

## INTRODUCTION

The Community Education material on the bill of rights was developed as a result of needs identified by local leaders during series of capacity building training in Warrap State, Upper Nile State and Western Equatorial State.

A process of consultation with State level Ministry of Gender, Child and Social Development revealed that simplified resources on various South Sudan legal frame work would greatly enhance community awareness on their rights and obligation. This booklet was therefore developed through a consultative process involving State level Ministry of Gender and Social Welfare, Ministry of General Education at National level and World Vision South Sudan.

The book is structured into six chapters highlighting basic aspects of the Child Act, Rights of Women, Duties and responsibility, Peace and Reconciliation Act Land Act, & Traditional authority. It also presents a basic referral path for victims of violence seeking legal redress. The above resource is meant to facilitate grassroots community awareness within the Republic of South Sudan.

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Thank you

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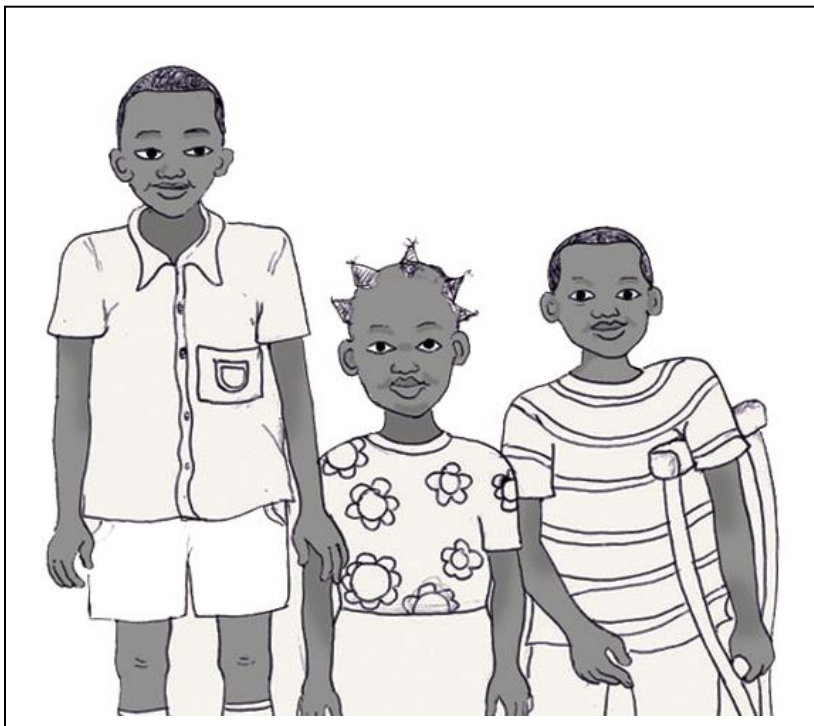
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## CHAPTER ONE: RIGHTS OF THE CHILD

### Who is a child?

- A child is a human being under the age of eighteen years
- A child with disability means a child who is affected with disability in the body or the mind.



**Child rights:** Child rights are the proper treatment a child must receive from a parent guardian or member of a community where a child lives. This involves proper ways of upbringing, care and welfare of all children under the care of the above.

### Examples of child rights.

**No Discrimination.** It's the responsibility of everyone in the community to ensure that all children are cared for and treated equally.

**Right to birth registration:** Every child has a right to birth registration by government agency. It is the responsibility of Parents, Guardians and all concerned members of the community to ensure that all children who are born in their area are registered

**Right to Life, Survival and Development:** Every child has a natural right to life. It is the responsibility of the family and government to make sure that a child's life and development is cared for.

**Right to Education and wellbeing:** Every child has a right to education; primary level education is compulsory.

Parents should take girls, boys, disable children or children infected by HIV to school.

**Right to Health:** Every child has a right to free basic healthcare. This is to be provided by the parents and government. Every child is entitled to free immunization.

