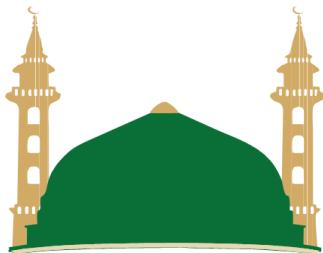


# THEMATIC REPORT ON MUSLIM FAMILY LAW AND MUSLIM WOMEN'S RIGHTS IN

## SOUTH SUDAN

80th CEDAW Session  
18 October - 12 November, 2021

*Submitted by:*



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## I. INTRODUCTION

**Musawah**, the global movement for equality and justice in the Muslim family; the **Islamic Development and Relief Agency (IDRA)**; and the **Strategic Initiative for Women in the Horn of Africa (SIHA)** submit this joint Thematic Report for consideration by the CEDAW Committee in its review of the Government of South Sudan, reporting before the 80th CEDAW Session in October–November 2021.

This is the CEDAW Committee's first engagement with South Sudan, which acceded to CEDAW on 30 April 2015 and its Optional Protocol on 30 July 2015.

This report examines South Sudan's legal framework and practices that enforce *de jure* and *de facto* discrimination against Muslim women in the following areas of personal status and legal equality:

- Delayed codification of family law
- Child, early, and forced marriage
- Violence against women and girls
- Women's economic rights

We hope the CEDAW Committee will utilise this report as a key resource during its Constructive Dialogue with the State party. In particular, we hope the Committee will use the recommendations to identify follow-up issues in its Concluding Observations.

## II. COVID-19 CONTEXT

A decade of civil conflict following independence has left South Sudan the fourth least-peaceful country globally,<sup>1</sup> third on the Fragile States Index in 2020,<sup>2</sup> and one of the worst humanitarian crises in the world with massive numbers of internally displaced persons and refugees. The COVID-19 pandemic has only made life more difficult.

Women and girls are among the most vulnerable to the negative and gendered impacts of the pandemic; in South Sudan, this was exacerbated by the already-fraught context they faced after years of war and conflict: widespread poverty and hunger, displacement from their homes, ethnic violence, and food insecurity and loss of income from natural disaster-stricken farming and fishing sectors.<sup>3</sup>

Given that 3 in 4 informal economy workers in Sub-Saharan Africa are women, restrictions to curb the pandemic spread adversely affected women's ability to earn a livelihood to support their

<sup>1</sup> Global Peace Index 2021. Institute for Economics and Peace, 2021: [www.visionofhumanity.org/maps](http://www.visionofhumanity.org/maps).

<sup>2</sup> Fragile States Index, by the Fund for Peace, 2020. <http://fragilestatesindex.org/country-data>.

<sup>3</sup> Schipani, Andres. "South Sudan's 'wasted' decade: 'we have been at war for far too long'." Financial Times, 26 August 2021: <https://www.ft.com/content/5c8041a4-10af-4950-8502-87ff75a5438b>

families, hitting poor women the hardest when women-owned businesses like tea stalls and salons were forced to close.<sup>4</sup>

Closures of schools and economic pressures to support and care for the household correlates with a rise in child marriages. To illustrate, authorities in Eastern Equatoria state reported in July 2020 at least 125 teenage pregnancies, 17 in the last two weeks of July alone, which raised concerns about unwanted pregnancies, school dropouts, and forced marriage.<sup>5</sup>

### III. LEGAL FRAMEWORK

#### Overview

The Transitional Constitution of the Republic of South Sudan 2011, as amended to 2020<sup>6</sup>, does contain provisions for gender equality:

- Article 15(c): Right to found family: "Every person of marriageable age shall have the right to marry a person of the opposite sex and to found a family according to their respective family laws, and no marriage shall be entered into without the free and full consent of the man and woman intending to marry."
- Article 16:
  - (1) Women shall be accorded full and equal dignity of the person with men.
  - (2) Women shall have the right to equal pay for equal work and other related benefits with men.
  - (3) Women shall have the right to participate equally with men in public life.

