Minister of Justice shall “provide legal services to the public, including legal advice and legal aid” (Section 25(k)). There is currently ongoing discussion within the Ministry about separating the Legal Aid Directorate from the Ministry to establish it as an independent body.
Q35: By law, for which of the following actions can government-funded legal aid (vs. legal aid provided, for example, by NGOs) be used? A: Representation in court. LB: Article 19.7 of the TCRSS and Section 184 of the Code of Criminal Procedure Act (2008).	
Q36: By law, who approves a request for legal aid? A: The Ministry of Justice and Constitutional Affairs. LB: Article 19.7 of the TCRSS and Section 184 of the Code of Criminal Procedure Act (2008).	
	Q37: What is the total number of legal aid requests received, and requests approved for government-funded legal aid? A: Over the past three years, the number of cases approved for legal aid by the Ministry has been quite limited. Between 2021 and 2023, the Ministry received 1 applications for legal aid in a civil case, which was denied because it only provides legal aid in criminal cases. When asked about the low number of requests, the Legal Aid Directorate explained that most citizens are unaware of their right to legal aid. When they do apply, the Ministry often refers them to the South Sudan Law Society for assistance, as the MoJCA lacks sufficient funds to provide the service.

	Q39: Are there enough providers of government-funded legal aid? A: No. The Legal Aid Directorate of the MoJCA does not have the funding and capacity to effectively provide legal aid. Other institutions that provide these services on behalf of the government, such as the South Sudan Law Society, face challenges in sustaining their efforts due to limited financial support. The SSLS currently manages 300 legal aid cases, which are at risk of remaining unresolved if donor funding is discontinued.
	Q40: What are the chances of obtaining government-funded legal aid when eligible? A: Very low (less than 25% of eligible applicants).
Q41: By law, is there a time standard for deciding on a legal aid request? A: No.	Q42: In practice, what is the average decision time for government-funded legal aid requests (calendar days)? A: N/A, this data is not collected by the MoJCA.
Q43: What is the total budget (in local currency) allocated to government-funded legal aid as a percentage of the national/judiciary/justice sector budget? A: Legal aid is not accounted for in the budget of the MoJCA.	Q44: What is the total amount (in local currency) spent on government-funded legal aid? A: N/A.
Q45: What is the annual income value (in local currency) to be eligible for full legal aid? A: N/A, not regulated.	
Court fees	
Q46: Are court fees set by law? A: No. LB: The current fee schedule used to calculate fees is not set by law.	Q47: Is clear and detailed information about the court fees applicable to various types of cases publicized widely? A: Seventy-three percent of lawyers interviewed reported that information about court fees is difficult to find and understand, with inconsistencies in how the fee schedule is applied. The team requested a copy of the fee schedule currently in use in multiple court visits but did not manage to obtain it. According to information from the Judiciary, the Chief Justice recently appointed a sub-committee to review the fee schedule. This sub-committee completed its review in April 2024 and has submitted a revised fee schedule to the Ministry of Finance and Planning for approval before it can be implemented.
	Q48: Are court fees collected by the courts retained by the Judiciary? A: Yes, but only a percentage.
Q49: By law, are litigants in general required to pay a court fee to initiate a proceeding at a court of first instance? A: Yes, at the beginning of the procedure. LB: Section 33(1) of the Code of Civil Procedure Act (2007) determines that “[a] suit is deemed to be instituted on the date of payment of Court fees or, if the plaintiff is exempted from payment of fees by law or order of Court, on the date on which the plaint was allowed by the Court”.	Q50: How likely is the winning party to get full reimbursement of court fees? A: Somewhat unlikely (between 25% and 50%). C: Costs, which include attorney fees and expenses on experts and witnesses, are payable by the judgment debtor in the amount determined by the Court (Section 110(3) of the Code of Civil Procedure Act). However, in practice, practicing attorneys highlighted that it is very difficult to obtain full reimbursement of fees as it requires an additional procedure for the execution of the decree (Section 216 of the Code of Civil Procedure Act).

