

## **The Relationship Between Legal Representation and Access to Justice in South Sudan**

Equal justice under the law... it is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists... it is fundamental that justice should be the same, in substance and availability, without regard to economic status.

US Supreme Court Justice Lewis Powell, Jr. (September 19, 1907- August 25, 1998).

### **Abstract**

This article aimed to examine the relationship between legal representation and the access to justice in South Sudan. Access to justice simply mean the ability of a person or litigant to get access to a court of law and to have his legal grievance fully heard without distinction as to age, gender, ethnicity, religion, economic or social status in the society.

The author achieved this through content analysis of the laws on access to justice and the precedents. The research found that the UDHR 1948 and Transitional Constitution provides everyone the right to be represented by a lawyer of their own choosing or have the State provide legal aid to him when he cannot afford to hire a lawyer to defend them.

However, South Sudan Constitution discriminatively negates this right by qualifying the provision of free legal aid to indigents accused persons on the basis of the seriousness of a crime they are charged not on their inability to hire a lawyer to represent them in the trial. The same law also excludes an indigent party in a civil case from provision of legal aid. This writer found this to be discriminatory on the basis of a person's economic status in the society hence violation of the right to equality and equal protection of the law provided in the national, regional and international human rights law. The paper also evidently found existence of a correlation between the right to legal representation and the right of access to justice because a person can only be said to have been fairly heard when he speaks through a lawyer. The article recommends to the Revitalized Transitional Parliament, *inter alia*, amendment of Article 19(7) of the Transitional Constitution to allow provision of free legal aid to an indigent accused in criminal and a party in civil trials on the basis of his indigence, not on the basis of seriousness of the offence or civil nature of his case, the University of Juba School of Law to establish a Legal Aid Centre and to pass the 2018 Legal Aid Bill into law.

## 1. Introduction

The purpose of writing this academic paper is to establish the relationship between legal representation and access to justice in South Sudan. The author will achieve this task by critically analyzing the relevant laws and precedents relating to the right to legal representation and access to justice.

Access to justice is one of the very essential services that the Government of the Republic of South Sudan provides to its citizens. Example of essential services include *inter alia*, health, education, economic empowerment, infrastructure like roads, schools, airports and bridges etc.

The right of access to justice can only be achieved when a party who has the financial muscles to hire an advocate of their own choosing is represented by a lawyer or when a pauper who has no financial means to hire services of a lawyer is assigned an advocate through State coffers to defend him/her in a case in court.

However, many parties either in criminal or civil cases before the courts in South Sudan are unrepresented by advocates. This is due to the high level of poverty where even the working class are even considered to be poor.<sup>1</sup>

The right to be heard is intricately interrelated with the right of access to access. We cannot not safely say a person is fairly heard when he/she is not represented by an advocate. This makes accused in criminal cases get wrongful convictions and those in civil cases lost their cases hence denying them their right of access justice and this is contrary to the law.

## 2. Meaning of Access to Access to Justice

Access to justice is not easy to define. However, it can be understood to simply mean the ability of a person or litigant to get access to a court of law and to have his legal grievance fully heard without distinction as to age, gender, ethnicity, religion, economic or social status in the society (my own). Garth and Cappelletti have defined access to justice to mean availability of a legal system that everyone has equal access to and which produces results that are fair.<sup>2</sup> The Court of Appeal of the United Republic of Tanzania, the highest judicial organ of the East African Country, has defined access to justice to mean more than submitting a legal claim

---

<sup>1</sup> William Madouk, 'South Sudan Relief and Rehabilitation Commission: Over 9 million under Threat of Hunger,' No. 1 Citizen Newspaper (April 9, 2024). Found at <http://www.onecitizendaily.com>. Accessed on April 10, 2024.

<sup>2</sup>Bryant Garth G. and Mauro Cappelletti, "Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective" in Buffalo Law Review, Vol.27, (1978), pp. 181-292, p. 182. Available at <http://www.repository.law.indiana.edu/facpub/1142>. (Accessed on 10 February, 2019).

before a court of law for Instance, the Court in the case of Julius Ishengoma Ndyananbo v Attorney General, by obiter dicta, said and we quote;

We cannot agree that access to justice constitutes mere filling of pleadings and paying the required fees. The right to have recourse or access to courts means more than that. It includes the right to present one's case or defence before the courts. Access to justice is not merely knocking at the door of the court. It means more than that.<sup>3</sup>

That implies access to justice is not only about going to a court of law, submitting a complaint and paying the requisite court fees. It is more about walking into a court and have your legal grievance or dispute fairly heard and resolved and getting a suitable or adequate remedy.