**Right to social activity:** Every child has a right to play or participate in sports, cultural, artistic activity or any other leisure activity that will promote the development of the body and mind. It's the responsibility of Parents/Guardians to make sure children participate in games or leisure activities freely.

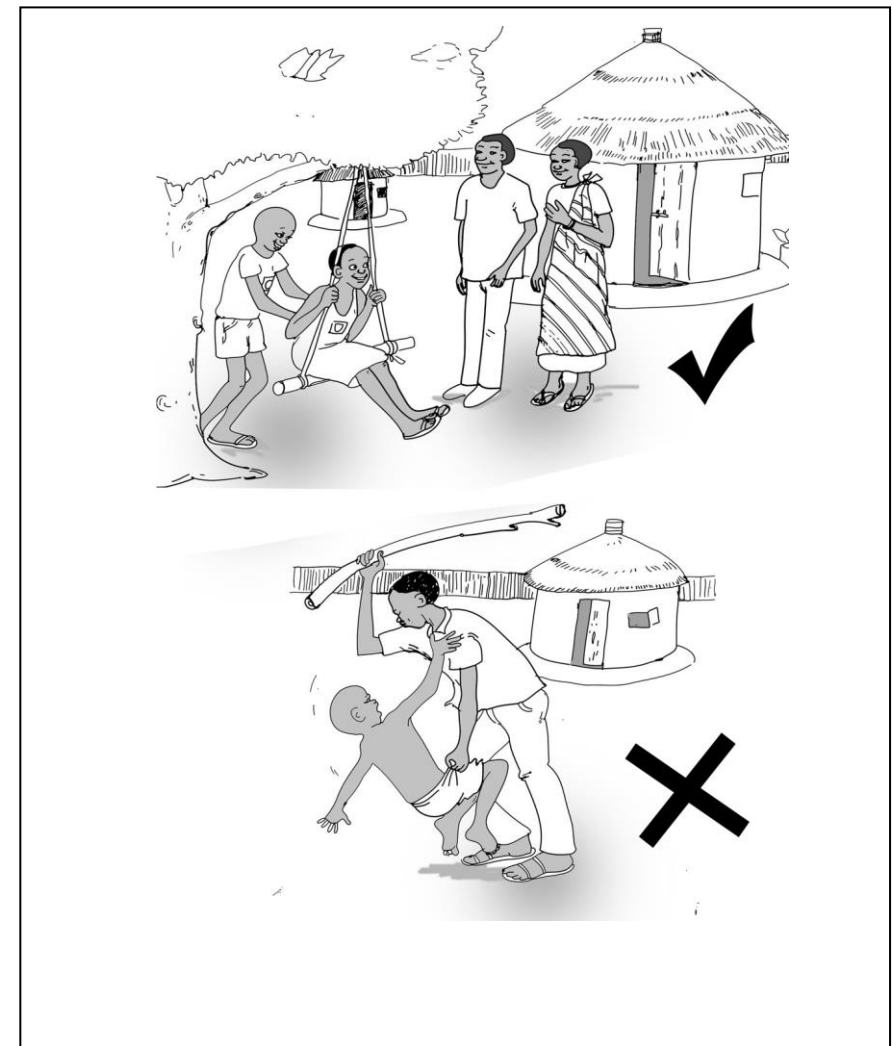
**Right of Opinion:** Every child a right to be heard. Parents/Guardians must provide the environment where a child can freely express themselves. A child is entitled to seek and receive information.

**Right to religious instruction:** Every child has a right to religious instruction but must be under the guidance of the parent or guardian

**Right to Liberty and Security of the person:** Every child has the right to freedom and security. No child should be subjected to any kind of arrest, detention or deprivation of freedom and liberty unless for specific procedures stated in the Act or any other law that applies to the situation.

