



FROM A TRANSITIONAL TO A PERMANENT CONSTITUTION

Views of Men and Women in South Sudan on Constitution-Making

Findings from Focus Group Discussions with Men and Women in South Sudan

Conducted in November 2012

By Traci D. Cook, Dr. Leben Nelson Moro and Mr. Onesimo Yabang Lo-Lujo

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National Democratic Institute for International Affairs



THE NATIONAL DEMOCRATIC INSTITUTE

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**FROM A TRANSITIONAL TO A PERMANENT CONSTITUTION
VIEWS OF MEN AND WOMEN IN SOUTH SUDAN ON CONSTITUTION-MAKING**

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CONTENTS

Preface.....	1
Executive Summary.....	3
I. Constitutional Knowledge and Participation.....	3
II. Citizenship, Rights and Freedoms and Marriage.....	3
III. Decentralization and Distribution of Powers and Resources.....	4
IV. Government and Electoral Systems.....	5
V. Presidential Powers and Limits.....	6
VI. Land and Property Rights.....	6
VII. Justice System.....	7
VIII. Language.....	8
IX. Abyei.....	9
Principal Findings.....	9
1. Only about half of participants can provide even a basic definition of the word constitution and less than that are aware there is a constitutional development process underway. Most knowledgeable participants say they learn about constitutional matters through radio, and many complain there has not been enough effort to educate them on this important matter...9	
2. Participants say they must be involved in the constitutional development process because the constitution should be from them and for them and because their agreement to it is essential to its implementation. It is also critical to involve traditional leaders and elected representatives, they say.....11	
3. Participants expect the constitution to address a wide range of issues, but overall they feel it is most important for the constitution to grant key rights and freedoms, guarantee peace and security, and ensure the right to education. Some also believe it should tackle issues of development, tribalism, equality, corruption, elections, marriage, land, and language.....13	
4. Participants want the constitutional development process to be representative and participatory in all its aspects, including the selection of a broad range of constitutional conference delegates and the holding of a referendum on its adoption.....15	
5. Citizenship is conferred primarily by birth, according to participants. In addition, there is near unanimous agreement a person's parentage affects citizenship: those whose fathers are South Sudanese are citizens and those whose fathers are not South Sudanese are not citizens, with a few exceptions.....17	
6. Freedom of movement, freedom of speech and the right to education are the rights participants deem to be most important to be included in the permanent constitution.....19	
7. Most participants embrace freedom of speech, for individuals and the media, as a basic democratic ideal and an important mechanism to keep leaders in check. However, some participants prefer any criticism of leaders be conducted in private.....20	

8. Almost all participants say a South Sudanese citizen should be able to live, work, and legally purchase land anywhere in the country. They view these as fundamental rights that should be guaranteed in the constitution, although some say they must be exercised with respect for local culture and without usurpation of local government employment or political opportunities.....21
9. Participants initially indicate their strong support for freedom and tolerance of religious beliefs. When asked to address the issue of Islam, most participants maintain this stance, but some participants say the constitution should place limits on its practice. Muslim participants feel the constitution needs to specifically guarantee their rights to worship and civic participation.....23
10. Freedom of assembly and association is supported by most participants, but some express concern that unlimited freedom of assembly could cause problems or conflict.....25
11. Marriage is viewed as a constitutional issue by many participants, who say the permanent constitution should address the problem of soaring dowries, guarantee freedom of choice in marriages and set a minimum age for marriage.....26
12. Participant views on decentralization issues are driven by which level of government they believe can either perform more competently or can incorporate their views most effectively. This is why they support maintaining the current five levels of government but is also why they favor greater national power in certain areas, such as police, judicial appointments and the creation of counties and states.....28
13. Revenue collection and distribution powers is a difficult topic for most, but there is a general belief that it is appropriate for the national government to receive the majority of the country's revenues because it is best positioned to plan for their use. At the state level, there is no participant consensus about how national revenues should be divided among the states, but there is little support for granting the states the right to collect taxes at their internal borders.....32
14. Participants say that inclusive government is defined by important government actions in the areas of good governance, development, equality and security.....34
15. Opposition to the constitution referencing tribes is common among participants, who primarily want to ensure the constitution embodies the democratic ideals of equality and fairness to all.....36
16. Most participants believe the constitution should establish a multi-party political system for South Sudan, but some express support for ensuring the overall number of political parties is relatively small.....37
17. The role of opposition parties, both outside of and within government, should be recognized in the constitution, say participants.....39

18. The role of traditional authorities in government at the local level should be recognized in the constitution, according to participants. However, there are mixed views on whether they should be involved at higher levels of government.....	40
19. Direct election of the president of South Sudan is the almost unanimous choice of participants.....	42
20. Participants are able to describe distinct roles in government for the president and the parliament and strongly support the parliament’s independence to create laws for the country.....	43
21. There are mixed views on whether the constitution should endorse or prohibit members of parliament serving as ministers.....	45
22. Participants want states to have representation in national government.....	45
23. A unicameral parliament is the choice of most participants.....	46
24. It is important to maintain a constituency-based electoral system, according to participants. Having a constituency-based system alongside one that allows voting for a political party representative is endorsed by many as well.....	47
25. Participants prefer to directly elect their county commissioners to enhance accountability and the quality of officials.....	48
26. There is widespread support among participants for maintaining the constitutional language that guarantees women twenty-five percent representation in government, although the support is less enthusiastic among some male participants.....	49
27. Most participants initially reject the idea of giving a president the power to remove an elected governor in the permanent constitution because they view that as an issue that can only be legitimately addressed within the state. However, some change their positions when asked about crisis situations.....	51
28. Participants do not support granting a president the right to appoint members to the national legislative body as they feel that body’s sole purpose is to represent the views of citizens.....	52
29. Participants express strong support for presidential term limits.....	53
30. Participants agree it is important for the constitution to address land ownership, but there are mixed views on what it should say about who owns the land in South Sudan.....	53
31. The government’s right to confiscate land for public use is supported, participants say, as long as fair compensation is provided.....	58

32. Women’s ownership of land is endorsed by both male and female participants, although male participants are more likely to place limits on women’s ownership rights. A wife’s inheritance of a deceased husband’s house and the land it is on is supported by both female and male participants, but again some male participants would limit the ownership right to certain circumstances.....	58
33. Natural resources belong to the government, almost all agree, because they are meant for the benefit to all. Some say, however, that the original landowners and communities should receive a share of revenues.....	60
34. The constitution should guarantee a justice system that is independent of influence, is clearly defined and treats all equally, according to participants.....	61
35. Participants generally define the jurisdiction of the traditional (or chiefs’) courts as personal and local issues and the jurisdiction of government courts as serious criminal matters. Traditional courts’ handling of serious cases is a concern to some participants, and most would only give those courts the right to sentence a guilty party to a few months imprisonment.....	62
36. Some participants acknowledge that customary and government laws clash on issues like marriage, but there are mixed opinions on which law should be considered supreme when that occurs. However, most agree that customary law rulings can be appealed to government courts if the ruling clashes with government law.....	64
37. Compensation-based punishments should be a part of the consideration for sentences in government courts, most participants say.....	66
38. Most participants support the death penalty on persons over eighteen who are found guilty of a certain serious crimes because they believe it will serve as a deterrent to others.....	67
39. The English language is deemed by most to be the appropriate official language for South Sudan, but some participants fear they will be left behind if Arabic is not added as well.....	68
40. Abyei should be recognized as South Sudanese in the permanent constitution, most participants say.....	70
Conclusions and Recommendations.....	71
Appendix A: Focus Group Locations and Participant Demographics.....	75
Appendix B: Methodology Notes.....	79
Appendix C: Moderator Guidelines.....	81
Guideline One (used in roughly half of the focus groups).....	81
Guideline Two (used in roughly half of the focus groups).....	85
Guidelines Three (used in focus groups comprised of Muslim participants only).....	90
Appendix D: About the Authors.....	96



This map is illustrative only and its inclusion does not imply endorsement of specific geographical boundaries.

Source: CIA World Factbook, 2013

PREFACE

South Sudan faces yet another crossroads in its history as a young nation. The six months between the January 2011 referendum and independence on July 9, 2011 did not allow enough time for South Sudanese to consider and discuss fully many important constitutional issues. The *Transitional Constitution of the Republic of South Sudan, 2011* allowed the country to become independent, but now the country is embarking on a more inclusive, participatory and transparent process that will result in a new and permanent constitution.

This study, based on 46 focus group discussions conducted from November 7-17, 2012 with 600 participants across all ten states of South Sudan, is intended to provide policy-makers with an additional source of information about citizens views on the best process for developing the permanent constitution as well as their opinions on key constitutional issues. The discussions were conducted in rural, urban and peri-urban locations with men and women of various ethnicities, age groups, and education levels. Consult the location and participant demographic chart in Appendix A for further information on each groups' composition.

This is the thirteenth public opinion study NDI has conducted in Sudan, with most of those conducted in the now independent South Sudan, since late 2004. More detailed information on the methodology of focus group discussions can be found in Appendix B, but when reading through this report, it is important to keep the following methodological approaches in mind:

Focus Group Results and Usage. Focus groups are semi-structured group discussions which are directed by a moderator and follow a pre-set guideline. Unless otherwise noted, the conclusions presented here represent views commonly and repeatedly cited during the group discussions. The interaction between participants in a focus group provides insight into how citizens think and feel and is a powerful means of understanding why those attitudes exist. Information gathered in this way reflects citizen values, concerns, and needs and is critical in helping decision-makers test their assumptions and incorporate the will of the people into policy-making.

A Snapshot of Public Opinion. Any public opinion research, including focus group discussions, is a snapshot of opinion at the moment the research is undertaken. Public opinion is dynamic and evolves as people experience and react to major events, particularly in conflict-affected environments. Therefore, the conclusions of this report only represent opinions when the research was undertaken.

A Qualitative Research Tool. Focus groups are a qualitative, not a quantitative, research instrument. Although focus groups are a superior method of understanding the meanings behind commonly-held attitudes, the total number of participants in a focus group study is always relatively small. Attempts are made to ensure the groups represent a broad cross-section of society, but the participants in the study are not statistically representative of the larger population. Thus, this report reflects the opinions of those citizens of South Sudan who participated in this study. The Focus Group Locations and Participant Demographics chart, as well as the Methodology Notes appearing at the end of this study in Appendix A and B respectively, should be consulted by all readers to understand the sub-set of individuals interviewed for this study.

Participant Perceptions vs. Political Realities. The perceptions of participants in the focus group discussions do not necessarily reflect reality. In the context of South Sudan, for example, the perception of participants regarding key constitutional issues, such as decentralization or revenue distribution, is formed on scant experience with government systems and with only limited information or debate. Also, communication in South Sudan is difficult, and current information is not always available. Furthermore, the low level of literacy means that few South Sudanese have a good grasp of constitutional issues and discussions. Participants in this study sometimes get their facts wrong and often form their opinions based on inaccurate or semi-accurate readings of the world around them. Even if they do not represent reality, however, there is power in people's perceptions. Citizens make decisions based on what they believe. Without knowledge of these perceptions, policy-makers and other stakeholders will not be able to address them. Thus, the goal of this research is to report the perceptions and opinions of participants, regardless of their factual accuracy, to political and civil society leaders so they may better understand and respond to the concerns of the general populace.

Ethnic Designations. To ensure participants feel comfortable in fully stating their views, the focus group discussions are conducted among single ethnicity groups, where possible. Quotations from those groups are labeled with the tribe and section or clan provided by the participant. In some areas populated primarily by smaller tribes, single ethnicity groups are not always possible or appropriate. In these cases, quotations are labeled only with the gender and location of the participants.

All groups were asked questions about their constitutional knowledge and the level of participation in constitution-making they desire.¹ However, participants were divided into the two categories for other questions and only about half of the participants discussed the questions posed in each of the remaining sections. This was done to allow for a greater number of potential constitutional topics to be discussed. See Appendix C for focus group the moderator guidelines.

This study is a collaborative effort between two University of Juba staff – Dr. Leben Nelson Moro, Director of External Relations, and Mr. Onesimo Yabang Lo-Lujo, Lecturer at the School of Management – and the National Democratic Institute (NDI). Thirty-four South Sudanese, approximately seventy-five percent of whom were students from the University of Juba, were also contracted as moderators to conduct the group discussions. NDI's ongoing citizen participation program in South Sudan is funded by the U.S. Agency for International Development (USAID) through a multi-year co-operative agreement.

The development of a new and permanent constitution represents a significant opportunity to engage the public in a historic nation-building exercise that will serve as the foundation for the new country. To assist in this effort, we are pleased to present the views of South Sudanese citizens about the process of creating a new constitution and about constitutional issues they believe are important to fulfilling the citizens' vision for a successful and prosperous nation.

¹ The last issue covered in this category – the selection of constitutional conference delegates and adoption of the constitution by referendum – was discussed with only half the groups.

EXECUTIVE SUMMARY

This thirteenth in a series of public opinion studies in South Sudan or the former Sudan explores citizen views on important constitutional issues. The conclusions below are drawn from 46 focus group discussions conducted in rural, urban and peri-urban areas across the 10 states of South Sudan. Each of the findings below are covered in more depth and illustrated with study participant comments in the *Principal Findings* section of this report.

I. Constitutional Knowledge and Participation

- **Although their constitutional knowledge is relatively low, participants believe citizens are an essential ingredient in the constitution-making process.** There is some knowledge among primarily urban and peri-urban participants about basic constitutional concepts, although there is less knowledge that South Sudan is currently undergoing a constitutional development process. Despite their lack of knowledge, participants are adamant that the constitution-making process in South Sudan must be citizen-focused. First and foremost, they trust their own judgment over anyone else's about what should be included in the constitution, but they also feel their participation is the only way for the constitution to achieve legitimacy. "We do not want the big government people to do it alone,"¹ sums up the feelings of most who want any constitutional conference to include representatives from a broad cross-section of the public and who say they prefer a referendum process to determine the constitution's final adoption. Participants believe that rights and freedoms, peace and security guarantees and the right to education are the most important areas to include in the constitution, but, overall, they have broad expectations for what a constitution can address (including development guarantees) and perhaps unrealistic notions about what that single document can accomplish.

II. Citizenship, Rights and Freedoms and Marriage

- **Birth and patrilineal lineage should be the primary avenues to citizenship, participants say.** Some participants also support a path to citizenship through naturalization, but they differ on the standards. Although most indicate that having a South Sudanese father is a prerequisite for citizenship (due to cultural norms and dowry payments), some would also make citizenship available to those with only South Sudanese mothers in special circumstances, such as abandonment or long-term residency.
- **The rights and freedoms participants identify as most critical to include in the constitution for them personally are freedom of movement, freedom of speech and the right to education. Freedom of religion and assembly and the right to country-wide residency and employment are supported as well, though some suggest limits on these and on speech are appropriate.** The participants' revelations of which rights and freedoms are most important to them are consistent with the responses from previous studies² and

¹ Quotation is from the Acholi middle-aged men's group in Magwi Town, Eastern Equatoria.

² NDI and local partners have been conducting public opinion studies, using a focus group methodology, in Sudan and South Sudan since 2004. Fourteen studies have now been completed and a complete list of published reports is on the back cover. Reports from these studies can be found at www.ndi.org.

reflect their commitment to the basic individual rights they believe were at the foundation of their grievances during the war. Speech is described by most as an important tool in a democracy because, in part, it helps ensure accountability of leaders. However, some participants, especially women, express discomfort with public criticism of leadership. Some female and older participants repeat these concerns when discussing the freedom of assembly. They would limit the ability of citizens to attend meetings, rallies and protests because they fear problems or conflict will be the result. This is contrast to the opinion of most participants that freedom of assembly is an important right that allows them to express their views to government. Likewise, participants are almost unanimous in their support of the right of everyone to live or work anywhere in the country, but some would prohibit non-locals from becoming involved in politics or assuming state or local government jobs. The responses on freedom of religion are similar. Participants are initially staunch supporters of religious freedom, and some even call for official separation of church and state. However, when discussing Islam specifically, some non-Muslim participants suggest that there needs to be tighter controls on its practice.

- **Marriage is a constitutional issue, according to participants, because it plays such an important role in the country’s social, cultural and economic life.** They list many areas of marriage they would like for the constitution to take a stance on, but the areas they would most like addressed are the problems of soaring dowries and forced and early marriage.

III. Decentralization and Distribution of Power and Resources

- **The knowledge level of participants on decentralization issues is low, but they have a shared desire that the most competent level of government have power over any given area.** This basic belief drives many of their opinions on decentralization. Participants argue that it is important to maintain the current five levels of government – national, state, county, payam and boma – because this structure, with close connections to the local areas and the ability to move problems to higher levels, will be most likely to deliver development and ensure security. Participants also lean toward having the national government retaining more power because it has more resources or capabilities than state and lower levels of government. For this same reason, more participants say the national government should have power over police, over the appointment of judges to government courts at the state level and over the creation of counties. However, the view that the national government should have more power in these areas is not shared by all, and there are many dissenters who say that the state governments are better positioned to make good decisions in these areas because they understand the local situation. In addition, overall, these results should be read with caution due to the low level of knowledge on decentralization issues. With further debate and discussion, opinions may shift.
- **Although revenue powers and distribution is a difficult topic, most participants support a significant amount of the country’s revenues going to the national government.** Many say that the national government should retain half or more of the country’s revenues and more specifically, the majority of revenues from natural resource extraction because the national government understands the overall budget and development plan for the government and the best way to distribute resources to the states. There is significant

disagreement with that position, however, among some participants. This group argues that retaining more revenues in the states would result in better development.

- **There is no consensus on how revenues should be divided between states, but most reject the idea of states collecting taxes at their borders.** Some believe each state should receive an equal amount of revenues from the national government; others say it would be fairer to divide revenues based on population. Participants do not like the idea of states collecting taxes at their borders because it would limit movement and access and increase the price of goods.

IV. Government and Electoral Systems

- **There is not much support among participants for the constitution to reference tribes. Instead, they want the constitution to guarantee equality, fair treatment and good government for all.** Some fear that the mentioning of tribes in the constitution would be divisive, and most see it as unnecessary if the ideals of equality and democracy are actually implemented. When discussing more specifically the constitution's treatment of government representation for different tribal groups, there is limited data and no consensus among participants who express an opinion.
- **Participants want a political system that embraces multiple political parties and respects those in opposition, though some counsel that the number of parties should be limited.** Having a competitive political party system, they say, will produce the best ideas for running the country and will ensure politicians work hard to deliver for the people. In this regard, they would also like for the constitution to legitimize opposition political parties and to guarantee their right to conduct activities free of interference. Many of the participants believe opposition parties should play a role in government as well because they value power-sharing (and its ability to reduce conflict) and because they believe opposition party involvement will improve government work. The dissenting voices say the winning party deserves to rule and their victory reflects who the citizens want in power. Despite the strong support for a multi-party system, some participants say too many parties cause confusion and conflict and so they recommend a limit of two to five.
- **Traditional authorities deserve recognition in the constitution for the work at the local level, say participants. They are less clear on whether higher levels of government need traditional authority involvement.** Participants believe the constitution should empower chiefs to handle cultural and small crime issues and should clarify their role in government because they play such an important role in everyday life. Some, though, believe it would not be beneficial to have traditional authorities involved in state or national government or that their involvement should be on an as-needed basis only. Others disagree saying they play such an important role that they deserve to serve at those levels of government as well.
- **Participants describe the ideal electoral system for the constitution to define as one in which the president is directly elected by the people, the current mixed system of constituency and political party representation in the National Assembly is maintained and there are elections for county commissioners.** Participants feel strongly that it is their

right to directly elect the president and that only this system can produce a legitimate, capable and accountable leader. That is the same reason they want their county commissioners to be elected; only the people can ensure a commissioner is competent and positioned to do a good job, participants say. They voice similar justifications for wanting their National Assembly representatives to be constituency-based and say they will feel most represented when someone from their geographic areas is representing their views. Many also, though, like the idea of voting for a political party. To reap the benefits of both types of representation, their preference would be to continue with the current mixed system.

- **A unicameral legislature that is the primary and final law-making authority in South Sudan is the vision of most participants.** There is a clear consensus among participants that parliament should have the power to craft and pass laws, even without the president's consent, because it is the government body that is most representative of citizens' voice. They also support limiting a president's ability to make law without consultation of parliament. At this juncture in the country's history most feel a two-house legislature would be wasteful, duplicative and confusing and would possibly set up a confrontational atmosphere in parliament. There are mixed views on whether the constitution should allow members of parliament to serve as ministers during their term.
- **Representation of states in the national government and maintenance of the guarantee of twenty-five percent representation for women in government are both endorsed by participants.** The desire to have government become more responsive to citizen views and more effective at addressing their needs drives participant opinion that if states were represented in the national government, it would improve communication and ensure that states' interests, including service delivery, are better served. The set-aside for women in government is strongly supported by both male and female participants, but some females argue the percentage should increase and some males argue it should never increase.

V. Presidential Powers and Limits

- **Participants believe the constitution should limit a president's powers in important ways, such as defining the amount of time any one person can serve as president, prohibiting the president from appointing members to the legislature and barring a president from unilaterally removing a freely elected governor from office.** A president of South Sudan should serve no more than two terms of anywhere from four to six years each, almost all agree, to prevent a slide into dictatorship and to ensure others have an opportunity to rule the country. The strong objection among participants to a president appointing members of parliament is based on their belief that the parliament is the people's body and should not be subject to interference from anyone other than citizens. A president's unilateral removal of a governor is rejected for the same reasons: it would be a usurpation of the people's power. They prefer removal of a governor be left to state assemblies or to the people themselves. However, some can envision a situation where a crisis would necessitate a president removing a governor. Such an action, participants say, should only occur after significant consultation with state assemblies or citizens.

VI. Land and Property Rights

- **Participants would like the constitution to address land ownership issues, although there is not a strong consensus on what it should say.** More participants say the government should own the land in South Sudan because it is in the best position to regulate and fairly distribute and develop land. But there is also significant opposition to government ownership among participants who believe land belongs to the community because ancestors bestowed it upon them and because they will utilize it better. Further complicating the issue is that when asked about specific types of land participants demonstrate differing views on ownership. Residential land³ is viewed by most as belonging to individuals; farm land is believed by some to belong to individuals, by some to the community and by others the government; and opinion on grazing land is split between those who think government ownership is appropriate and those who think community ownership is better. Regardless, the concept of community land is still valued by participants and few can conceive of ever converting that land to private ownership because they do not believe they would benefit and because it would not leave their children with an inheritance.
- **There is little objection among male and female participants to granting a woman's right to own land or inherit a husband's house and the land it is on, but some male participants would place significant restrictions on that right.** Female participants view land ownership simply as a human right, as do some male participants. But some male participants, while not rejecting women's land ownership, would restrict that right in any number of ways, including based on age or marital status. A widow's inheritance rights would also be limited by some participants who say that those rights can only be upheld in certain circumstances, such as if the woman has children or if she does not remarry.
- **Participants endorse the constitution granting government the right to the country's natural resources and the ability to confiscate land for public use, as long as fair compensation is made to owners and communities.** Government ownership of natural resources makes sense, they say, because those resources must benefit all and only the government has the expertise to extract them. Likewise, government confiscation of public land is accepted by participants because that land will be used to benefit all in the community. In both cases, however, participants note that the government should be required to offer a share of resources or compensation commiserate with what is being lost to landowners or communities.

VII. Justice System

- **Participants highlight three constitutional priorities for the justice system: equality, independence and clarity.** They want all citizens to be equal under the law regardless of status, tribe or (for female participants) gender, and an independent judiciary is an important element in guaranteeing that equality. They also note that a clear and understandable court structure and defined roles, especially as related to customary courts, will improve access to justice.

³ Residential land was defined as land under people's houses.

- **Participants view customary courts and government courts as having mostly different jurisdictions, but some express concern that customary courts are handling serious cases.** Personal and local issues, including petty crimes, are appropriately under the authority of the customary courts in the opinion of participants, and government courts are responsible for serious criminal offenses. Allowing customary courts to handle serious cases will result in an uneven and incompetent application of justice, more participants believe. However, some argue that customary courts are more adept at bringing closure and negotiating resolution between families in serious crime cases like murder. Support is more widespread among participants for the authorizing customary courts to arrest and imprison wrongdoers for short periods of time.
- **Participants hold differing opinions on which should take precedence when customary and government law clash, although most agree appeals should be allowed if customary rulings contradict government law.** Customary and government law are most likely to diverge in the area of personal relationships, they say. In this circumstance, female participants are more likely to express the view that government law should be supreme, but male participants are divided between saying the government law should be supreme, customary law should be the final authority and decisions like these should be made jointly between government and customary law authorities. A citizen's, and a woman's, right to appeal customary law rulings, though, is supported by most.
- **Participants believe compensation should be an option when government courts issue punishments, but they also believe the death penalty should be applied in certain serious crimes.** The compensation-based punishments that are standard in customary courts benefit victims, say many participants, and so should be adopted by government courts. However, there are a variety of views on what punishments are appropriate in what situations, and this suggests that this is an area that needs further public debate. Despite the affinity for compensation options, there is widespread support for the death penalty to be included in the constitution because many view it as an effective deterrent to crime.