Between the years 2015–2018, South Sudan undertook several progressive measures as part of legal reforms by signing and ratifying CEDAW and the Convention on the Rights of the Child, and signed but not ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol). Following those commitments, however, there has been little substantive change in the status of South Sudanese Muslim women, who continue to be subjected to various forms of violence and discrimination given the generally weak rule of law, normalisation of various forms of violence against women, and lack of institutionalisation of rights in legal and policy frameworks.

#### Entrenched gender inequality

South Sudanese women and girls experience normalised gender-based violence exacerbated by social stigma, underreporting, weak enforcement mechanisms, inadequate support services for survivors and access to justice pathways, as well as conflict-specific factors such as economic

<sup>4</sup> "The situation of children and women in South Sudan (2018–2020)." Govt of South Sudan and UNICEF, 3 August 2021: <https://reliefweb.int/report/south-sudan/situation-children-and-women-south-sudan-2018-2020>.

<sup>5</sup> "Covid-19: Eastern Equatoria says schoolgirl pregnancies increasing due to lockdown," Radio Tamazuj, 28 July 2020: <https://radiotamazuj.org/en/news/article/covid-19-eastern-equatoria-says-schoolgirl-pregnancies-increasing-due-to-lockdown>

<sup>6</sup> "South Sudan," UN Women Global Gender Equality Constitutional Database: <https://constitutions.unwomen.org/en/countries/africa/south-sudan?provisioncategory=1539597b1d7d422299ccc0de79a822b0>

precarity, political instability, and gendered physical and structural insecurity. High rates of harmful practices such as early and forced marriage take place in a context in which women and girls face threats to their rights and well-being throughout their lives. In short, South Sudanese women struggle to access rights to education, to participate fully in the public sphere, to decide on their own marriages, to own assets such as land and property, etc. The following sums up the structural aspects of discrimination they face:

*Critically, this kind of sexual violence does not happen in a vacuum; it is rooted in everyday structural violence, and connected to the local political economy of bridewealth in the country, which treats women and girls as property, undermining their sexual agency and control over their own bodies. Lack of access to resources in a context marked by sharp economic downturns and severe food insecurity has only exacerbated the vulnerability of women and girls where their inability to meet basic needs undermines their physical security, reinforcing the lack of authority over their own lives.*<sup>7</sup>

Muslim women face an additional element of intersectional vulnerability in that discrimination against them is justified in the name of religion, making it more difficult to challenge. This manifests in being treated as a perpetual legal minor under a male guardianship system. Women report not having the right to consent to their own marriages or negotiate the terms of their marriage contracts—they cannot even join the discussion which is considered an issue for men; despite contributing to family wealth during the marriage, women's contributions in both paid and unpaid care work are not recognised, and they are not able to claim a share of the matrimonial property; they do not have rights over their own children and must seek permission from the husband to travel with them; women are unfairly given less in inheritance, if anything at all.

Without a comprehensive family law in place, Muslim women are left without recognition or rights on issues related to marriage, divorce, and family matters. In order to ensure effective, uniform, and equal access to justice, it is essential to codify provisions that ensure a woman's equality within marriage and guarantees her equal right to divorce, right to custody and guardianship of her children, and protection from spousal abuse. In part due to the arbitrary nature of customary law and protections, Muslim women activists and CSOs consider a codified family law as a viable remedy to mitigate these discriminations and provide them with full rights and a clear pathway to claim them. South Sudanese communities are deeply rooted and aligned to their cultures and customary laws, and do not consider the human rights perspective as an important aspect of life. This, and patriarchal traditions create an environment where women perceive themselves as property that belong to their husbands, leading to voluntarily staying in unhappy or abusive marriages. e.g. a recent incidence of violence by the Minister of Humanitarian Affairs towards his wife, and the government did not react even when CSOs demonstrated and showed dissatisfaction.