**Right to inheritance:** Every child has a right to inherit property of a parent whether or not born in wedlock

**Right to protection from torture and degrading treatment:** Every child has a right to be protected from el, torture or degrading treatment. It is the responsibility of parents and all members of the community to ensure that children are protected from abuse.



**Right to protection from marriage and other harmful cultural and social practices:** Every child has a right to be protected from early Marriage and other harmful cultural and social practices like, early marriage, forced circumcision, tooth removal, tattooing, scarification. Such practices are harmful to the body and mind of a child. They may affect normal growth of a child or may lead to death.

**Right to protection from child labour:** No child must be subjected to hard labour or any kind of exploitation. Hard labour includes any kind of hard work which is too much for the child to bear as compared with the age.

### **Right of a Child in Special Circumstances**

**Right of a female child:** Every female child has a right to be protected from sexual abuse and exploitation, Gender based violence like rape, incest, early marriage, female circumcision.

A female child has a right to education, inheritance and equal participation in any social political or economic activity. No child shall be segregated based on sex.

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**Right of children with disabilities:** A disable child has the right to free and special care, medical treatment and rehabilitation, right to family, education and training to attain the desired skills so as to live a good life, sports and education, and all the other rights that other normal children are entitled to.

**Right of refugee and displaced children:** A refugee child is a child displaced by war or any armed conflict. A refugee child is entitled to protection (from his or her rights). It is the responsibility of the government to help the child trace his/her family.

**A Child in armed conflict:** The minimum age for recruitment in the armed forces is 18 years. Recruiting a child below 18 years is a criminal offence under the law of South Sudan

**Duty to report infringements on a child's rights:** *Any member of the community has the responsibility to report any case of child abuse to a Social worker, Police or local government official.*

## CHAPTER TWO:

### DUTIES AND RESPONSIBILITIES

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**Duties and responsibility of a child:** Every child should respect parents and adults within the community; work together for the benefit of the family and participate in community work.



**Duties and responsibility of Parents:** It is the responsibility of every parent to register a child at birth, protect a child from neglect, discrimination, abuse and exploitation, send a child to school whether male or female, disable or able, offer religious, social, cultural and moral counseling. Parents must also provide all the basic needs of a child like food, water, clothing and proper shelter.

*Note: Failure by an adult (omission/committing offence against a child constitute an offence that can lead to imprisonment under the Laws of South Sudan*

**Duty of Local Government:** It's the responsibility of all government official at every level to mediate on behalf of a child in case his or her rights is abused.

#### **A child can be put under special care if:**

- the guardian is violent, abused, injured and neglected
- the child is exposed to any form of sexual abuse
- disabled
- pregnant and Suicidal
- the parent or guardian is unable to take care of the child for the reason of sickness, old age, disability
- HIV Positive and cannot access medical care
- trafficked, abducted or enslaved
- stopped from going to school by guardian or parent

- forced to marry

**Security of care and protection of a child:** It is the responsibility of all parents, local leaders, opinion leaders, government officials to ensure that what is in the best interest of a child is protected.

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**Judicial orders:** The following category or persons can apply for protection of a child from the courts;

- a parent, Guardian or custodian
- relative of the child
- social worker
- any other authorized person

### **Child in Conflict with the Law**

**Juvenile Justice System:** Children who have broken the law are not taken to adult prisons but to a juvenile remand home/ a place where a child receives social rehabilitation, counseling, prepared to be reintegrated back to community, reconciled with those offended by the child.

**Minimum age of Criminal responsibility:** No child below the age of 12 shall be prosecuted in the courts of law. This is because the courts assume that such a child is still young and is unable to differentiate between right and wrong. But if a child is found to be mentally grown and understands right and wrong, such a child can be prosecuted in the courts.

**Arrest of a child:** A child can only be arrested if he/she is suspected to have committed a serious crime. A child must be detained in a safe place as required by the law. The social worker with the help of the police must inform the parent or guardian before arresting a child.