VIII. Additional Constitutional Issues

- **The country's official language or languages is an important constitutional issue to many participants. Most prefer English, but some plead for Arabic to be included as well.** English is viewed as a unifying language and one that prepare South Sudan to interact with the world. Without Arabic, though, some participants fear they will be at a disadvantage.

IX. Abyei

- **Most participants believe the constitution should define Abyei as South Sudanese.** However, some would be satisfied if the constitution only asserted the right of the people of Abyei to decide their own fate.

PRINCIPAL FINDINGS

The findings outlined below are based on 46 focus group discussions conducted from November 7-17, 2012. The discussions were conducted in rural, urban and peri-urban locations across all ten states in South Sudan, and a total of 600 South Sudanese citizens participated in the study. The group discussions were conducted with men and women of various ethnicities, age groups, and education levels. Consult the location and participant demographic charge in Appendix A for further information on group composition. All discussion groups were asked questions about constitutional knowledge and participation in Section I below.¹ The groups were divided into two after that section to allow for a greater number of potential constitutional topics to be discussed. As a result, only about half of the participants discussed the questions posed in each of the remaining sections. See Appendix C for the moderator guidelines used in the discussion.

CONSTITUTIONAL KNOWLEDGE AND PARTICIPATION

Only about half of participants can provide even a basic definition of the word constitution and less than that are aware there is a constitutional development process underway. Most knowledgeable participants say they learn about constitutional matters through radio, and many complain there has not been enough effort to educate them on this important matter.

There is some familiarity with the word constitution among about half of the participants, most of whom are from urban or peri-urban groups.² While some of this group have just heard the word and cannot offer a definition, most of these participants say a constitution is the law(s), rules or regulations that govern a country. Some also note that everyone must abide by, and no one can be above, a nation's constitution, including government officials. A few talk about a constitution as providing and protecting citizens' rights or as a way to define and organize government. There are complaints among both those who say they understand constitutional concepts and those who do not, about the lack of information available to the public and the lack of effort government officials have made to educate citizens on such an important issue. It is important to note as well that a few participants appear to have significant misconceptions about the role of a constitution, believing the constitution will cover many areas of law and/or resolve current problems, such as crime, conflict and corruption, once adopted.

I have never heard anything about the word constitution, even here in the school. (Dinka Gok Younger Women, Cueibet Town Center, Lakes)³

We have heard about the constitution, but we have not read it. We don't know what is

¹ The last issue covered in this category – the selection of constitutional conference delegates and adoption of the constitution by referendum – was discussed with only half the groups.

² Overall, more participants from Greater Equatoria say they understand the word constitution than in other regions. Fewer participants in Greater Bahr el Ghazal indicate understanding of the word than in the other two regions. However, in both instances, these findings may be significantly affected by the locations of the groups, so that should be taken into consideration when viewing this information.

³ Quotes are attributed to groups, rather than individuals, in order to demonstrate that they reflect a plurality of participants' views.

written inside the constitution, so that we can know that our constitution of South Sudan is like this. This is something we have heard, but we don't know in detail. (Older Women, Nesitu Boma, Central Equatoria)

Yes, I heard about the constitution. The constitution is the supreme law of the country. (Dinka Malual Older Women, Aweil Town, Northern Bahr El Ghazal)

Yes, I have heard about the word constitution. It is the law that guides the system of government and how citizens should live in a country and even ways of solving problems among people. (Zande Older Men, Duma Boma, Western Equatoria)

I heard of the constitution as a law that could be respected by everyone in the country, regardless of who they are or what position they hold in the government...I have heard of a constitution as a law that a country develops to govern the country. Every citizen has a right in that constitution because it protects a citizen when there is a violation of human rights. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

How could we know the word constitution while the government does not come to sit down with us to explain the word constitution? (Shilluk Middle-Aged Women, Makal Village, Upper Nile)

Yes, I heard about it [the word constitution]. It is the law that protects us from bad things such as killing, corruption and cattle theft. (Dinka Rek Older Men, Turalei Town, Warrap)

Fewer than half the participants are aware there is a constitutional process underway in South Sudan. Of those who are aware,⁴ most say they have no details or are mainly aware that a committee or commission has been formed to work on a constitution. A few understand there is a need to move from a transitional⁵ constitution to a permanent one. Almost all who indicate a source for their knowledge of the South Sudan constitutional process credit the radio, and in fact, some who claim no knowledge say they cannot know anything about the process because they do not own a radio. Whether knowledgeable or not, those who offer a judgment on the process see it as a good development. However, as during the discussion about the definition of constitution there is a trend among a few participants to see the constitution as a panacea to the country's problems, especially on law and order issues.

We did not hear about it [the South Sudan constitutional process]. We are uneducated people who don't know what is happening there in Juba. (Dinka Rek Middle-Aged Men, Wunkell, Warrap)

This is the first time to hear about South Sudan developing permanent constitution...I don't have radio where I can hear such information. (Dinka Agar Middle-Aged Woman, Malou, Lakes)

⁴ Awareness of the ongoing constitutional review process tends to be higher in urban and peri-urban areas.

⁵ A few participants believe South Sudan is still operating under the constitution that was in force before independence.

I heard about it [the South Sudan constitutional process], but with no details...I think I have heard about it over radio three days ago that there is a body formed, which is organized to make a permanent constitution. (Mundari Younger Man, Buko Boma, Central Equatoria)

It is a good move for the government to start developing a constitution for our freedom. That means our government does not sleep; it is going ahead. (Zande Older Man, Duma Boma, Western Equatoria)

Yes, I heard from a radio program on Miraya FM that the rules of the country are going to be developed because there is conflict everywhere in the country. (Nuer Lek Younger Man, Bentiu Town, Unity)

Participants say they must be involved in the constitutional development process because the constitution should be from them and for them and because their agreement to it is essential to its implementation. It is also critical to involve traditional leaders and elected representatives, they say.

Most participants hold strong opinions about who should have a voice in determining the content of the constitution, and by far the voice they judge to be the most critical to include is that of the citizens themselves. They offer a number of justifications for serious citizen involvement in constitution-making: the citizens *are* the government, citizens fought for their rights and freedoms, all citizens will be affected by the constitution (not just Juba elites), only with citizen involvement will the process be viewed as legitimate and citizen consultation will ensure everyone agrees to the constitution and abides by it.

Beyond citizens, traditional leaders are the group that is viewed as the most important component in constitution-making. Participants say that traditional leader involvement is important because they can properly relay the opinion of the people and understand traditional laws that will be important to consider in the development of the constitution. Participants also acknowledge that government officials, especially officials they have elected, have an important role to play in constitutional development. Some see government officials as possessing knowledge that will be useful in writing a constitution, while others express some comfort with elected government officials representing their views, since that is what they voted for them to do.

Participants tend to support an inclusive approach to constitution-making and name a large range of other groups they feel merit consultation, including women, youth, political parties, representatives from states, religious leaders, civil society and the disabled/vulnerable among others. Public consultations at the local level (boma, payams and counties) are recommended by participants as the best way to incorporate citizen opinion into the constitution, though some say that radio, debates, lectures and rallies are also appropriate mechanisms. A few participants note,

without prompting, that they believe adoption of the constitution must be done through referendum.⁶

This constitution making process must be participatory in nature...For me, when we take the word permanent constitution, it means every citizen within should get involved in the development of this constitution in all levels, regardless of where you are. It should be from urban to rural areas. (Mundari Younger Men, Buko Boma, Central Equatoria)

We [citizens] need to be involved in the constitution-making process because we are the stakeholders and pillars for the government. (Dinka Bor Younger Women, Bor Town, Jonglei)

As a citizen of this country I have a role to play in anything for this country because all of us fought for the rights and freedom, not only those who went to school should play a role... We should be part of the people making laws, not oppressing us with laws from above. (Older Zande Men, Duma Boma, Western Equatoria)

They [citizens] should be involved because this constitution is controlling all peoples whether you are in town or in the village. (Nuer Jikany Older Women, Pagak, Upper Nile)

We, the citizens, should be involved in writing the constitution because without involving us, we shall say it is a decreed constitution. (Dinka Rek Older Men, Turalei Town, Warrap)

The public should be involved so that the law should come in the agreement of the whole nation, not only on few individuals. (Dinka Middle-Aged Men, Malakal Town, Upper Nile)

The elders and leaders of the society should represent us and take our issues to be included in the constitution because they know us very well and so understand our issues better than anybody else does. (Older Women, Nesitu Boma, Central Equatoria)

According to me, those who can be involved in the constitution of South Sudan are those whom we voted to the parliament during the election. I will not be involved because I have voted for someone who is doing everything for me, while I remain as an ordinary citizen. (Middle-Aged Men, Wau Town, Western Bahr el Ghazal)

Everybody needs to be involved [in constitution-making]: youth, women and government people, all should be involved in the constitution. (Dinka Rek Middle-Aged Men, Wunkell, Warrap)

We want the constitution to be public decision...If the constitution is being reviewed, then it will be important to take it to the citizens. I mean it should be done outside parliament

⁶ Adoption of the constitution was not raised by the moderators at this point in the discussion.

and taken to bomas, payams and counties, but not by a few elites in Juba. (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

Citizens should vote for the constitution. (Toposa Older Men, Koor Jep, Eastern Equatoria)

Participants expect the constitution to address a wide range of issues, but overall they feel it is most important for the constitution to grant key rights and freedoms, guarantee peace and security, and ensure the right to education. Some also believe it should tackle issues of development, tribalism, equality, corruption, elections, marriage, land, and language.

When asked for issues they feel the permanent South Sudan constitution should address, participants offer wide-ranging suggestions, some of which are appropriate constitutional matters and some that may not be. The category that the most participants view as important to include in the constitution is rights and freedoms. What they mean by rights and freedoms, though, again is quite diverse. Some simply speak in generic terms of human or individual rights, while others point to specific rights and freedoms they view as critical. Residency rights for anywhere in the country, freedom of movement and women's rights (generically) receive the most participant mentions, followed by freedom of expression, freedom of religion, and children's/parental rights (generically). After rights and freedoms, participants focus most on the need for the permanent constitution to guarantee peace and security. They have several suggestions in this regard, saying the constitution must establish effective law and order, remove guns from civilians, promote unity, address police and security force misconduct and end wars and conflict.

The third most popular choice for constitutional inclusion among participants is the right to education. This right is separated from the others because it is somewhat different in nature and is identified as important by many more participants than any of the specific rights listed above. In fact, in terms of a single issue rather than a category of issues, the right to education is mentioned most often. Some specify that they are speaking about education for children and others say the right to education must be accompanied by a guarantee that it will be free. Most do not specify the level of education they feel must be provided. The right to health care is among issues mentioned by participants but far less than the right to education.

Rights, human rights should be included in the constitution. Citizens should have rights. (Nuer Older Men, Bor Town, Jonglei)

Another thing I will talk about [in terms of the constitution] is respect for peoples' rights. In this government we are oppressed, the army is arresting people without problem, the police are arresting people without problem and even the prison workers are arresting people. The police can beat anyone upon arrest knowing nothing about the problem. This is bad thing for me. (Acholi Middle-Aged Men, Magwi Town, Eastern Equatoria)

People of South Sudan should have the right and freedom [in the constitution] to stay everywhere within the ten states of South Sudan. (Dinka Malual Older Women, Aweil Town, Northern Bahr el Ghazal)

We need equal rights for both men and women so that women are not oppressed because women are wise. (Dinka Bor Younger Women, Bor Town, Jonglei)

I think what should be included in the permanent constitution is the issue of security, given the fact that insecurity in South Sudan is so prevalent. (Mundari Younger Men, Buko Boma, Central Equatoria)

The most important issue that concerns all South Sudanese is education, and it must be a priority in the constitution for the government. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

Freedom of movement in all parts of South Sudan is also important to us as South Sudanese.... The right to free education until a person finished is very important for all South Sudanese.... Free health services should be included in the constitution because health is one the basic foundations of human rights. (Dinka Gok Younger Women, Cueibet Town, Lakes)

The second tier of issues some participants view as constitutional matters include guarantees of development (employment, food security, help to the vulnerable, roads and clean water), prohibitions on tribalism and guarantees of equality among all tribes (including in the distribution of power, jobs and development), commitment to democracy and elections and the abolition of corruption.

Marriage issues (early marriage, forced marriage, bride price, intermarriage), land/property ownership issues (boundaries, community usage, grazing) and national language issues represent the third tier of subjects participants believe merit inclusion in the constitution. Also in this category is the use of alcohol, which some believe should be banned and others say should be more heavily regulated by the constitution. Some of these responses as well as the remaining responses mentioned by one or more participants – such as those saying the constitution should address forgery, poaching, protection from animals or the strength of the currency – demonstrate that participants have broad expectations about what a constitution will address and perhaps out-sized expectations for what that single document can accomplish.

Development of South Sudan should also be involved in the constitution. It is the most important issue for all south Sudanese. (Dinka Gok Younger Woman, Cueibet Town, Lakes)

I want the constitution to include no differentiations, distinctions or tribal superiority in South Sudan...I suggest that the constitution of South Sudan should include equal development, equal education, health should be a priority and there should be no lack of jobs. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

[In the constitution] tribalism should be taken away...Early marriage should be discouraged...The right for employment and fair treatment [should be included]. (Mundu Younger Men, Maridi Town, Western Equatoria)

I think that matter which can address the people of South Sudan [in the constitution] is when there is distribution of power equally and accepting each other as one nation. (Shilluk Younger Men, Malakal Town, Upper Nile)

Democracy needs to be the basis of government [in the constitution] since we fought against the dictatorship of Khartoum; we don't need coups or military rule. (Dinka Rek Older Men, Turalei Town, Warrap)

The main issue to be addressed in this constitution is corruption in South Sudan at large. For example, if a chance is given to a person to serve the country that person brings in only his or her relatives. (Zande Older Men, Duma Boma, Western Equatoria)

The most important issue [to include in the constitution] is land. The issue of land is now disturbing us; if not seen properly the government will take from us all the land, meaning we will remain with nothing completely. The constitution must protect us, including our land... Land boundaries of South Sudan should be clear, now some countries want to take our land away. (Acholi Middle-Aged Men, Magwi Town, Eastern Equatoria)

I think the constitution should mention the issue of language, if South Sudan as a nation can have common language. (Nuer Younger Men, Malakal, Upper Nile)

Participants want the constitutional development process to be representative and participatory in all its aspects, including the selection of a broad range of constitutional conference delegates and the holding of a referendum on its adoption.

Participants have a myriad of ideas about how delegates to the constitutional conference should be chosen. Some say citizens should vote to determine who represents them, some want delegates to be selected by determining a certain number of representatives per administrative level, such as boma, payam, county⁷ or state, and others suggest that certain categories of citizens, such as youth, women or chiefs, should be selected for the conference. However, there is a common theme among the participant responses. They want the constitutional conference to include a broad cross-section of South Sudan, both demographically and geographically, and they want to ensure that the common citizen's voice is represented. The participant comment, "We do not want the big government people to do it [develop the permanent constitution] alone,"⁸ epitomizes this feeling.

The respective candidates [for delegates to the constitutional conference] will come with their names, and then we will vote them. (Older Women, Nesitu Boma, Central Equatoria)

In every county they should send five people to go and represent them in the [constitutional] conference...I want at least ten people should be chosen from the state level for the final constitutional debate...Let them chose ten people from the state level

⁷ County is the administrative unit participants mention most often as an appropriate level from which to select constitutional conference representatives.

⁸ Quotation is from the Acholi middle-aged men's group in Magwi Town, Eastern Equatoria.

and ten people from the county level so as to digest the issue properly with more views. (Zande Younger Women, Tambura Town, Western Equatoria)

Those who will go the conference must include youth, women, chiefs and elders... The participants should include representatives from the boma, payam, county, and state authorities. (Dinka Rek Middle-Aged Men, Wunkell, Warrap)

They [constitutional conference delegates] must be chosen from the grassroots. (Toposa Older Men, Koor Jep, Eastern Equatoria)

I think the paramount chief should be represented for the sake of their tribe, including three individuals from among each tribe to pose their views about the constitution. (Shilluk Younger Men, Malakal Town, Upper Nile)

According to most participants, a referendum is the best way to approve the permanent constitution once the constitutional conference has finished its work. Some view being able to cast a vote on the constitution as a right and a way to ensure it contains their wishes, while others say allowing citizens to vote will increase their understanding and ownership of the country's new constitution. Participants with a minority view indicate that after the constitutional conference they would feel comfortable in having the parliament to pass and the president to sign, the new constitution without citizen approval. These participants cite the impracticality of holding a vote, say the parliament as the representative body has the power to pass the constitution on their behalf or believe they will have already had an opportunity to contribute their input.

It is citizens' right to vote for the constitution. (Toposa Older Men, Koor Jep, Eastern Equatoria)

The citizen should vote for it because the constitution concerns the citizens of the country...The citizens should vote for it before it becomes country's permanent constitution because parliament might have decided many things people don't want. (Younger Women, Wau Town, Western Bahr el Ghazal)

I think it is necessary for the citizens to vote for the constitution to see their commitment and ownership to the permanent constitution. (Mundari Younger Men, Buko Boma, Central Equatoria)

I want people to vote for it [the permanent constitution] so as to make the entire citizenry aware of the final copy...The final copy of the constitution should be brought to the citizens to vote for it because many people now even are not aware of the constitution development. (Zande Younger Women, Tambura Town, Western Equatoria)

The constitution should not be brought back to us because it will be time consuming, and the public have already known it through our participation. (Dinka Rek Middle-Aged Men, Wunkell, Warrap)

The constitution after being debated should be passed by the parliament because they were elected by the citizens to represent them in the parliament. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

CITIZENSHIP, RIGHTS AND FREEDOMS AND MARRIAGE

Citizenship is conferred primarily by birth, according to participants. In addition, there is near unanimous agreement a person's parentage affects citizenship: those whose fathers are South Sudanese are citizens and those whose fathers are not South Sudanese are not citizens, with a few exceptions.

In first discussing citizenship, participants' descriptions of who should be considered a citizen of South Sudan begin with being born in the country. Some augment the basic requirement of a South Sudan birth by adding that the father must be from South Sudan, that both parents must be from South Sudan or that ancestors, such as grandparents or great grandparents, must be from South Sudan.

A national identity card or other official document is necessary for some participants, especially in urban or peri-urban areas, to deem someone a South Sudan citizen. Citizenship through naturalization is supported by some participants as well. This group believes that residing in South Sudan for a number of years – though they differ on the number of years required – qualifies one for citizenship, with some saying that those that bring benefits to South Sudan deserve special consideration. There are a few participants, however, who are explicitly opposed to any foreigners becoming South Sudanese citizens.

A South Sudanese is someone born in South Sudan, like us. (Dinka Ngok Younger Women, Adong Payam, Upper Nile)

The constitution should say that any person who is qualified to be a true South Sudanese citizen is someone who is born in South Sudan...All black South Sudanese whose ancestral genealogy and forefathers are traceable in South Sudan are qualified to be South Sudanese. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

A person should be considered as South Sudanese if his mother and father are South Sudanese in the permanent constitution of South Sudan. (Dinka Gok Younger Women, Cueibet Town, Lakes State)

Foreigners should be given nationality after a period of ten years to qualify for citizenship...After living in South Sudan for fifty years, someone qualifies for citizenship...Someone who has lived for 15-20 years; they can be citizens of South Sudan. (Younger Muslim Men, Juba Town, Central Equatoria)

A person who stays long in South Sudan is qualified to be a South Sudanese...Somebody who can work and perform duties that our people can benefit from can be a South Sudanese. (Zande Younger Women, Tambura Town, Western Equatoria)

One who has nationality card can be South Sudanese... The most important is the nationality [document] because even government can refuse anyone who is without nationality card. (Acholi Middle-Aged Men, Magwi Town, Eastern Equatoria)

Citizenship should not be given to someone who is not born in South Sudan. (Nuer Adok Middle-Aged Men, Paya, Unity)

Participants hold strong views about how parentage affects citizenship. They unanimously endorse the idea that having a father that is South Sudanese is an automatic qualification for citizenship, even if the mother is not South Sudanese and cite African/local culture and the payment of a dowry that secured the children as the father's as the reasons for their stance. Likewise, most participants say citizenship cannot be conveyed to a person whose mother is South Sudanese but whose father is a foreigner. However, this opinion is less uniformly held, and there are certain circumstances where some participants believe that a person whose mother only is South Sudanese should have the right to citizenship. Some believe that if a foreigner father fails to pay a dowry or abandons his children are two such circumstances where those children should be able to claim South Sudanese citizenship. Others say children of foreign fathers could be considered for citizenship if they are born in South Sudan and/or live in the country for an extended period of time.

The person qualifies [for citizenship] because the father is a South Sudanese, and we always consider where the father originated from... A person's nationality depends on the origin of the father not the mother. (Zande Younger Women, Tambura Town, Western Equatoria)

[A person whose father is South Sudanese] would be South Sudanese because when a woman is married by the man, the child belongs to where the father is from. (Dinka Malual Muslim Older Women, Aweil Town, Northern Bahr el Ghazal)

If the father is South Sudanese, the child should be a South Sudanese... In our culture once the husband marries the woman, the children belong to the father... The child is South Sudanese, simply because the father paid dowry for the mother. (Dinka Agar Middle-Aged Women, Malou, Lakes)

That person [with a foreign father] is not a South Sudanese because it is the husband that paid dowry to marry a woman, and no woman has ever paid dowry to a man's family. (Dinka Ngok Younger Women, Adong Payam, Upper Nile)

The children whose father is not a South Sudanese can only claim citizenship if their father fails to pay dowry for the mother and claim the children. (Older Women, Nesitu Boma, Central Equatoria)

If that child is born of a mother where the [foreigner] father is not taking care, that child automatically will be a citizen of South Sudan. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

I accept that the child [from a foreign father] of our daughter who has been born and lived with us for very long period of time and has respect for our norms and traditions and that child has knowledge of our language should be given the South Sudanese nationality. (Shilluk Younger Men, Malakal Town, Upper Nile)

He [a child with a foreign father] can be given nationality after five years because he is our sister's son. (Nuer Adok Middle-Aged Men, Paya, Unity)

Freedom of movement, freedom of speech and the right to education are the rights participants deem to be most important to be included in the permanent constitution.

In response to an open-ended question about important issues to be addressed in the constitution, participants raised a number of rights and freedoms issues along with numerous other non-related suggestions. To delve further into the issue of rights and freedoms specifically, participants were asked to identify which were most critical for them personally. Three are clearly top of mind: freedom of movement, freedom of speech and the right to education.

The response given most often is freedom of movement. Freedom of movement has been an oft-expressed desire of South Sudanese in these studies since they began in 2004,⁹ and participants again raise it as a top priority. However, internal security, instead of external security, is now why most feel this remains an unfulfilled right. Freedom of speech and the right to education, which some note must be free, are the other two areas most mentioned as critical in the category of rights and freedoms.

After these three, health care and justice and equality before the law are the next most popular standard responses followed by the right to employment and the right to security. The right to residency/work anywhere, freedom of religion, inter-marriage rights and women's rights are identified as personally most important to several participants as well. More interesting, though, are two other responses from participants. Some note that it is most important to ensure that rights and freedoms are respected and followed by government and others; in other words, actually applied, not just written on paper. Others insist that their right to participate in government is what must be paramount in the constitution. These participants say they want to be consulted and to have power in decision-making.

The new constitution should give us rights to move freely within South Sudan. (Zande Younger Women, Tambura Town, Western Equatoria)

[I personally want the] right of expression to talk or to say something if you see things are not going well in the country...I personally wish constitution to talk about the rights of women...The right of worship, I need it to be indicated in the constitution. (Dinka Malual Older Women, Aweil Town, Northern Bahr el Ghazal)

The constitution of South Sudan should include all rights to education because many people in South Sudan are not educated; the constitution should also include the creation

⁹ Reports from these studies can be found at www.ndi.org.

of jobs because many people are jobless in this country. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

Let the government protect my life and security this is very important right and freedom for me. (Nuer Adok Middle-Aged Men, Paya, Unity)

What I may say is mutual respect between the government and citizens. For example, if a person steals the property of another that person must be persecuted by law, whether ordinary citizens or officials. (Shilluk Younger Men, Malakal Town, Upper Nile)

[I personally want] all rights which are in the constitution to be followed. (Toposa Older Men, Koor Jep, Eastern Equatoria)

The constitution should guarantee the right to be informed and involved in decision-making, such as what you are doing today by asking about the constitution...The freedom of democracy must be put in the constitution so that everyone participates in the governing system. (Dinka Rek Older Men, Turalei Town, Warrap)

Most participants embrace freedom of speech, for individuals and the media, as a basic democratic ideal and an important mechanism to keep leaders in check. However, some participants prefer any criticism of leaders be conducted in private.