## Intersection with Sustainable Development Goals

South Sudan has an SDG Index Rank of 164 of the 165 countries in the Sustainable Development Report, with an overall score of 38.9% and showing significant challenges

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<sup>7</sup> Alicia Luedke. "The commodification of women and girls in South Sudan." LSE Conflict Research Programme Blog, 4 April 2019. <https://blogs.lse.ac.uk/africaatlse/2019/04/04/the-commodification-of-women-and-girls-in-south-sudan/>

remaining to its progress towards achieving SDG 5 on Gender equality<sup>8</sup>. South Sudan cannot achieve SDG Target 5 without reforming the legal framework and the laws outlined in the section following to prevent discrimination against South Sudanese women and girls, including those from Muslim communities.

World Bank data shows that many countries ranked at the bottom of gender-equality indices for legal equality have family laws that explicitly discriminate against women and girls. Furthermore, a comprehensive cross-country study drew the conclusion that “egalitarian reform of family law may be the most crucial precondition for empowering women economically.”<sup>9</sup> SDG Indicator 5.1.1 specifically identifies family law as one of the four legal frameworks that must be reformed to accelerate progress to achieve gender equality and to meet Target 5.1. Currently there is no family law in South Sudan, leaving family law matters including marriage, divorce, custody of children, and inheritance to be regulated by customary laws. Given the close linkage between progress on SDG targets and meeting state obligations under CEDAW, the State party must address how it plans to ensure adequate legal frameworks are in place to promote, enforce, and monitor equality and non-discrimination on the basis of sex.

## IV. KEY ISSUES, REFORMS, AND RECOMMENDATIONS

### 1. DELAYED CODIFICATION OF FAMILY LAW

Article 15

South Sudan recognises 64 tribes, each with their own set of customs used as a source of identity and to govern matters of marriage and family, which leaves South Sudanese women—including Muslim women—without clear and guaranteed access to rights in these areas. The CEDAW Committee included in the List of Issues the State party's acknowledgement that “the usage of customary law in adjudicating civil as well as criminal matters is quite high” and that “this brings about conflict of laws in legal matters, often to the detriment of women.”<sup>10</sup>

Despite provisions in the transitional constitution, however, families in South Sudan are regulated by extended family members of different customs that are not in conformity with the current legislations in place such as the Transitional Constitution of 2011, the Penal Code 2009, and the Child Act 2008.

Despite the constitutional guarantees above for all South Sudanese citizens, the protections do not necessarily extend to Muslim women, who have suffered the impact of the delayed codification of the family law for both themselves and their children in the following ways:

- Under Shafi'i fiqh, Muslim women have no right to consent to or decide on their own marriages without the approval of a male guardian or family member. According to women activists, a father, brother, or uncle has the right to conduct a marriage on behalf of a virgin sister, and daughter of any age, even if it's against her will. If the bride was previously married, she is free to consent to her marriage.

<sup>8</sup> Sachs et al. (2021): The Decade of Action for the Sustainable Development Goals. Sustainable Development Report 2021. Cambridge: Cambridge University Press. Accessed via dashboard: <https://dashboards.sdgindex.org/profiles/south-sudan>

<sup>9</sup> Mala Htun, Francesca R Jensenius, Jami Nelson-Nuñez, Gender-Discriminatory Laws and Women's Economic Agency, Social Politics: International Studies in Gender, State & Society, Volume 26, Issue 2, Summer 2019, Pages 193–222, <https://doi.org/10.1093/sp/jxy042>

<sup>10</sup> Citing para. 189, in para. 7 of CEDAW/C/SSD/Q/1.

- Left them unable to benefit from their livelihoods, as every decision depends on the husband.
- Husbands have left all the family responsibilities to women, including in cases when they marry other women and escape saying they cannot afford to take care of their families. The wife is left to struggle with supporting herself and their children.
- Forced/early marriages or coercion of a prospective girl who has not reached marriageable age does occur in Muslim communities in South Sudan.
- Muslim women have no power to divorce their husband even when they are no longer able to continue in the marriage. Women have reported taking their cases to customary court (B Court) and the husbands refused to present themselves; after his absence three times the cases are closed without any action, and the woman is left still married to the violent husband because she has no choice or judicial redress.
- Muslim women are not allowed to pass on nationality to their children or travel with children without the consent of their fathers, yet men are not required to prove the guardianship of children when they travel with them.