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**Restorative Justice:** A child who commits a crime is reconciled to the community by all people coming together to discuss the cause and effect of the harm caused by the child, this includes parents/guardians of both the affected child and the one who caused harm. This process is called Restorative Justice.

**Referral to Restorative justice process can only be done by;**

- a parent/guardian
- a chief
- a social worker
- the police
- public prosecution attorney
- the court

## CHAPTER THREE:

### RIGHTS OF WOMEN

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The Interim Constitution of South Sudan recognizes that all persons including women must be given full and equal dignity of person. Thus it is criminal for anybody to inflict violence against women.

**Gender based Violence:** This is violence that is inflicted on someone based on sex, e.g.

**Sexual Violence:** Includes violence such as rape or any form of sexual exploitation, forced prostitution or forced marriage.

Harmful traditional practices such as forced marriage, female genital mutilation are also a form of abuse of the rights of women.

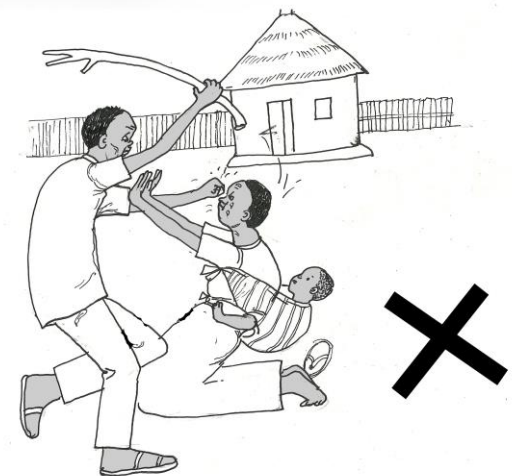
Women and Girls have the full rights to:

**Education:** Thus, it is the responsibility of parents/community to ensure that both boys and girls are sent to school.

**Access to maternal health care:** All women have the right to maternal health care in order to reduce the risk of

child birth deaths. All women are encouraged to seek maternal health care from a nearby hospital or dispensary.

**Right to participate in social, political and economic activities:** Women have the right to participate in social, political and economic activities. This is to enable women to contribute to development of their areas and also be a part of decision making in matters that affect their communities



**Right to inherit property:** Women have the right to inherit property of their husbands and parents, e.g. land, household property or benefits. Taking away property of a widow forcefully is a crime and can be prosecuted in the courts of law.

**Right to freedom of expression and to be heard:** A woman has a right to speak her mind freely. *Discrimination and Violence against women is criminal offence and can be prosecuted in the courts of Law.*



**Group activity:** *Discuss the customary roles of Women and men in your community.*

## CHAPTER FOUR:

### THE LAND ACT

**Land** is owned by the people of South Sudan, and the Government (GOSS) is responsible for regulating the use of land. People are therefore required to register their land with government after which land title is given.

#### Categories of Land Ownership

**1-Public land-** This includes land used by government for purposes of development and social service provision, e.g. offices, roads, schools, health centers, rivers and lakes. It is land acquired for public use or investment.

**2-Community Land:** This land is owned by the community and includes; land registered in the name of a community, land transferred to a specific community, and land held, managed, or used by a community.

**3-Private land:** Includes registered *freehold land*, *leasehold land*, and any other land declared by law for private use.

**Land Tenure System:** The Land tenure system describes how land can be used in South Sudan.

**1-Customary Land:** This is land used for residences, agriculture, and forestry and grazing. This land is owned by the community and can be inherited. Allocation of



customary land is done by traditional authorities in consultation with Local Government authority.

**2-Freehold:** This is private land owned by group of people or persons and they have the right to transfer or dispose the land.