Most participants fully endorse the concept of freedom of expression, both for individuals and the media. They view free speech as a fundamental right and an important demonstration of democracy. Some of these participants also note that the citizens are the source of their leaders' power through elections, and thus, freedom of expression among citizens is required to help leaders perform up to their expectations and to ensure they change course when they fail. Fear of the consequences of free speech bothers a few participants, who say while they support it in concept it is not possible to practice currently in South Sudan without coming to harm. The participants who express misgivings about freedom of expression are fewer in number, but they are still a significant voice. These participants believe that it is not proper to "disrespect" a leader in public by being critical either because of their higher status or because the proper way to criticize a leader is diplomatically and in private. Participants with this opinion tend to be female, though not exclusively.

It is okay for the media and the citizens to say anything in public [about government officials] because it is a sign of democracy and freedom of speech in a country...If the leaders do something bad, then it is the duty of all the citizens to correct them such that they may correct their mistakes. (Dinka Gok Younger Women, Cueibet Town, Lakes)

Citizens have the right to criticize the president and governor because we elected them. This [freedom of speech] will make the leaders fear not to do wrong. (Nuer Jikany Older Women, Pagak, Upper Nile)

I have right to say what I think about them [government officials] because it was me who had chosen them to become my leaders by the constitution of the country. (Nuer Lek Younger Men, Bentiu Town, Unity)

If they [government officials] are not criticized, then they won't know their mistakes. So we have to be saying anything against them such they correct themselves. (Murle Older Women, Itti, Jonglei)

This is very important to have free media houses, which can express the right of the public so that their rights are heard...If the information about the leaders is not to be exposed, this can be a problem; therefore, it is good to have the media criticizing [government officials]. (Nuer Adok Middle-Aged Men, Paya, Unity)

It is true that we can criticize a president, but the fear is the outcome of the criticism on the individual's life, given the nature of our police force. (Mundari Younger Men, Buko Boma, Central Equatoria)

It is not good to talk publically against a leader because he is like a father and should be respected. (Dinka Ngok Younger Women, Adong Payam, Upper Nile)

The only rightful way [to criticize a government official] is to tell him or her in a secret way, not exposing it publically...It is not okay to criticize our government officials. The only good way is to bring the matter on a round table and discuss it, instead of saying it over the media. (Zande Younger Women, Tambura Town, Western Equatoria)

Almost all participants say a South Sudanese citizen should be able to live, work, and legally purchase land anywhere in the country. They view these as fundamental rights that should be guaranteed in the constitution, although some say they must be exercised with respect for local culture and without usurpation of local government employment or political opportunities.

Participants strongly support the right of South Sudanese to live and work anywhere in the country. Most say there can be no restrictions on residency or employment because it is one country and every citizen is equal. Some also believe providing countrywide rights for living and working will reduce tribalism and promote unity as people of different tribes become more familiar with one another. Despite the near unanimous view on this issue, some participants offer qualifications on how these rights should be exercised. Working for the national government or for non-governmental organizations is viewed as acceptable, but outsiders who take state or county government jobs or who assume political positions would be frowned upon, these participants say. They note as well that outsiders must behave appropriately and respect the local culture to be accepted.

It is okay for any citizen who is a legitimate South Sudanese to live and work anywhere in South Sudan, regardless of which state he or she comes from. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

South Sudan is our own land so we can work and live anywhere within the country without any restrictions... We fought for freedom, so we deserve to work and live anywhere in the country. (Zande Younger Women, Tambura Town, Western Equatoria)

We can live anywhere because the constitution is one and governs everything; we are also one people. (Dinka Rek Middle-Aged Men, Wunkell, Warrap)

Put it in the constitution that anyone is free to live and work in an area [that is] not his homeland because it will bring unity and avoid tribalism. (Dinka Rek Older Men, Turalei Town, Warrap)

I can live in any state, but I cannot run for a political position of that state. That should be my limitation, but the rest of the things I have the right to enjoy in any state in South Sudan. (Nuer Adok Middle-Aged Men, Paya, Unity)

Yes, [any South Sudanese can work anywhere] but only at national level, if the citizen is employed in the [national] government or non-governmental organizations. But if you [a non-local] are working for a county, you cannot work there because... [you] do not belong there. (Younger Muslim Men, Juba Town, Central Equatoria)

If you are staying with people from other tribes, you need to respect their norms and do not impose other things into their culture. (Mundari Younger Men, Buko Boma, Central Equatoria)

Although land ownership by non-locals would seem to be a more sensitive subject, most participants profess their full support as long as certain conditions are met. Their support is based on their belief that South Sudan belongs to all citizens and that freedom of residency was a key benefit conferred by independence. Participants, though, underline that their support is predicated on the condition that the land is obtained legally, from the legitimate landowners, through correct procedures and with all appropriate documentation. This is to distinguish proper land ownership from their bad experiences with land grabbing. Some participants also say that any non-local landowners must be peaceful and respect the local culture. There are a few dissenters among the participants. They do not want non-locals to own land because they are either fearful of outsiders or they believe that locals will be hostile to non-locals. One participant promotes the idea of different types of ownership for rural versus urban land (see section six on land and property rights).

We liberated our country in order to live anywhere in our country. (Dinka Malual Middle-Aged Women, Nyamllel, Northern Bahr el Ghazal)

I think the nation is living on the same land, and therefore, all South Sudanese have right to own land as South Sudanese... Yes one [a non-local] can own land because South Sudan is one country with one government. (Nuer Adok Middle-Aged Men, Paya, Unity)

Anyone is free to own land anywhere they like because it is everyone's land... Yes, but [non-local] citizens should not create or cause riot or sedition. (Younger Women, Wau)

Town, Western Bahr el Ghazal)

The [non-local] person has right to own land because he is a citizen of South Sudan...If land is bought and all the documents are obtained, the [non-local] person has rights to own it. (Zande Younger Women, Tambura Town, Western Equatoria)

You need to understand the culture of the people within that area and respect it [if you are a non-local land owner]. If you are found to be misbehaving, within the area your issue will be reported to the elders of the area, and you will be ordered to leave. (Mundari Younger Men, Buko Boma, Central Equatoria)

A South Sudanese citizen should not own land in the area which is not their home town because people will isolate and [discriminate] against him. (Dinka Gok Younger Women, Cueibet Town, Lakes)

No, I will not accept [a non-local owning land] because I do not know his behaviors...Maybe he is a politician or coming to spy. (Middle-Aged Women, Madereggi, Western Equatoria)

I think the land should divide into two, village land and town land. Regarding the process of owning the land in the town, it should be through legal way, but the village land will not be allowed to be owned by people [non-locals], except the owners of village. (Shilluk Younger Men, Malakal Town, Upper Nile)

Participants initially indicate their strong support for freedom and tolerance of religious beliefs. When asked to address the issue of Islam, most participants maintain this stance, but some participants say the constitution should place limits on its practice. Muslim participants feel the constitution needs to specifically guarantee their rights to worship and civic participation.

Participants are staunch defenders of freedom of religion and believe that the country's permanent constitution should maintain a neutral stance on all religions. Their recent memories of a war driven in part by religion, the existence of South Sudanese Muslims and the acceptance of diverse traditional belief systems cause most to adopt, in theory, a tolerant view of religious practices. Some go further and call for a complete separation of the state and religion. That makes a few participants nervous, however, as they believe that God, if not religion, is important to a well-functioning government.

Despite championing freedom of religion, when asked to discuss whether the constitution should address Islam specifically the response is decidedly less tolerant among some non-Muslim participants. More participants still maintain that Muslims should have the freedom to practice their religion and participate in government just like any other South Sudanese citizen. But a significant number of non-Muslim participants remain bitter and distrustful of Islam due to their war experiences and would like for government to place restrictions on its practice. Some of these participants want the government to disallow Islam altogether, prohibit the building of new mosques, ensure that non-Muslims are not bribed to convert or

prevent Muslims from participating equally in government. There is no clear pattern to the anti-Muslim sentiment, and in fact participants within groups often disagree about the rights of Muslims.

We need the constitution to indicate that South Sudan is a country free for any religion. (Dinka Malual Older Women, Aweil Town, Northern Bahr el Ghazal)

South Sudan should have a secular constitution, such that traditional beliefs are exercised and Muslims pray without fear. (Dinka Agar Middle-Aged Women, Malou, Lakes)

Religion should be separate from the state...Religion should be separate because the country is for everybody, and religion is for the individual. (Nuer Adok Middle-Aged Men, Paya, Unity)

The government and religion should be one because if the ones governing respect religion, there will be no corruption. (Nuer Middle-Aged Women, Bor Town, Jonglei)

Religion should be involved in the affairs of the nation; otherwise, the country will not progress. (Dinka Rek Oder Men, Turalei Town, Warrap)

The constitution should clearly give Muslims the right to pray and work in government if the Muslims are South Sudanese. (Dinka Agar Middle-Aged Women, Malou, Lakes)

It is a democracy. Muslims have the freedom to build mosques and become ministers, just like Christians. (Dinka Rek Older Men, Turalei Town, Warrap)

I want the constitution to reject Islam in South Sudan...If you see; all the past wars were because of the Islam religion...The government must check them. (Acholi Middle-Aged Men, Magwi Town, Eastern Equatoria)

Yes, it [the constitution] should say that Muslims should not pay to convert to Islam. (Middle-Aged Women, Wau Town, Western Bahr el Ghazal)

Muslims should not construct new mosques. They should only pray in their old mosques...It is written in their holy Qur'an that a person who is not a Muslim cannot lead their country. For that reason, we should not allow them again to become our leaders. (Nuer Lek Younger Men, Bentiu Town, Unity)

In the open-ended question about key issues for the constitution to address, Muslim participants highlight many of the same desires as their non-Muslim counterparts. However, Muslim participants more often include among their wishes for constitutional inclusion the freedom of religion. Some say they are comfortable with a constitution that simply guarantees freedom of religion for all, including Muslims, while others say they feel the need for the constitution to go further and specifically guarantee Muslims' right to practice their religion freely, to participate in government and to ensure they are not discriminated against. In addition, the idea of a secular

constitution is supported by some Muslim participants. These participants support religious freedom and see a secular constitution as the best way to ensure all religions are treated equally. Other Muslim participants, though, are worried about removing religion from government because they view religion as a good and guiding force for government.

There should be no any restriction and interference with religion [in the constitution] and not any religion dominating the government and no religion should be superior in South Sudan. Religion is a right of every citizen to worship anything they need to worship without being asked to worship anything not of their religion culture. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

God created us all, and we cannot leave God aside and go with the constitution. If we associate God with country affairs, we will get blessings from God, and therefore, I want South Sudan not to be neutral from religion and not to separate religion from country affairs. Not to go focus on the Islamic religion only, but the constitution of South Sudan should protect all the religions. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

I think constitution should say something about freedom of worship...I think south Sudanese have no problem with their Muslims brothers. (Nuer Jikany Younger Muslim Men, Malakal Town, Upper Nile)

Every citizen has special protection by the constitution. If we say special protection to Muslims, we are very specific, and we don't want that. A constitution of South Sudan should protect all and give rights to all religions. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

The constitution should give Muslims freedom of worship...They [Muslims] should be treated equally with Christians. The government should not discriminate the Muslims from the Christians. (Younger Muslim Men, Juba Town, Central Equatoria)

Freedom of assembly and association is supported by most participants, but some express concern that unlimited freedom of assembly could cause problems or conflict.

Citizens' ability to join any organization or political party they choose is an important constitutional right, participants say. They see freedom of association as an individual right and thus, a fundamental issue of freedom. Most participants also value having the constitution guarantee their right to assemble freely at meetings, rallies and protests. They view freedom of assembly as an extension of free speech and as a legitimate mechanism by which they can voice their opinions on government. There are some participants, though, who raise concerns about, or want limitations on, this right. These tend to be older or female participants, but not exclusively. The worry of these participants is that granting the freedom of assembly will lead to problems. As a result, some want to ensure that the right to assemble is by peaceful means only or with authority approval only, while others do not want the constitution to allow the right to assemble at all because they believe it leads to unrest.

No one should refuse you to join any [political] party. (Toposa Older Men, Koor Jep, Eastern Equatoria)

The constitution should give that priority: to join any organization or political party and ability to organize peaceful meeting and protest without interference from security personals. (Dinka Agar Middle-Aged Women, Malou, Lakes)

As a citizen of South Sudan you can join any political party or to hold any peaceful meetings because that's your freedom...The constitution should give rights to every citizen to hold peaceful meetings and protests because that is their right as citizens, if it happens that something has gone wrong within the country. (Zande Younger Women, Tambura Town, Western Equatoria)

Freedom for meetings should be given because there are a lot of difficult things in South Sudan that needs to be addressed. (Dinka Malual Middle-Aged Women, Nyamllel, Northern Bahr el Ghazal)

There should be a right of people to go for protest but not destroy things. (Dinka Malual Older Women, Aweil Town, Northern Bahr el Ghazal)

The constitution should say if you want to go for demonstration you should inform the authorities before going out. (Dinka Rek Older Men, Turalei Town, Warrap)

I want the government to avoid all these kind of public gatherings, demonstrations, rallies and any organizational gathering because these are the things creating public disunity and unrest. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

Marriage is viewed as a constitutional issue by many participants, who say the permanent constitution should address the problem of soaring dowries, guarantee freedom of choice in marriages and set a minimum age for marriage.

Marriage plays an important social, cultural and economic role in South Sudan, and so many participants believe the constitution should address the issue. Three issues most concern them: dowry, freedom of choice and marrying age. Dowry elicits the most discussion among participants, who advocate that either the constitution limit bride price or make it uniform across the country. The primary concern is that in recent years the asking price for dowries has soared in many places, making it more difficult for young people to get married and more likely pregnancies will happen outside of marriage. Even though they agree that bride price is a problematic issue, some participants point out that it would be difficult to create one system (or price) that would be appropriate to all South Sudanese cultures, some of which use animals and some of which use money for bride price and all with varying valuations considered appropriate for dowries.

Freedom of choice for those marrying and a prohibition on forced marriage are widely viewed among participants as principles that should be included in the permanent constitution. They believe good marriages, and thus ones that will benefit the community and culture, only result

when the two parties are free to choose. A few participants, however, say that parents must continue to play a lead role in choosing their daughter's partner, in part because that child represents wealth for the family. An end to early marriage and a minimum marrying age should also be addressed in the constitution, participants say. Most suggest a minimum age in the range of 18-20 years, though some recommend a higher age and others say that marriage should not occur until education has been completed or there should be a right to complete education before marriage. The few that disagree with a minimum marrying age say that there may be circumstances where it would be important for a family to have their child married earlier or that girls will become fertile and may get pregnant prior to a minimum age such as 18. Other marriage issues that at least a few participants feel merit constitutional consideration are intermarriage (including the right to marry anywhere), rules on elopement, rules on pregnancies outside of marriage and a prohibition on violence in a marriage. While the overwhelming chorus of voices asks that the constitution address marriage, a few participants believe it would be impossible for the document to properly address the issue given South Sudan's diverse cultures or say that marriage is not a public issue, but a private, family issue, that should be handled through customary laws.

I want the constitution of South Sudan to mention something about marriage. The constitution should say that marriage in South Sudan should not be expensive...I need the constitution of South Sudan to mention something as to reduce the marriage price. That is why there are many cases of elopement and increased number of street children because men are refusing responsibility as they fear high dowry. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

Yes, it [the constitution] should say something about the marriage. Now people are marrying with a lot of cows, which the poor person cannot make it...Some of the Dinka tribes are now marrying with 300 cows. We need constitution to talk about that in order that marriage be brought together in one level...We need only 15 cows for marriage. (Dinka Malual Older Women, Aweil Town, Northern Bahr el Ghazal)

Some people marry with animals, and we marry with money. Marriage should be according to the country and tribe tradition; it should not be uniform. (Acholi Middle-Aged Men, Magwi Town, Eastern Equatoria)

Yes, it [the constitution] should say something against forced marriage because it has affected our girls so much, and that's why many girls have not gone to school. (Murle Older Women, Itti, Jonglei)

The boy and the girl should decide to date and marry each other without the influence of their parents. If their parents force them, they will face the consequences should the marriage turn out unsuccessful. (Older Women, Nesitu Boma, Central Equatoria)

It is not okay for the constitution to say that [there is freedom of choice in marriage] because our girls here are our wealth. What if a person who doesn't have something ran away as a result of love? Who will be responsible for the problem? (Dinka Agar Middle-Aged Women, Malou, Lakes)

Marriage is one of the crucial issues that needs to be included in the constitution because there are some people that marry children who there are under 14 years and that is not good because the girl she did not attain the legal age, which means she is still immature mentally and physically. (Shilluk Younger Men, Malakal Town, Upper Nile)

Marriage should be with big girls of 18-20 years who can take care of a family. Here in Magwi, young girls are marrying early, even at 13 years, which is very bad for parents. (Acholi Middle-Aged Men, Magwi Town, Eastern Equatoria)

The marrying [age] is sometimes depending upon the lady. If she starts developing breasts, there are already problems with her, and she begins admiring boys. The person at that age will end up pregnant. So for me, the girl can marry at age 15. (Mundari Younger Men, Buko Boma, Central Equatoria)

Marriage is self-regulatory. No government should tamper with this because families know how to deal with it...The issue of marriage in South Sudan should be left to customary laws because South Sudan is so diverse with many tribes. (Dinka Rek Older Men, Turalei Town, Warrap)

DECENTRALIZATION AND DISTRIBUTION OF POWERS AND RESOURCES

Participant views on decentralization issues are driven by which level of government they believe can either perform more competently or can incorporate their views most effectively. This is why they support maintaining the current five levels of government but is also why they favor greater national power in certain areas, such as police, judicial appointments and the creation of counties and states.

The knowledge and understanding of most participants about decentralization topics is low. In part, this is because their experience with government is relatively limited. As a result, many participants find it hard to differentiate between levels of government or to have clear opinions about where powers between levels of government should lie. As one participant says, “I know the government as one.”¹⁰ Perhaps because of their past experience in centralized governments, there tend to be broad assumptions about the appropriate reach of a national government and little outcry for autonomous state governments. Instead, when participants discuss decentralization, their opinions on which level of government should have the power in a particular area are almost always driven by which level they feel can perform most competently and/or that will be most effective at incorporating citizen views.

Most of the participants feel that the current five levels of government – national, state, county, payam and boma – should be retained. The lower levels of government are needed, they believe, because it is important to have government near the people for better development, service delivery and security. They reason that with five levels of government the citizens’ problems can be more easily identified and moved up the ladder to ensure quicker resolution. Using the same

¹⁰ Quotation is from an older women’s group in Nesitu Boma, Central Equatoria.

thought process, a few participants would even increase the levels of government by adding village governments. On the other side, a few participants would reduce the size of government, mainly for budgetary reasons.

It is good to recognize all the five levels [of government] because there are other things that are happening in boma level, without the notice of the county. So if there is an administrator in the boma level, then the boma administrator will forward the issue to payam then to county, to the state and finally to upper level. (Mundari Younger Men, Buko Boma, Central Equatoria)

A food should not be cooked in Uror and prepared by somebody coming from Juba. The levels [of government] are okay, as it is working. These small levels are the eyes; they see and solve the problems out there. (Nuer Middle-Aged Women, Bor Town, Jonglei)

All the levels of government should remain so that the government is near to the people and mostly payam and boma plus the county are very important...All the levels of the government should remain because it will make the security and delivery of services easy and if the government is resized then the government will not be near to the people. (Dinka Gok Younger Women, Cueibet Town, Lakes)

The village should be added [to the levels of government] because we are neglecting the villages...The constitution should make it to be six [levels of government] because it is good to develop the villages...if there are village [governments], the problems can be easy to solve. (Acholi Middle-Aged Men, Magwi Town, Eastern Equatoria)

They [the five levels of government] should be reduced. The payam should be removed. The county should remain because they need the budget. (Younger Muslim Men, Juba Town, Central Equatoria)

The most common responses when participants are asked to share their ideas about where power should reside within various levels of government are that the national government should control some security aspects, infrastructure (especially roads), international borders, natural resources, some taxes and some areas of education and health (especially the building of schools and hospitals). Services, some security aspects and implementation of development are viewed as areas most suited for state and local government control.

Security is for the national government because it is a big threat to the country. (Dinka Malual Older Muslim Men, Aweil Town, Northern Bahr el Ghazal)

The national government should be responsible for educational needs as well as hospitals. We cannot afford expensive schools for our children...The government in Juba should be in charge of roads so that traders bring their goods easily to our villages. This is because roads are expensive for state governments. (Dinka Rek Older Men, Turalei Town, Warrap)

The government in Juba should control borders because other countries can grab some

parts of our land...The big [national] government should have control over oil revenues because the big government can control it better. (Acholi Middle-Aged Men, Magwi Town, Eastern Equatoria)

National government should have control over hospitals and schools, while the state government should have control over security and delivery of basic services. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

When asked to explore powers of government levels in several specific areas, participant views are mixed but lean slightly toward more national government power.¹¹ Because the national government has more resources to better train and pay police, more participants believe national control of the police is appropriate. Some also just see the national government as the ultimate power that should have control over security, and thus police.¹² However, there are a significant number of participants that feel police should be controlled by the state because the state is closer to the citizen and knows the local situations better. The appointment of judges to government courts by the national government rather than state government is also preferred by more participants. Judicial appointments by the national government, they say, will reduce tribalism, corruption and bias,¹³ since state-appointed judges would come from a local tribe or clan, and will ensure that more competent judges will be chosen, in part because the national government has access to more qualified candidates and can pay better salaries. Those who support state appointment of judges believe they will come to better decisions because they know the local situation, customs and laws better. The creation and location of counties and additional states are two other issues where more participants come down on the side of national government. They say creating new administrative structures must be for government must be a national authority, in part because the job is too big for states and because the counties and states will need to be funded through the national government. Those who believe county or state creation should be a state government function say that states are best positioned to know when and where a new county is needed. There are a few participants, as well, who believe the creation of counties and states should be a joint function shared by the state and national governments.

As noted above, the results for should be read with caution because it is clear that participants are not well-versed in decentralization topics and have not yet discussed or debated the merits of what powers should be assigned to different levels of government. Although participants in this study leaned toward greater national government power in a number of areas, disagreement with that position is significant and opinion could quickly shift as there is greater discussion around constitutional matters. It is possible that with further education, debate and discussion about decentralization, the opinions on these issues could shift significantly.

¹¹ This finding is similar to findings on the same issue from previous studies in this series. See *Building a Nation* (2011) and *Governing South Sudan* (2011).

¹² Unity participants are uniformly for national control of police because they believe that state control of police would lend itself to abuse by the state government.

¹³ Unity participants are uniformly for national appointment of judges because they believe that state appointment could result in courts being used for political purposes.

According to me, since the boss is GoSS¹⁴ let the GoSS control the police. (Younger Muslim Men, Juba Town, Central Equatoria)

The national government should have control over police because the national government has a bigger budget [to pay police] than the state government. (Dinka Gok Younger Women, Cueibet Town, Lakes)

The control of the police should be from the national government so they can get good training. (Nuer Lek Younger Men, Bentiu Town, Unity)

The police should be controlled by the state government because the state government knows very well where to send the police. The police from a state know the problems of the people better. I do not want someone coming to be police here when they do not know our behaviors, beliefs and language. (Acholi Middle-Aged Men, Magwi Town, Eastern Equatoria)

They [judges] are to be appointed by national government to avoid state interference [with judges]. (Nuer Jikany Older Women, Pagak, Upper Nile)

Judges should be appointed through the national government because if the state appoints that person, it may sometimes result in bribery in courts because he is known by local people...I prefer the national government [to appoint judges] because they always appoint people who are skilled enough...If the state appoints that person [a judge], he may only favor his own people. (Zande Younger Women, Tambura Town, Western Equatoria)

State government [should appoint judges] because it is near to us and knows the type of community the judge will handle...The state government [should appoint judges] because they know the culture of the people. (Dinka Malual Older Women, Aweil Town, Northern Bahr el Ghazal)

It is only the national government that has the power and budget plan for the extension of counties. (Zande Younger Women, Tambura Town, Western Equatoria)

The national parliament should have the powers to determine the numbers of the states, and they have to make a decision to reduce the number of counties or maintain the same numbers. (Mundari Younger Men, Buko Boma, Central Equatoria)

The national government has the power to add the states because the budget is drafted by them. (Toposa Older Men, Koor Jep, Eastern Equatoria)

The state government should be the right government to decide on the number and location of the countries because the state knows its population. (Dinka Agar Middle-Aged Women, Malou, Lakes)

¹⁴ GoSS is an acronym for Government of South Sudan.

