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NATIONAL LAWS AND POLICIES GOVERNING NATURAL
RESOURCES IN THE REPUBLIC OF SOUTH SUDAN: A
CASE STUDY IN TEREKEKA AND JUBA COUNTIES OF
CENTRAL EQUATORIA STATE
FINAL REPORT

BY:
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ACRONYMS

CBOs	Community Based Organizations
CES	Central Equatoria State
CPA	Comprehensive Peace Agreement
CSOs	Civil Society Organizations
EPACS	Enhancing Peace and Community Stability
FGD	Focus Group Discussion
GOSS	Government of South Sudan
ICSS	Interim Constitution of South Sudan
IDPs	Internally Displaced People
KII	Key Informant Interview
LGA	Local Government Act
MAF	Ministry of Agriculture and Forestry
MARF	Ministry of Animal Resources and Fisheries
NGOs	Non-Governmental Organizations
NR	Natural Resources
NRM	Natural Resource Management
RSS	Republic of South Sudan
SSLC	South Sudan Lands Commission
TCSS	Transitional Constitution of South Sudan
WCSO	Wildlife Conservation Society Organization

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EXECUTIVE SUMMARY

Land and other Natural Resources (NR) are the backbone for the livelihoods of the majority of our population who are rural-based. Thus lack of their involvement in decision-making in Management of their Resources by successive governments, local governments and the traditional leaders have been the main reasons for causing conflicts during the war, and after the signing of the Comprehensive Peace Agreement (CPA) and to date.

This report presents the results of a comprehensive study conducted on national laws and policies governing the use of natural resources in the Republic of South Sudan with a case study in Terekeka and Juba counties of Central Equatoria during the period from November 2013 to March 2014.

The overall objective of the study was to conduct a research on laws and policies governing natural resources in South Sudan with emphasis on the counties of Terekeka and Juba, Central Equatorial State.

The institutions surveyed by the study team included: State Ministry of Lands and physical infrastructure, State Ministry of Agriculture and Forestry, South Sudan Lands Commission, Development Partners, Non-governmental Organizations, Civil Society Organizations, Community-based Organizations. Other relevant stakeholders supporting the Management of Natural Resources at the State and Counties levels were also surveyed and interviewed; these had provided valuable information during the study. Guiding questions, checklists, individual interviews, focused group discussions, direct observations and meetings with government and international development partners were the tools used to generate the primary data.

Relevant documents such as reports and previous studies were consulted and reviewed to obtain secondary data primarily on the study area, laws, policies and acts. Other methods employed in the survey included validated workshops and meetings with wide range of stakeholders. The findings of this study are intended to guide the SOS Sahel in developing its future interventions, programmes and activities on natural resources management in South Sudan.

The main findings identified during the study included:

- The GOSS formulated and developed new laws and policies based on best practice and lessons learned had provided opportunities for good governance but in reality this has not been the case as this study revealed disparity between what is in legislation and policy regarding community participation and what actually took place at the local government levels (*ICSS 2005*) and the (*Land Act 2006*).
- The government has been keen in attracting investors to provide the needed capital for development, but in their haste coupled with the interest of specific groups or individuals within the public offices and/or community members. Thus community consultation processes were by-passed along with environmental impact assessments.
- There were lack of transparency and accountability, within the government organs, as well as inclusivity of youth, men, women, girls and boys in decision-making and

planning of resource management. In addition to lack of knowledge of legislation, confusion about entitlement and these make things difficult if not impossible to prevent conflict related to Land Issues.

- Aid instruments and modalities currently being implemented in areas under study by NGOs supporting laws and policies on Land, water and other NR, represent good opportunities in addressing the challenges of natural resources management in the state.
- There is lack of clarity over tenure and rights of owners on the local available natural resources especially the land. This results to conflict between the state's claims to ownership and traditional/customary rights regimes. This is likely to continue in the future through influence by both local and external demands.
- South Sudan, for the first time in history, has written policies and laws of the natural resources management that give prominence to customs and traditions, and recognize the rights of the indigenous communities to land. But while the new government has now officially recognized indigenous and customary systems of land administration, its simultaneous encoding and overlapping rights has created some confusion.
- Over ninety percent of land in the study areas is communal land and is regulated by customary and traditional rules.
- Communities are found not to be consulted or involved on key decision-makings on land investment and they do not know how and where to go for help. Most of the institutions and structures at the payam level such as the county land authority and the land committees were found not established, while those established are not functional due to lack of capacity and resources.
- There is a huge gap in terms of devolution of power to the lowest level of governance and the lack of structure that will help communities to make the government transparent and accountable to them, and the absence of women and girls at the payam administration is a very big gap that needs an urgent attention.
- There is lack of political will to implement the decentralization system, due to fear of losing power and control. This has affected the local government in terms of decision-making on the NRM within their territories since most of these decisions are made at the top government levels.
- Other findings of the study were: non- implementation and dissemination of acts, laws and policies such as the Land Act 2009, Petroleum Act 2012 and the Revenue Act 2012, illegal acquisition of land (grabbing), overfishing and wildlife poaching; disputes over internal boundaries; lack of clear policy in land allocation for IDPs, returnees and government employees from outside CES.

The last part of this report is composed of recommendations:

- SOS Sahel South Sudan to support and encourage the implementation of policies, laws and acts governing natural resources management in the area under study.
- Support and encourage the institutions responsible for the implementation of these laws and policies and build the capacities of the staff working for promotion and development of the laws and policies governing natural resources management in the area.