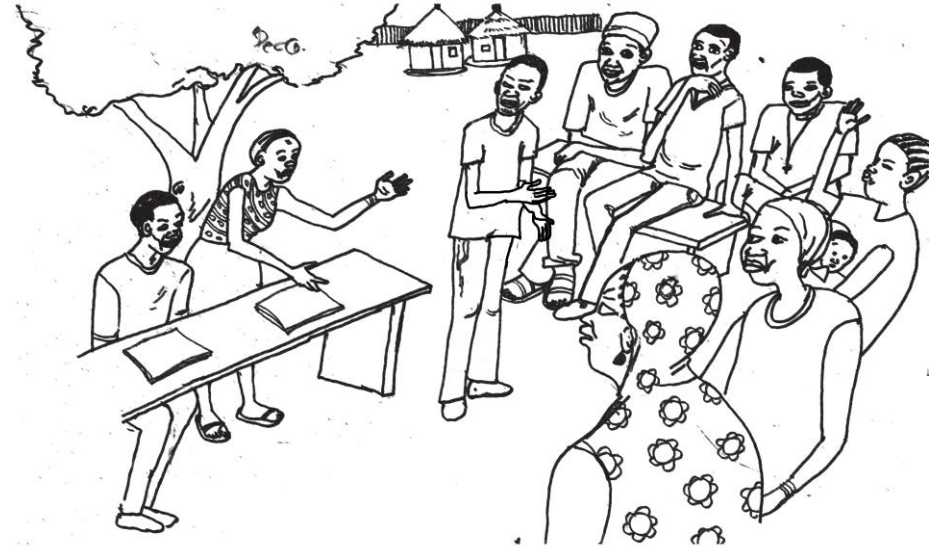
**3-Lease hold:** This is land which is both customary and private and can be transferred for a minimum of 99 years. Any transfer above 99 years must be approved by two local government bodies.

**4-State Land:** This is un-registered land.

**Land Management:** The following Institutions are responsible for managing the land.

**1. Traditional Authority:** These are traditional leaders like clan leaders and chiefs and are responsible for the management of the customary land. Community members have the right to access land use for residence and farming while traditional authority is responsible for allocating land to the community.

The local leaders are also responsible to solve land disputes in consultation with the government.



**2. Government Institutions:** The powers of Registration and supervision of Land use is vested in the Local Government institutions as described below;

**a) The County Land Authority** is responsible for the management and allocation of public land, resettlement of people in the county; registration and transfer of land; support for "cadaster" operation and surveying; liaising with traditional authorities' local communities on land rights issues; and liaising with the South Sudan Land Commission.

**b) The Payam Land Council:** Is responsible for allocating public land; land planning and demarcation, supporting land registration and transfer; protecting the customary rights of communities (including communal grazing land, forests, and water resources); assisting the traditional authorities with land management, land-dispute resolution and environmental protection and maintaining sanitation and hygiene.

**c) The registration of land** by communities (group rights) can be done in the name of a traditional Leader, a clan or family, or a community association as trustee for the community.

Individual community members may be entitled to register individual rights to certain portions of community land if it is registered.

*Note: unlawful distribution, allocation or use of violence regarding land is a crime and can be prosecuted in Courts of law.*

*South Sudan Land Commission: Is a government institution mandated by Law to oversee the administration of Land issues in South Sudan.*

## CHAPTER FIVE:

### THE SOUTH SUDAN PEACE AND RECONCILIATION ACT

Peace is the way people coexist and tolerate one another without act of violence, segregation or intimidation.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Everyone is entitled to all the rights and freedoms, without discrimination of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Culture of violence is a major single obstacle to peace among members of the society; It is important that all persons should embrace peace through;

- Responding nonviolently to everyday conflict
- Develop positive attitudes towards harmony and peaceful coexistence
- Reconcile in case of conflict
- Seek help from the religious leaders, local leaders, elders or government officials.



Every community has peace capacities that should be strengthened and used to resolve disputes at family and community level e.g. family meeting, clan meetings and the use of elders.

*Note: Violence is a criminal offence that can be prosecuted in the Courts of Law.*

All South Sudanese should strive to promote a culture of peaceful coexistence and tolerance.