### **Draft family law**

The Ministry of Gender, Child and Social Welfare worked on country-wide consultations with civil society to inform the development of a family law in 2016–2020, but a draft family law has yet to be introduced in Parliament. IDRA and other civil society groups have been involved in numerous policy reviews, consulting with women in the community to bring back their views to the review process. The draft bill as it stands reportedly contains provisions on marriage, dowry/bride price, divorce, child custody, division of matrimonial assets, arranged marriages of minors, out-of-wedlock pregnancies, inheritance of women and wives, polygamy, and more. From community consultations, there are three camps of opinion: 1) Those who support the law and understand the implications of codification; 2) Those who support the law without understanding the implications; and 3) Those who do not support the law because they see it as contradicting with culture. The bill has been with the Ministry of Justice for quite some time, illustrating a lack of political will that has perpetuated uncertainty and prevented Muslim women and girls from being able to understand and access guaranteed rights and responsibilities in marriage and separation, as listed above, and on important matters that affect their family lives and opportunities in the public sphere.

### **WE RECOMMEND THE CEDAW COMMITTEE URGES THE STATE TO:**

- Table the draft bill on family law for consideration and, without further delay, enact the codified family law to ensure women know of and can access their rights.
- Conduct national awareness-raising campaigns amongst Muslim communities, especially in rural and hard-to-reach areas, on the changes that increase the rights of and protections for women.
- Engage with traditional and religious leaders in the family law reform consultations to ensure the provisions are incorporated into their responses to evolving social, political, and economic contexts.

- Ensure Muslim women have equal rights for all aspects of their lives, including to enter into marriages, based on their own decisions and without having to seek approval from male guardians.

## 2. CHILD, EARLY, AND FORCED MARRIAGE

Articles 5 & 16

- The Child Act (Act No. 10 of 2008):
  - Article 23(1): Every child has the right to be protected from early marriage, forced circumcision,....
  - Article 26(1): Every female child has a right to be protected from sexual abuse and exploitation and gender-based violence, including rape, incest, early and forced marriage, female circumcision and female genital mutilation.
- In 2018, the government developed a Strategic National Action Plan to end child marriage in South Sudan 2017-2030, and has since been working with stakeholders on its implementation. However, the practice has continued including in Muslim communities, in part because religious leaders do not condemn early marriage and the practice is still seen as a culturally legitimate way of protecting girls from premarital sex, early pregnancy, and family dishonour.
- South Sudan still has not ratified the African Charter on the Rights and Welfare of the Child, which states in Article 21(2) that “child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.” In addition to CEDAW, this would be an additional tool by which the State could show its commitment towards ending child marriage if it were indeed serious about it.

Child, early, and forced marriage (CEFM) is common in South Sudan in large part due to families being able to fetch a bride price on young girls, prevalent especially in rural areas. The Transitional Constitution sets the age of a child as under 18 years of age. Despite the legal protections of the Child Act, it does not set a minimum age of marriage, which leaves it open to interpretation in the hands of traditional, religious, and community leaders as well as families.

CEFM has many devastating consequences: to children’s health, safety, education, employment, bodily autonomy, and overall well-being; resulting in violence and abuse, loss of rights, and lack of power in relationships; and leading to negative impacts in the family, society and economy.<sup>11</sup> Yet for many this is weighed against patriarchal customary and religious traditions as well as the economic opportunities of procuring money or cattle as dower or a bride price for girls.