	Q51: How likely is the winning party to get full reimbursement of attorney fees? A: See Q.50.
	Q52: Are court fees set at a level that deters individuals and businesses from filing a claim? A: No.
Q53: Does the law establish a court fee waiver program with clear eligibility criteria? A: Yes. LB: Sections 12 and 13 of Rule 6 of the Code of Civil Procedure Act (2007) regulate suits filed by a “pauper,” defined as someone who lacks sufficient means to pay the prescribed fees for hearing the suit. To file as a pauper, the applicant must submit a list of their property along with its estimated value, a certificate signed by two witnesses confirming the applicant’s financial status, and the petitioner’s plaint. The Court may also require the plaintiff to make an oath or affirmation of their inability to pay the fees. If the Court is not convinced that the petitioner qualifies as a pauper, it will reject the application.	Q54: How likely is it for an eligible candidate to obtain a fee waiver? A: Likely (more than 75%). C: According to the Judiciary, any person who meets the conditions for a pauper under the law is granted a fee waiver.
	Q55: What is the total number of fee waiver requests received and approved? A: N/A, the Judiciary does not keep a record of fee waivers received, approved, or rejected.
Small claim court or procedure	
Q56 & 57: In South Sudan, are there small claims courts/divisions and/or a fast-track procedure for small claims? If yes, what type of cases fall under the jurisdiction of this court/procedure? A: Yes, a court/division. LB: Due to their jurisdictional scope, County Courts of the Second Grade Judge can be considered small claim courts. They have original jurisdiction to try suits of value not exceeding SP1000 (Section 21(2) of the Code of Civil Procedure Act).	
Q58: By law, is it possible to file small claims orally? A: No.	
Q59: By law, is it possible to file small claims without legal representation? A: Yes. LB: Section 57 of the Code of Civil Procedure Act (2007) determines that “[o]n the day fixed for hearing of the suit, the parties shall attend the Court in person or by their respective advocates”.	Q60: In practice, how easy is it to use the small claims court/procedure without legal representation? A: Somewhat easy (people of most backgrounds can use it, but it would take some effort).
Q61: Are there standardized templates available to file small claims? A: No.	

Q62: By law, is there a time standard for resolving small claims (calendar days)?

A: No.

LB: Section 100 of the [Code of Civil Procedure Act](#) (2007) stipulates that after a suit has been heard, the Court “shall either immediately or within a short and reasonable time, of which due notice shall be given, pronounce its judgment”. However, aside from this general reference to a “reasonable time,” there are no specific time standards established for resolving small claims.

Q63: What is the average resolution time for small claims (calendar days)?

A: The average disposition time at the Juba County Court is 1101 days in 2023.

Q64: Is there a dedicated fee schedule for small claims?

A: No.

Q65: Are court fees in small claims set at a level that deters individuals and businesses from filing a claim?

A: No.

C: Eighteen percent of court users interviewed cited high costs and attorney fees as the main challenge in accessing justice.

B.2. Efficiency Pillar

The Efficiency Pillar contains 74 questions, equivalent to 99 datapoints, and comprises five sub-pillars: (1) clearance rates; (2) age of caseload; (3) disposition time; (4) case processing and case management; and (5) information and communications technologies. The following table presents the findings related to each question, drawing comparisons between the legal requirements and how they are carried out in practice.

>>> **Table B2.1.:**
Clearance rate, age of caseload, and disposition time

Number of judges	2024	2023	2022
Q66: Number of judges in South Sudan	116	-	-
Q67: Of which, female	28	-	-
Number of incoming cases	2023	2022	2021
Q68: Juba County Court	703	807	860
Q69: High Court of Central Equatoria State	670	612	437
Q70: Juba County Court (administrative jurisdiction)	(same as q. 68)	(same as q. 68)	(same as q. 68)
Q71: High Court of Central Equatoria State (administrative jurisdiction)	(same as q. 69)	(same as q. 69)	(same as q. 69)
Number of resolved cases	2023	2022	2021
Q72: Juba County Court	175	211	172
Q73: High Court of Central Equatoria State	461	488	343
Q74: Juba County Court (administrative jurisdiction)	(same as q. 72)	(same as q. 72)	(same as q. 72)
Q75: High Court of Central Equatoria State (administrative jurisdiction)	(same as q. 73)	(same as q. 73)	(same as q. 73)
Active cases older than 3 years			
Q76: County Courts	This data is not collected by the judiciary		
Q77: High Courts	This data is not collected by the judiciary		
Q78: Supreme Court	This data is not collected by the judiciary		
Q79: County Courts (administrative jurisdiction)	This data is not collected by the judiciary		
Q80: High Courts (administrative jurisdiction)	This data is not collected by the judiciary		
Q81: Supreme Court (administrative jurisdiction)	This data is not collected by the judiciary		
Number of pending cases ²¹⁴	2023	2022	2021
Q82: Juba County Court	528	596	688
Q83: High Court of Central Equatoria State	209	124	94
Q84: Juba County Court (administrative jurisdiction)	(same as q. 82)	(same as q. 82)	(same as q. 82)
Q85: High Court of Central Equatoria State (administrative jurisdiction)	(same as q. 83)	(same as q. 83)	(same as q. 83)

