STUDY ON THE JUSTICE INSTITUTIONS IN MABAN// Terms of Reference

SOUTH SUDAN // MARCH 2019

# Background and context

The Danish Refugee Council (DRC) has been operational in South Sudan since 2005, working with the overall aim of achieving durable solutions for displaced populations affected by conflict and food insecurity. DRC implements a multi-sector response to support Sudanese refugees, internally displaced persons (IDP) and host populations with projects and activities being tailored according to the needs and gaps in the local contexts. Its current programming components include: protection; camp coordination and camp management (CCCM); provision of emergency and transitional shelters within and outside of camp environments; distribution of non-food items (NFIs); food security and livelihoods (FSL); multi-sectoral needs assessments, rapid multi-sector emergency response and the deployment of international NGO safety advisors who support the humanitarian community.

Maban County as in many other parts of Republic of South Sudan has challenges in rule of law and access to justice. The Refugee Act of South Sudan (Act 2012) was enacted in June 2012 and immediately came into force on 5th June 2012 and the Commission of Refugee Affairs was soon established in May 2013. Through the Access to Justice Forum, UNHCR and DRC have supported the election of the court members concluded by the arrival of the appointed female judge to Maban. Among the successes, DRC together with protection actors has been advocating for representation of women and youth among court members.

Since 2015, DRC in partnership with UNHCR has been assisting both the host and refugee communities in Greater Maban to access justice. The initiative culminated in the construction of two joint (customary) ‘B’ courts being Doro ‘B’ Court and Gentil ‘B’ Court. The two joint courts have court membership allocated between the refugees and the Maban host community; the ‘B’ courts are headed by the Umdahs also known as ‘Chief’ in the laws of South Sudan. Customary ‘B’ courts are meant to address trivial civil customary cases and some criminal cases with customary interface referred to it by a competent court in accordance with the Local Government’s Act 2009. The said cases from Gendrassa, Batil and Kaya are addressed by Gentil B Court whereas Doro ‘B’ court addresses the same category of cases within the territorial jurisdiction of Doro. In addition to the joint ‘B’ courts, a Town Bench Court-Bunj was also established for the host community and has equal powers with B courts. DRC together with UNHCR supported the Access to Justice Forum (ATJF) which was the platform behind most of the achievements in the Access to Justice.

# Purpose

To strengthen the rule of law in Greater Maban, DRC wants to have a study looking at the existing formal and informal justice institutions in the refugee camps and the host communities. The study aims at understanding the existing formal and informal justice institutions in the refugee camps and in the host communities. The study also seeks to understand the functionality of traditional courts in the refugee camps and the host communities. It will cover the gaps of the justice institution both the formal and informal in the County. The findings of the study will be used to come up with recommendations in improving the access to justice in Greater Maban. The specific objectives of the study are to:

1. Present the available justice mechanisms inside the camps and in the host community.
2. Identify the gaps and challenges of the court structures in the community.
3. Discuss how the refugees seek for justice and how their cases are being resolved other than the formalized customary courts.
4. Provide an analysis on what legal structures are working well and what are not.
5. Explore if the existing informal court structures adhere to national Laws.
6. Develop recommendations based on the findings to appropriately guide the legal aid programming of DRC in Maban for the benefit of the refugee and the host population.

# Key Responsibilities

## Scope of consultancy

The Consultant will conduct field research and data collection on the existing formal and informal justice institutions in four refugee camps; Doro, Batil, Gendrassa and Kaya including the host communities in Maban. The study should be completed in three months with the support of DRC Legal Aid Unit. The consultant will work closely with the Legal Officer of DRC for the contextualization of the study. The Consultant will organize a workshop targeting relevant stakeholders from the judiciary and community to present and validate the findings of the study.

## Key tasks

1. Conduct desk research and primary field research, including engagement with communities, implementing agencies and other key stakeholders.

2. Conduct key informant interviews with the traditional leaders, traditional judges, customary court members and other relevant actors who deal with settling disputes and solving cases in the community.

3. Compile and analyse field research data in a clear manner and format.

4. Work closely with the Area Manager, Protection Manager and DRC Protection Legal Aid Unit in Maban, as well as consult the Meal Coordinator and Protection Coordinator based in Juba.

5. Submit and present preliminary findings to key DRC staff, including recommendation for strengthening rule of law in Maban County.

6. Prepare, in collaboration with the Protection Manager, a workshop to present findings and key recommendations for local traditional courts, law enforcement bodies, local relevant authorities and community leaders.