The state should be responsible to locate the [new] county, and the national government will approve. (Mundari Younger Men, Buko Boma, Central Equatoria)

Revenue collection and distribution powers is a difficult topic for most, but there is a general belief that it is appropriate for the national government to receive the majority of the country's revenues because it is best positioned to plan for their use. At the state level, there is no participant consensus about how national revenues should be divided among the states, but there is little support for granting the states the right to collect taxes at their internal borders.

Much like other topics regarding the decentralization of power, participants have a difficult time providing in-depth commentary on appropriate revenue powers and distribution between different levels of government, but they are able to express several broad principles that they feel are fair and will promote effective government. First, most participants believe it is legitimate for the national government to retain half or more than half of the country's revenue for its operations. Second, and even more widely held, is the view that the national government should take the lion's share of revenues from natural resources found with any given state, although part of that opinion is based on the notion that the national government will turn around and redistribute those revenues to other states.¹⁵ The reasoning for both of these beliefs is that the national government is supreme, understands the overall budget plans for the government, including development, and can determine the best distribution to the states.

Although a minority view, there are a significant number of participants who think that half or more of revenues, both general and from natural resources, would be better spent if directed to the states. They complain the national government does not reach the average citizen and feel the state will be more effective at delivering development and, in the case of natural resources, believe that the state has a greater right to ownership. It is interesting to note that on the issue of natural resources most of the Unity state participants opt for a very large share of revenues going to the national government. It is unclear if this is because they understand the current rules provide the state with two percent of revenues from natural resources extracted there.

The big government should take more [national revenues]...The upper government should take more than the state because the government can plan and divide to other people later. (Acholi Middle-Aged Men, Magwi Town, Eastern Equatoria)

The national government should get a good amount of the money [from national revenues] followed by the state and the last is the local government because the national

¹⁵ There appears to have been a shift in opinion on this issue since the *Building a Nation* (2011). In that study, participants said that state governments should retain 20-50 percent of the natural resources revenues extracted from the state. There could be several explanations for this. One possibility is that people are more familiar with how the revenue splits currently works in some states, such as Unity. Another is that in the 2011 study, participants were asked to recommend what percentage of revenues should be kept in-state and many suggested a rather high number. In this study, participants were asked to simply state which – national or state government – should receive more of the natural resources revenues. Since numeracy is a significant issue in South Sudan, this may account for the difference in opinion. Nevertheless, even in this study there are a significant number of participants, though not the majority, who believe state governments deserve to keep more of the revenues from natural resources extracted in their state.

government has a lot of things to do compared to the state and the local governments. (Dinka Agar Middle-Aged Women, Malou, Lakes)

If a natural resource is found in one of the states, the national government should give something small to the state and take the biggest part, such that it will go and develop other states, including the state where the oil or gold is found. (Dinka Gok Younger Women, Cueibet Town, Lakes)

The national government should take 98 percent [of natural resources revenues], and state government should be given 2 percent because the national government is the one which is governing the states. Anything that is taken by the national government will come back again to states. (Nuer Lek Younger Men, Bentiu Town, Unity)

In fact, more [national revenues] should go to the local government because the money given to the national government, GoSS, does not reach us. This GoSS just exploits us with taxes, yet we do not benefit from our taxes, so at least the local government should get more. (Older Women, Nesitu Boma, Juba Town, Central Equatoria)

The state needs a lot of things, such as the development of roads, hospitals and schools. For that reason, I want to suggest that the national government should be given small amount of money [from natural resources revenues] and the large part of it should remain in the state where the natural resource has been discovered. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

Participants have more definitive ideas about the division of revenues between the states, but there is no consensus among them on the issue. Some of the participants believe each state should receive an equal amount of revenues from the national government. For them, this would represent equality in development and would also prevent the rise of complaints or conflict. Others, though, say that the only way to ensure everyone gets their fair share is to divide revenues based on the population of a state.¹⁶ There is some tendency among participants from smaller population states to support equal distribution and from larger population states to support distribution by population, but it is not universal. A few participants believe the correct method to distribute revenues would be through a determination of needs. The opinion on whether a state can collect taxes at their borders is clearer. Most reject this idea, saying that this would not be proper because South Sudan is one country and such taxes would limit movement and access. They also note that state border taxes could increase the price of goods. Although fewer participants support the idea of state border taxes, there are some that see the benefits of such taxes and believe that it would help states grow their revenues, and thus increase development.

This method of budget allocations should remain, as it is now because what we need is equality among all the states in South Sudan disregarding their sizes...Each state should

¹⁶ A couple of participants mention that distribution of revenues to states based on population should be undertaken only after a new census is conducted. It is not known if other participants who support revenue distribution based on population would concur. As such, this is a topic which needs more exploration.

get the same amount with the rest of the states because we need equal development. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

The revenues should be distributed [among states] according to the population of that particular state, so that every person gets a share from our resources. (Dinka Rek Middle-Aged Men, Wunkell, Warrap)

States that need a lot of work like building schools, hospitals and roads should receive more money. (Dinka Malual Older Muslim Women, Aweil Town, Northern Bahr el Ghazal)

State borders are our local borders, so taxes should not be collected because we are moving within the country... For me I don't support this idea, just because it will even increase prices of things when they are taxed. (Zande Younger Women, Tambura Town, Western Equatoria)

This [prohibition on states collecting border taxes] should be maintained in the permanent constitution. As one nation there is no need to collect taxes at the state borders...The state should not be allowed to collect taxes at their borders because it may control movement of the people when they are taxed. (Dinka Malual Middle-Aged Women, Nyamlllel, Northern Bahr el Ghazal)

Every state should collect taxes at their state borders because that is the only way for state to get other revenues other than relying on revenues from land. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

GOVERNMENT AND ELECTORAL SYSTEMS

Participants say that inclusive government is defined by important government actions in the areas of good governance, development, equality and security.

Good governance, development, equality and security are the primary elements participants identify as being necessary to make them feel included in government. With good governance, they say they need efforts to reduce corruption and better consultation with, and participation of citizens, on important government matters, including through elections. With development, participants say for them to feel a part of government their basic needs, including a right to education and employment must be met. Treating everyone equal is the foundation to increasing feelings of inclusiveness, many say. They want tribalism eliminated from the government, including in employment, and want to ensure there is fairness in every aspect of government, including power-sharing and the justice system. The prerequisite to feel included in government is security, say some participants. They indicate that few will feel like the government is for them if they cannot have the peace of mind on personal security or if they do not see efforts by the government to unite the country.¹⁷

¹⁷ In the study, *Governing South Sudan* (2012), participants provided similar answers, saying the best way to create an inclusive government was to deliver basic services and development to all equitably, ensure tribal balance in government, and treat everyone equally.

Involving all citizens in the government's decisions [will make people feel included in government]. For example, during the 2011 referendum all citizens were involved in their entirety. That was why the process was very successful. When you involve citizens, then they always feel part and parcel of the process. (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

Coming to us for our views is very important to feel that the government really cares about us. (Mundari Middle-Aged Women, Buke Village, Central Equatoria)

Corruption should be taken out [of government for people to feel included]. (Mundu Younger Men, Maridi Town, Western Equatoria)

The best way to make people feel we included in the governing of the country is when the government offers all basic needs, for instance electricity, water supplies, schools and hospitals. (Shilluk Middle-Aged Women, Makal Village, Upper Nile)

The government should create jobs and give scholarships to our children to make us feel part of the freedom and rights we fought for during the war. (Zande Older Men, Duma Boma, Western Equatoria)

Equality makes people feel that they are included. All people should be treated equally. (Nuer Older Men, Bor Town, Jonglei)

We need all the citizens to be provided equal opportunity and rights [to feel included in government]. (Dinka Younger Men, Bor Town, Jonglei).

The best way [to make all feel included in government] should come if we stop tribalism and call ourselves a black nation only. One nation... Corruption, nepotism and tribalism need to be fought in order to eradicate mistrust. (Nuer Lek Middle-Aged Women, Yonyang, Unity)

The best way to make all South Sudanese feel they are included in the governing of the country is when all tribes are represented in all levels of the government because that is the only way we can take away tribalism in the government. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

The best way [to make people feel included] is to ensure law and order in this country, and it must apply to every South Sudanese whether a business group or Minister, an ordinary citizen or a general in the army. (Dinka Gok Older Men, Gikon, Lakes)

[To feel included in government] people should be employed based on abilities, not on tribe, origin, or relationships with key officials at the employers' offices... The government should make sure there is diversity of employees if there is to be peace in the country. (Middle-Aged Men, Juba Town, Central Equatoria)

Protecting citizens from harm and aggression and making peace with warring communities [is the best way to make people feel included in government] ... Unity of all tribes in the

government is important because our country is behind because of the huge conflicts and wars. (Dinka Bor Younger Women, Bor Town, Jonglei)

Opposition to the constitution referencing tribes is common among participants, who primarily want to ensure the constitution embodies the democratic ideals of equality and fairness to all.

The ideals of equality and fair treatment to all are more important to include in the constitution than any mention of tribes, according to most participants. They simply want the constitution to say that everyone is the same under the law and that democracy and good government are among the abiding values of the country. Some argue that it is important to explicitly note that all tribes are equal, but others fear that any mention of tribes will create division and set the wrong tone for this most important document. A few note that they would like all tribes to be mentioned in the constitution, simply for them to be recognized and noted for historical purposes.

There is limited data on the issue of the constitution addressing tribal representation in government, but among participants who address the issues, there are mixed views. Some say there is no way that the constitution should address tribal representation in government because there are too many tribes and because tribal representation will result in the appointment of unqualified officials. Others, though, would like for the constitution to describe a way in which all tribes can be represented in government so that all voices are heard and there is less potential for conflict.¹⁸

The constitution should not mention tribes because what we want is good governance. [That is] the most important thing and to respect other tribes. (Shilluk Middle-Aged Women, Makal Village, Upper Nile)

It is bad mentioning them [tribes in the constitution] because our societies are already divided, and this will jeopardize our unity in the future. (Dinka Bor Younger Women, Bor Town, Jonglei)

It is very important that tribes be mentioned in our new permanent constitution. The constitution should say that there should be no tribalism or corruption based on tribal differences in South Sudan and that the country should be united as one despite ethnic diversity. (Middle-Aged Men, Juba Town, Central Equatoria)

The constitution should say any tribe in South Sudan must be considered for any government position. (Dinka Malual Middle-Aged Women, Maduany, Northern Bahr el Ghazal)

¹⁸ There are similar mixed feelings expressed by participants in the 2012 *Governing South Sudan* study, which explored the issue of tribal representation in government more in-depth. In that study, participants said that tribal balance made them feel included in government, and they supported President Salva Kiir's effort to have regional balance in the government's cabinet. However, some wanted the effort to regionally balance the cabinet to be a temporary approach. Likewise, the participants said that if there was equitable service delivery, their calls for tribal representation in government would dissipate.

All tribes should be mentioned in the constitution so that all will be known. (Nuer Lek Middle-Aged Women, Yonyang, Unity)

More than 60 tribes cannot be represented or all have ministers in the government [so the constitution should not address tribal representation]. If someone is appointed from Bentiu, and I am from Fangak then that person is representing us. (Nuer Older Men, Bor Town, Jonglei)

There is no need to address representation of tribes in the constitution but only concentrate on one's capabilities...I think tribal representation can make other incompetent people to lead us, which can affect service delivery. (Dinka Bor Younger Women, Bor Town, Jonglei)

Every tribe should have a representative up there [in government] not only one tribe representing only. (Mundari Middle-Aged Women, Buke Village, Central Equatoria)

It will be good to represent each tribe in the government. I think it is a good thing...If there is no tribal representation in the government it will always bring rebellion in South Sudan; that is what I know. (Zande Older Men, Duma Boma, Western Equatoria)

Most participants believe the constitution should establish a multi-party political system for South Sudan, but some express support for ensuring the overall number of political parties is relatively small.

Many participants cite important benefits that would result from a multi-party political system being enshrined in the constitution. The primary ones are that multiple parties will mean there are plentiful ideas and ideologies to help move the country forward and that the competition between multiple parties will ensure all work hard to deliver the best for the people of the country. Although the support for a multi-party system is solid, there are some participants who think it would be wise to limit the total number of political parties. Suggestions range from two to five parties as an appropriate limit. These participants say that more parties than that will confuse the public, limit the ability to share power and increase the likelihood of problems or conflict between parties. There are a few participants who disagree. Some of these want the constitution to limit South Sudan to one party because they are afraid that having more than one party will result in conflict. Others want many political parties because they believe many parties are needed to represent the diverse population or that more parties will provide citizens with more choice and thus better government.¹⁹

The constitution should say something about multiple [political] parties in South Sudan because many parties have different ideologies, and one party cannot lead a nation to the future. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

¹⁹ Participants in past NDI studies have consistently supported a multi-party system in South Sudan, although they have also usually expressed concern about the consequences of having too many political parties as they do in this study. Previous participant responses on this issue can be found in multiple past NDI studies at www.ndi.org.

More political parties make good government. (Nuer Younger Muslim Men, Malakal Town, Upper Nile)

[The constitution should say there can be] more political parties to challenge themselves, such that they will deliver service to the people. (Dinka Malual Middle-Aged Women, Maduany, Northern Bahr el Ghazal)

The constitution should state that the country should be a multiparty nation simply because one party will relax without fearing any critics...More parties; that shows the sign of democracy in a country. (Dinka Agar Younger Men, Rumbek Town, Lakes)

A multi-party system would be better to support opposition and negotiation...so that all will have different ideas...because a one party system cannot work in the country and may lead to dictatorship. (Nuer Lek Middle-Aged Women, Yonyang, Unity)

When there are few parties power-sharing is possible, and it is easy to apportion positions in government. If there are more than four, it will cause many problems as those who have not been able to win votes, or given the chance to hold power will lodge complaints that are not genuine. This will cause us lots of problems, which we are tired of. (Middle-Aged Men, Juba Town, Central Equatoria)

In South Sudan, there are more than 18 political parties, and some of these are registered on paper, but they don't have even one member belonging to that party. So these are the parties creating confusion among the people and in government. That is why I am saying the constitution of South Sudan should allow only two political parties. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

[Political] parties should be only two because most of the current problems in South Sudan now are caused by parties' competition. (Dinka Middle-Aged Men, Malakal Town, Upper Nile)

Better to have one political party because if there are many parties people will fight. (Acholi Older Women, Palotaka Payam, Eastern Equatoria)

We need the country to have many political parties in order for our country to develop well...Any party has its constitution, and the another one may come with the better way to govern the country. (Dinka Malual Younger Men, Aweil Town, Northern Bahr el Ghazal)

To me there can 20 political parties because is South Sudan is a diverse nation. (Dinka Rek Younger Women, Mayen Abul, Warrap)

The role of opposition parties, both outside of and within government, should be recognized in the constitution, say participants.

Most participants believe it is important for the constitution to address the issue of opposition political parties.²⁰ Outside of government, participants would like for the constitution to recognize opposition parties as a legitimate part of the political process and reinforce the legality of their activities. Specifically, some participants want the constitution to guarantee opposition parties and their agents freedom of speech, movement and campaigning and to ensure they have the right to criticize the ruling party. Many participants also say that opposition parties' role inside government should be formalized. These participants like the idea of the opposition parties monitoring the work of the ruling party and believe government will work better if there are more voices in making decisions, with "outside" voices suggesting changes of course when necessary.

When discussing how government posts should be allocated following elections, most say there should be a requirement that any winning ruling political party share some key political posts with losing opposition parties. The values of collaboration and power-sharing are highly valued by these participants. They say that it is the right of everyone to participate in government, that opposition parties have a valuable role to play in good governance and that, in the case of South Sudan, it is important to take an inclusive approach to avoid problems and rebellions by disgruntled political actors.²¹ Some participants oppose the inclusion of opposition parties in government, however, because they believe a winning political party deserves the opportunity to rule as they see fit and because the citizens voted for the party they wanted in power.

The constitution should clearly state that opposition to a ruling party is recognized...The constitution should give political parties the right to criticize the ruling party...The constitution should give political parties the right to campaign and organize rallies during the time of election and any time they feel like. (Dinka Agar Younger Men, Rumbek Town, Lakes)

When a country has a multi-party system every political party should have a role to play and their people should be given all the rights to speak out to the citizens, not to be restricted all the time...The opposition parties should be next to the government to give their views when there is something to discuss because for us we need to hear their voices in the government. (Zande Older Men, Duma Boma, Western Equatoria)

Without opposition, the ruling party will not realize their mistakes, for the opposition helps the government to know this by pointing out mistakes in governance. They are necessary indeed. (Middle-Aged Men, Juba Town, Central Equatoria)

²⁰ As noted above, a few participants believe South Sudan should have one party only, so those participants do not agree with this statement since in their view it would be irrelevant.

²¹ The *Governing South Sudan* (2012) study also found that participants were supportive of losing political parties being included in government for both idealistic (collaboration) and practical (avoiding rebellions) reasons. The study is available at www.ndi.org.

There should be sharing of power [in government] with the opposition parties... Opposition parties should be involved [in government] to strengthen the ruling party activities. (Toposa Younger Women, Kapoeta Town, Eastern Equatoria)

In a democratic system, [a winning] party cannot dominate the power but shares with the other opposition parties...The [winning] party should share with other parties the key positions because the country is for all of us...so that we share ideas. (Nuer Lek Middle-Aged Women, Yonynang, Unity)

The government is good when all parties are involved...Other [opposition] must be included such that it becomes an inclusive government. (Nuer Older Men, Bor Town, Jonglei)

Although the other [opposition] parties failed to get the largest number of votes in the election, they should share the positions [in government] because by dumping the other parties, it can easily result in the rebellion of the other parties against the government. (Zande Older Men, Duma Boma, Western Equatoria)

Those [political parties] who lost should not be employed [in government] because the public has already refused them. That is why they were not elected in the election. (Dinka Middle-Aged Men, Malakal Town, Upper Nile)

It is not good for a party that has won the elections to share the power. What makes other parties to fail can be a big concern, and it perhaps can tell that they cannot work and do great things for South Sudanese. A party that has won should take all the ministerial posts. (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

The role of traditional authorities in government at the local level should be recognized in the constitution, according to participants. However, there are mixed views on whether they should be involved at higher levels of government.

Traditional authorities are a very important part of government, according to participants. They would like the constitution to empower chiefs and define and legitimize their role in government. The appropriate role traditional authorities should play, participants say, is to take charge of community affairs, to rule on cultural and small crimes issues – although some say they could benefit from legal training – and to act as a bridge between government and the community. Some participants suggest formalizing the role of traditional authorities through official government positions and/or salaries. There are mixed views among participants about whether traditional authorities should play a role in government at the state or national level. More say it is best for traditional authorities to remain focused on the local level, some believe that it would be useful to engage traditional authorities at the state or national level temporarily in certain circumstances, and some say traditional authorities deserve an official role in the state or national

government, either through a special office or council or by sitting in the assemblies because they know the problems of the people.²²

I need the constitution to define the powers of traditional authorities because they have roles in bringing peace and unity amongst people... Traditional authorities have existed for a very long time, and there is a need to retain their roles in the constitution because they organize societies. (Dinka Bor Younger Women, Bor Town, Jonglei)

It is good to write in the constitution the role of traditional authorities because they are more close to the people on the ground, and they serve as the bridge between the communities and the government... The traditional authority role should be defined in the constitution so that they get a chance of earning their living from the government because they have been working tirelessly during the war and up to now they are still working for free. (Zande Older Men, Duma Boma, Western Equatoria)

They [traditional authorities] should be involved [in government] since they all know the traditional ways of solving issues. (Toposa Younger Women, Kapoeta Town, Eastern Equatoria)

The constitution should say the traditional leader should be responsible at the grassroots level, starting from payam to county level. (Dinka Rek Middle-Aged Women, Warrap Town, Warrap)

Government should take traditional authorities for trainings so that they will judge fairly. (Mundu Younger Men, Maridi Town, Western Equatoria)

The permanent constitution should define issues related to culture as being under the leadership of traditional authorities... The constitution should give traditional leaders cases like adultery and theft cases between communities. (Dinka Agar Younger Men, Rumbek Town, Lakes)

They [traditional authorities] should only work at their levels like county, payam and boma... County, payam and boma are their levels because they don't know how to read and write. (Dinka Gok Older Men, Gikon, Lakes)

They [traditional authorities] should not be overloaded with other work, and remember everybody comes from boma, payam and counties. Therefore, they should do local duties because MPS are there to represent them in the national government. (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

They [traditional authorities] can only work in their places, and if they are called by government then they can go on... They [traditional authorities] may be needed at the state level to handle disputes. Then they can go and handle it and come back to their

²² Participant views in this study about traditional authority participation in government are very similar to those expressed by participants in the study, *Building a Nation* (2011).

respective positions. (Dinka Rek Middle-Aged Women, Warrap Town, Warrap)

Though they [traditional authorities] may be overlooked by the other government organs as insignificant, I do think they should be at both central and state government levels...Chiefs should be involved in state and central legislative assemblies because they play an important role in society. (Middle-Aged Men, Juba Town, Central Equatoria)

I think constitution should mention that those traditional leaders who fail to perform well be removed from their positions. (Nuer Younger Men, Malakal town, Upper Nile)

Direct election of the president of South Sudan is the almost unanimous choice of participants.

Almost all participants express their strong preference to directly elect the leader of their country. They believe it is their right to make their own choice for who should head the country. According to participants, the direct election of the president will ensure the most capable person is elected, there is familiarity between people and their leader, the elected leader is accountable to the people and the leader will have the legitimate support of the public. Not having the right to directly elect their leader would cause them to doubt, the participants say, whether the right leader has been chosen. An indirect election where members of parliament (MPs) choose the country's leader would worry participants because they believe the MPs would have their own interests and motivation for their votes. A few participants do not object to the indirect election of the country's leader because they view MPs as representatives that could serve as appropriate proxies for their vote.²³

I want to choose the head of government myself...This will ensure that the head of government will be accountable to me, and I will know him...The parliament will go and choose someone from the cattle camps as my leader. Someone I don't even know. They will only come and say here so and so is now your President. This I do not want. (Middle-Aged Men, Juba Town, Central Equatoria)

I prefer the system that says the head of the government should be chosen in a vote by the citizens because I cannot trust those in the parliament as they might be having their own interests other than that of the public. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

[I prefer a president] elected by the people so that in case this person does something bad I will have nobody to blame but myself rather than when someone elected him that will take the blame to that person. (Mundari Younger Women, Terekeka Town, Central Equatoria)

The head of the government should be elected by the popular vote because it affirms his or her legitimacy. (Dinka Bor Younger Women, Bor Town, Jonglei)

²³ These findings match those of the *Building a Nation* (2011) study, in which participants also strongly supported direct election of the president.

Voting directly for the president [is my preference] because I will know whom am I going to vote for and whether he or she is capable. (Dinka Agar Younger Men, Rumbek Town, Lakes)

We have elected our representatives who are our eyes and voices in parliament. Therefore, I prefer a system where the head of government is to be chosen by members of parliament. (Dinka Gok Older Men, Gikon, Lakes)

Participants are able to describe distinct roles in government for the president and the parliament and strongly support the parliament's independence to create laws for the country.

Participants make a clear differentiation between the role of National Legislative Assembly (NLA or parliament) and the role of the president. They describe the NLA as the deliberative and representative body of government. In addition to making laws, the parliament's key roles in government, participants say, are to represent citizens, to debate and address the issues of the citizens and to monitor and approve the work of government. In several different groups, participants refer to the parliament by comparing it to some vital part of the body, such as saying the parliament is the eyes or heart of government or is the people's voice. Participants indicate that the president is important symbolically because he represents all the people. Beyond that, they view the president's job as primarily implementing parliament-passed laws or directives and planning and supervising the country's development work. They also note the president represents the country internationally and is in charge of security, the army and any planned military actions.

The main job of the MPs is to coordinate between the national government and the areas where they came from and discuss issues affecting citizens on ground in the parliament. (Zande Older Men, Duma Boma, Western Equatoria)

I can see that the national legislature is the heart of the government because before anything is passed it would first go national legislature for debate. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

The president deals with the development of the country. (Mundu Younger Men, Maridi Town, Western Equatoria)

The main job of the president should be the implementation of laws and overseas development of the country, representing the country internationally. While the main job of the parliamentarians would be the monitoring of the functioning of the government. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

The parliament is the law-making body in the country, and it represents people's voices in the country...The president's work is to protect the territorial borders of South Sudan through proper management of the national army. (Dinka Agar Younger Men, Rumbek Town, Lakes)

The designation of parliament as the primary and final law-making body in government is strongly supported by participants. Most declare that parliament has the power to craft and pass laws, even if the president disagrees and conversely, that the president cannot make laws without the parliament's consent.²⁴ Their reasoning for these positions is that the parliament represents all citizens and is better positioned to understand the on-the-ground situation and act as their voice. On the other hand, the president must be limited in his ability to make laws, participants say, because he is only one person and his acting to create law without consulting parliament would diminish the power of the people. There are some participants who express discomfort with the idea that parliament could pass a law even if the president disagrees. For these participants, the president's position as the head of the country must be respected, and their preference is that the president and the parliament could find a way to ultimately come to agreement on laws, even if more debate is first needed.