214. The number of pending cases is not combined with the number of pending cases from previous years because the registry does not track cases that remain unresolved from previous years. Instead, caseload data is collected by counting each case presented and resolved in each court on an annual basis. Therefore, the pending cases for any given year only include the number of cases obtained by subtracting the resolved cases from the incoming cases of that specific year.

>>> **Table B2.2.:**
Case processing, case management, and ICT

Legend: Q=Question; A=Answer; C=Comment; LB= Legal Basis.

LAW	PRACTICE
Assignment of cases	
Q86: By law, how are cases assigned within the courts? A: The law does not specify the process for assigning cases.	Q87: If the assignment of cases is not random, how is it carried out? A: In the Supreme Court, the Chief Justice assign cases to the decision panels. For the Court of Appeal, case assignments are made by the President of the Court of Appeal. In the High Courts, the President of the High Court oversees case assignments. At the County Courts level, the Resident Judge is responsible for assigning cases.
	Q88: How often is the assignment process abused (as reported, for example, by users, NGOs, etc.)? A: Often (between 50% and 75% of processes). C: Sixty-six percent of lawyers interviewed stated that the process of assignment of cases was abused “often” or “very often.” Eighty-five percent of court users mentioned that people with connections and financial resources often influence judges in their favor. Some noted that “When people pay judges money their cases are fastened affecting the process;” “Judges are paid money to delay the other cases for people who do not have money;” and “Most judges are influenced by money to slow procedures.”
	Q89: How easy is it for the parties to influence the assignment? A: Easy (between 50% and 75% of assigned cases). C: It is easy for the case assignment process to be abused. Delays in the payment of judges’ salaries and poor working conditions create a suitable environment for influencing their decisions through financial influence.
Case Management Information System (CMIS)	
	Q90: Is there a single electronic CMIS system used in all courts? A: No electronic system exists, but manual data collection at the court level tracks incoming and disposed cases. C: The court clerk records cases and transmits the files to the Resident Judge, who in turn will assign a judge.
	Q91: Which of the following functionalities are available to judges through the CMIS system? A: N/A, no CMIS is available.
	Q92: Which of the following functionalities are available to lawyers through the CMIS system? A: N/A, no CMIS is available.
	Q93: What is the CMIS deployment rate (in civil and/or commercial cases)? A: N/A, no CMIS is available.