7. Incorporate the feedback from the stakeholders and DRC into the synthesis report.

8. Submit Final Report.

## Methodology

The methodology should include an initial desk review of key literature available combined with qualitative interviews with key informants in Maban. The Consultant will develop a questionnaire to be used for the interviews. Confidentiality principles and care to ensure that the different stakeholders are free to express their views without interference or concerns of reprisals. The study will ensure that the informants shall include women. DRC shall assist the Consultant in arranging meetings with the informants. DRC shall provide copies of relevant documentation deemed essential for the study.

## Key deliverables/outputs

1. An initial desk review that will inform the focus of key informant qualitative interviews.
2. The Inception Report shall be submitted three weeks after the start of the consultancy. The Inception Report should also include the finalised activity plan with timeframe and a structural outline of the assessment report. The inception report should be shared and approved by DRC before commencement of the data collection and analysis.
3. Presentation of the preliminary findings to DRC staff.
4. Validation Workshop/presentation where preliminary findings, analysis and recommendations are presented to key DRC staff in Maban.
5. Synthesis report with research findings, analysis and recommendations
6. Review and integration of feedback during workshop into synthesis report.

The Final Report (minimum 30 pages, excluding cover pages and annexes) with photos and infographics should be submitted to DRC no later than one week after the consultant has received feedback from all relevant programme staff on the Draft Report.

The above deliverables shall be presented as follows:

* Inception Report
* Draft Report and PowerPoint presentation with synthesised findings and recommendations
* Final Report

The aforementioned deliverables will be accompanied by regular communication with and feedback to the DRC Team.

# DRC’s responsibilities

DRC will:

1. Cover and arrange the consultant’s travel and accommodation to and in the field
2. Provide ongoing security advice and support as necessary for travel to field sites
3. Facilitate engagement with community and key stakeholders
4. Provide all necessary project documents

Note:

* The consultant is responsible to pay the enumerators, and data entry and analysis cost.
* The consultant will be responsible of any tax or other fees related.
* The consultant is responsible for any insurance including medical and travel.
* The consultant is responsible for his/her working tools such as computer.
* The payments will be in three instalments, 30% after submission of Inception report, and 30% after the draft report and 40% submission of final acceptable report to DRC/DDG.
* Please note that a partial payment hold-back will be in effect until a final report has been approved by DRC.

# Reporting Arrangements

The consultant will report to the DRC/DDG Area Manager and Protection Manager during the period of the consultancy.

# DURATION OF ASSIGNMENT

A minimum of 30 days will be spent in the field conducting the research. 30 Days will also be considered for preparation/desk review and post-fieldwork analysis and report compilation.

The field research will start as soon as possible, with the final data and synthesis report submitted to DRC.

# EXPECTED PROFILE OF CONSULTANT

1. Excellent understanding of the justice system in South Sudan.

2. Excellent understanding of relevant legal issues in South Sudan.

3. Previous experience of conducting Rule of law analysis in South Sudan.

4. Strong and proven research skills and experience.

5. Strong understanding of the South Sudan context (local context is desirable), the humanitarian system, protection risks, and conflict dynamics in South Sudan.

6. Related experience in displaced communities working with IDP and refugees.

7. Willingness and ability to travel to Maban.

8. Good communication skills, including report writing in English and can speak Arabic fluently.

# TERMS & CONDITIONS

The consultant must abide by all of DRC/DDG’s standard procedures, including the Code of Conduct and confidentiality policies. All data and information collected, and any reports, as well as the methodology of the study will be the property of DRC/DDG.

The research requires at least two months in Maban, in addition to preparation and post-fieldwork analysis and report compilation.

# General

DRC/DDG has a Humanitarian Accountability Framework, outlining its global accountability commitments. All staff and consultants are required to contribute to the achievement of this framework (<http://bit.ly/2rhGjKG>).

# APPLICATION PROCESS

Interested applicants who meet the required profile are invited to submit an Expression of Interest (EoI) in English to DRC online via www.drc.dk under vacancies.

The EoI should include:

1. A suitability statement including CV of consultant with details of qualifications and experience.  (OPEN TO NATIONALS ONLY)
2. Technical proposal that summarizes understanding of the ToR, methodology and tools to be used.
3. Work plan indicating the activity schedule.
4. Financial proposal providing cost estimates and consultancy fees.

**NB applications that fail to include one or more of these elements cannot be considered.**