The parliament has the right to make laws for the country, even if the president disagrees, because the parliament is the voice of the people and the people's representatives. (Nuer Lek Middle-Aged Women, Yonynang, Unity)

The parliament is the body elected to represent the public, and therefore it is the only body that can make law. For this reason, it is unlawful for president to disagree over the law approved by the parliament. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

The parliament should pass laws because the president does not know what is happening in the country. (Mundu Younger Men, Maridi Town, Western Equatoria)

No, the two parties, parliament and the president should work together. The parliament alone is not government...Being the head of the state and our leader, the president cannot be forced to accept laws against his will. If the president has an opinion contrary to that of parliament, then he should come to parliament and give reasons for his opinion. In this way, the parliament will also reinforce its views on the matters at hand. (Middle-Aged Men, Juba Town, Central Equatoria)

Parliament should not force laws because President Kiir is elected by us. Therefore, he has all the rights to refuse any law which is not right. (Dinka Gok Older Men, Gikon, Lakes)

No, the president should not make laws without consulting the parliament because the parliament is the most important institution that should make final laws. The parliament should not be a rubber stamp. (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

The president cannot do anything [in regards to making laws] without the parliament's knowledge. If he does it, means that he sidelines the citizens' voices because parliament members represent the people of South Sudan. (Dinka Agar Younger Men, Rumbek Town, Lakes)

²⁴ A few participants say that the president still maintains his ability to issue decrees, however.

The president is only one person...Parliament is more powerful than the president, so he cannot make laws [without consulting parliament]. (Nuer Younger Muslim Men, Malakal Town, Upper Nile)

There are mixed views on whether the constitution should endorse or prohibit members of parliament serving as ministers.

Participants have fairly mixed views on whether a member of the NLA should have the ability to serve as a minister during their term. More are against having members take up ministerial duties because they believe it reduces their ability to represent their constituents and because they disagree with one person taking up two positions, when the second position could be distributed to another. But there are also many who see the benefits of having members of parliament assume ministerial posts. This, they say, would ensure that ministers have the stamp of approval from the people because they were elected. Some participants say that allowing the option of a minister being chosen from either within or outside of parliament is the best course.

A member of parliament could never be a minister because a member will be busy with ministry administrative issues and forget his role back as a member of parliament. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

No one should hold two positions. MPs must remain MPs and ministers should remain ministers only because that is unfair for any position holder to have more than one position. (Muslim Middle-Aged Men, Wau Town, Western Bahr el Ghazal)

It is not okay for an MP to be a minister because they should concentrate on making laws and representing people and leave the executive branch alone. (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

Ministers should be MPs because they were elected by the people, and they know them very well. They represent many people...The president should select MPs to be ministers because they know the problems that we are facing at the grassroots. (Dinka Malual Younger Men, Aweil Town, Northern Bahr el Ghazal)

The president can have a mixed cabinet of MPs and non-MPs so that they perform services well. (Dinka Middle-Aged Men, Malakal Town, Upper Nile)

Participants want states to have representation in national government.

There is a shared desire among participants to have the states represented in some way in the national government. They believe state representation at the national level will improve communication between the two levels of government and will ensure better and fairer representation of the states' interests, including service delivery, within the government as a whole. A few participants also believe state representation at the national level would strengthen the unity of the country. Participants have a variety of ideas for how this could work. Among them are having state representatives in ministries, having a limited number of people per state

appointed to the national government and having citizens elect state representatives to serve in Juba during the national elections.

States should be represented in the national government to coordinate and connect the state with the national government...[This should be done] by appointing one person to represent the state in the national government. (Nuer Lek Middle-Aged Women, Yonyang, Unity)

It is important that a state is represented in the national government because if the state is not represented and there is a distribution of anything, the state that is not represented it would not get anything. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

It is important to have the state represented in the national government because that will balance the work of the president without looking in one direction for the appointment of civil servants and other developmental issues. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

States should be represented [in the national government] such that the member will act as an eye in the national government and bring services to the people...States should be represented in the national government by distributing key ministerial positions amongst all ten states. (Dinka Agar Younger Men, Rumbek Town, Lakes)

[State representation at the national level is important] because this can encourage unity of South Sudanese. (Dinka Bor Younger Women, Bor Town, Jonglei)

The states should elect one person during the general elections to represent the state in this manner [in the national government]. (Middle-Aged Men, Juba Town, Central Equatoria)

A unicameral²⁵ parliament is the choice of most participants.

Most participants believe there is no need for South Sudan's legislature to contain two houses. Their primary concern is the money that would be required to support two houses. They note that South Sudan has limited resources currently and the added value of a second house is too small to justify the cost. Other participants raise concerns about the possibility of two houses setting the stage for conflict and or the possibility that the work of the two houses would be unclear or duplicative. A few object to a Council of States because its members are elected by the state and not directly by the people. The fewer participants who support having two houses of believe they could play different, and beneficial, roles or that the Council of States could be a useful tool in addressing the needs of states.

[There should be] only one house [in parliament] that is elected by the people. The country is still very young, and it can't afford two houses in terms of resources. (Dinka

²⁵ Participants also refer to a "one-house" parliament.

Malual Younger Men, Mathiang, Northern Bahr el Ghazal)

I am surprised to hear that there is a Council of States. All these require funds to run them that we do not have. I would say we should have only one parliament at the national level and one at the state level. I don't even know what role the other parliament [Council of States] plays or will play that is different from that of the Legislative Assembly I know. (Middle-Aged Men, Juba Town, Central Equatoria)

We need only the legislative assembly that we have elected because if there is another one [Council of States], there will be conflict between them...I need only the national legislative assembly because it is the only one that we have elected, not the Council of States. (Shilluk Middle-Aged Women, Makal Village, Upper Nile)

These two houses of parliament have different functions. The Council of State watches over the state government. If the governor is not doing well, they will see, so the constitution should retain a similar policy of having two houses of parliament. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

It is important to maintain a constituency-based electoral system, according to participants. Having a constituency-based system alongside one that allows voting for a political party representative is endorsed by many as well.

The parliamentary electoral system that most participants want reflected in the constitution is one that results in either elected members representing constituencies or in some elected members representing constituencies and some representing political parties. There is a strong attraction among participants to a system that allows them to choose a person as a representative who is charged with being the voice in government of their geographic area. While this person may be affiliated with a party, what is most important to participants is that the person be someone they know, someone they trust can to better their lives and someone that will be primarily accountable to them, not a political party. Thus, the electoral system that allows them to choose a member of parliament for their constituency is the one that they say makes them feel more represented. Nevertheless, many participants like the idea of voting for a political party for parliament as well. They say that sharing a political philosophy is an important part of representing them. The choice of most, then, would be to maintain the current system of parliamentary representation where citizens vote for both a representative for their constituency and in a separate ballot for a political party because they feel they will be getting the best of both. Even when told that voting for political party representatives only could result in more diverse representation of parties in government, most say they would not choose to have a system that did not include constituency-based representatives.²⁶

I need the person to be voted through constituency because he or she would have convinced citizens about what they planned do...I need us to vote for a person [to

²⁶ These findings are consistent with the *Building a Nation* (2011) study. Constituency-based representation was preferred by more participants in that study, but many also wanted to maintain the dual system of constituency and political party representation.

represent the geographic area] because he or she will be held accountable if they fail to deliver what they promised. (Dinka Bor Younger Women, Bor Town, Jonglei)

I prefer voting for a person to represent the constituency in parliament because a party has wider coverage [than a constituency] and he [the candidate] may prefer the bigger interests of the party that would conflict with [the constituency's] interest. (Dinka Middle-Aged Men, Malakal Town, Upper Nile)

I would prefer to vote for a person representing me from my constituency and a member of a political party at the same time because [those representatives] might have a background of my area and [my] political philosophy. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

Voting for both a party and a person to represent me in the parliament is the best system because I will have a party and person at the same time... Voting for both a person and a political party [is best], such that I also feel involved in the politics as well. (Dinka Agar Younger Men, Rumbek Town, Lakes)

There should one person for representing the geographical constituency and one person representing our political status... Party list is very important, so two people should go to parliament to represent both the [geographic] area and the political aspirations of the area. (Dinka Rek Middle-Aged Women, Warrap Town, Warrap)

Even if there are many parties [in parliament], it doesn't mean I will vote for each of them. I want to vote for the person whose behaviors I know regardless of their party affiliations. This is why I say even if the system results in having representatives from all or many parties in government, I will not change my decision that I would rather vote for a person than a party. (Middle-Aged Men, Juba Town, Central Equatoria)

Participants prefer to directly elect their county commissioners to enhance accountability and the quality of officials.

Participants have a strong preference for directly electing their county commissioners. They want to elect county commissioners for the same reasons they like elections in general: they get to make their own judgment about who can serve them best and the officials have to answer to the citizens and no one else. Some also fear that allowing a commissioner to be appointed by a governor will result in officials that are not competent and have the position only because of connections. Direct election is also preferable to election of commissioners by the county council because the county council is not elected and so there is no direct link back to the citizens. A relatively small number of participants think that election by the council or appointment by a state's governor would result in better commissioners because the council or the governor would have better information about good quality candidates.

[County commissioners] should be elected by the people they know who are the best commissioners to lead them very well. (Dinka Malual Younger Men, Aweil Town, Northern Bahr el Ghazal)

We need to vote for commissioner by ourselves because when there are problems, we will be able to make him accountable. (Shilluk Middle-Aged Women, Makal Village, Upper Nile)

Commissioners should be elected by us, and this will make them respect us since he will fear that we have powers to remove him. (Dinka Gok Older Men, Gikon, Lakes)

The commissioners should be elected by the people not to be appointed by the governor because the governor can end up appointing his friends and allies but not competent people. (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

I would say that the council at the county level should elect commissioners because the council would know who has that experience, for example like administrative officers in the state. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

I think the governor should appoint the county commissioners because he will choose people he trusts, and he knows how to carry out this job very well. (Dinka Bor Younger Women, Bor Town, Jonglei)

There is widespread support among participants for maintaining the constitutional language that guarantees women twenty-five percent representation in government, although the support is less enthusiastic among some male participants.

Most male participants and almost all female participants support maintaining the language in the constitution that guarantees women representation in government. The female participants view themselves as a critical part of society that needs to be incorporated into government, and many argue that current 25 percent level should be increased, with suggestions ranging from 30-50 percent. Women say they deserve more because they are the people in society suffering the most and because they are equal to men. As noted, male participants generally support the 25 percent level for women's representation in government, and some even argue for an increase,²⁷ because they see women as hardworking and capable, an important ingredient to the country's success and deserving of the share due to their contribution to the war. However, some male participants say the 25 percent level should not increase because women should never be above men or take men's jobs, because women don't perform well or because it would disrupt the social order. A few male participants would decrease women's share of government positions for the same reasons.²⁸

²⁷ Of the male participants that name a percentage increase for women's representation, most say they would like it to increase to 30 percent.

²⁸ There has been consistently strong support for the 25 percent quota for women in past NDI studies among both male and female participants. However, in this study there appears to be slightly more questioning of the quota from male participants than in the past, although all over support for the quota among men remained strong. Past studies that have explored this issue include *Imagining the Elections* (2009) and *Governing South Sudan* (2011).

If it is me, the 25 percentage affirmative action should be maintained. It is a good thing the government has done to the women. (Dinka Bor Younger Women, Bor Town, Jonglei)

The rights of women [for representation in government] should not be decreased. It [the set-aside for women] must be increased, even like 50 percent...We women are mothers, we women are the ones suffering every day; women should have more power, 50 percent...I want women to have more power like men, yes 50 percent. (Acholi Older Women, Palotaka Payam, Eastern Equatoria)

It [the women's set-aside percentage] should be increase. In areas like justice, women are lacking so increase the percentage to 35 percent...We are the same before God and don't have many differences so I think we should have an equal share [in government] with men of 50 percent each...If our rights are recognized like this [with the women's set aside] then we can have women in payams and county level in finance and local court systems; therefore increase our percentage to 35 percent. (Dinka Rek Middle-Aged Women, Warrap Town, Warrap)

The 25 percent [for women's representation in government] should remain in the permanent constitution, such that women get involved in governing the country. (Dinka Agar Younger Men, Rumbek Town, Lakes)

Women are humans just like men and they need everything that men need. I think this [the set-aside for women] should be increased to 30 percent...If the government is left for men alone without women, then I think the government will fail. Thirty percent [set-aside for women] is good for them in the next constitution. (Middle-Aged Men, Juba Town, Central Equatoria)

It is correct to give 25 percent [for women's representation in government] because there are women who are more capable than men, and if you were to bring such kind of women to the governor's position, they would do better than what current governor is doing. Take, for example, the Warrap state governor and Hillary Clinton. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

In the bush, we had all suffered let that percentage [for women's representation in government] remain...They really suffered during the struggle. They were forced to prepare food, carry ammunition and even they also took guns and fought. It [the women's 25 percent set-aside] is good for them. (Nuer Older Men, Bor Town, Jonglei)

Yes, it [the 25 percent set-aside for women] should remain the same 25 percent, but my main issue here is giving big positions to women can make them to be proud without respect to men. Therefore, women should not be given big positions like governorship and ministerial positions because they are loose in mind, despite the education background they may have...For me it should remain the same 25 percent because when God created man first before making a woman out of his rib. Therefore, women should not be above men. (Zande Older Men, Duma Boma, Western Equatoria)

Women's role according to our tradition is to produce children and look after children. Nowadays, there are some women who left their house and run after politics and money. In my own opinion, 25 percent [set aside for women] should never increase. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

To me, the 25 percent [women's set aside] has to be reduced to 20 percent because some of women do not perform well in the offices. (Dinka Gok Older Men, Gikon, Lakes)

PRESIDENTIAL POWERS AND LIMITS

Most participants initially reject the idea of giving a president the power to remove an elected governor in the permanent constitution because they view that as an issue that can only be legitimately addressed within the state. However, some change their positions when asked about crisis situations.

Most participants strongly object to providing a president of South Sudan the power to remove an elected governor. They believe that power should rest with the state assemblies or with the people within the state. A president, participants contend, is not well-positioned to understand the local situation and should not have authority to remove someone the people freely elected. They feel much more comfortable with the decision to remove a governor being made within their state. There is a minority view, however, that a president should be given this power so that he can act quickly when something has gone wrong with a governor. This group of participants says that in certain situations, such as where a governor is corrupt, is practicing tribalism or is involved inappropriately with insecurity issues, it would be appropriate and useful for a president to have the power to remove him. Of those who initially rejected the idea of a president being given the power to remove an elected government, when asked about whether that power should be granted in a crisis some remain steadfast this should not be a presidential power. Others, however, say they can envision certain crises, such as those named above, where it would be appropriate. Regardless of how participants answer initially on this question, many want to ensure that if a president removes a governor that act can only be accomplished after significant consultation with citizens or state assemblies.

Things of this nature are all about democracy, so I have never seen on earth that anybody voted in by citizens can be removed before the end of his term of office...The governor is voted in by the people. So these people have the power to remove, not the president. (Mundari Younger Men, Buko Boma, Central Equatoria)

The state assembly should have powers to remove an elected governor because the assembly knows what the governor is doing, whether good or bad. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

The constitution should give the president the power to remove an elected governor if they have connection with rebels. (Nuer Lek Younger Men, Bentiu Town, Unity)

The president has the right to remove the governor if there is corruption, if he is stirring the spirit of tribalism among the people, as well as the insecurity situation in the state [if it is a] result of exercising of power by the governor. (Shilluk Younger Men, Malakal Town, Upper Nile)

The president should not be given power [to remove a governor in a crisis] because the governor is elected by the citizens, so it's the members of parliament²⁹ and the citizens to settle the issue, not the president. (Zande Younger women, Tambura Town, Western Equatoria)

The president should first meet with state parliament to discuss and to understand the issue before action [is taken to remove an elected governor]. (Dinka Rek Middle-Aged Men, Wunkell, Warrap)

The president should consult the citizens whenever he wants to remove a governor. We want the president to ask us whether we are happy with the governor's removal or not. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

Participants do not support granting a president the right to appoint members to the national legislative body because they feel that body's sole purpose is to represent the views of citizens.

There is strong opposition among participants to providing a president of South Sudan the power to appoint members to the National Legislative Assembly. Most view that body as the primary mechanism through which their views are incorporated into government and so are offended that anyone other than citizens would be allowed to influence its composition. They also note their suspicion that appointed members would not act for the public good because of their undemocratic origin. This is highlighted in a question one participant asks about appointed members of parliament, "Whom do they represent?"³⁰ The few participants who support presidential power to appoint members of parliament believe that the additional members may be necessary to have enough representatives or that they could make the body perform better. Even among the few that support presidential appointment of parliamentary members, the number of presidential appointments they believe should be allowed is relatively few. When given the hypothetical number of 100 members of parliament, most say the president should only be allowed to add two or three to that number by appointment.

If the people in the parliament come through the vote of the people, then the president has no right to select people to the parliament. (Nuer Adok Middle-Aged Men, Paya, Unity)

No one should get to any assembly without passing through the people he is to represent. We shall be the ones to elect them. (Dinka Rek Middle-Aged Men, Wunkell, Warrap)

No, if he [a president] is allowed to appoint other members, how can we know that the

²⁹ In context, this is likely to refer to state assembly members.

³⁰ Quotation is from the Nuer middle-aged women's group in Bor Town, Jonglei.

people we voted are the ones working in the government? (Middle-Aged Women, Madereggi, Western Equatoria)

The constitution should give the president some powers to appoint members of parliament because those who were elected might not be enough and their ideas might make [things] better. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

The president may have his friends to appoint, but they cannot be many. He should be given only two people to appoint to the assembly. (Dinka Rek Middle-Aged Men, Wunkell, Warrap)

Participants express strong support for presidential term limits.

Participants are clear in their desire for the constitution to limit the term of a president of South Sudan. Most say the length of a term for a president should be anywhere from four to six years, with four years being the most popular answer. With this length of term, participants feel the president will have enough time to demonstrate he or she can be an effective leader. Also, the number of terms for a president must be limited, participants believe. Most think two terms for a president is sufficient because they do not want a dictator and because they believe limiting terms will increase power sharing in the country.³¹

To me, four years is more acceptable [for a presidential term]. The president may rule for two terms of four years each. The second term of which will depend on the electorate's analyses of his previous performance. After eight consecutive years, he is not allowed to run for elections anymore. (Middle-Aged Men, Juba Town, Central Equatoria)

He [a president] should take five years if he is doing good development for people. (Acholi Older Women, Palotaka Payam, Eastern Equatoria)

He [a South Sudan president] can go for two terms and [then] give chance to others. (Dinka Rek Middle-Aged Women, Warrap Town, Warrap)

The president of the country should not be a president for life. He must only complete two terms. (Nuer Adok Older Women, Leer Town, Unity)

LAND AND PROPERTY RIGHTS

Participants agree it is important for the constitution to address land ownership, but there are mixed views on what it should say about who owns the land in South Sudan.

When asked what the constitution should say about land, most participants talk about needing for the ownership of land to be addressed. However, they do not agree on what type of ownership. Some believe the constitution should designate land in South Sudan as belonging to the community, and some say land should be described as owned by the government. Other

³¹ The *Building a Nation* (2011) also found strong support for presidential term limits among participants.

suggestions vary widely, but some participants believe the constitution should define different types of land, should indicate that the community must be consulted for how their land is used or should prohibit foreign ownership.

Land should be designated to the community [in the constitution], and the government should just regulate it. (Dinka Bor Younger Women, Bor Town, Jonglei)

[The constitution should say] land belongs to the government. (Nuer Lek Middle-Aged Women, Yonyang, Unity)

[The constitution should say] the land belongs to government, but they should consult the locals of the area [on usage]. (Toposa Younger Women, Kapoeta Town, Eastern Equatoria)

The constitution should have rules to regulate [land]. There should be public land which belongs to the government, community land under community ownership and the private land which may belong to an individual. (Dinka Agar Younger Men, Rumbek Town, Lakes)

Land should not be sold to the foreigners. (Toposa Younger Women, Kapoeta Town, Eastern Equatoria)

Narrowing the discussion specifically to the topic of who, overall, should own land in South Sudan results in more participants choosing government as the appropriate owner.³² They reason that the government is better positioned to regulate land, to properly and fairly distribute land, to develop land and to adjudicate claims for land. On the latter issue, these participants think government land ownership is necessary to reduce tribal and community conflict. To ensure the government deals with land in a fair and equitable manner, participants suggest that government involve local officials or the community in decisions on land use, survey and register land and use land primarily for development purposes. Although fewer participants overall, there is sizable opposition to government ownership. These participants say land must belong to the community because they know the rightful owners since land was given to them by their ancestors and because they will utilize it better than government.

Land should be given to government because government can develop it. Like now, we don't have roads, and government is the one who can provide this service. (Dinka Rek Younger Women, Mayen Abul, Warrap)

The land should be owned by the government because the government can be fair in giving allocations to everybody. (Dinka Bor Younger Women, Bor Town, Jonglei)

³² In the *On the Threshold of Peace* (2004) study, there was no clear consensus among participants about whether the community or government should own the land. However, in the *Building a Nation* (2011) study, participants preferred government ownership of land because of the potential for reduced conflict, greater development and fairer distribution, the same reasons cited in this study. As in this study, though, there were also some participants who supported community ownership.

I want the government to have ownership of land in South Sudan because there are a lot of tribal connections to land ownership. Some of citizens will claim that this land belongs to my grandfathers and so forth. The benefit of this [government] ownership will be fair and just since government would not be favoring specific communities. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

Government should own the land because the government belongs to all of us, and its ownership will benefit us through construction of schools and hospitals. (Dinka Agar Younger Men, Rumbek Town, Lakes)

The government should ensure that both the community and government sits and plans together [to ensure fair usage of the land]. (Dinka Bor Younger Women, Bor Town, Jonglei)

Individual plots should be registered by the government [to ensure fair usage of land]. (Nuer Younger Muslim Men, Malakal Town, Upper Nile)

Land alone is not anything without developing so we need government to make sure that land is developed [for there to be fair usage of the land] ... The land can be put for building schools, roads and factories. (Dinka Rek Younger Women, Mayen Abul, Warrap)

Only community [should own land] because the community knows its people very well, who this person is and whose land it was before. (Mundari Middle-Aged Women, Buke Village, Central Equatoria)

The land ownership should go to the community because there is no, 'no man's land' in South Sudan. All lands have ancestral connections. (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

Citizens should own the land because they will use it for housing, farming and development... Citizens should own the land because they will use for the agriculture or cultivation. (Mundu Younger Men, Maridi Town, Western Equatoria)

Despite the preference for government ownership when land is discussed in general terms, participants have more mixed opinions about specific types of land. Residential land,³³ for example, is viewed by most participants as owned by individuals whose houses sit on it.³⁴ They contend that no one has the right to that property but themselves. Some participants, though, maintain that government is the only rightful owner of land, even residential land, and a few note that they have differing opinions on residential land depending on where the land is located, in the town or in the village or say that the community owns the residential land because of cultural reasons or because it is on ancestral land. There is no clear consensus among participants about ownership of farm land. Some believe it should belong to the individuals who work it and use it

³³ Residential land was defined as land under people's houses.

³⁴ A 2011 poll by the International Republican Institute (IRI) demonstrated similar results on this issue. The poll is available at www.iri.org.

for their livelihood, some continue to say that government owns all land and some say that the farm land must be considered community-owned because it is used for the communal benefit of all. With grazing land, participants are divided between government and community ownership. Again, some say land is for the government, but others see grazing land as a community resource that is best owned by the community because of history and local knowledge of appropriate use.³⁵

The land under my house should be mine, and nobody should take it from me. (Mundari Middle-Aged Women, Buke Village, Central Equatoria)

I think the [residential] land should be mine because I have lived [there] for many years. (Nuer Younger Muslim Men, Malakal Town, Upper Nile)

Since it is my plot no one has a say about what I am eating in my plot. It [personal residential land] is mine, which means it belongs to an individual. (Zande Older Men, Duma Boma, Western Equatoria)

This [residential] land belongs to the government because all land belongs to the government. (Dinka Middle-Aged Men, Malakal Town, Upper Nile)

The community should own it [residential land] because it understands social and cultural issues that are associated with the residents. (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

If the [residential] land is in town, it should belong to that person, but in the village, it is not allowed. (Shilluk Middle-Aged Women, Makal Village, Upper Nile)

Land that we are using for farming is owned by communities because all of us are using it for cultivation. (Zande Older Men, Duma Boma, Western Equatoria)

It [farm land] should be owned by the community because it is a rural land which is communal...It [farm land] should be owned by the community because it is ancestral trust land. (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

The land used by the farmers belongs to the farmers. (Nuer Adok Older Women, Leer Town, Unity)

That cultivating land should belong to the farmers because they have been using that land for sustaining their lives. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

All land belongs to government, and anyone who cultivates it must do it on the government's permission. (Dinka Middle-Aged Men, Malakal Town, Upper Nile)

³⁵ The 2011 IRI poll also revealed relatively mixed views on ownership of grazing land, although in the poll respondents were divided between individual ownership and government ownership.