Information and Communications Technology (ICT)	
	Q94: What percentage of judges and staff drafting documents and entering case data has and uses computers? A: Less than 25%.
	Q95: What percentage of courts has internet installed? A: Less than 25%.
	Q96: What percentage of courts has intranet installed? A: Less than 25%.
Q97: By law, can the initial complaint be filed electronically through a dedicated platform? A: No. LB: In South Sudan, a dedicated electronic platform for filing complaints has not yet been developed.	Q99: In practice, what is the percentage of cases filed electronically? A: N/A (complaint cannot be filed electronically). C: There is no platform that allows for the electronic filing of complaints.
Q98: If “Yes” to Q.97, is the plaintiff required to follow-up with a paper copy? A: N/A (complaint cannot be filed electronically).	
Q100: By law, can the initial complaint be served electronically through a dedicated platform? A: No.	Q101: In practice, what is the percentage of cases served electronically? A: N/A (complaint cannot be served electronically). C: All complaints are served in person through officials of the Court (Section 40(1) of the Code of Civil Procedure Act).
Q102: By law, can a request for legal aid be filed electronically? A: No.	Q104: In practice, what is the percentage of legal aid requests filed electronically? A: N/A (request cannot be filed electronically). C: There is no platform that allows for the electronic filing of these requests.
Q103: If “Yes” to Q.102, is the applicant required to follow-up with a paper copy? A: N/A (request cannot be filed electronically).	
Q105: By law, can the initial complaint in a small claim procedure be filed electronically through a dedicated platform? A: No.	Q107: In practice, what is the percentage of small claims filed electronically? A: N/A (complaint cannot be filed electronically). C: There is no platform that allows for the electronic filing of these claims.
Q106: If “Yes” to Q.105, is the plaintiff required to follow-up with a paper copy? A: N/A (complaint cannot be filed electronically).	
Q108: By law, is evidence filed only electronically admissible? A: No.	Q109: In practice, what is the percentage of evidence filed electronically? A: N/A (evidence filed electronically is not admissible). C: There is no process in place for the admission of evidence filed electronically.
Q110: By law, can hearings be conducted remotely/virtually? A: No. C: Hearings are done in court. There is no process in place for conducting hearings remotely or virtually.	Q111: In practice, what is the percentage of hearings conducted remotely? A: Less than 25%. C: Hearings are usually not conducted remotely. Recently, South Sudan had its first virtual hearing conducted by a judge sitting in Juba, who connected with the defendant sitting at a conference room in the UNMISS Malakal field office.

B.3. Quality Pillar

The Quality Pillar contains 56 questions, equivalent to 89 datapoints, and comprises five sub-pillars: (1) qualification of judges; (2) extra-judicial activities; (3) judicial pay; (4) appeal and reversal rates; and (5) consistency of decisions. The following table presents the findings related to each question, drawing comparisons between the legal requirements and how they are carried out in practice.

>>> **Table B3:**
Quality

Legend: Q=Question; A=Answer; C=Comment; LB= Legal Basis.

LAW	PRACTICE
Qualification of judges	
Q112: By law, which of the following criteria is used for the appointment of judges? A: Education requirement, minimum age, nationality, ethical standing, and years of experience. LB: The Constitution grants the President the authority to appoint the Chief Justice without the involvement of the Judicial Service Commission (JSC). The President also appoints the Deputy Chief Justice and other Justices of the Supreme Court and Court of Appeal based on JSC recommendations, with these appointments requiring the approval of a two-thirds majority of all members of the National Assembly (Article 133 of TCRSS). For lower courts, the Chief Justice appoints judges to the High Courts and County Courts based on JSC recommendations (Section 21(3) of the Judiciary Act). The Judiciary Act provides that a person appointed to a judicial position must be a South Sudanese citizen of sound mind and must not have been convicted of an offense involving dishonesty or moral turpitude (Section 20 of the Judiciary Act). Appointees must be at least 25 years old to serve at a County Court, 35 to serve at the High Court and Court of Appeal, and 45 to be a judge of the Supreme Court. In terms of experience, candidates for the Supreme Court need 15 years of experience from the MoJCA or private advocacy and 18 years from academia if coming from outside the Judiciary. For the Court of Appeal, High Court, and County Court, the required experience ranges from 4 to 15 years, depending on whether the candidate comes from private practice, the MoJCA, or academia (Sections 22 to 25 of the Judiciary Act).	Q113: How often are the criteria mandated by law for the appointment of judges followed in practice? A: Followed very rarely (less than 25%). C: More than half of the experts interviewed by the team considered that the requirements for the appointment of judges are followed “rarely” or “very rarely.” They highlight that judges are appointed by the judicial leadership based on connections and not based on experience, which was also highlighted in a 2019 report by Amnesty International.
	Q114: In your view, are judges competent (i.e., knowledgeable of the law and able to apply it correctly)? - County Courts: Somewhat competent. - Courts of Appeal: Very competent. - Supreme Court: Very competent.