Ending CEFM is a crucial step towards protecting South Sudanese women and girls’ right to a life of dignity. There is a strong case for banning child marriage to end the practice: A study that

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<sup>11</sup> "Policy Brief 2: Ending Child Marriage in Muslim Family Laws." Musawah, 2020. <https://www.musawah.org/resources/policy-brief-2-ending-child-marriage-in-muslim-family-laws/>

looked at 12 countries in Sub-Saharan Africa found that the prevalence of child marriage was 40% lower in countries with consistent laws against child marriage—including South Sudan's neighbours Uganda and Ethiopia—than in countries without, and the prevalence of teenage childbearing was 25% lower in countries with consistent minimum marriage age laws than in countries without.<sup>12</sup> There also are arguments from within the Islamic framework to push back against CEFM: Many recent studies have proven that Aisha was at least 19 years of age when she married the Prophet (pbuh); there is also substantial support from within Islamic jurisprudence to end child marriage, including attaining a level of maturity required to give consent to marriage and manage one's affairs, and the best interest (*maslahah*) of the child and prevention of individual harm—of which there is overwhelming evidence in cases of child marriage.<sup>13</sup> Egypt's Sunni authority Al-Azhar wrote with UNICEF:<sup>14</sup>

*The international consensus that the procedural definition of childhood should apply to humans up to the age of 18 years... is perfectly compatible with what Islam enjoins. Islam has nothing to do with the custom of child marriage; reference to early marriages can be found nowhere in the Qur'an. Instead of an age limit, we find an unchangeable standard, which is the attainment of maturity. The fact remains that where custom encourages early marriage, the practice stems from nothing but the norms of the people. Sharia has nothing to do with it.*

## RECOMMENDATIONS:

- Enact a minimum age of marriage of 18 years for both girls and boys, without exceptions.
- Fully implement the Strategic National Action Plan to End Child Marriage and invest in prioritising mechanisms to address additional vulnerabilities that drive CEFM such as conflict, poverty, and displacement.
- Review the legal framework—working with customary judges and local authorities—to enact a harmonised law on CEFM that is effectively implemented and enforced.
- Conduct national campaigns to raise awareness about the criminalisation of CEFM to educate those who would be involved in, conduct, or continue to promote child and forced marriages.
- Ratify the African Charter on the Rights and Welfare of the Child to enhance the State's commitment towards ending CEFM.

<sup>12</sup> Maswikwa, Belinda, et al. "Minimum Marriage Age Laws and the Prevalence Of Child Marriage and Adolescent Birth: Evidence from Sub-Saharan Africa." *International Perspectives on Sexual and Reproductive Health*, vol. 41, no. 2, 2015, pp. 58–68. JSTOR, www.jstor.org/stable/10.1363/4105815.

<sup>13</sup> Policy Brief 2: Ending Child Marriage in Muslim Family Laws.

<sup>14</sup> "Children in Islam: Their Care, Upbringing and Protection." Al-Azhar University in cooperation with the United Nations Children's Fund (UNICEF), Cairo: 2005.

[https://www.academia.edu/38492161/Children\\_in\\_Islam\\_Their\\_Care\\_Upbringing\\_and\\_Protection](https://www.academia.edu/38492161/Children_in_Islam_Their_Care_Upbringing_and_Protection).

### 3. VIOLENCE AGAINST WOMEN AND GIRLS

### Article 16

- While Section 247(1) of the 2008 Penal Code criminalises rape, Section 247(3) explicitly states that sexual intercourse between a man and his wife will not amount to rape even with lack of consent or if one spouse is below 18 years old.

Women and girls living in South Sudan have been experiencing sexual violence, exploitation, and harassment throughout the conflict. In recent years, South Sudan has gained an unfavorable global reputation for the frequent violations and abuses committed against women and girls, including rape as a weapon of war. However, it is not only conflict-related sexual violence that has negatively impacted the well-being of South Sudanese women and girls; multiple forms of violence exist and this violence has intensified in recent years due to a number of conflict and socio-economic factors.<sup>15</sup> Activists and women's rights groups have long raised concerns that customary laws and local interpretations hinder the efficacy of national legal protections, but the State must continue to strengthen those laws, implementation, and enforcement mechanisms. There is a widespread need for greater support for survivors of violence, many of whom know their perpetrators, who enjoy impunity from the law. Service provision is taken up by civil society organisations in the government's absence.