Government [owns farm land]. Because people are just cultivating it in order to get food, but [it does] not belong them. (Dinka Malual Younger Men, Mathiang, Northern Bahr el Ghazal)

This [grazing] land should be owned communally by the community that uses it. (Middle-Aged Men, Juba Town, Central Equatoria)

The community [owns grazing land] because land for grazing animals is trust land and should be owned by the community around...The community [owns grazing land] because the government will not understand the history of the people. (Dinka Bor Younger Women, Bor Town, Jonglei)

Government should own grazing land with consultation from the communities living there. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

The government should own it [grazing land] in order to avoid fighting over land. (Dinka Gok Older Men, Gikon, Lakes)

Participants find it difficult to conceive of a time when community land could be converted to privately owned land, and most are against the idea. There are two primary issues. The first is that participants tend to equate private land ownership with outsiders or businesses. Thus, their view of converting community land to private ownership is that they or the community will not benefit, and it will result in individuals, some of whom they assume will be “big” people, or companies with no connections to the community owning their land. The second concern is that participants think that converting community land to private ownership will result in their children having no land to inherit. Only a few participants say they would support conversion of community land to private ownership, and then only if the original owners or community benefit.

[Gradually converting community land to private land in the future is a] bad thing because the land that belongs to the community and cannot be taken by only one person. (Dinka Malual Middle-Aged Women, Maduany, Northern Bahr el Ghazal)

It [gradually converting community land to private land in the future] is not good. It should not be allowed for private individuals to buy the peoples' land...If you sale the land for private sector where will your children stay? (Mundu Younger Men, Maridi Town, Western Equatoria)

That [changing community land to private ownership] is the most burning issue in some communities. Most government officials do not like to go and make their houses in rural places, but they always look for empty places in town which legally belong to innocent civilians. Government official will use his force to chase away innocent civilians from his land. So it is not good for public places to be changed to individual land. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

It is good if that [community] land is changed to private land by law. However, if that needs to happen, the first priority of beneficiaries should be those people who were using the land before, or those who communally own it. (Middle-Aged Men, Juba Town, Central Equatoria)

If the private individual bought the land from the community, and all the community members are aware of the deal, the private individual can own it. (Zande Older Men, Duma Boma, Western Equatoria)

The government's right to confiscate land for public use is supported, participants say, as long as fair compensation is provided.

Participants accept the concept that the government has the right to confiscate land for public use. They, however, say that fair compensation is necessary and that it must be equivalent to what the person is giving up. Some insist that they should only be made to vacate land only after the government has provided compensation, and some insist that the compensation come in the form of alternate land or housing. The only concern participants express is that land could be confiscated for private use and so they insist the government make sure any confiscated land is used for the benefit of all.

It [government confiscation of land for public use] is a good thing if it is for the schools and hospitals. I can accept that for the benefit of all...It is not bad because citizens are the only people who can expand the area; therefore, I can step down for my right for the benefit of the public. (Shilluk Middle-Aged Women, Makal Village, Upper Nile)

The government should compensate me something fairly to make me start a good life equivalent to my things which were in that plot. (Zande Older Men, Duma Boma, Western Equatoria)

I think the government can take my land on which I have settled, but the government has to find another convenient place and build for me a new house where I can settle again. (Middle-Aged Men, Juba Town, Central Equatoria)

The constitution should say [government confiscation of land is allowed] provided that the use of that land should not go to individuals, but for public purposes. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

Women's ownership of land is endorsed by both male and female participants, although male participants are more likely to place limits on women's ownership rights. A wife's inheritance of a deceased husband's house and the land it is on is supported by both female and male participants, but again some male participants would limit the ownership right to certain circumstances.

Both male and female participants generally support a woman's right to own land in South Sudan. Land ownership by women is viewed by most participants simply as a right that all human beings have. Other reasons for support of this right for women vary but include a need for

women to own land to raise children and the growing economic power of women. While the outright objection to women's land ownership is relatively small, some male participants in particular would place significant limits on the ability of women to own land, including allowing women to own land only if they are over forty years of age, widowed or unmarried.

Yes, as a woman I have the right to own land; that is human rights. (Mundari Middle-Aged Women, Buke Village, Central Equatoria)

Why should women have no right [to own land]? When they buy a plot with their money, they should own it. (Dinka Rek Middle-Aged Women, Warrap Town, Warrap)

Yes, it is good [for women to have the right to own land] because I can keep my children even when my husband refuses me. (Acholi Older Women, Palotaka Payam, Eastern Equatoria)

To me, all women are equal to men. They should be given equal rights and access to land like men do without pre-conditions. (Middle-Aged Men, Juba Town, Central Equatoria)

I think some women have gone very far in education, and they have good jobs earning good money than men, which means a woman has the right to own a land and develop it. (Zande Older Men, Duma Boma, Western Equatoria)

A woman has a right to own land when she is 40 years old and above. If they were allowed to own land at any age, this would cause disability of men in their household since women would claim to have owned that house and men would be in trouble anytime. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

A woman should not own land unless she is a widow. (Dinka Middle-Aged Men, Malakal Town, Upper Nile)

There are similar reactions to the question of women's inheritance of their husband's house and the land underneath it upon his death. Almost all female participants believe it is the women's to inherit that property because she shared in developing it and can use it to raise the children. Some male participants agree, but many, along with a few female participants, say the transfer of ownership from deceased husband to wife can only occur under certain circumstances. The most important caveat is that a widow can only assume ownership of the house and land under it if she has children. The threat of marriage to an outsider also concerns some and so they either say that widow cannot claim ownership because she has the potential to remarry or say that she can retain ownership only as long as she does not remarry.

She [a widow] should have a right of inheritance, and the brother-in-laws should not disturb her... Women are human beings like men; they deserve equal treatment like men. (Dinka Bor Younger Women, Bor Town, Jonglei)

Let it be included in the constitution that women have the right to own land after the husband's death ... To me a woman has the right to own the land and the property

because they had shared the buying of the land. Now let her own it that her husband is dead. (Mundari Middle-Aged Women, Buke Village, Central Equatoria)

A woman has the right to retain the house despite the death of her husband, since she will stay there with her children. (Dinka Gok Older Men, Gikon, Lakes)

Women should own the property when their husband dies because they both contribute in gathering these resources...For me, if the husband died, she struggled with the husband and so she can use this property except if she decides to marry another man. (Mundu Younger Men, Maridi Town, Western Equatoria)

According to the Nuer customary laws, a lady who can simply go away after her husband dies should not be allowed to own land. (Nuer Adok Older Women, Leer Town, Unity)

Women [widows] have rights [to inherit husband's house] but remember there are two types of women: a woman who has given birth and the other one which has not given birth. The one who has not given birth should not have rights to retain husband's house and properties because who will later inherit them when she dies? (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

Natural resources belong to the government, almost all agree, because they are meant for the benefit to all. Some say, however, that the original landowners and communities should receive a share of revenues.

Almost all participants endorse the constitution stating that natural resources found in South Sudan belong to the government.³⁶ They say it is important for natural resources to benefit all, and not just the owners of the land where they are found. Participants also note that even if natural resources were discovered on their land, they would not have the ability to exploit them. Thus, government ownership is necessary. Despite this view, some expect that land owners and/or communities residing where natural resources are found will be given a share of the revenues from those resources. Their idea of an appropriate share mostly falls from around two percent to ten percent.

If the land where I live or reside or that I use for livelihood is discovered to be holding important minerals or oil, it is okay for the government to own it. These minerals should be used for the development of the whole country, not me alone. I see no problem with that. (Middle-Aged Men, Juba Town, Central Equatoria)

We don't have problems for anything found underground [to belong to the government] because we know everything found underground will return in the term of services to the citizens of that area. (Shilluk Middle-Aged Women, Makal Village, Upper Nile)

³⁶ How the revenues from natural resources should be distributed is addressed above under Decentralization and Distribution of Powers and Resources.

It is correct what is underneath the land belongs to the government, but the government has to compensate those who are removed by the extraction of minerals...It is good [for the government to own the natural resources] but the person who owns that land should be given something. (Dinka Malual Younger Men, Aweil Town, Northern Bahr el Ghazal)

When there is oil or gold found in my plot, it belongs to the government, which is a good idea because I as an individual cannot exploit minerals. But at least 5 percent should be offered to the community, so that they build schools and hospitals. (Zande Older Men, Duma Boma, Western Equatoria)

If in my plot they found gold they will shift me, and I will accept. But the government shall not forget me because maybe that is an opportunity God has given me...To me, I will have my 10 percent from these resources be it oil, gold, cement, etc. I have my share from it. (Mundari Middle-Aged Women, Buke Village, Central Equatoria)

JUSTICE SYSTEM

The constitution should guarantee a justice system that is independent of influence, is clearly defined and treats all equally, according to participants.

Participants highlight three main issues they would like the constitution to address regarding the justice system in South Sudan. The one mentioned most often is fairness. They want the court system in the constitution to be designed to guarantee that all are treated equally, regardless of status, tribe, connections or (in the case of some female participants) gender. The participants also want the constitution to ensure that the court system is independent and free from political and other undue influence. The last major area of concern to participants is the court's structure. They want a clear hierarchy spelled out, and while they want the traditional courts maintained, they believe it is important for the constitution to explicitly define their role.

I want the constitution to say that all people have to be judged fairly regardless of who they are, where they are from and what position they possess in the government. I want the constitution to say that if a minister has wronged, he or she must stand before the court of law for trial without fail. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

Equality must be there in the court system of South Sudan. (Nuer Lek Middle-Aged Women, Yonynang, Unity)

The court system should be independent so that the government should not interfere with it. (Dinka Bor Younger Women, Bor Town, Jonglei)

The constitution should mention the independence of the judicial powers because it is very important for the people who have cases. (Shilluk Middle-Aged Women, Makal Village, Upper Nile)

Let the current two types of court system remain to handle cases. Where the traditional courts do not have the ability to resolve certain cases, those cases should be handed over to and be presided over by the government courts. (Middle-Aged Men, Juba Town, Central Equatoria)

We need all minor cases like robbery divorce and minor fighting between a man and wife to be handled in chiefs' court and murder cases to government courts in the state. (Zande Older Men, Duma Boma, Western Equatoria)

The court system in South Sudan now is not properly defined like between the chiefs' courts and government courts...there is need to distinguish their duties in the constitution. (Dinka Agar Younger Men, Rumbek Town, Lakes)

Participants generally define the jurisdiction of the traditional (or chiefs') courts as personal and local issues and the jurisdiction of government courts as serious criminal matters. Traditional courts' handling of serious cases is a concern to some participants, and most would only give those courts the right to sentence a guilty party to a few months imprisonment.

In most instances, participants have a clear distinction in their minds about the difference in jurisdiction between traditional courts and government courts. Chiefs' courts are meant to rule, they say, over most personal relationship issues (marriage, elopement, divorce, adultery, pregnancy outside marriage, etc.), petty theft, problems with cattle and local conflicts. They also note that the benefit of chiefs' courts is that they are much faster at providing resolution. Participants describe government courts as primarily responsible for serious criminal offenses, such as murder and large thefts, corruption and land conflicts. Government courts may also take over jurisdiction, they say, for cases that are too difficult or complex (from a legal standpoint) for the chiefs' courts.

Two areas where some participants differ on jurisdiction are tribal conflict and rape. This open-ended question allowed participants to respond with any type of matter they feel the chiefs' or government courts should adjudicate, so the overall number of participants who mention rape and tribal conflict spontaneously are relatively small. The interesting result, however, of those who do mention these two issues is that they are almost evenly split on whether tribal conflict and rape should be under the government courts' jurisdiction or that of the traditional courts. Some participants also say that there are certain cases where it is useful and appropriate for chiefs' courts and government courts to work together. These include cases where chiefs may have important information or context to provide to the government court, such as murders that are the result of tribal conflict or land cases where chiefs' understand the borders, or where customary law may play an important part in the case. In fact, some participants contend, joint handling of select cases is already happening on the ground.

Traditional issues such as marriage should be handled by the chiefs' courts. (Toposa Younger Women, Kapoeta Town, Eastern Equatoria)

Neighbors' conflicts should be addressed in chiefs' courts. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

The issues of girls, theft of cows and cases of adultery are to be handled by chiefs' courts. (Dinka Rek Middle-Aged Women, Warrap Town, Warrap)

The traditional courts are faster. They should be allowed to handle cases alongside the regular government courts so that cases are resolved faster. (Middle-Aged Men, Juba Town, Central Equatoria)

Government cases are those like corruption...Killing and murder...Theft of money. (Nuer Lek Middle-Aged Women, Yonyngang, Unity)

Land issues should be addressed by government courts. (Nuer Adok Older Women, Leer Town, Unity)

The government courts are the one to handle things that a chiefs' court cannot handle, like murder. (Dinka Rek Middle-Aged Women, Warrap Town, Warrap)

Chiefs' court should solve cases of rape. If a man goes to open the door of a single woman at night, the chief can look into the problem. (Acholi Older Women, Palotaka Payam, Eastern Equatoria)

The government courts can handle cases of rape. (Dinka Agar Younger Men, Rumbek Town, Lakes)

Tribal fighting should be a government [court] issue. (Mundari Middle-Aged Women, Buke Village, Central Equatoria)

Chiefs' courts can handle problems like inter-tribal conflicts. (Dinka Agar Younger Men, Rumbek Town, Lakes)

It has happened here several times in Tambura county when the state court discovers that there is a bribe involved at an early stage of the case, they can call for better understanding from the chiefs' court...Those are common issues here, not only one case. (Zande Older Men, Duma Boma, Western Equatoria)

Yes, there are instances where the two courts [government courts and chiefs' courts] could sit together and decide on a matter. For example, if the case is taken to the government court, and the government does not know how to deal with those issues, the chiefs' courts are invited to attend the seating and decide on the customary law. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

There are mixed views on whether chiefs' courts should be allowed to handle serious crime cases, though more participants say they should not. The concerns of those who are opposed to the jurisdiction of chiefs' courts over such cases are that differences in culture will mean a lack of uniformity in their handling across the country and that traditional authorities do not know the law well enough to handle the cases capably. Those who support allowing chiefs' courts to

handle serious cases argue that chiefs' courts are better positioned within the community to solve problems quickly and to negotiate appropriate resolution between the families of the aggrieved and the accused. There is widespread support, however, for chiefs' courts to have the power to arrest and imprison citizens for short periods of time. The participants offer various ideas of how long that term should be with suggestions ranging from thirty minutes to three years, but the most popular responses are that chiefs' courts should be empowered to imprison citizens for no longer than two months or no longer than six months.

Serious crimes are not for chiefs' courts. These are for government courts. (Dinka Malual Younger Men, Mathiang, Northern Bahr el Ghazal)

I think that [chiefs' courts handling serious crimes] is not right. Murder cases should be the jurisdiction of the government courts so that there is uniformity in the law regarding murder. (Middle-Aged Men, Juba Town, Central Equatoria)

Chiefs' courts can't handle murder cases simply because it is beyond their capacity. (Nuer Adok Older Women, Leer Town, Unity)

Chiefs' courts are not educationally qualified, so handling matters like murder needs government courts. (Dinka Malual Younger Men, Aweil Town, Northern Bahr el Ghazal)

That instance happens [chiefs' courts handling serious crimes] when the two sides sit together to discuss a case of murder and reach an arrangement where the side of the deceased would accept compensation. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

I think it [chiefs' courts handling serious crimes] is because the [government] lawyers are not available. In such cases like murder, if it is not immediately solved the relatives of the person killed may [want] revenge, then the chiefs have to solve the issue...I think it [chiefs' handling of serious crimes] is okay because you cannot wait for the government lawyers or judges to come solve the problems. (Dinka Agar Younger Men, Rumbek Town, Lakes)

Chiefs' courts should have ability to arrest and imprison someone who commits minor crimes, such as house attack, minor stealing or troublemaker in the village, and could be disciplined by imprisonment in the traditional courts for the period of two or three months and then released. (Middle-Aged Muslim Men, Wau Town, Western Bahr el Ghazal)

Some participants acknowledge that customary and government laws clash on issues like marriage, but there are mixed opinions on which law should be considered supreme when that occurs. However, most agree that customary law rulings can be appealed to government courts if the ruling clashes with government law.

There is some recognition among participants that in certain situations customary laws and government laws are contradictory. They differ in their application, for example. Participants

describe the enforcement of customary laws as a process that includes dialogue and flexibility and results in compensation-based decisions, while they say government laws are applied strictly with no room for compromise and end in imprisonment. The area they identify as the most problematic for customary-government law clashes is that of personal relationships, such as marriage, divorce, early marriage, adultery and pregnancy outside of marriage. Of the participants who comment on possible solutions to this problem,³⁷ some want the government to ensure that laws are uniform and some say that customary law should take precedence on local matters, such as marriage.

An example of where customary or traditional courts conflict with government courts is that traditional courts will always want to compromise with the offender, but the constitutional courts would want to apply the law very strictly. (Middle-Aged Men, Wau Town, Western Bahr el Ghazal)

Government [laws] and customary laws conflict in cases like marriage. The government clearly ruled out marriage of a girl below a certain age in the constitution...This is not allowed in customary laws. So long as the dowry is available, you have to marry. The best way to bring two bodies [government laws and customary laws] together is to get common laws which will regulate marriages and other things. (Dinka Agar Younger Men, Rumbek Town, Lakes)

What should be done is that the customary laws should be applied at the local government levels and government laws at other levels. (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

When provided with an example of government and customary laws contradicting each other in the area widow's inheritance rights, participant opinion is divided on the appropriate solution. Female participants are more likely to suggest that government law is supreme and should prevail. Male participants express differing views. Some agree with the female participants and say that the customary courts should be challenged when they go against government law, some say that customary law must take precedence in this type of "local" circumstance and some say that the government and customary courts should jointly make decisions on issues like women's inheritance.

Despite this mixed opinion, a woman's right to appeal a customary court ruling to a government court is generally supported by most male and female participants, though there is significant opposition among some male and a few female participants. Most simply say that a citizen, including a woman, has the right to appeal customary rulings to government courts, especially if there has been unfair treatment or discrimination. The participants who would deny a widow's appeal of an unfavorable inheritance ruling by a customary court say that customary courts are the legitimate decision-making body for local cultural issues and should have the final word on issues such as this one.

³⁷ This initial question was not designed to elicit comments on solutions, and so only a few participants commented upon possible solutions.

The government laws should be used to resolve such impasse...The government laws should carry the day by ensuring that the woman rights are protected. (Dinka Bor Younger Women, Bor Town, Jonglei)

The government law has the right to challenge the customary law [in this situation]. (Dinka Malual Younger Men, Mathiang, Northern Bahr el Ghazal)

That case [of widows' inheritance] is to be purely settled by the chief. (Dinka Gok Older Men, Gikon, Lakes)

I think they [government courts and customary courts] should come together to share ideas how to solve that matter...[They should] decide for a win –win solution between the two parties. (Zande Older Men, Duma Boma, Western Equatoria)

The woman must have the right to go to the government [court] if the case is settled in an unfair way before the chief's court. (Shilluk Middle-Aged Women, Makal Village, Upper Nile)

Because she [a widow] is a human being, if things are going in wrong direction she has the right to challenge the customary law [in a government court]. (Dinka Malual Younger Men, Mathiang, Northern Bahr el Ghazal)

Because women's problems are related to culture they are not allowed to challenge chiefs' court [decisions] in government courts... No a woman cannot be allowed to challenge chiefs' [courts] in government courts because customary laws are more original than government laws. (Dinka Agar Younger Men, Rumbek Town, Lakes)

The woman [a widow] should not challenge chiefs' court in government courts because chiefs' courts are trusted, and they are final for local issues. (Dinka Bor Younger Women, Bor Town, Jonglei)

Compensation-based punishments should be a part of the consideration for sentences in government courts, most participants say.

Participants are most familiar with compensation-based punishments that are the norm in customary courts. Although they understand that imprisonment is the standard punishment for those found guilty of serious crimes in government courts, many also argue that compensation punishments must not be abandoned. Some want the guilty both to be imprisoned and to pay compensation fines, and some think the customary reliance on compensation only should be maintained. For these participants, it is essential to maintain compensation punishments to achieve justice because the victims receive something that helps restore what they lost. Overall, however, there are many different views across the discussion groups and within groups about what punishments should be used in government courts. Some participants disregard compensation and insist that imprisonment only is the best course for serious crimes by some participants, some of whom also call for the death penalty for murder cases. Even in lesser cases there is disagreement about which course of action – compensation or imprisonment – is best, as

demonstrated in the quotes below from the Nuer men's group in Bor Town. A few participants would put the fate of the guilty in the hands of the victims, by making it their choice whether the perpetrator is imprisoned (or killed) or pays compensation. The variety of views on this issue and the diversity of cultural approaches across South Sudan to punishment for serious crimes suggest that this is an area that needs further public debate.

If one committed a crime [that is adjudicated in a government court], he can be arrested and be fined to pay compensation. (Dinka Rek Younger Women, Mayen Abul, Warrap)

If it is a serious crime, like murder, then he has to bear both the punishment of imprisonment and compensation. (Dinka Middle-Aged Men, Malakal Town, Upper Nile)

The mistaken person [in a serious crime case in the government court] should pay money to the other person. (Acholi Older Women, Palotaka Payam, Eastern Equatoria)

I think the suitable punishment is a fine [in a serious crime case in a government court]. If he did not pay, he should be put in prison. (Shilluk Middle-Aged Women, Makal Village, Upper Nile)

To me, if the perpetrator is put in prison that will not help me, so I need compensation. After being compensated, if the government wants to do anything to the perpetrator that is up to them. (Mundari Middle-Aged Women, Buke Village, Central Equatoria)

Imprisonment is the best punishment for serious cases in government courts... Killing is the best punishment for a person who killed a person. (Dinka Agar Younger Men, Rumbek Town, Lakes)

The thief should not be imprisoned but should pay back the damages...No, the thief should be imprisoned too. If fined and released, and when he does the same, this can bring problems. (Nuer Older Men, Bor Town, Jonglei)

Let it be an understanding between the relatives of the late and that of the perpetrator [in a murder case]. If they say they need compensation, then that is their understanding, and if they want blood for blood, then let that person be killed. (Mundari Middle-Aged Women, Buke Village, Central Equatoria)

Most participants support the death penalty on persons over eighteen who are found guilty of a certain serious crimes because they believe it will serve as a deterrent to others.

Participants are largely supportive of the death penalty and would like it included in the constitution. In only two of the 46 groups is there a consensus among participants opposing the death penalty. Supporters of the death penalty contend that it serves as a deterrent to crime and so must be a tool that can be used when justified. Most say the death penalty option must only be used on persons above age 18, although some are comfortable with a slightly higher age of 20-25. A few participants believe murderers deserve the death penalty at any age, and a couple would prohibit it in cases involving very old perpetrators. The small group of participants who

oppose the death penalty believe it accomplishes little and benefits no one. They say the victim cannot be resurrected, and the perpetrator will have no chance to contribute to society if put to death. The better options, they believe, are compensation or life imprisonment.

If you kill someone intentionally, you should face the death penalty. This will teach others a lesson that will enable a reduction in unwarranted killings among communities. (Middle-Aged Men, Juba Town, Central Equatoria)

The death penalty needs to be in the constitution because this will reduce the level of crime in this country. (Dinka Gok Older Men, Gikon, Lakes)

The constitution should include the death penalty so that it instills fear in people who would kill other persons. (Dinka Bor Younger Women, Bor Town, Jonglei)

The death penalty should be there, but there should be an age limit of below 18 years. Such a person [below 18 years] should be considered a child and therefore not eligible for the death penalty. (Dinka Agar Younger Men, Rumbek Town, Lakes)

A convicted person on cases such as murder should not be subjected to death penalty because it will not bring back the dead. (Dinka Bor Middle-Aged Men, Anyidi Payam, Jonglei)

There should not be a death penalty in the constitution, but the constitution should include compensation...If we say that if anyone who kills should be killed, we are not doing anything productive at all. Life imprisonment is not bad because the imprisoned would live and work for the government and that is productive as well. (Balanda Older Men, Wau Tambura Road, Western Bahr el Ghazal)

LANGUAGE

The English language is deemed by most to be the appropriate official language for South Sudan, but some participants fear they will be left behind if Arabic is not added as well.