Local leaders, chiefs, elders, women and youths should participate in the process of peace making at the grassroots

Local leaders and the community should promote the existing methods of peace building; traditional conflict resolution mechanisms and modern conflict transformation mechanisms.

Encourage and promote the participation of youth and women in peace building through sports and cultural performances.

## CHAPTER 6 Traditional Authority

Traditional Authority is part of the local government structure, e.g at Boma, Payam, county and State level.

The traditional leaders represent the community in the Boma, Payam and County Legislative Council; thus the Boma is the main area of traditional authority where traditional leaders perform their administrative and customary functions.

Customary Law Council- Is the highest customary Law Authority, headed by the County Paramount Chief and other members include chiefs, elders, women and youths.

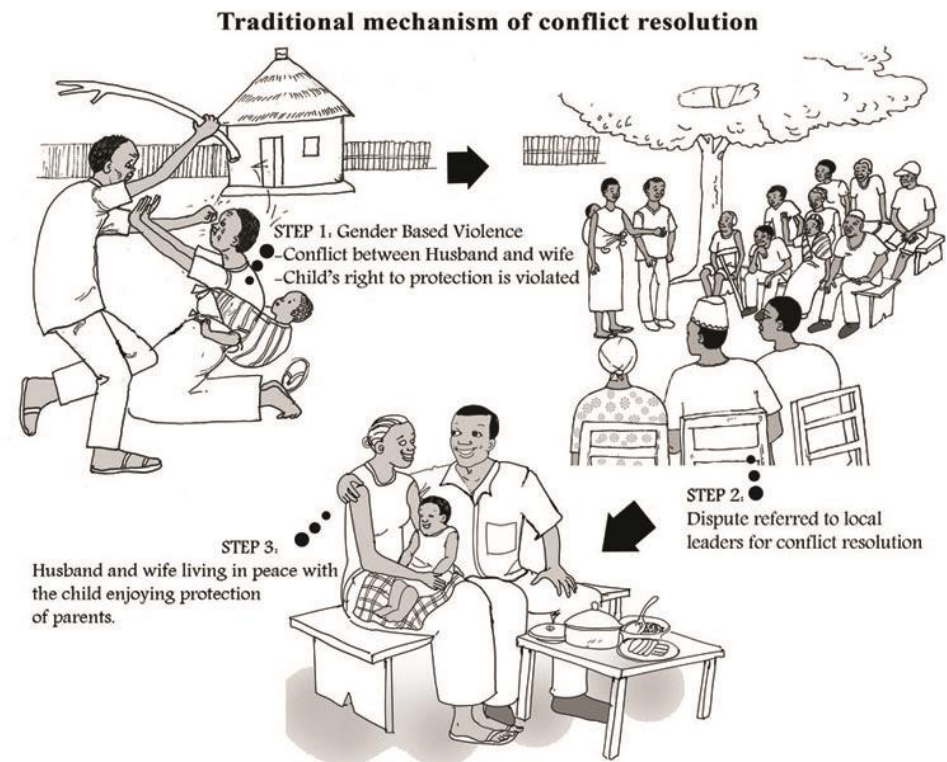
### Functions and Duties of the Customary Law Council

The Customary Law Council protects, promote and preserve the traditions, customs, cultures, values and norms of the communities.

The Customary Law Council regulates, maintain, monitor and ensure proper administration of the customary law. Members of the Customary Law Council are expected to be fair in the performance of their functions and duties.