CHAPTER ONE

METHODS OF DATA COLLECTION

1.0. Background

SOS Sahel South Sudan is a new national NGO registered in South Sudan just prior to the country's independence in May 2011. The organisation emerged from the work implemented by SOS Sahel International UK in Sudan over the past 27 years, particularly in Greater Kordofan. SOS Sahel work focuses around building peace and prosperity through sustained engagement at the community level, working closely with both farmers and pastoralists, by means of reducing resource-based conflict through better management of natural resources, and strengthening livelihoods and civil society.

This study forms part of an Oxfam Novib-funded project on reduction of resource-based conflict in Central Equatoria State. The areas of focus are Terekeka and Juba Counties because of the high incidences of conflict between farmers and pastoralists in these counties.

This study was commissioned by SOS Sahel South Sudan to Rising Dawn Consultancy Company (RISING) to carry out a study on national laws and policies pertaining to Natural Resources Management in South Sudan with focus on the two counties of Central Equatoria State, Terekeka and Juba where SOS Sahel would like to explore. A preliminary desk review was conducted that allows the development and moderation of the data collection tools.

1.1. Desktop Research

The documents reviewed by the Study Team included different government ministries and commission laws, policies, acts, studies and reports in addition to documents on policies and laws governing natural resources in the neighboring countries such as Kenya, Uganda and Sudan. Reports of the development partners working in the areas of natural resources management were among the documents reviewed and the materials gathered were utilized for generating in-depth information that facilitated the analysis of all the aspects of policies and laws governing natural resources management.

1.2. Objectives of the Study

The study was commissioned to achieve the following objectives:

- **Overall objective:** to conduct a research on laws and policies governing natural resources in South Sudan with emphasis on the counties of Terekeka and Juba of Central Equatorial State.

- **Specific objective:** to increase people's participation in managing issues of natural resources that affect their livelihoods, with more involvement of women, and thereby enhance co-existence amongst the users of natural resources, in order to decrease tension that can lead to conflict.

1.3. Scope of the work

Based on the Terms of Reference, the study considered the following:

- Research on the current national laws and policies on land, water and forestry were conducted and this included meeting with the ministries of Agriculture, Range, and Forestry amongst others and analyzed how these policies are translated to the grass root level.
- Identified the existing policy institutions/structures at the payam level with their respective roles and responsibilities and analyzed how these institutions relate to the community.
- Identified any existing gaps in laws and policies.
- Conducted two validated workshops on research findings in Juba and Terekeka Counties.
- Set a precedent for open communication and dialogue to encourage everyone to take ownership and exercise their opportunities and responsibilities.

1.4. Expected outcomes

- Knowledge of existing laws and policies among lower level government authorities reviewed.
- Opportunity for increased dialogue between government and communities provided.

1.5. Expected outputs

- Comprehensive report on the laws and policies governing natural resources in place.
- Key policy issues around natural resources within the two counties with some key recommendations for all stakeholders as to how to address any existing gaps in laws and policies highlighted.
- Reports to the communities and government authorities through the organisation of two workshops with SOS Sahel South Sudan presented, discussed and validated.

1.6. Process and Time Schedule

This study was conducted over a period of three (3) months from November, 2013 to January, 2014. There was one study team comprised of technical advisor, lead consultant and research assistant under the supervision of the Down Rising Consultancy Company that provided administrative and technical support that eased access to the individuals, public and private institutions during data collection.

Primary data were collected from Fifty three (53) respondents over a period of three weeks using structured and unstructured questionnaires and guided checklists. Desk review, key informant

interviews, focus group discussions, case studies and observations were the tools employed to generate secondary data.

1.7. Structure of the Report

This report comprises of four chapters. Chapter One is an introduction to the study mainly focusing on the methodology and the materials used. Chapter Two gives highlights on the area under study with emphasis on the geographical location, governance system, natural resources, infrastructure of and the livelihoods of the inhabitants. Chapter Three deals with findings and results from reviewed documents and the analysis of the primary data review. Chapter Four, the last chapter presents the study conclusions and recommendations.

1.8. Limitation of the Study

Generally, there were challenges encountered during the study which resulted to the delay of the report. Among them were limited financial resources and cooperation from respondents. And the major factor that significantly contributed to the delay of the report was the unexpected breakout of the political turmoil in Mid-December, 2013 in the country.

CHAPTER TWO OVERVIEW OF THE STUDY AREA

2.0. Geographical location and Climate

Central Equatoria State (CES), formerly known as Bahr al Jabal was renamed Central Equatoria in the first Interim Legislative Assembly on 1st April 2005 under the new government of the Southern Sudan. It covers a total area of 31,027 km², based on Sudan Census (2008), while its population was estimated at 1,103,952, with Juba County having the largest population, followed by Yei, and Lainya County being the one with smallest population. The Population density of the state was reported at 26 person/sq. km and sex distribution was 52% male and 48% female (Sudan Census, 2008).

Central Equatoria State borders Eastern Equatoria State, to the east, Western Equatoria State; to the west, Jonglei State (JS); to the northeast, Lakes State to the northwest, Republic of Uganda to the south and the Democratic Republic of Congo to the southwest. The state capital is Juba, which enjoys a unique status of being the capital for the GOSS. It also consists of six counties, namely Juba, Lainya, Morobo, Kajo-Keji, Terekeka and Yei, with fourteen tribes (Source: OCHA 2011). Annual temperature ranges from 24.7 to 34.5, with a long rainy season from April – November because it falls within the tropical climatic zone.

Juba and Terekeka Counties are inhabited by Bari, Nyangwara and Mundari people who live in the valley of the River Nile. Their villages are spread along the east and west banks of the River Nile but also some live up to 30 miles away from the banks. The Bari, Nyangwara and Mundari like other ethnic groups in South Sudan, are believed to have migrated from East Africa along with the wave of migrations that brought other groups such as the Lotuka, Lokoya to their present respective lands (CES Profile, 2010). The people of Central Equatoria belong to the Nilo-Hamites and they all speak the same dialect Bari.