English is official language preferred by most participants. They believe it is a unifying language that will reduce tribalism, can facilitate internal communication and will position South Sudan to interact with the world. However, some participants plead that Arabic be included as an official language as well.³⁸ These participants are mostly, but not exclusively, from Northern and Western Bahr el Ghazal states, and they feel their lack of English fluency will put them at a significant disadvantage. For this same reason, some advocate having Arabic only as the country's official language. A few participants note that both Arabic and English are "outside" languages, and thus, they would prefer a local language or a new or unique official language be adopted.

³⁸ These findings mirror those in the *Building a Nation* (2011) study.

We have so many languages. The Dinka majority do not speak the same [language] as our (Nuer) language. We do not have one language; therefore English is ok [as the official language]. (Nuer Middle-Aged Women, Bor Town, Jonglei)

English should remain as an official language of instruction in government and institutions of learning because it is commonly used in many parts of the world. (Dinka Gok Younger Women, Cueibet Town, Lakes)

English should be maintained as the first language because many people have known English during the war, and we need not to repeat what happened in the past by bringing Arabic as the first. English is good because we can hear one another with other tribes. (Dinka Rek Older Men, Turalei Town, Warrap)

My children were taught Arabic while in Khartoum. Now, what I want is the two languages [English and Arabic] should be taught in schools, and spoken at work places. (Older Women, Nesitu Boma, Central Equatoria)

English and Arabic should be official languages because if I know English, I would be able to work and communicate in English, and if I know Arabic, I would be able to work and communicate with it. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

In my opinion, there is a division of language in South Sudan on whether or not English should be the official language. There are some states that were taught English and they know it better, and there were some states that were taught Arabic and they know it better. For that case, I want the government to decide on another language where no one knows about it, so that we can start learning its alphabets. (Middle-Aged Women, Busere Boma, Western Bahr el Ghazal)

I need a different official language which can unite all South Sudanese apart from English. It can be Dinka, Shilluk, Bari or Nuer. We need one South Sudanese language to be an official communication language. (Dinka Agar Middle-Aged Women, Malou, Lakes)

Arabic should be the national language because more people of South Sudan do not understand English...We have been taught Arabic when we were young in the school; therefore, we need Arabic to be the official [language] instead of English. (Dinka Malual Older Women, Aweil Town, Northern Bahr el Ghazal)

ABYEI

Abyei should be recognized as South Sudanese in the permanent constitution, most participants say.

As in past studies,³⁹ participants remain fiercely loyal to Abyei, and almost all want South Sudan's permanent constitution to address the issue of Abyei. Most want the constitution to clearly define Abyei as South Sudanese territory because they believe the rightful owners of Abyei are culturally connected to them. Some say that instead of declaring Abyei as South Sudanese, the best solution would be for the South Sudan constitution to assert the right of the Abyei people to determine own fate.

The constitution should clearly spell out that Abyei belongs to South Sudan. (Dinka Agar Middle-Aged Women, Malou, Lakes)

Abyei's inhabitants are Dinka Ngok and should not be given to the North. (Dinka Ngok Younger Women, Adong Payam, Upper Nile)

Abyei is our land, and its people are South Sudanese...Abyei has cost many lives, and we want the constitution to state that Abyei is belong to South Sudan. (Nuer Adok Middle-Aged Men, Paya, Unity)

[The constitution should say that] the Abyei people should decide on whether they belong to South Sudan or North Sudan by referendum. (Murle Older Women, Itti, Jonglei)

The constitution should give the people of Abyei the power to vote to decide their fate for whether they want to go to the Arabs or to the South Sudanese. (Dinka Rek Middle-Aged Men, Wunkell, Warrap)

³⁹ Participants in the past public opinion studies conducted by NDI have been consistent in their view that Abyei is South Sudanese and always have strongly support its inclusion into South Sudan. The most recent studies where this view is expressed prior to this one are *Building a Nation* (2011) and *Governing South Sudan* (2012).

CONCLUSION AND RECOMMENDATIONS

South Sudan has now arrived at the next critical stage in its nascent history: the development of a permanent constitution to define and guide the country. The content of that document and the process for arriving at and agreeing to that content will play a large role in setting the tone for how governance will be undertaken in South Sudan going forward. This study's results reinforce the idea that citizens must be central to the enterprise of constitution-making. Government officials, the international community and other stakeholders who underestimate the desire and ability of citizens to participate in creating the foundational document for their new nation will risk alienating them further from a government that is already being questioned for its deficiencies in service delivery and other areas. Ignoring citizen contributions would also lessen the value of the document as well as the sense of its ownership. Despite the low level of education of many participants, there is much wisdom contained in their comments on how to craft a constitution that will respect basic rights and also be relevant and workable in the South Sudan context. Only the citizens themselves can truly judge that. At the same time, the study reveals areas that could serve as flashpoints among citizens in the constitutional discussion or that will require further discussion and debate before citizens will easily accept constitutional pronouncements on them. Those involved in constitution-making should take special note of these and address citizen concerns in these areas.

The majority of this study elicits citizen opinions on potential constitutional issues, and as a result, many responses are straightforward. For those opinions, refer back to the Executive Summary and Principal Findings sections of this report. However, there are some broader conclusions that can be drawn from certain responses, or the pattern of responses, as well. These should serve as guideposts and, in some cases, cautionary notes for those involved in this most important of task of constitution-making. Appropriate actions based on the contributions of participants are outlined below.

Embrace citizens' strong desire to participate in the development of their constitution.

There is enthusiasm among participants to engage in the process of constitution-making. Further, with the correct explanation and language, this study demonstrates that even uneducated citizens are fully capable of providing thoughtful and wise opinions on the key issues pertaining to the governance of this country. Evidence in the study suggests that citizens will also view their level of participation as a gauge of government performance and a measure of its legitimacy. Thus, citizen participation in constitutional development represents not only a significant nation-building opportunity that should not be taken lightly, but also a potential turning point for the relationship between citizens and their government in South Sudan.

Address expectations that the constitution can resolve all issues. It became apparent during the discussions that many participants have the misperception that a constitution can and should address a wide variety of issues, including everyday problems. It will be important for those involved in the constitutional process to provide education and set expectations about the appropriate scope of the constitution to prevent citizens from being disappointed by the outcome.

Explain the reasoning behind rights and freedoms issues that are likely to clash with currently held views. While participants demonstrate broad support for basic rights and freedoms, they also at times suggest that limits are appropriate, usually due to cultural reasons. If constitution-makers are going to embrace more liberal notions in these areas, it will be important to make citizens aware of the value of being more expansive. The areas in this category include:

- *Citizenship:* Gaining citizenship through a mother only is not widely accepted by participants, and so it is likely that citizens will question such a provision in the constitution without further explanation.
- *Female land ownership and inheritance:* As noted below as well, participants support female land ownership, but some participants would place various restrictions on it. Likewise, there is support for a widow inheriting the home of the husband, but some note that it should be only under certain conditions. Endorsing the right for females to own land or to inherit the husband's estate without restriction in the constitution is likely to meet with some resistance unless there is further discussion.
- *Right of residency and employment:* A South Sudanese citizen's right to live and work anywhere is supported, but some would limit that right to certain jobs or to only those who behave in certain ways. While these rights, if adopted broadly, would not likely be questioned by citizens, the constitutional discussion is a good opportunity to enlighten the public of the benefits of these rights.
- *Freedom of speech and assembly:* There is widespread embrace of freedom of speech and assembly among participants during initial discussions, but when probing further some participants reveal they are uncomfortable with freedom without limits in these areas. It is doubtful that citizens would react negatively if these freedoms are endorsed fully, but discussion and explanation could help solidify their support for these important rights.
- *Freedom of religion:* Initial support for freedom of religion is high, but when discussing Islam, non-Muslim participants sometimes express support for restrictions. Because the initial response to freedom of religion is so strong, it is unlikely that if it is enshrined in the constitution it would elicit a response from the public. However, there is merit in engaging South Sudanese in a more robust conversation about Islam.

Give careful consideration to acknowledging strongly held views in the constitution-making process. There are some areas of the study where consensus among participants is quite strong. These are areas that could provoke disgruntlement among participants if there is significant deviation from their views without further discussion and debate. The areas in this category include:

- *Limits on presidential powers:* Participants support for limits on presidential powers emanates from their strong support for democracy, their distaste of dictatorship and their belief in power-sharing. Any constitutional decisions that run counter to these would likely be viewed with suspicion.
- *Political party diversity:* A competitive and fair political party system with multiple players is supported by almost all participants. They want space for opposition parties to operate without interference, and so any constitutional provisions that inhibited or impinged upon political party activity would likely receive greater scrutiny.
- *Supremacy of the legislature:* Participants view the national legislature as the expression of their own voice in the national government and so they fully support it as the final law-making authority for the country. Anything that impinges upon that power or that alters

the composition of that body without their direct involvement will not be viewed favorably.

- *Direct election of the president:* Direct presidential election is viewed as a basic right by most, and a change in this system would likely only be accepted after intensive education and debate.

Lead a nationwide discussion and debate on important issues that lack consensus or are not well understood. Several issues explored in this study are fundamental to building the nation and to creating a constitution that is fair, relevant and accepted by the people. Yet, the participant responses indicate there needs to be much further public debate on these issues before there would be widespread acceptance of constitutional pronouncements about them. The areas in this category include:

- *Government representation for tribes:* While this study reveals little desire to address the issues of tribes in the constitution generally, there was not enough data to draw a conclusion about views on tribal representation in government. In addition, previous studies have highlighted this area as one of the most contentious areas of debate on governance and one that usually elicits diverse opinions.
- *Power-sharing in government:* Many participants support the concept of involving opposition parties in government. However, the practicalities and trade-offs that would be necessary in such a system are not well-understood. Further discussion and debate would help refine what citizens believe is necessary in this area.
- *Decentralization:* The concept of decentralization has been a critical part of the thinking and planning around governance in South Sudan, but few ordinary citizens understand it with any depth. They primarily want a government that can respond to their needs quickly and one that will be competent in doing so. How that can best be accomplished is more of a mystery to them. Despite that, there is no strong consensus on state vs. national government powers. The same is true with revenue powers and distribution issues. It is important to educate citizens about decentralization issues and to include citizens in discussion and debate on these issues so they can better articulate their views and participate in guiding government policies.
- *Land ownership:* The issue of whether government, the community or individuals are the rightful owners of land in South Sudan is one of the most contentious issues likely to be raised in the constitutional discussion. Although government ownership is favored by more participants in this study, there is also significant opposition and enough diverse opinion on ownership in different contexts that views could easily shift dramatically.
- *Female ownership of land:* While there is a basic level of support among participants, both female and male, for a woman's right to own land (including in inheritance), there are mixed views, particularly among male participants, about the extent of that right. This is an issue that could easily cause conflict between genders and cultures without further debate, education and consensus.
- **Don't ignore citizens' trust in traditional institutions but don't underestimate their desire for formal government laws and institutions either.** It is clear from participant responses that they view traditional structures as a key component of government and one that they believe deserves some recognition and formal affirmation in the constitution. Traditional structures are something that these participants see as a necessary and useful at the local level in governance and in the justice system. At the same time, it is also

apparent that they want formal government structures and laws and want these structures and laws, in most instances, to have greater power and control than traditional ones. What they suggest is critical to integrating traditional and formal government structures is clarity and balance: defined (and understandable) roles for each and incorporation of certain traditional customs, such as compensation-based punishments, while acknowledging the supremacy of government structure and laws.

APPENDIX A: FOCUS GROUP LOCATIONS AND PARTICIPANT DEMOGRAPHICS

DATE	GROUP SIZE	GENDER	STATE	LOCATION	ETHNICITY	RELIGION	AGE GROUP	EDUCATION
11/11/2012	10	Female	Central Equatoria	Terekeka- Buke Village	Mundari	Christian +TB ¹	Middle	Primary
10/11/2012	10	Male	Central Equatoria	Terekeka Town	Mundari	Christian	Younger	Late primary-Secondary
10/11/2012	14	Female	Central Equatoria	Nesitu Boma- Juba	Olubo	Christian	Older	None- Early Primary
07/11/2012	9	Male	Central Equatoria	Munuki Block C- Juba	Mixed ²	Christian	Middle	Secondary- University
16/11/2012	8	Male	Central Equatoria	Juba Town	Mixed ³	Muslim	Younger	Primary - Secondary
10/11/2012	13	Female	Eastern Equatoria	Palotaka Boma- Magwi County	Acholi	Christian +TB	Older	None – Early Primary
08/11/2011	13	Male	Eastern Equatoria	Magwi Town	Acholi	Christian + TB	Middle	Primary
14/11/2012	14	Female	Eastern Equatoria	Kapoeta Town- Kapoeta South County	Toposa	Christian +TB	Younger	Secondary
17/11/2012	16	Male	Eastern Equatoria	Kapoeta East- Koor Jeep	Toposa	Christian +TB	Older	None – Early primary

¹ Traditional Beliefs

² Madi and Kuku

³ Nyangwara, Dinka, Avokaya, Kuku and Moru

NATIONAL DEMOCRATIC INSTITUTE

10/11/2012	12	Male	Western Equatoria	Duma- Tambura County	Zande	Christian +TB	Older	None- Early primary
09/11/2012	15	Male	Western Equatoria	Tambura Town	Zande	Christian +TB	Younger	Primary - Secondary
9/11/2012	10	Male	Western Equatoria	Maridi Town	Mundu	Christian +TB	Younger	Primary - Secondary
10/11/2012	10	Female	Western Equatoria	Madreggi- Maridi County	Mixed ⁴	Christian +TB	Middle	Primary
10/11/2012	13	Male	Lakes	Gikon- Cueibet County	Dinka Gok	Christian +TB	Older	None- Early primary
7/11/2012	15	Male	Lakes	Rumbek Town	Dinka Agar	Christian	Younger	Primary- Secondary
9/11/2012	15	Female	Lakes	Cueibet Town	Dinka Gok	Christian +TB	Younger	Primary
8/11/2012	15	Female	Lakes	Rumbek East- Malou	Dinka Agar	Christian +TB	Middle	Primary
14/11/2012	8	Female	Warrap	Warrap Town	Dinka Rek	Christian	Middle	Primary- Secondary
12/11/2012	10	Female	Warrap	Mayen Abun- Turalei	Dinka Rek	Christian +TB	Younger	Primary
11/11/2012	10	Male	Warrap	Turalei Town	Dinka Rek	Christian +TB	Older	Primary
15/11/2012	10	Male	Warrap	Wunkwell- Warrap Town	Dinka Rek	Christian +TB	Middle	None- Early Primary
10/11/2012	15	Male	Northern Bahr El	Mathiang- Nyamllel	Dinka Malual	Christian +TB	Younger	None – Early

⁴ Mundu, Avokaya and Wadi

FROM A TRANSITIONAL TO A PERMANENT CONSTITUTION

			Ghazal	Payam				primary
7/11/2012	14	Female	Northern Bahr El Ghazal	Aweil Town- Aweil Central	Dinka Malual	Muslims	Older	Primary
8/11/2012	16	Male	Northern Bahr El Ghazal	Aweil Town- Aweil Central	Dinka Malual	Christian	Younger	Primary - Secondary
9/11/2012	15	Female	Northern Bahr El Ghazal	Maduany- Aweil Town	Dinka Malual	Christian +TB	Middle	None – Early Primary
10/11/2012	15	Female	Northern Bahr El Ghazal	Nyamlllel Town	Dinka Malual	Christian +TB	Middle	Primary
9/11/2012	15	Male	Western Bahr El Ghazal	Wau Town	Mixed ⁵	Muslim	Middle	Primary-Secondary
11/11/2012	15	Male	Western Bahr El Ghazal	Kosti-Wau	Balanda	Christian	Older	None – Early primary
9/11/2012	14	Female	Western Bahr El Ghazal	Wau Town	Mixed ⁶	Christian	Young	Primary
10/11/2012	15	Female	Western Bahr El Ghazal	Busere- Wau town	Mixed ⁷	Christian	Middle	Primary
10/11/2012	16	Male	Jonglei	Bor Town	Nuer Mixed ⁸	Christian	Older	Primary
10/11/2012	15	Male	Jonglei	Anyidi – Bor County	Dinka Bor	Christian +TB	Middle	Primary
9/11/2012	15	Female	Jonglei	Malek Secondary	Dinka Bor	Christian +TB	Younger	Secondary

⁵ Balanda, Forge and Bongo

⁶ Dinka, Jur, and Balanda

⁷ Bongo and Balanda

⁸ Akoba, Fagak and Ayod

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				School- Bor Town				
12/11/2012	10	Male	Jonglei	Boma Town	Murle	Christian +TB	Middle	Primary - Secondary
11/11/2012	15	Female	Jonglei	Itti- Boma Payam	Murle	Christian +TB	Older	None- Early primary
9/11/2012	16	Female	Jonglei	Bor Town	Nuer Mixed ⁹	Christian	Middle	Primary
8/11/2012	13	Female	Unity	Yoyngang- Bentiu Payam	Nuer Lek	Christian +TB	Middle	None – Early Prmary
7/11/2012	15	Male	Unity	Bentiu Town	Nuer Lek	Christian +TB	Younger	Secondary
10/11/2012	12	Male	Unity	Payah- Leer Town	Nuer Adok	Christian	Middle	Primary
8/11/2012	12	Female	Unity	Leer Town	Nuer Adok	Christian	Older	Primary
12/11/2012	12	Male	Upper Nile	Malakal Town	Dinka Mixed ¹⁰	Christian	Middle	Secondary
11/11/2012	13	Female	Upper Nile	Adong- balliet County	Dinka Ngok Lual Yak	Christian	Younger	Primary
9/11/2012	10	Male	Upper Nile	Malakal Town	Shilluk	Christian	Younger	Primary- Secondary
11/11/2012	12	Female	Upper Nile	Makal Village- Makal County	Shilluk	Christian +TB	older	None – Early primary
17/11/2012	15	Female	Upper Nile	Pagak- Maiwut County	Nuer Jikany	Christian +TB	Older	None – Early Primary
11/11/2012	15	Male	Upper Nile	Malakal Town	Nuer Jikany	Muslim	Younger	Secondary

⁹ Ayod, Akoba, Uror, Nyirol and Adok

¹⁰ Ngok and Lual Yak

APPENDIX B: METHODOLOGY NOTES

Focus Group Research: Focus group discussions are open-ended group interviews directed by a moderator and following a pre-set guideline. The purpose of focus group research is to understand the attitudes, opinions, and experiences of participants who are recruited for the exercise. Focus groups are particularly useful in gaining a deeper appreciation for the motivations, feelings, and values behind participants' reactions. In addition, the group format enables participants to participate in an exchange of ideas – thus revealing a more in-depth understanding of why opinions are held – that may not emerge in individual in-depth interviews or quantitative surveys.

Focus group discussions are comprised of a small number of participants, typically 8-12 per group. However, depending on the situation, groups may be slightly smaller or larger than the ideal. In the South Sudanese context, a women's group in a more isolated area in South Sudan may benefit from being larger because it is likely that one or more of the participants will refuse to speak at length, even if pressed. Given South Sudan's diversity, NDI's methodology in the country is to conduct a relatively large number of focus groups to ensure the views of different ethnicities, genders, age groups, education levels, religions, and geographic areas are captured. The number of focus groups conducted varies widely based on the goals of the research, but the total number of participants is always relatively small and cannot be considered statistically representative of the larger population.

Group Composition: Focus groups are recruited to be as homogeneous as possible to enhance the comfort level of the participants and to clarify the views of a particular sub-group. To the greatest extent possible, the focus groups in this report were stratified by gender, ethnicity, age, and education. Men's groups and women's groups were held separately, for example, and most groups were comprised of a single tribe and section. In areas where smaller tribes reside, mixed ethnicity groups were sometimes held. In addition, groups were organized by three broad age categories. In addition, several groups were conducted with Muslim participants only because there was a possibility that constitutional issues relating to religion may be perceived differently by the Muslim minority in South Sudan.

Based on experience from past research in South Sudan, the age categories used were broadly defined as younger (up to age 25), middle (ages 26-40), and older (over age 40). Given the difficulty of gathering participants in largely rural areas, and since some people in South Sudan do not know their ages, the categories are used as a general guideline rather than a strictly enforced criterion. Participants sampled in the focus groups had widely varying degrees of education, ranging from none through university. As much as possible, participants were placed in focus group discussions with other participants of relatively similar educational backgrounds.

Authority Participation: All focus group discussions in this study were conducted with ordinary South Sudanese citizens. No traditional authorities or local government officials were allowed to participate or sit in on the discussions, even as observers.

Ethnic Composition by Location: Participants in the focus group discussions are generally drawn from the largest ethnic population of a particular area.

Staffing: All focus group discussions were led by trained South Sudanese moderators who conducted the discussions in languages appropriate to the local area. It is a challenge to find moderators in South Sudan who are fluent in English and local languages. As a result, some of the women's groups were conducted by male moderators, but the data for these groups did not differ from the ones in which female moderators conducted the groups, suggesting the use of a male moderator did not impact the quality of the data. Thirty-four South Sudanese, approximately seventy-five percent of whom were students from the University of Juba, were selected and trained as moderators to lead the group discussions. The training of moderators took longer compared to past opinion studies because of the complexity of constitutional issues and terms.

Languages: The focus group discussions were conducted in 12 different languages: Simple Arabic, Acholi, Dinka, Balanda, Murle, Nuer, Zande, Classical Arabic, Toposa, Mundu, Mundari and Shilluk.

Facilities: In most rural areas, there are few structures appropriate for focus group discussions. As a result, groups are sometimes conducted in open-air settings, although this reduces the privacy of the group.

Remote Areas: Groups are only conducted in locations that are reasonably accessible by air and/or vehicle. Efforts are made to penetrate deep into rural areas, but due to poor road networks and insecurity, the number of groups conducted in very remote areas is limited.

Security: The poor security situation in parts of Jonglei state prevented the moderators from traveling to traditionally Nuer-populated areas in the state. Instead, Nuer groups were conducted in and around Bor, the state capital. It is not known if Nuer groups around the state capital have similar or differing opinions from those in other predominantly Nuer areas of the state.

Outside Influence: In some cases, local authorities are informed of the research activities before they begin. However, every effort is made to ensure there is no undue influence exerted on the participants in the groups. The focus group guideline is not shared with local authorities prior to the group, except in rare cases when disclosure is required to proceed with the research. Also, the participants are selected and gathered as randomly as possible, based on local conditions. In this study, there was one instance in which one focus was interrupted by the local authorities and one member of the research team left the discussion to speak to local authorities, while the other remained and continued the focus group discussion..

APPENDIX C: MODERATOR GUIDELINES

Guideline One (used in about half of the focus groups)

I. INTRODUCTION

Hello, my name is _____. I am working on a research project that is collaboration between University of Juba staff and the National Democratic Institute, a non-governmental organization (NGO) based in Juba. We are trying to learn more about what citizens of South Sudan think about the important issues in this area. I am neutral and am **NOT** working for the government or any political party. I am the facilitator for today's discussion.

- There are no right or wrong answers.
- Everyone's opinion is equally important. We want everyone to speak.
- If you disagree with someone, that is okay.
- This discussion is only between those of us here, and it is for educational purposes.
- I have this recorder to help me when I write the report. Your name will not be used in the report. The report will only say a [woman/man] from [location] said this or that.
- The person here is taking notes to help with the report.
- Please speak loudly so the recorder can pick up your voice.
- Also, please turn off your mobile phones or place them on vibrate so that our conversation won't be disrupted. If a call is urgent, please step outside so that you do not disturb the group.

Thank you. Any questions before I begin?

Now let us begin.

II. CONSTITUTIONAL KNOWLEDGE AND PARTICIPATION

1. *Have you heard the word "constitution"?*

[IF YES] Please describe what it means to you?

[IF NO OR IF THE DESCRIPTION IS INCORRECT]

A constitution is the strongest law of a country and gives birth to all other laws which must be consistent with it. Everybody, including the head of government and all citizens, must obey it. The constitution defines what type of government the country will have and what rights and freedoms will be given to its citizens.

2. Have you heard anything about South Sudan developing a permanent constitution for the country?

[IF YES] What have you heard?

[IF NO] *South Sudan is in the process of developing a permanent constitution for the country.*

3. Who do you think should be involved in developing this constitution?
 - a. [IF NOT ALREADY MENTIONED] Should citizens play a role in developing this constitution? [IF YES] In what ways should they be involved?
4. What do you think are the most important issues – issues that matter to all of us as South Sudanese – that the South Sudan constitution should address?