There are cultural norms undergirding lack of legal protections. The Gender, Institutions and Development Database (GID-DB) 2019 cites that in South Sudan, 78.5 percent of women aged 15–49 years consider a husband to be justified in hitting or beating his wife for at least one of the specified reasons: if his wife burns the food, argues with him, goes out without telling him, neglects the children or refuses sexual relations. For many conservative Muslim, and indeed traditional, leaders, marital sex is considered a husband's right and a wife's duty, thus precluding even the possibility of marital rape as a concept.<sup>16</sup> However, this goes against both broad principles and specific verses in the Qur'an, including 4:34 which is used to justify wife-beating, but in fact elsewhere denounces violence. The reliance on these selective readings of certain passages ignore Qur'anic verses that call on husbands to treat their wives with kindness (Qur'an 4:19), and affection and mercy (Qur'an 30:21), as well as Prophetic *hadith* that denounce domestic violence, including marital rape: "The most perfect of the believers is the best of you in character; and the best of you are those among you who are best to their wives," and "Could any of you beat your wife as he would a slave, and then lie with her in the evening?".<sup>17</sup> So-called religious arguments cannot be used to justify violence against women in the family, including marital rape, instances of which are clearly admonished in our primary sources as being harmful to women and inhumane, and thus un-Islamic. Clear and comprehensive legal provisions would serve as a strong negation of the patriarchal social norms that allow for the perpetuation of marital rape under the guise of religion.

<sup>15</sup> "Caught in the Middle: Gender Inequality and Rampant SGBV in Wau, South Sudan." SIHA Network, 2020: [https://issuu.com/halayassin/docs/caught\\_in\\_the\\_middle\\_-\\_final\\_designed\\_copy/16](https://issuu.com/halayassin/docs/caught_in_the_middle_-_final_designed_copy/16).

<sup>16</sup> Ali, Kecia. 2006. "'The Best of You Will Not Strike': Al-Shafi'i on Qur'an, Sunnah, and Wife Beating'. Comparative Islamic Studies 2(2), pp. 143–155.

<sup>17</sup> "Domestic Violence" from "Compilation of Resources Related to Women's Rights in Muslim Family Laws." Musawah, 2016, pp.28-31. <https://www.musawah.org/wp-content/uploads/2018/11/CompilationofResources-2016.pdf>

## **RECOMMENDATIONS:**

- Conduct a review of the legal framework on violence against women, including on domestic and sexual violence, marital rape, and sexual harassment, with the aim of harmonising national laws and policies to CEDAW obligations of protection of women.
- Impose punitive measures on spouses who abuse their wives.
- Amend Section 247(3) of the 2008 Penal Code to criminalise marital rape in all circumstances.
- Establish concrete measures for policing the implementation of ending VAWG in coordination with civil society, such as allocating national financing towards programmes that tackle VAWG.
- Conduct specialised trainings for law enforcement to effectively deal with cases of violence against women, marital rape, and sexual harassment from a survivor-centred and trauma-informed approach, taking into consideration the impacts of living with conflict.

## **4. WOMEN'S ECONOMIC RIGHTS**

**Articles 5, 13, 15, & 16**

### **Bridewealth injustice**

Bride price or bridewealth in South Sudan is when families trade a woman or a girl in exchange for some form of wealth like money, cattle, or goats, particularly among pastoralist communities including the Mundari, Dinka, Nuer and Teposa tribes. In fact, cattle being considered “de facto currency” in many parts of South Sudan has been linked to the practice of polygamy in order to procreate more daughters in order to be able to trade them for more cattle.<sup>18</sup> Suffice to say that women do not generally reap the direct benefits of that exchange. They are more likely to be married to much-older grooms, denied the right to decide or have a say on the number of children they must produce, finding a job depends on permission from husbands, and husbands decide on how they are allowed to spend their own money. Entering the marriage in this way sets up their lesser status in the marriage, leading to less bargaining power and decision-making ability that lasts not just throughout their lifetimes, but also impacts the lives of their children and traps them in generational poverty, which is itself a factor in driving the practice of bridewealth. In addition to the increased vulnerability to violence and the injustice of their own dreams unrealised, there are economic opportunity costs to women and girls being deprived of education, pursuing