The population of the two counties under study is estimated at 502,819 with Juba being the lead since it is the capital City of the Government of South Sudan (Table 1).

Table 1: Population of the Counties under study

County	Population	Area (Km ²)
Juba	362,423	18,396.15
Terekeka	140,396	10,538.23
Total	502,819	28934.38

Sudan Census 2008

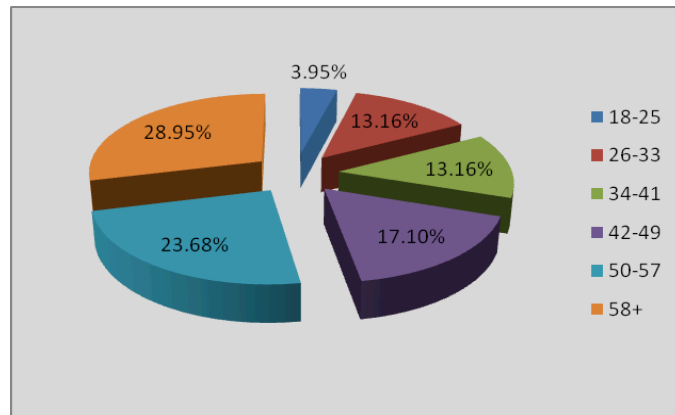
2.1. Socio - Demographic Information

A total of 53 respondents were interviewed as indicated in Figure 1 below. The result had shown that 28.95% were elderly people of over 58 years compared to the 13.16% who were between 26 - 41 years old.

Respondents between the ages of 18-25 years old constituted only 3.95% and those between ages 42- 49 were 17.10%; while 50-57 years constituted 23.68%.

This age distribution may be attributed to displacement patterns due to the civil war that resulted to the migration of youth to towns and other areas such as Juba and East Africa.

Figure 1: Age Distribution of Respondents



Source: Study Team, 2013.

Education level: Education is important for everyone, but it is especially significant for girls and women, based on the United Nations Funds for Population (UNFPA) statement on World Population (2005). It is an entry point to other opportunities and can have ripple effects within the family and across generations as it helps to reduce poverty and to defy violation of human rights. The study found literacy rates of the women participants to be very low in Terekeka County and in Rokon and Dollo Payams.

2.2. Livelihood System and Economic Activity

Central Equatoria State is more of agriculturalist and little agro-pastoral area, with all its population depending more on crop cultivation, than cattle rearing. The state experiences long rains from March to November, while the dry season is in December to February. Nonetheless, the infrastructure has been devastated by the over 50 years of successive civil war, which has adversely affected its economic development seriously. Thus people are now trying to establish their livelihoods in a landscape that has changed physically, biologically, culturally and politically.

The inhabitants of the two Counties of Juba and Terekeka are mainly agrarian- based with emphasis on subsistence agriculture as well as limited domestic livestock mainly for socio-cultural and traditional functions, although they represent a source of quick cash as dictated by family circumstances. Fishing is another economic activity of livelihood particularly for the people of Terekeka.

The main crops grown by the inhabitants of the two Counties include sorghum, maize, cassava, sweet potatoes, groundnuts, beans, sesame (sesame) and vegetables such as okra, kudura and green leafs. Different kind of fruits such as the Oranges, Mangos, Pawpaw, Lemons and Guav's are also, grown in the area.

2.3. Natural Resources

The two counties under study have vast and largely untapped natural resources and opportunities abound for visible improvements in the quality of peoples' lives (Table 2), but there are also many challenges for their development and utilization among them lack of clear policies and laws governing them.

Table 2: Natural Resources in Area under Study

S/N	Natural Resources	Status
1	Minerals (Oil, Gold)	Non- renewable
2	Land	Non-renewable
3	Agriculture and Forestry	Renewable
4	Water (Rivers, Hot springs, Swamps)	Renewable
5	Livestock(Cattle, Goats, Chicken)	Renewable
6	Wildlife	Renewable
7	Fisheries	Renewable
8	Culture	Renewable

Gender related Natural Resources Issues: On issues related to women and natural resources, though women relate with the natural resources more than men in terms of knowledge of which kind of wood could be used as light when a mother has given birth without affecting the eyes of the baby, which wood could be used to relieve the baby from stomach pains. Yet these women are neglected and not involved when it comes to decision regarding natural resources management. In the areas where the gold has been mined, women don't only participate as porter buckets to the streams and water source to wash away the mud. The gold found belongs to the men and they are just given small amount of money for their labor.

CHAPTER THREE

CURRENT POLICIES AND LAWS GOVERNING NATURAL RESOURCES

3.0. Introduction

Since the signing of the Comprehensive Peace Agreement (CPA, 2005) and the subsequent independence in July 9, 2011, the Government of the Republic of South Sudan has developed laws and policies governing Natural Resources (land, water, forestry, etc.) along with establishment of institutions aimed at restoring peace and stability. Institutions such as the Statutory and Customary Courts and the Lands Commissions were established at the three levels of governments to respond to legal matters including disputes over water point, grazing land, wildlife, fishing points and forestry which are common in CES. Below are some of the reviewed existing laws, policies and acts on Natural Resource Management.

3.1. The Interim Constitution

The Interim Constitution of Southern Sudan (ICSS) was signed into law on 5th December, 2005 and is compatible with the Sudan Interim National Constitution by then. All legislations in this constitution mandate the Government of the Republic of South Sudan (GRSS) to develop policies and strategies of natural resources among others for reconstruction and development of Southern Sudan. Several development policies and strategies have been formulated based on local experiences and international 'best' practice. However, there was no or limited consultation with relevant sector stakeholders.