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	Q115: In your view, are judges honest (i.e., ability to resist taking bribes or other incentives in individual cases)? • <i>County Courts</i>: Somewhat dishonest. • <i>Courts of Appeal</i>: Somewhat honest. • <i>Supreme Court</i>: Somewhat honest.
	Q116: In your view, are judge-rendered decisions of high quality? [Judgments of bad quality are those that contain grammatical errors, imprecise or inconsistent application of the legal framework, technical errors requiring the parties' rectification before enforcement, wrong assessment of the evidence, failure to address the most essential arguments, etc.] • <i>County Courts</i>: Somewhat not qualitative. • <i>Courts of Appeal</i>: Somewhat not qualitative. • <i>Supreme Court</i>: Very qualitative.
Extra judicial activities	
Q117 & Q117.1: Does an institution/body exist to give opinion on ethical questions on the conduct of judges during extra-judicial activities? What is the composition of such body? A: Yes. LB: Article 134 of the TCRSS stipulates that the Chief Justice, with the approval of the JSC, is responsible for disciplining justices and judges. According to Section 53 of the Judiciary Act (2008), the Boards of Discipline are tasked with investigating and hearing the defense of a justice or judge. Their findings are then submitted to the JSC for review. Under Section 8(1)(d) of the Judicial Service Council Act (2008), the JSC has the authority to confirm, modify, dismiss, or return the Boards' recommendations. The JSC is chaired by the Chief Justice of the Supreme Court and includes the Minister of Justice and Constitutional Affairs, the Deputy Chief Justice, the Minister of Finance and Planning, the Chairperson of the Legislative Assembly's Committee on Legislation and Legal Affairs, the Dean of the Faculty of Law at the University of Juba, the President of the SSBA, and two senior justices of the Supreme Court (Section 9 of the Judiciary Service Council Act).	
Q118: Are any of the following safeguards relating to the temporary employment of judges in political offices (i.e., politicians, ministers, government officials, cabinet members, etc.) in place? A: Temporary employment is not allowed. LB: Section 28 of the Judiciary Act (2008) mandates that justices and judges must refrain from engaging in trade or any form of employment or business that conflicts with their judicial duties and undermines the independence of the judiciary. The Code of Judicial Conduct requires judges to refrain from being members of a political party, contest elections for clubs, societies, or other associations, or hold elective office, except in law-related societies or associations (Section 4.8 of the Code of Judicial Conduct).	Q119: How often do judges gain temporary employment in political offices? A: Very rarely (less than 25%). C: Judges are not allowed to political positions.

	Q120: How often does such temporary employment in political offices interfere with the judge's present or future performance of judicial duties? A: Very often (more than 75%). C: Lawyers believe that although it is uncommon for judges to hold political office or be affiliated with a political party, such instances, when they do occur, can significantly interfere with their duties and lead to the politicization of the judiciary.
	Q121: How often does such temporary employment in political offices undermine the judge's present or future independence, integrity, or impartiality? A: Very often (more than 75%).
Q122: By law, can judges combine their work with any of the following? A: By law, a judge is allowed to perform other activities as outlined below. LB: According to Section 4.17 of the Code of Judicial Conduct, judges are permitted to write, lecture, teach, and participate in activities related to the law and the administration of justice. They may also engage in civic, charitable, educational, cultural, and other social and recreational activities, provided these do not interfere with their judicial responsibilities.	Q124: How often do judges combine their work with any of the activities listed in Q.122? A: Very often (more than 75%). C: In practice, many judges take on teaching roles at the country's law schools and engage in research and publication activities. Lawyers interviewed by the team view this positively, as it enhances their capacity and keeps them current with developments in legal scholarship and knowledge.
Q123: By law, are there safeguards in place during contemporaneous employment for the activities listed in the Q.122? A: Yes. LB: The Code of Judicial Conduct allows judges to participate in the activities outlined in Q122 above, provided these do not interfere with their judicial responsibilities.	Q125: How often do such activities interfere with the judge's present or future performance of judicial duties? A: Often (between 50% and 75%). C: Some lawyers suggested that these activities might delay case resolutions, given the already lengthy disposition times and delays in South Sudan's courts.
	Q126: How often do such activities undermine the judge's present or future independence, integrity or impartiality? A: Often (between 50% and 75%). C: Experts noted that, depending on the circumstances, temporary employment could create a conflict of interest for a judge handling a specific case.
Judicial pay	
Q127: Does the law regulate the remuneration of judges by position/grade? A: No. C: Although Article 124(9) of the TCRSS stipulates that judicial salaries, benefits, tenure, and allowances must be governed by law, the necessary regulations have not yet been issued. Scales of salaries are established each year by the Ministry of Finance and Planning and the Chief Justice.	
Q128: By law, must judicial salary schedules be published? A: No.	Q129: In practice, are judicial salary schedules published? A: No.
Q130: By law, does remuneration depend on performance? A: No.	