III. CITIZENSHIP, RIGHTS AND FREEDOMS

1. What should the constitution say about who is qualified to be a citizen of South Sudan?
 - a. What if someone's father is South Sudanese but the mother is not; is that person a citizen of South Sudan? Why do you say that?
 - b. What if someone's mother is South Sudanese but the father is not; is that person a citizen of South Sudan? Why do you say that?
2. As a citizen, what do you want to make sure the constitution says about the rights and freedoms you have as a person?
3. Is it okay OR not for anyone – whether an individual or the media – to say what they think in public about the President, the Governor, a Commissioner or other government official on a public matter, even if it is a criticism? Please explain.
4. Should a South Sudanese citizen be able to live and work anywhere they want to in the country, even if it is not their home area? [FOLLOW-UP:] What is your reasoning? [PROBE WORKING FOR GOVERNMENT, WORKING FOR NGOS]
 - a. Should a South Sudanese citizen be able to own land in an area that is not their home area if they purchase it legally from someone who is the rightful owner? [FOLLOW-UP:] What is your reasoning?
5. Should the constitution say anything about marriage? [IF YES] What should it say?
 - a. [ASK EVEN IF THE ABOVE ANSWER IS NO] Should the constitution include a minimum age at which a person can get married?
 - b. [IF NOT ALREADY ANSWERED] If the constitution says that a young woman may not be married off by her family unless she agrees, what do you think of that? What is the reason for your answer?

6. Should South Sudan have a secular constitution whereby the state is neutral on all issues related to religion?
 - a. Should the constitution say anything about Islam? [PROBE ABILITY TO PRACTICE FREELY, BUILD NEW MOSQUES, MUSLIMS PARTICIPATING IN GOVERNMENT]

[IF A MUSLIM ONLY GROUP] Do you feel there need to be any special protections for Muslims in the constitution?
7. What should the constitution say about your ability to hold peaceful meetings, protests or rallies or your ability to join any organization, including any political party?

IV. DECENTRALIZATION & DISTRIBUTION OF POWERS/RESOURCES

1. Currently, South Sudan has five levels of government: national, state, county, payam and boma. Do you think the new South Sudan constitution should maintain all of these levels? [SPECIFICALLY PROBE WHETHER COUNTY, PAYAM AND BOMA ARE ALL NEEDED] Why or why not?
2. What type of things do you want the national government to have control over, what type of things do you want the state government to have control over and what type of things do you want the local government to have control over? What led you to make those choices?
 - a. In what areas should the different levels of government share powers?
 - b. Thinking about the police, would you rather have the national government have more control over the police OR the state government? Please explain.
 - c. Thinking about the government courts – not customary courts – would you rather have the national government appoint the judges to those courts OR the state government? Why?
3. Would you rather have the national government determine the number and location of counties or the state government?
4. How much of the money South Sudan gets from taxes and other sources should go to the national government, how much to the state governments, and how much should go to the local governments? Please explain the reason for your answer.
 - a. If there is a natural resource – like oil or gold – found in one state, how much of the revenues should the state get to keep and how much should go to the national government, which will then share some of those revenues with other states? Please explain.

5. How should the national government divide up the revenues it gives to the states – should each state get the same amount from the national government OR should another method be used to determine how much a state receives from the national government? [PROBE BASED ON POPULATION OR NEED IF EQUAL BLOCK GRANTS ARE REJECTED]
6. The national government collects custom taxes at its international borders. States are not allowed to collect taxes at their state borders but can collect other types of taxes, like state land taxes. Do you think that states should be allowed to collect taxes at their borders? Please explain.
7. Should the constitution give the President of South Sudan the power to remove an elected governor from office OR should that power rest only with the state assemblies? [COUNT] Please explain.
 - a. [FOR THOSE WHO SAID THE PRESIDENT SHOULD HAVE THE POWER TO REMOVE GOVERNORS] Under what circumstances can a governor be removed by the President?
 - b. [FOR THOSE WHO SAID THE STATE ASSEMBLIES SHOULD HAVE THE POWER TO REMOVE A GOVERNOR] Should the President be given the power to remove a governor in a crisis?
 - i. [FOR THOSE WHO SAY YES] What type of crisis would warrant removal of an elected governor by the President?
 - c. If the President is given the power to remove a governor, would you require any type of consultation by the President with the state prior to his removal of a governor? [IF YES] What type of consultations is needed?
8. Most members of parliament¹¹ are elected directly by the people. Should the new constitution give the President the power to appoint members to the parliament in addition to the people that have been elected?
 - a. [TO THOSE WHO SAY THE PRESIDENT SHOULD HAVE THE POWER TO APPOINT MEMBERS OF PARLIAMENT] Let's take an example of parliament having 100 members. If the president is allowed to appoint more members of parliament, how many more should he be able to add to the 100?
9. Who should have the power to decide how many states there are in the country?

V. OTHER CONSTITUTIONAL ISSUES

1. What should the constitution say about Abyei?

¹¹ Parliament may also be referred to as the National Legislature. Use whichever term participants are more familiar with.

2. The current constitution for South Sudan says that while all languages of South Sudan are national languages, English is the official working language of South Sudan and will be the language that is taught and used in schools. What do you think of this?
3. A National Constitutional Conference will be held to debate the constitution. How do you think the delegates to the conference should be chosen?
4. Once the Constitutional Conference has debated the permanent constitution, do you think it would be okay for the parliament to pass the constitution and the President sign it OR do you think it is necessary for citizens to vote on it before it becomes the country's constitution?

Thank you very much for your time and participation.

Guideline Two (used in about half of the focus groups)

I. INTRODUCTION

Hello, my name is _____. I am working on a research project that is collaboration between University of Juba staff and the National Democratic Institute, a non-governmental organization (NGO) based in Juba. We are trying to learn more about what citizens of South Sudan think about the important issues in this area. I am neutral and am **NOT** working for the government or any political party. I am the facilitator for today's discussion.

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- Everyone's opinion is equally important. We want everyone to speak.
- If you disagree with someone, that is okay.
- This discussion is only between those of us here, and it is for educational purposes.
- I have this recorder to help me when I write the report. Your name will not be used in the report. The report will only say a [woman/man] from [location] said this or that.
- The person here is taking notes to help with the report.
- Please speak loudly so the recorder can pick up your voice.
- Also, please turn off your mobile phones or place them on vibrate so that our conversation won't be disrupted. If a call is urgent, please step outside so that you do not disturb the group.

Thank you. Any questions before I begin?

Now let us begin.

II. CONSTITUTIONAL KNOWLEDGE AND PARTICIPATION

1. Have you heard the word "constitution"?

[IF YES] Please describe what it means to you?

[IF NO OR IF THE DESCRIPTION IS INCORRECT]

A constitution is the strongest law of a country and gives birth to all other laws which must be consistent with it. Everybody, including the head of government and all citizens, must obey it. The constitution defines what type of government the country will have and what rights and freedoms will be given to its citizens.

2. Have you heard anything about South Sudan developing a permanent constitution for the country?

[IF YES] What have you heard?

[IF NO] *South Sudan is in the process of developing a permanent constitution for the country.*

3. Who do you think should be involved in developing this constitution?
 - a. [IF NOT ALREADY MENTIONED] Should citizens play a role in developing this constitution? [IF YES] In what ways should they be involved?
4. What do you think are the most important issues – issues that matter to all of us as South Sudanese – that the South Sudan constitution should address?

III. GOVERNMENT & ELECTORAL SYSTEMS

1. What is the best way to make all South Sudanese feel included in the governing of the country?
2. Should there be any specific mention of tribes in the constitution? [IF YES] What should the constitution say about this matter?
 - a. Is there any need to specifically address representation of tribes in the constitution? [IF YES] In what way should the constitution talk about tribal representation?
3. Should the constitution say that South Sudan should only have one political party OR more than one political party? What is the reason for your answer?
 - a. [IF ANSWER IS MORE THAN ONE] What do you think would be the correct number of political parties in South Sudan? Please explain.
4. Should the constitution say anything about opposition political parties and their role in government? [IF YES] What should it say?

- a. If a political party wins the largest number of votes in an election, can that political party appoint only its party members to key national government positions (such as ministries) OR should that political party share key national positions with other political parties? Please explain the reasoning for your answer.
5. What role should the permanent constitution define for traditional authorities in government?
 - a. Should there be any role for traditional authorities at any levels of government other than county, payam or boma? [IF YES] What role should that be?
6. A constitution decides how the head of government is chosen. One way is you to vote for members of parliament¹² and then those members choose the head of government. Another way is for the head of government to be chosen in a vote by citizens. Which of these systems do you prefer? What makes this system better than the other one?
7. If there is a President and a parliament and both have been elected by the people, what should be the main job of the President and what should be the main job of the parliament?
 - a. Should parliament have the right to make laws for the country, even if the President disagrees with those laws? Please explain your answer?
 - b. Should the President be able to make laws without consulting parliament?
8. Regardless of which way government is organized, do you think that ministers should be MPs OR should they not be MPs OR is it okay for some to be MPs and others not to be MPs? What is the reason or your answer?
9. Do you think states should be represented in the national government? [IF YES] How?
 - a. Currently, South Sudan has two houses of parliament. One is the National Legislative Assembly, which are the representatives directly elected by you in the 2010 elections. The other is the Council of States, which consists of two representatives that the state assemblies chose to represent each state in Khartoum but after independence moved to Juba. Going forward, do you think the parliament should be only one house of representatives directly elected by the people OR should there two houses with the second one having representatives selected by the state assemblies? What is the reason for your answer?
10. There are also different ways of electing your representatives.

In the April 2010 elections, you voted for a member of parliament from your geographical area (also called a constituency) on one ballot. On another ballot, you voted for a political party that you wanted to represent you in parliament. Members of

¹² Parliament may also be referred to as the National Legislature. Use whichever term participants are more familiar with.

parliament elected in this way do not represent a geographical constituency. Which of these systems do you prefer:

- Voting for a person to represent your constituency in parliament;
- Voting for a political party to represent you in parliament; OR
- Voting for both a person to represent your constituency and a political party to represent you in parliament. [COUNT] Please explain your answer.]

11. What if the system of voting for a political party instead of a person to represent your constituency would result in more political parties being represented in parliament – would that change which system you prefer?
12. Do you think County Commissioners should be appointed by the Governor OR should be elected by the council at the county level OR should be elected by the people? What is the reason for your answer?
13. The current constitution says that women should make up at least 25 percent of government at all levels. Do you think this should also be in the permanent constitution? Why or why not? [PROBE SHOULD THE PERCENTAGE BE INCREASED, DECREASED OR STAY THE SAME]
14. What is the number of years a president should serve before having to go for election again? [ASK AT LEAST SIX PEOPLE TO ANSWER THE QUESTION]
 - a. Should there be a limit on how many times a person can be elected president? [IF YES] What is the limit?

IV. LAND OWNERSHIP/PROPERTY RIGHTS

1. What do you want the constitution to say about land?
2. In general, who do you think should own the land in South Sudan? What do you think are the benefits of that type of ownership?
 - a. [IF PARTICIPANTS SAY GOVERNMENT OWNS THE LAND] What is the process you want to see the government use to ensure that the land is used fairly?
3. The current constitution says that regardless of who owns the land, what is underneath the land (like oil or gold) belongs to the national government. What do you think of that?
4. Now let's think of the different types of land: [ON EACH QUESTION PROBE FOR INDIVIDUAL, COMMUNITY OR GOVERNMENT OWNERSHIP IF NOT ALREADY STATED]
 - a. There is the land under people's houses (residential land) – who should own that land? Why do you think so?

- b. There is the land that farmers use to grow their crops – who should own that land? Why do you think so?
 - c. There is the land that is used for grazing for animals – who should own that land? Why do you think so?
5. Would you think it was a good thing OR a bad thing if community owned land was slowly changed to private land ownership? Why? [PROBE FAIRNESS OF HOW LAND COULD BE TRANSFERRED TO PRIVATE LAND OWNERSHIP]
6. Currently, the constitution says that the government can take someone's land if it is needed for public reasons, such as building a road or for a government building. In that case, the government must provide fair compensation for the land to the owner(s). Do you want the permanent constitution to say this OR say something different? Please explain. [PROBE FAIRNESS OF HOW COMPENSATION IS GIVEN WHEN LAND IS TAKEN BY THE GOVERNMENT FOR PUBLIC USE]
7. Should women have the right to own land?
 - a. Should women have the right to retain the house they lived in with their husband and the land underneath it after he dies?

V. JUSTICE AND INTERSECTION OF STATUTORY AND CUSTOMARY LAWS

1. What do you want the constitution to say about the court system in South Sudan?
2. There are two types of courts in South Sudan – chiefs courts and government courts:
 - a. What type of matters do you want to be handled in the chiefs courts?
 - b. What type of matters do you want to be handled in the government courts?
 - c. Are there any instances when you believe the chiefs courts and government courts should sit together to decide matters? [IF YES] Please describe.
3. There have been some instances recently where chiefs courts are handling very serious crimes like murder. What do you think of that?
 - a. Should the chiefs courts have the ability to arrest and imprison someone? [IF YES] How long should chiefs courts be allowed to imprison someone?
4. In government courts where serious crimes are handled, what type of punishments do you consider for those who are guilty? [PROBE IMPRISONMENT, COMPENSATION OR BOTH]

5. Are there examples you can think of where customary and government laws conflict? Please describe and explain what you think should be done in those cases.
6. Sometimes customary laws are in conflict with government laws. Let's take a specific example of when a woman's husband dies. The current constitution says that a woman has a right to share in her husband's property. Yet, there have been rulings in customary courts that have prevented widows from getting their share. What should happen when there is a conflict between customary and government laws in this case?
 - a. Should a woman be allowed to challenge the ruling of the chiefs court in a government court? Why or why not?
7. Do you think the constitution should include a death penalty for very serious crimes (IF NECESSARY GIVE AN EXAMPLE OF MURDER)? [IF YES] Should there be any restrictions on the age at which someone can be put to death for a serious crime?

Thank you very much for your time and participation.

Guideline Three (used in focus groups comprised of Muslim participants only)

I. INTRODUCTION

Hello, my name is _____. I am working on a research project that is collaboration between University of Juba staff and the National Democratic Institute, a non-governmental organization (NGO) based in Juba. We are trying to learn more about what citizens of South Sudan think about the important issues in this area. I am neutral and am **NOT** working for the government or any political party. I am the facilitator for today's discussion.

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- If you disagree with someone, that is okay.
- This discussion is only between those of us here, and it is for educational purposes.
- I have this recorder to help me when I write the report. Your name will not be used in the report. The report will only say a [woman/man] from [location] said this or that.
- The person here is taking notes to help with the report.
- Please speak loudly so the recorder can pick up your voice.
- Also, please turn off your mobile phones or place them on vibrate so that our conversation won't be disrupted. If a call is urgent, please step outside so that you do not disturb the group.

Thank you. Any questions before I begin?

Now let us begin.

II. CONSTITUTIONAL KNOWLEDGE AND PARTICIPATION

1. Have you heard the word “constitution”?

[IF YES] Please describe what it means to you?

[IF NO OR IF THE DESCRIPTION IS INCORRECT]

A constitution is the strongest law of a country and gives birth to all other laws which must be consistent with it. Everybody, including the head of government and all citizens, must obey it. The constitution defines what type of government the country will have and what rights and freedoms will be given to its citizens.

2. Have you heard anything about South Sudan developing a permanent constitution for the country?

[IF YES] What have you heard?

[IF NO] *South Sudan is in the process of developing a permanent constitution for the country.*

3. Who do you think should be involved in developing this constitution?

a. [IF NOT ALREADY MENTIONED] Should citizens play a role in developing this constitution? [IF YES] In what ways should they be involved?

4. What do you think are the most important issues – issues that matter to all of us as South Sudanese – that the South Sudan constitution should address?

5. Should South Sudan have a secular constitution whereby the state is neutral on all issues related to religion?

a. Do you feel there need to be any special protections for Muslims in the constitution?

III. GOVERNMENT & ELECTORAL SYSTEMS

1. What is the best way to make all South Sudanese feel included in the governing of the country?

2. Should there be any specific mention of tribes in the constitution? [IF YES] What should the constitution say about this matter?

a. Is there any need to specifically address representation of tribes in the constitution? [IF YES] In what way should the constitution talk about tribal representation?

3. Should the constitution say that South Sudan should only have one political party OR more than one political party? What is the reason for your answer?
 - a. [IF ANSWER IS MORE THAN ONE] What do you think would be the correct number of political parties in South Sudan? Please explain.
4. Should the constitution say anything about opposition political parties and their role in government? [IF YES] What should it say?
 - a. If a political party wins the largest number of votes in an election, can that political party appoint only its party members to key national government positions (such as ministries) OR should that political party share key national positions with other political parties? Please explain the reasoning for your answer.
5. What role should the permanent constitution define for traditional authorities in government?
 - a. Should there be any role for traditional authorities at any levels of government other than county, payam or boma? [IF YES] What role should that be?
6. A constitution decides how the head of government is chosen. One way is you to vote for members of parliament¹³ and then those members choose the head of government. Another way is for the head of government to be chosen in a vote by citizens. Which of these systems do you prefer? What makes this system better than the other one?
7. If there is a President and a parliament and both have been elected by the people, what should be the main job of the President and what should be the main job of the parliament?
 - a. Should parliament have the right to make laws for the country, even if the President disagrees with those laws? Please explain your answer?
 - b. Should the President be able to make laws without consulting parliament?
8. Regardless of which way government is organized, do you think that ministers should be MPs OR should they not be MPs OR is it okay for some to be MPs and others not to be MPs? What is the reason or your answer?
9. Do you think states should be represented in the national government? [IF YES] How?
 - a. Currently, South Sudan has two houses of parliament. One is the National Legislative Assembly, which are the representatives directly elected by you in the 2010 elections. The other is the Council of States, which consists of two representatives that the state assemblies chose to represent each state in Khartoum but after independence moved to Juba. Going forward, do you think the parliament should be only one house of representatives directly elected by the people OR should there two houses with the

¹³ Parliament may also be referred to as the National Legislature. Use whichever term participants are more familiar with.

second one having representatives selected by the state assemblies? What is the reason for your answer?

10. There are also different ways of electing your representatives.

In the April 2010 elections, you voted for a member of parliament from your geographical area (also called a constituency) on one ballot. On another ballot, you voted for a political party that you wanted to represent you in parliament. Members of parliament elected in this way do not represent a geographical constituency. Which of these systems do you prefer:

- Voting for a person to represent your constituency in parliament;
- Voting for a political party to represent you in parliament; OR
- Voting for both a person to represent your constituency and a political party to represent you in parliament. [COUNT] Please explain your answer.]

11. What if the system of voting for a political party instead of a person to represent your constituency would result in more political parties being represented in parliament – would that change which system you prefer?

12. Do you think County Commissioners should be appointed by the Governor OR should be elected by the council at the county level OR should be elected by the people? What is the reason for your answer?

13. The current constitution says that women should make up at least 25 percent of government at all levels. Do you think this should also be in the permanent constitution? Why or why not? [PROBE SHOULD THE PERCENTAGE BE INCREASED, DECREASED OR STAY THE SAME]

14. What is the number of years a president should serve before having to go for election again? [ASK AT LEAST SIX PEOPLE TO ANSWER THE QUESTION]

- b. Should there be a limit on how many times a person can be elected president? [IF YES] What is the limit?

IV. LAND OWNERSHIP/PROPERTY RIGHTS

1. What do you want the constitution to say about land?

2. In general, who do you think should own the land in South Sudan? What do you think are the benefits of that type of ownership?

- a. [IF PARTICIPANTS SAY GOVERNMENT OWNS THE LAND] What is the process you want to see the government use to ensure that the land is used fairly?

3. The current constitution says that regardless of who owns the land, what is underneath the land (like oil or gold) belongs to the national government. What do you think of that?
4. Now let's think of the different types of land: [ON EACH QUESTION PROBE FOR INDIVIDUAL, COMMUNITY OR GOVERNMENT OWNERSHIP IF NOT ALREADY STATED]
 - a. There is the land under people's houses (residential land) – who should own that land? Why do you think so?
 - b. There is the land that farmers use to grow their crops – who should own that land? Why do you think so?
 - c. There is the land that is used for grazing for animals – who should own that land? Why do you think so?
5. Would you think it was a good thing OR a bad thing if community owned land was slowly changed to private land ownership? Why? [PROBE FAIRNESS OF HOW LAND COULD BE TRANSFERRED TO PRIVATE LAND OWNERSHIP]
6. Currently, the constitution says that the government can take someone's land if it is needed for public reasons, such as building a road or for a government building. In that case, the government must provide fair compensation for the land to the owner(s). Do you want the permanent constitution to say this OR say something different? Please explain. [PROBE FAIRNESS OF HOW COMPENSATION IS GIVEN WHEN LAND IS TAKEN BY THE GOVERNMENT FOR PUBLIC USE]
7. Should women have the right to own land?
 - a. Should women have the right to retain the house they lived in with their husband and the land underneath it after he dies?

V. JUSTICE AND INTERSECTION OF STATUTORY AND CUSTOMARY LAWS

1. What do you want the constitution to say about the court system in South Sudan?
2. There are two types of courts in South Sudan – chiefs courts and government courts:
 - a. What type of matters do you want to be handled in the chiefs courts?
 - b. What type of matters do you want to be handled in the government courts?
 - c. Are there any instances when you believe the chiefs courts and government courts should sit together to decide matters? [IF YES] Please describe.

3. There have been some instances recently where chiefs courts are handling very serious crimes like murder. What do you think of that?
 - a. Should the chiefs courts have the ability to arrest and imprison someone? [IF YES]
How long should chiefs courts be allowed to imprison someone?
4. In government courts where serious crimes are handled, what type of punishments do you considered for those who are guilty? [PROBE IMPRISONMENT, COMPENSATION OR BOTH]
5. Are there examples you can think of where customary and government laws conflict? Please describe and explain what you think should be done in those cases.
6. Sometimes customary laws are in conflict with government laws. Let's take a specific example of when a woman's husband dies. The current constitution says that a woman has a right to share in her husband's property. Yet, there have been rulings in customary courts that have prevented widows from getting their share. What should happen when there is a conflict between customary and government laws in this case?
 - a. Should a woman be allowed to challenge the ruling of the chiefs court in a government court? Why or why not?
7. Do you think the constitution should include a death penalty for very serious crimes (IF NECESSARY GIVE AN EXAMPLE OF MURDER)? [IF YES] Should there be any restrictions on the age at which someone can be put to death for a serious crime?

Thank you very much for your time and participation.

APPENDIX D: ABOUT THE AUTHORS

Traci D. Cook is the Senior Advisor and Regional Director for Focus Group Research for the National Democratic Institute's Southern and East Africa team. An experienced opinion researcher, Ms. Cook has designed and authored public opinion studies in Malawi, Mozambique, Nigeria, Somalia, South Sudan, Sudan, Zimbabwe, and the Caribbean nation of Grenada. She previously served as senior director for strategic and corporate communications at the Women's National Basketball Association and as vice president of marketing communications at SS+K in New York City. Ms. Cook also led a parliamentary and civil society strengthening program as Country Director for NDI in Malawi. Complementing her work in the field of international development and in the private sector is her experience as Political Director for the Mississippi Democratic Party, legislative work on Capitol Hill, and research work for various U.S. House and Senate campaigns.

Dr. Leben Nelson Moro is the Director of the Directorate of External Relations at the University of Juba and teaches graduate courses at the University's Center for Peace and Development Studies. He primarily conducts research on displacement and resettlement, focusing on oil-induced displacement in South Sudan, and conflicts in the Sudan-South Sudan border area. Some of the findings of his studies appeared in the *Journal of Refugee Studies* (Oxford University), *St Anthony's International Review* (Oxford University), *Forced Migration Review* (Oxford University), *New Internationalist* and *Pambazuka News*, as well in Luke A. Patey and Daniel Large (eds) *Sudan Looks East: China, India and the Politics of Asian Alternatives*, James Currey, 2011.

Mr. Onesimo Yabang Lo-Lujo is the Head of Department of Public Administration at the University of Juba. He served as the Deputy Principal of the University from 2006 to 2009. Mr. Onesimo worked for the Wildlife Conservation Forces for more than 20 years and was transferred to the General Police Administration in 2003 until 2010 when he was retired while on secondment to the University of Juba. Mr. Onesimo is working on his PhD. in Democratic Governance and has an MPA, PGD in Development Planning and BSc. in Public Administration and Management.

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- *Embracing the Promise of Peace* (Northern Sudanese Views on the CPA, 2005)
- *A Foundation for Peace* (Thoughts on the Southern Sudan Constitution, 2005)
- *On the Threshold of Peace* (Perspectives on Peace and the CPA Negotiations, 2004)