3.2. Land Policy

According to CPA peace process, Sudan and South Sudan recognized the need to develop land policy, legislation, functioning institutions and supporting services related to land resources. The CPA mandated the establishment of the National Land Commission (NLC) and the South Sudan Land Commission (SSLC) to develop land policies and draft legislation to clarify and strengthen land administrative systems and the rights of landholders.

The Transitional Constitution of 2011 states that all land in South Sudan is owned by the people of South Sudan, and charges the government with regulating land tenure, land use and exercise of rights to land. The constitution classifies land as public, community or private land, and requires the GOSS to recognize customary land rights when exercising the government's rights to land and other natural resources. The constitution does not clarify the extent to which customary rights can limit government's rights, but does require that all levels of government incorporate customary rights and practices into their policies and strategies. As a result, the Land Act (2009), the Local Government Act (2009) and the Investment Promotion Act (2009) were developed to establish the institutions and mechanisms of governance that would address pressure points and fill vacuums created by conflict, uneven development and lack of transparency and accountability in resource governance (GoSS 2011).

The three laws mentioned above established the fundamental framework for the fair and transparent administration of land rights in South Sudan. For example, the Land Act regulates land tenure and equally recognizes rights to customary, public and private tenure; the Local Government Act defines primary responsibilities of local government and traditional government authorities in the regulation and management of land, which includes charging customary institutions with particular responsibilities for administering community land rights.

On the other hand; the Investment Promotion Act establishes procedures for facilitating access to land for private investment, including by foreign investors, in ways that balance the interests of both current right holders and investors. Although a framework has been developed, government officials have a poor understanding of the laws and lack the capacity to interpret and carry them out. There is also a lack of awareness by the population as a whole, which further impedes progress (GoSS 2011).

The SSLC also developed a draft Land Policy that strengthens the rights of land holders, communities and citizens within the new framework and guidelines established by the Land Act (2009). It emphasizes the importance of access to land as a “social right,” a feature of many customary land tenure systems that allows community members to access land irrespective of wealth or economic status (Deng and Mittal 2011).

The Customary laws have governed the use of land in South Sudan for centuries, with each ethnic group applying its own laws relating to land and land rights within its own territory. Land laws enacted by governments in Khartoum throughout the colonial and post-colonial periods do not appear to have seriously affected customary tenure systems in the South. Thus, on the whole, customary laws and practices remain largely intact. Although they vary from community to community, customary institutions and traditional mechanisms continue to govern the access, use and allocation of land (USAID 2010).

In line with the above, some of the highlights of the Land Act, 2009 of Southern Sudan are as follows:

Section 58 states that community Land may be registered in the name of:

- A Community, or a family, in accordance to customary practice applicable;
- A clan or a family in accordance with the customary practices applicable;
- A community association and a traditional leader in trust for the community and with the consent of the members of the community’.

Section 63 provides that: Activities to be carried out by the investors on communal land shall reflect an important interest of the community or people living in the locality; the project shall contribute economically and socially to the development of the local community; the concerned national and state government institutions including investment authorities will consult with the communities concerned on any decision related to the land that the project intends to acquire and the view of the community will be duly taken into consideration.

Section 69 provides that: ‘Individuals, communities and organizations will protect land in order to keep it in a productive condition in which problems such as land degradation is adequately managed in accordance with the ***provisions of Article 44 of the ICSS***’. Consultation with the local authorities, traditional leaders and other levels of the government in South Sudan is thus very important. In this process, all the stakeholders have a role to play.

3.3. Water Policy

In December 2007, the GOSS adopted the South Sudan Water Policy, which states that access to sufficient water of an acceptable quality and quantity to meet basic human needs is a human right. The policy provides that: the right to water shall be given the highest priority in the development of water resources; rural communities shall participate in the development and management of water schemes; and the involvement of NGOs and the private sector in water projects shall be encouraged. Apart from customary laws governing access to grazing and fishing grounds for communal use at a local level, currently there is no formal system for allocating water resources for different social and economic purposes in the country.

3.4. Minerals Policy

The Interim constitution of South Sudan states that all levels of government will protect and ensure the sustainable management and utilization of minerals, including oil. The GOSS recently signed the Petroleum Act (2012). The Act states that ownership of petroleum is vested in the people and to be managed by the government for their benefit. The Act also emphasizes maximum petroleum recovery within a framework that seeks to ensure the safety, security and protection of the environment, and requires transparency, accountability and ethical behavior on the part of both licensees and the government (SSIS 2012).

3.5. Forestry Policy

The current legal framework for forest management in South Sudan consists of: the CPA; the Interim National Constitution; the Interim Constitution of South Sudan; a number of laws at the national level enacted prior to the signing of the CPA (including the Forestry Commission Act) (2004), the Forestry Training Centre Act (2004) and the Timber Utilization and Management Act (2003); ministerial decrees and orders; and customary law.

In Forestry Act 1986 (Laws of the Sudan): ‘All gazetted National Forestry Reserve and those that are in the pipeline shall be directly owned and managed by the National Forestry Corporation of the Government of Sudan. This act proved to be weak and no longer reflect the current reality in South Sudan because the law is outdated and geared toward a “command and control” approach, with little reliance on civil society as a partner in forest resources management and biodiversity conservation. Authorities with jurisdiction to manage and protect biological resources (including forest resources) require an up-to-date legal framework to enforce and prosecute illegal activities (GoSS 2011c; GoSS 2010; TerrAfrica 2010; USAID 2007).

In October 2007, the Ministry of Agriculture and Forestry (MAF) produced a policy statement document that reads:

- Under **Section 5.3.2 Number 3**, the MAF will undertake and build-up databases on plantation and natural forestry by conducting forestry surveys, inventories, and gazette new forest lands.
- Under **Section 5.3.2 Number 4**, GOSS will assume responsibility of all National Reserve Forests in Southern Sudan and will ensure that they are protected and managed sustainably.