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	Q131: In 2023, what was the yearly salary (in local currency) of a first-instance judge with 10 years of experience (including, as applicable, 13th salary, bonuses, etc.)? A: SSP 98,760
	Q132: In 2023, what was the yearly salary (in local currency) of the Minister of Justice (including, as applicable, 13th salary, bonuses, etc.)? A: N/A.
	Q133: In 2023, what was the yearly salary (in local currency) of a partner in a local law-firm (including bonuses, as applicable)? A: N/A, lawyers in South Sudan mostly work on success fees and bonuses, making an estimate difficult.
	Q134: Are there significant variations in salary among judges in comparable positions? A: No. C: The salary scales determine a specific amount for each staffing level.
	Q135: In 2023, what was the budget (in local currency) of the largest first instance civil court? A: N/A.
	Q136: In 2023, how many judges did the court referred to in Q.135 have? A: N/A.
	Q137: Salary: First instance professional judge at the beginning of his career (yearly) A: SSP 76,620
	Q138: Salary: First instance professional judge at the beginning of her career – Women (yearly) A: Same as Q137
	Q139: Salary: Judge of Supreme Court or Highest Appellate Court (yearly) A: SSP 316,200
	Q140: Salary: Judge of Supreme Court or Highest Appellate Court – Women (yearly) A: Same as Q140.
Appeal rates and reversal rates	
	Q141: Percentage of first instance decisions (civil cases) subject to appeal A: N/A, this data is not collected by the judiciary.
	Q142: Percentage of first instance decisions (administrative cases) subject to appeal A: N/A, this data is not collected by the judiciary.
	Q143: Percentage of first instance decisions (civil cases) overturned in appeal A: N/A, this data is not collected by the judiciary.
	Q144: Percentage of first instance decisions (administrative cases) overturned in appeal A: N/A, this data is not collected by the judiciary.

Consistency of decisions	
Q145: Are judicial decisions a source of law? A: Yes. LB: Article 126.5 of the TCRSS stipulates that “decisions of the Supreme Court shall be final and binding.” Additionally, the Constitution empowers the Supreme Court with the authority of judicial review, allowing it to adjudicate the constitutionality of laws and invalidate or strike down any laws or provisions that conflict with the Constitution or the constitutions of the states (Article 126.2(d) of the TCRSS).	
Q146: If “Yes” to Q.145, are decisions from the highest/supreme court the only source of law? A: Yes.	
Q147: If “Yes” to Q.145, does departure from previous case law need to be stated and motivated? A: No. LB: N/A, not regulated by law.	Q148: In practice, how often is this departure stated and explained? A: Rarely (between 25% and 50%). C: Sixty-six percent of the lawyers interviewed indicated that departures from precedent are “rarely” or “very rarely” explicitly stated and explained.
Q149: Can the highest/supreme court take decisions on the consistency of case-law of lower courts on its own initiative? A: No. C: The Supreme Court can reverse a decision by lower courts on the grounds of inconsistency with case law if the decision is appealed before the Court and the latter has jurisdiction to hear the appeal.	
Q150: Are there other mechanisms in place for the highest/supreme court to ensure consistency of case-law? A: No.	
Q151: By law, are there sanctions when a lower court does not decide consistently with case law? A: No. LB: N/A, not regulated by law.	Q152: If so, in practice, how often are these sanctions applied? A: There are no sanctions that can be imposed on a judge for an incorrect legal interpretation. A judge may face sanctions only for breaches of duty, professional ethics, criminal offenses, or acts of insubordination (Section 55 of the Judiciary Act). If the Supreme Court finds that a judge has misinterpreted the law, it may overturn the judge’s decision rather than impose a sanction.

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