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<sup>18</sup> Rodenbeck, Laila. "Mad Cow: How bride-price inflation is stoking ethnic violence in South Sudan." Brown Political Review, 16 April 2021. <https://brownpoliticalreview.org/2021/04/mad-cow/>

livelihood, and used as broodmares, both in the family, within society and to the economy.<sup>19</sup> This practice is harmful to men too, who are forced to pay exorbitant bride prices, leading to criminal behaviour to steal cattle, violent competition with other men or tribes, and transactional marriages rather than harmonious partnerships.<sup>20</sup>

## Inheritance and right to housing, land and property

- Transition Constitution, 2011 Article 16(5): Women shall have right to own property and share in the estates of their deceased husbands together with any surviving legal heir of the deceased.
- Local Government Act (2009) Section 110 (5): Women shall have the right to own property and share in the estate of their deceased husbands together with any surviving legal heirs of the deceased.

A survey conducted in 2019 found that 22% of male respondents thought women should not be able to own land independently of their husbands or male relatives. But while 56% of female respondents (compared to 34% of male respondents) said they would bequeath their landholding to their daughters, that is in comparison to 94% of female respondents saying they would bequeath their landholding to their sons—illustrating the intergenerational mindset that becomes a barrier to daughters inheriting land.<sup>21</sup> The assumption is that women will marry into her husband's clan and thus would not need land of her own, but while the laws of the land (including the Transitional Constitution and the Land Act) explicitly recognise women's rights to own land, in practice it is mostly conditional, and they are unable to access that right due to patriarchal norms, customary land tenure laws, as well as inequitable land rights in divorce and widow-inheritance processes that deprive them of land to own and pass on to their own children.<sup>22</sup> This is a clear gap between law and practice resulting in discrimination against women that limits her lifelong opportunities; the State must take steps to remedy this.

### RECOMMENDATIONS:

- Enact measures to regulate in the short term and ultimately end the practice of bride price, starting with awareness-raising campaigns that engage with traditional leaders to clarify the opportunity cost of the practice in lost education, earnings, and opportunities for women and girls, as well as their communities.
- Ensure judicial access to and effective remedies for women who have been

<sup>19</sup> Hanna Hassan. "The Real Price of Marriage in South Sudan." IPS News, 14 June 2021. <http://www.ipsnews.net/2021/06/real-price-marriage-south-sudan/>

<sup>20</sup> Philip Thon Aleu, Parach Mach. "Risking one's life to be able to marry." Development and Cooperation, 26 June 2016. <https://www.dandc.eu/en/article/bride-price-tradition-destructive-strong-strife-torn-south-sudan>.

<sup>21</sup> David K. Deng. "Housing, Land and Property Disputes in South Sudan: Findings from a survey Nimule, Torit, Wau and Yei." South Sudan Law Society, March 2019.

[https://docs.southsudanngoforum.org/sites/default/files/2020-11/SSLS\\_HLP-report\\_final-003.pdf](https://docs.southsudanngoforum.org/sites/default/files/2020-11/SSLS_HLP-report_final-003.pdf).

<sup>22</sup> Ibid; "South Sudan Humanitarian Needs Overview 2021 (January 2021)." UN Office for the Coordination of Humanitarian Affairs, 26 Jan 2021. <https://reliefweb.int/report/south-sudan/south-sudan-humanitarian-needs-overview-2021-january-2021>.

dispossessed of housing, land, and property in divorce, inheritance and widowhood disputes.

- Institute legal aid and support programmes for female-headed households and vulnerable persons such as widows and divorcees to access their rights to housing, land, and property.
- Conduct gender-sensitive capacity-building and awareness-raising initiatives for local land registry officials, traditional authorities, judges, and community leaders to promote women's rights to own housing, land, and property.