However, some progress has been made so far. In August 2010, the GoSS approved a new Forest Policy that provides guiding principles and strategies to address sector constraints and challenges to ensure the optimal contribution of forestry resources towards sustainable growth and development of the country. Community land is defined by the Land Act (2009) to include forestland that has been held, managed or used by a specific community.

Other related acts to forestry management include: South Sudan Financial Management and Accountability Act which was passed in December 2011, with the aim of strengthening the process of accountability and ensuring transparency in resource management.

3.6. Environment Protection Act 2001

This is the principal legislative policy framework of former Sudan that provides uniform rules of substance and procedures on protection of the environment and use of natural resources. The Act also provides definitions and clarifications regarding natural resources management, pollutants and sources of pollution, and endorses the ‘Polluter Pays’ principle. **Section 4** sets forth the environmental objectives of the Sudan as follows:

- Protection and preservation of the natural environment, or the basic elements and the social and cultural systems thereof, in achievement of safety and sustainable development for the benefit of future generations;
- promoting the environment and sustainable use of the natural resources, for the purpose of sustainable development;

- linking the issues of environment and development; ascertaining the responsibility of the competent authority for protection of the environment, and promoting the need for achieving such protection; and
- Establishing the role of the competent authority and the organs belonging thereto, and enforcing their roles.

Recently the Ministry of Environment, GOSS has developed a draft Environmental Policy and Environmental Bill (2010) that, if enacted, will provide guidance on sustainable management of environmental resources.

3.7. Wildlife Conservation & National Parks Act, 2003

(GOSS) has maintained pre-CPA Acts that provided for the protection of wildlife and associated habitat in designated National Park Areas. The followings are some of the extract from the acts:

Section 14 states that ‘except with the written authorization of the Director General, of which authorization shall be given only in the interest of the proper management and development of the national park: - it is unlawful to;

- Obstruct, divert or pollute any river, pool, lake or other points of water;
- Perform any act or engage in any other activity likely to destroy, endanger or disturb wildlife in the national park or to destroy or shelter or alter its natural habitat and environment’

Section 15 states that: ‘except with the written authorization of the Director General or officer in charge of the national park concerned, and subject to the conditions of any such authorization, no person shall ... bring into the national park any weapon, ammunitions, explosives, traps, snare or poison, or be in possession of any such articles within the national park’

3.8. Local Government Act 2009

This Act stipulates the followings:

- **Section 19 (2) States that** ‘the traditional leaders shall represent their people in developing legislatures on natural resources management.
- **Section 19 (3) states that** ‘The Boma shall be the main domain of the traditional authority where traditional leaders perform their administration and customary function.
- **Section 19 (4) states that** ‘ in the Town Council, the traditional authority shall perform its administrative and customary functions within the quarter council, and the local government act 2009 also defines the traditional authority, customary law, the authority of traditional chiefs in Southern Sudan.

- **Article 174 (1) (ICSS) states that** ‘the institution status and role of traditional authority, according to customary law, are recognized under this Constitution’ and ‘The Legislation of the states shall provide for the role of traditional authority as an institution at local government level on matter affecting local communities’.
- **Article 174 (3) (ICSS): states that** ‘The courts shall apply customary laws to the Constitution and the law’.
- **Article 175 (2) (ICSS) states that** ‘Legislation at the Southern Sudan and States level shall provide for the establishment, composition, function and duties of the Councils of Traditional Authority Leaders’.
- **Article 180 (4) (ICSS) states that** ‘All lands traditionally and historically held or used by local communities or their members shall be defined, managed and protected by law in Southern Sudan’.

3.9. Fisheries Policy

The Fisheries Policy (2006 – 2011) was developed after the signing of the CPA by the MARF to provide guidelines, support the fishing structures to better coordinate and harmonies the sector mandate and to implement the plan of action to achieve sustainable development. However, due to inadequate institutional capacity and limited financial resources the policy has not been fully implemented.

3.10. Additional General Policies of MAF (2010)

In order to achieve food security through transforming the subsistence agriculture system to a surplus production system well connected to markets and guarantee households access to food, the ministry had developed policies related to natural resources management. These include the following:

- Declaration of self-reliant food policy for southern Sudan.
- Mobilization, organization and empowerment of local farmers, cattle owners, fishermen and entrepreneurs for active and effective participation in agricultural reform and food self-sufficiency program.
- Immediate allocation of at least 10% of the oil revenue for agriculture, forestry, fisheries and livestock development.
- Investment in agricultural research and extension services.
- improvement of farmers' and entrepreneurs' access to improve agriculture and livestock inputs (technology, seeds, veterinary medicines etc.), services (extension, microfinance, information) and markets such as feeder roads, transport, storage systems and information
- Development of rural and agriculture market infrastructure and services

- Promotion of investment in the agriculture and livestock sector by exemption of agriculture inputs and outputs from taxes
- Promotion of water management and agriculture production under irrigation systems.
- Promotion of private sector and foreign investment in agricultural sector.
- Promotion of environmental protection and conservation by enacting laws and encouragement of good agriculture and livestock production practices.

3.11. Natural Resources Management Organs

The GOSS has established structures on the National level to guide and regulate natural resources management and to ensure accountability to both the government and the communities where these resources are located. These structures include and not limited to the following:

3.11.1. Specialized Committee for Natural Resources in National Legislative Assembly

This committee is based at the National Legislative Assembly, its roles and responsibilities are to pass and enact laws and policies related to Natural Resources Management and ensure that these laws are implemented at all the levels of the three tiers of the government.