The right of access to justice is considered as a basic fundamental human right provided under national laws of almost all countries in the world, including the Republic of South Sudan.<sup>4</sup> The right is also guaranteed by both the international and regional human rights instruments, *inter alia*, the Universal Declaration of Human Rights, 1948 (UDHR)<sup>5</sup> and the International Covenant on Civil and Political Rights 1966 (ICCPR)<sup>6</sup> and the African Charter on Human and Peoples' Rights 1981 (ACHPR).<sup>7</sup>

The Transitional Constitution of the Republic of South Sudan provides for the right of Access to Justice. However, the Supreme Law does not clearly stipulate this right in a clear and comprehensive manner as will be shown below. The Constitution allows the Government to provides free legal aid only to individuals accused of serious offences but it excludes those accused of less serious offences and those with civil claims from the provision of free legal aid services hence denying them their fundamental right of access to justice.

### **3. Right of Access to Justice in International Legal Framework**

The international law provides for the right of every person to be given the right to access justice regardless of any distinction based on race, age, economic status, sex etc. for instance, Article 7 of the Universal Declaration of Human Rights, 1948 (hereinafter, the UDHR 1948) provides that all persons are equal before the law and that they entitled to

---

<sup>3</sup> Civil Appeal No 64 of 2001, CAT (unreported).

<sup>4</sup> See The Transitional Constitution of the Republic of South Sudan (amended) Article 20

<sup>5</sup> Articles 7-8 and 10 of the Universal Declaration of Human Rights, 1948.

<sup>6</sup> Articles 2, 14 (1-7) and 26 of the international Covenant on Civil and Political Rights, 1966

<sup>7</sup> Articles 2-3 and 7 of the African charter on Human and Peoples' Rights, 1981.

equal protection of the law without discrimination. This implies that all persons should be accorded an equal opportunity of being heard before the courts. It means states, like South Sudan, should through her justice institutions like the courts, equally provide justice to everyone without distinction or discrimination on the basis of their personal status or financial ability.

Additionally, Article 2 of the UDHR 1948 expressly prohibits discrimination and provides that everyone is entitled to all the rights and freedoms in the Declaration without regard to *inter alia*, sex or other status. The term ‘other status’ can be interpreted to mean social and economic status of a person. This implies that justice should be administered to all persons regardless of any differences in age, sex, economic standing or personal status in the society.

However, it is the finding of this author that the Transitional Constitution of the Republic of South Sudan 2011 (amended) (hereinafter, the Constitution) violates the provisions and spirit of the rights guaranteed by the UDHR 1948 for being discriminative on the basis of economic and personal status. For instance, Article 19(7) of the Constitution limits the provision of free legal aid by the State to an indigent accused only in capital offences. Those who are accused of less serious crimes or involved in complex civil cases, although are poor to afford to hire a lawyer of their choice are denied the provision of free legal aid provided by the State. This denies them the right to access justice. Moreover, it denies them their fundamental constitutional right to litigation provided by Article 20 of South Sudan’s Constitution.<sup>8</sup> A person cannot be said to have been afforded the right to a fair trial or duly heard if he/she is not represented by a lawyer. An indigent who is not represented by a lawyer should be assigned one at the state’s cost. It is the researcher’s humble view that, if only those who have the money to hire lawyers and or pay for justice are the ones who are able to access justice unlike the poor, then there is no equality of persons before the law and non-discrimination.

Furthermore, Article 10 of the UDHR expressly provides the right of everyone to be entitled to a fair and public hearing when a court of law is determining their rights and obligations and any criminal charge against them. Fair hearing of a person means to afford them an opportunity to effectively present their side of the dispute to the court. However, this cannot effectively happen unless a party is represented by a trained lawyer. This is the reason the

---

<sup>8</sup> Transitional Constitution of the Republic of South Sudan, 2011 (amended).

law mandatorily requires the States like the Republic of South Sudan to provide free legal aid to a person who is unable to engage services of a lawyer owing to their financial status.