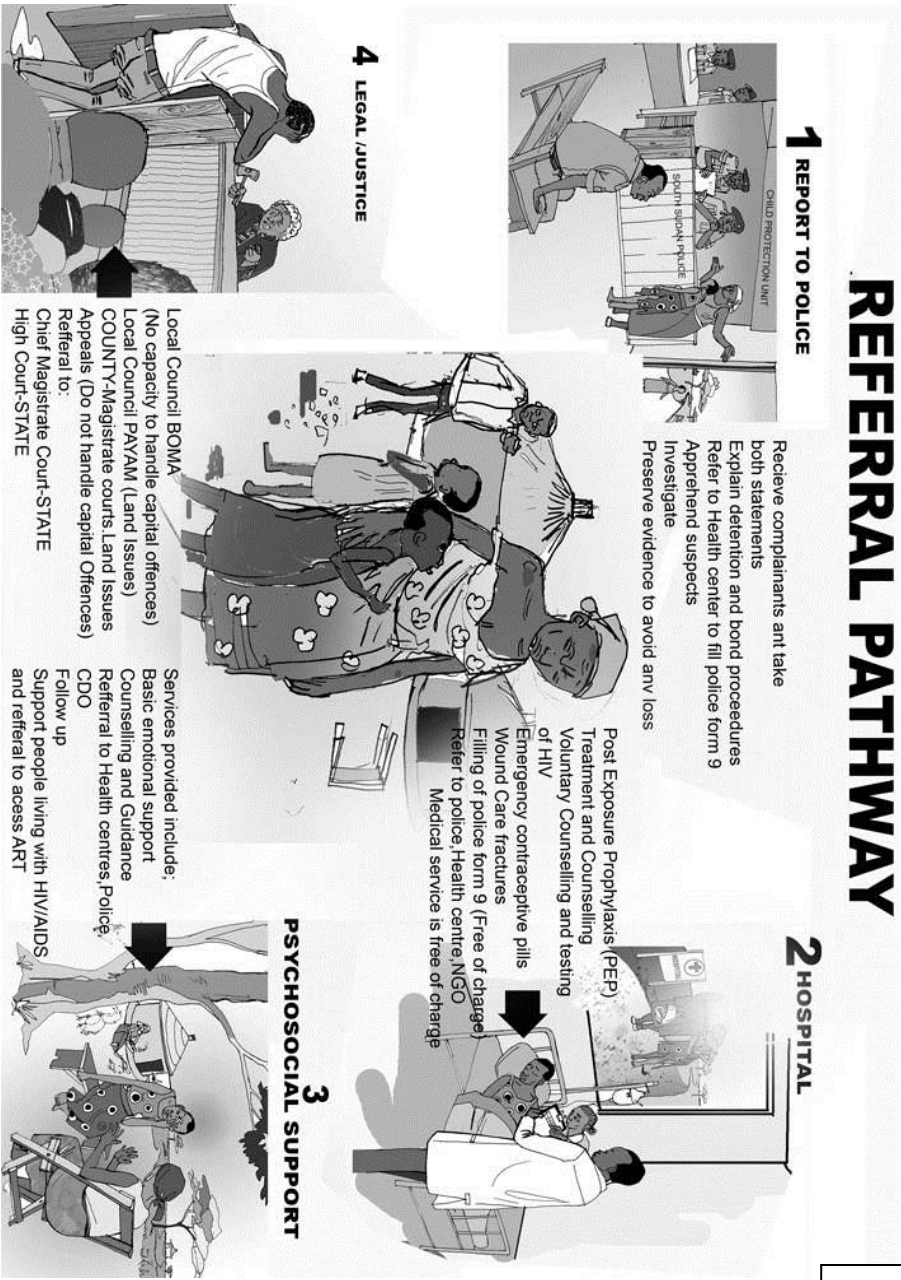
**Authority of Customary Law Council:**  
The authority of the Customary Law Council shall be derived from the customs and traditions of the people of the County in accordance with the provisions of Laws of South Sudan.

25% of the Customary Law Council members are women and the Council shall ensure that the freedoms and rights preserved in the Constitutions are upheld and respected in the Customary Law Courts.



# REFERRAL PATHWAY

SEEK HELP BY STUDYING THE REFERRAL PATHWAY BELOW



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