3.11.2. Natural Resources Working Group

the Natural Resources Working Group is comprised of representation from the following seven ministries: Housing, physical planning and environment, Water resources and irrigation, Animals Resources and Fisheries, Agriculture, Forestry, Cooperative and Rural Development, Wildlife Conservation and Tourism, Energy and Mining and the Lands Commission. Their function is to advice the GOSS and the state government on natural resources management policy and legal framework.

3.11.3. South Sudan Lands Commission (SSLC)

Established in 2005 and empowered by the Land Act 2009 to exercise the functions and duties as demanded in Article 181(1) of the interim constitution of South Sudan, 2005. The South Sudan Lands Commission makes rules and regulations that can contribute to efficient and effective implementation of the provisions of the Land Act, 2009. In addition it is the principle authority to address and implement land matters.

3.11.4. Non-Governmental Organizations (NGOs)

These non-governmental organizations work within the community, deliverer services on behalf of the local government in areas of studies, Juba and Terekeka. Most of their activities focus on training, advocacy, networking with International Organizations and support line ministries to develop policies and guidelines for sustainable natural resources development. These NGOs include ACORD working in Terekeka, NPA, GADED, CECSLA and BRAC working in Juba County.

CSOs such as CECSLA and SNV provide technical support through provision of equipment such as vehicles, hoes, seeds and promotion of improved livelihood and processing technologies blended in extension service delivery (Table 3).

Table 3: Stakeholders Working in Management of Natural Resources/ Juba and Terekeka

Stakeholder	County	Area Of Focus
ACORD	Juba and Terekeka	Fishing
SOS Sahel	Juba and Terekeka	Land, Forestry, Fishing
SNV	Terekeka	Fishing
NPA	Juba and Terekeka	Land, Oil
GADED	Juba and Terekeka	Land, Oil
CECSLA	Juba and Terekeka	Land
BRAC	Juba and Terekeka	Agriculture

3.12. Institutions and Structures Arrangements

Central Equatoria State, like other States in South Sudan, is headed by an elected Governor, assisted by a deputy and advisors in addition to state ministers who are in responsible for implementation and supervision of government policies and programs in their respective ministries.

Administratively, the State has six (6) Counties and forty two (42) Payams where each County is headed by an appointed Commissioner, assisted by a Senior Executive Administrator; whereas a Payam is headed by an Administrator, assisted by the local traditional authorities.

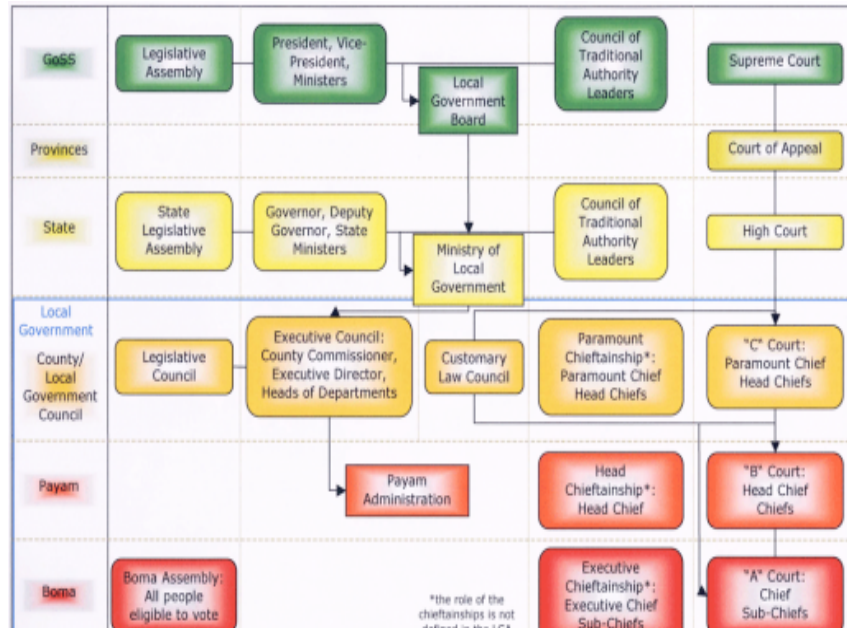
In the State there are well established and respected system of traditional local authority, with well-defined functions and duties. The set-up of this system is as follows; the Paramount Chief, Executive Chief and his Assistants, Headman, Boundary Chief, Community Leader, Youth Leader and Spiritual Leader.

The Local Government Act 2009 establishes legislative and executive bodies at the County level, called Legislative and Executive Councils and these consists of members from the Boma, the lowest level of local government. The Executive Council is headed by the County Commissioner with membership from heads of departments and the Chief Administrator who is the head of the civil service of the County. All these organs and structures are responsible for management and supervision of the natural resources at county; payam and bomas levels which are of economic importance as they generate revenues and income to the county.

The executive and the legislative bodies are complemented by a third organ as the traditional authorities that perform executive and judiciary powers at local government level. The Boma is the only level that is a domain of the traditional authority where the performance of the administrative and customary functions is conducted”.

The Payam, on the other hand, “exercises delegated powers from the County Executive Council”. This customary law applied in the courts of the Bomas, Payams and Counties to regulate natural resources management by the Customary law Council and contributes in solving conflicts of natural resources (Figure 2).

Figure 2: Decentralized Structure of Government



Source: Adopted from Local Government Act and ICSS

CHAPTER FOUR

MAIN FINDINGS, CONCLUSION AND RECOMMENDATIONS

4.0. Findings

- The GOSS formulated and developed new laws and policies based on best practice and lessons learned had provided opportunities for good governance, but in reality this has not been the case as this study revealed disparity between what is in legislation and policy regarding community participation and what actually took place at the local government levels (*ICSS 2005*) and the (*Land Act 2006*).
- The government has been keen in attracting development partners, international and local investors to provide the needed capital for development, but in their haste coupled with the interest of specific groups or individuals within the public offices and/or community members' consultation processes were by-passed along with environmental impact assessments. This affected negatively the ecosystem services and products on fisheries, cattle, watershed areas, wildlife and forests as well as other livelihood activities of the rural areas of Terekeka and Juba Counties.
- There were lack of transparency and accountability, within the government organs, as well as inclusivity of youth, men, women, girls and boys in decision-making and planning of resource management. In addition to lack of knowledge of legislation, confusion about entitlement and these made things difficult if not impossible to prevent conflict related to Land Issues.
- Aid instruments and modalities currently being implemented in areas under study by NGOs supporting laws and policies on land, water, forestry and other Natural Resources, represent good opportunities in addressing the challenges of Natural Resources Management in the state.
- Other findings of the study were: non- implementation and dissemination of acts, laws and policies such as the Land Act 2009, Petroleum Act 2012 and the Revenue Act 2012, illegal acquisition of land (grabbing), overfishing fishing and wildlife poaching; disputes over internal boundaries; lack of clear policy in land allocation for IDPs, returnees and government employees from outside CES.
- There is a serious lack of information and data on the natural resources availability, distribution and their utilizations. Particularly problematic is that public bodies are mostly focused on and orientated around commercial activities such as revenue collection and taxes of all types.
- There is lack of clarity over tenure and rights of owners on the local available natural resources especially the land. This results to conflict between the state's claims to ownership and traditional/customary rights regimes. This is likely to continue in the future through influence by both local and external demands.
- There is direct and indirect 'political interference in operational decisions which affect land, forests and other natural resources management in Dolo and Rokon — perhaps

largely due to the pursuit of vested economic interests on the part of decision-makers and officials.

- South Sudan, for the first time in history, has written Policies and laws the natural resources management that give prominence to customs and traditions, and recognize the rights of the indigenous communities to land. But while the new government has now officially recognized indigenous and customary systems of land administration, its simultaneous encoding and overlapping rights has created some confusion.
- Over ninety percent of land in the study areas is communal land and is regulated by customary and traditional rules. The Land Act 2009 recognizes such lands and therefore any project activity should reflect and consider the interests of the communities owning these communal lands.
- Though the law stipulates that chiefs to be included in the decision making process on the management of natural resources, the study reveals that older traditional authorities are often quite autocratic in their decision-making. They do not necessarily seek the opinions of their people particularly from women and youth due to the hierarchical nature of their society.
- Communities are found not to be consulted or involved on key decision-makings on land investment and they do not know how and where to go for help. Most of the institutions and structures at the payam level such as the county land authority and the land committees were found not established, while those established were not functional due to lack of capacity and resources.
- There is a huge gap in terms of devolution of power to the lowest level of governance and the lack of structures that will help communities to make the government transparent and accountable to them, and the absence of women and girls at the payam administration is a very big gap that needs an urgent attention.
- Most of the community and the payam administrative staffs have not seen the Land Act 2009 policy and therefore do not clearly understand the different roles and responsibilities of the three layers of governance and how they operate based on what has been stipulated in the Land Act 2009 and the Local Government Act.
- There is lack of political will to implement the decentralization system, due to fear of losing power and control. This has affected the local government in terms of decision-making on the NRM within their territories since most of these decisions are made at the top government levels.
- Accessing communities can be a challenge. Poor roads, lack of transport, spread out populations, and poor means of communication are obstacles even to the most committed government workers to carry out community consultation, thus certain individuals, groups or communities may be excluded from information.

4.1. Conclusions

It is difficult to avoid the conclusion that in much of Africa and South Sudan in particular, there has often been an inverse relationship between government interventions policies and laws on the natural resources management and communities’ interests. There have, however, been some promising signs of a more devolved approach to forest and land governance and management responsibilities — although in few cases these have been commensurate with the significance that forest, land, cattle, fish resources are in the main livelihood activities for many South Sudanese rural communities.

4.2. Recommendations

4.2.1. Recommendations: Juba County (Rokon and Dolo Payams)

The Community	State Government	SOS-Sahel
<ul style="list-style-type: none"> • Immediate formation of a Committee that comprises of Payam Administrators, the Land Lords, Chiefs and a member from the women group to be responsible for the management and approval of the Natural Resources. • The pull of the T4T to educate the Landlords and the chiefs on the protection and responsible use of the natural resources; • The T4T pull of facilitators to clearly spell out the laws and the policies that govern natural resources to all the community members in the two Payams. • Local rules and regulations to be developed and used for disciplining and punishment of the community members including chiefs and Landlords who violate these laws and policies that govern natural resources use. • Taxes to be levied on gold mines 	<ul style="list-style-type: none"> • Finalize the formation of the Payam councils to monitor and ensure that the laws and policies that govern natural resources are implemented and adhered to by all. • Develop policies that restrict the unnecessary grazing of cattle particularly on farms and ensure to allocate specific grazing areas for the cattle keepers. • Develop policies on restriction on unacceptable fishing methods such as using poison for killing the fish. • Employ forest rangers, game reserve and agricultural extension workers to support and guide the communities in the protection of these natural resources. • Complete the formation of the County and the payam councils to work closely with the communities to address the challenges posed by poor management of the natural resources 	<ul style="list-style-type: none"> • Support and encourage the implementation of policies, laws and acts governing natural resources management in the area under study. • Continue to conduct training/workshops on laws and policies pertaining to the natural resources management so that the communities will gradually get to understand the benefits of sustainable management of their natural resources. • Conduct training of trainers (T4T) for Payam Administrators, Chiefs, Women and Youth Groups on the laws and the policies that govern their natural resources • Facilitate the pull of the trainers to disseminate the laws and the policies that govern natural resources to all the community members • Provide the Payam Administrators, Women Groups and the Youth Groups with copies of the laws and the policies governing natural resources. • Follow-up with the relevant state, county and payams institutions to assess the impact.

4.2.2. Recommendation: Terekeka County

The Community	State Government	SOS-Sahel
<ul style="list-style-type: none"> • The Chiefs to enlighten the communities on their roles in the protection of the natural resources; • The communities are to work closely with the Landlords and the Chiefs to ensure that funds collected from the natural resources are used for the benefits of the communities; • The T4T pull of facilitators to clearly spell out the laws and the policies that govern natural resources to all the community members. • Local rules and regulations to be developed and use for guiding the community on the proper use of their natural resources • Awareness creation on the use of natural resources by T4T to the communities and the investors so that they are well informed and act within the law. 	<ul style="list-style-type: none"> • Engage and understand the chiefs and not to impose people on them because they are not educated. This creates conflict between the chiefs and these educated urban people who do not understand the rural systems; • Make consultation and to engage the chiefs in any issue related to the change of personnel or any policies on ownership and sustainability of the process; • Ensure that the County positions are fully filled with personnel who are qualified and have the necessary skills to deliver to their people; • Future training should not only be focused at the County levels but to be spread and conducted in the various Payams and the Bomas; • Establish good communication channels between the state, Payam, and the Bomas for easy sharing of information • Avail copies of the Local Government Act and disseminate the Act as widely as possible; • The County Executive Officer to organize a periodic meeting to update the chiefs on what is happening at the state level so that the chief and the elders are fully aware so that they will be able to contribute where necessary, 	<ul style="list-style-type: none"> • Support and encourage the implementation of policies, laws and acts governing natural resources management in the area under study. • Organize training on the laws and the policies that govern natural resource in all the Payams and the Bomas of Terekeka County; • Provide at least one copy of the laws and the policies that govern natural resources to all stakeholders, so that they can see how the laws and the policies look like and to study the content for understanding and conceptualization; • Identify and conduct training of trainers for 60 stakeholders, who could be used as trainers in the Payams and the Bomas of Terekeka County;

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6.0. ANNEX

ANNEX 1: TOR "Request for Proposals – "National Laws and Policies governing the issues of National Resources."

Terms of Reference for a consultant to conduct a research on national laws and policies governing natural resources in South Sudan, with a case study in Terekeka and Juba Counties, Central Equatorial State

SOS Sahel South Sudan is seeking an experienced consultant with a background on natural resource management to conduct a research on laws and policies governing natural resources in South Sudan. The research will look at the national laws and policies in place and then focus specifically on the implementation of these in Terekeka and Juba Counties, Central Equatorial State, as a case study example.

Background on SOS Sahel South Sudan: SOS Sahel South Sudan is a new national NGO registered in South Sudan just prior to the country's independence in May 2011 by Ajak Deng. The organisation emerged from the work implemented by SOS Sahel International UK in Sudan over the past 27 years, particularly in Greater Kordofan where Ajak Deng Meyan worked for 17 years. This work is focused around building peace and prosperity through sustained engagement at the community level, working closely with both farmers and pastoralists, by means of reducing resource-based conflict through better management of natural resources, and strengthening livelihoods and civil society (www.sahel.org.uk for more information).

Introduction to project: This research project forms part of an Oxfam Novib-funded project on reduction of resource-based conflict in Central Equatoria State. This project builds on a pilot project on peace-building activities conducted by SOS Sahel South Sudan in Central Equatoria State in 2012/13. The areas of focus are Terekeka and Juba Counties because of the high incidences of conflict between farmers and pastoralists in these counties. The overall outcome for this project is to increase people's participation in managing issues that affect their lives, with increased involvement of women, and thereby enhance co-existence amongst the users of natural resources, in order to decrease tension that can lead to conflict.

These terms of reference pertain to the research component of this project, and the follow-up workshops to be conducted on the basis of the research.

Scope of the work (task):

- A comprehensive study of the current policies on land, water and forestry. This will include meeting with the ministries of Agriculture, Range, and Forestry amongst others and studying how these policies are translated to the grass root level.
- Identify the existing policy institutions/structures at the payam level with their respective roles and responsibility and how these institutions relate with the community
- Identify any existing gaps in policies
- Conduct two workshops to present the research findings in Juba and Terekeka County.
- Set a precedent for open communication and dialogue to encourage everyone to take ownership and exercise their opportunities and responsibilities.
- Expected outcome of the research:
- Address knowledge of existing policies among lower level government authorities.
- Provide an opportunity for increased dialogue between government and communities.

Expected outputs:

- Comprehensive report on the laws and policies in place governing natural resources.
- Highlighting key policy issues around natural resources within the two counties with some key recommendations for all stakeholders as to how to address any existing gaps in laws and policies.
- Presentation of the reports to the communities and government authorities through the organisation of two workshops with SOS Sahel South Sudan.

Logistics:

The research will involve research at Juba level and movement within Juba County in the Payams of Rokon and Dolo, and in Terekeka County.

Time Frame:

The research will be conducted within the period of 14days during the months of November – December 2013. (Starting date will be discussed but to be around 18 November). The presentation dates will fall outside this 14day period and the exact logistics of these will be arranged between SOS Sahel South Sudan and the consultant.

Person specification:

- Arabic language speaking – the researcher must have knowledge of Arabic.
- Fluency in English – briefings/reports for SOS Sahel South Sudan will be expected in English.
- Experience in conducting similar research/discussions using participatory methodologies.
- Background in Natural Resource management.