Moreover, the International Covenant on Civil and Political Rights<sup>9</sup> (hereinafter, the ICCPR) generously provides for and protects the right of everyone to equally access justice regardless of the nature of their case whether it is a civil or criminal case and when it is a criminal case, regardless of the nature of the offence charged against them. The Article uses the phrases that ‘everyone’ shall be equal before the courts and tribunals in determination of ‘any criminal charge’ against him, or of his rights and obligations in ‘a suit at law,’ and they shall be entitled to a fair and public hearing by a competent and impartial tribunal established by law. It is our humble submission, that, according to the ICCPR, everyone with a legal dispute should be accorded a fair hearing regardless of the criminal or civil nature of their case or gravity of a criminal charge against them. It is logical to add that a person can only be said to have been given a fair hearing when he is represented by a lawyer.

Moreover, paragraph (d) of Article 14 (1) provides everyone has a right to defend himself in person or to have legal assistance assigned to him in any case where the interest of justice so requires, and without payment by him in any such case if he does not have sufficient means to pay for it. The ICCPR uses the words in any case to mean that indigent people should be assigned legal aid in any case whether their case is a civil or a criminal case whether it or not fall within the so called ‘serious offences.’ To do the opposite is tantamount to denial of the right of access to justice contrary to International Human Rights Law(IHRL).

Furthermore, the Convention on the Rights of the Child also famously known as the children’s Convention provides for the right of access to justice to a child. A child is any person who is less than eighteen years of age.<sup>10</sup>

Additionally, the Convention guarantees right of the child to express his views.<sup>11</sup> It requires states to afford the child an opportunity to be heard in any judicial or administrative

---

<sup>9</sup> International Covenant on Civil and Political Rights, (United Nations General Assembly Resolution 2200A (XXI) of 16 December, 1966 and came into force on 23 March, 1976), Article 14 (1).

<sup>10</sup> Convention on the Rights of the Child, 1989 (Opened for signature on 20th November 1989 and came into force on 2nd September 1990) Article 1.

<sup>11</sup> *Ibid.*, Article 12.

proceedings affecting him/her. The provision requires the Courts or authorities to hear the child's views in the presence of his/her representative or an appropriate body.

It requires states to afford the child an opportunity to be heard in any judicial or administrative proceedings affecting him/her. The provision requires the Courts or authorities to hear the child's views in the presence of his/her representative or an appropriate body with due regards to his age, maturity and needs. However, a child cannot be said to have been heard if the court do not allow him to speak through a lawyer if his parent or legal guardian is a pauper, the Government of South Sudan should considerably assign the pauper child an advocate to present him the court's proceedings so that the child is properly heard on the matter before the court regardless of the nature of the legal matter or criminal charge against him.

Lastly, the Children Convention grants right of legal assistance to the child in article 37 (d)<sup>12</sup> to challenge the legality of deprivation of his liberty before a court, other competent, independent and impartial authority.

#### **4. The Right of Access to Justice under the Regional Legal Framework**

The African countries have agreed to provide of the access to justice in their regional human rights instruments. For example, they have put this in the African Charter on Human and Peoples' Rights.<sup>13</sup> Article 7 (1) of the Charter guarantees the right of everyone to have his/her cause heard. This includes the right of a person to be defended by a counsel of their choice. The Article also provides for the right of every individual the right to an appeal to competent national organs against acts which are violating his/her fundamental human rights. Although the Charter does not explicitly provide for the right of an indigent person to be offered legal aid at State's cost, it can be imperatively deduced that the government should assign a lawyer to represent an indigent person if there is to be an equality of arms and fair treatment of all parties to the legal dispute before the court especially when the other party is represented by a lawyer.

---

<sup>12</sup> *Ibid.*

<sup>13</sup> African Charter on Human and Peoples' Rights, 1981, (Adopted on 27th June, 1981, OAU Doc.CAB/LEG/67//3 REV.5,21 I.I.M.58 (1982), entered into force 21st October, 1986).

## **5. Dakar Declaration on Fair Trial and Legal Assistance in Africa**

The Declaration<sup>14</sup> provides in article 1 the right of all people to be afforded a fair and public hearing. This includes the equality of arms between the parties to a court's proceedings and to be treated equally before the court or judicial tribunal. Article 5 (h) provides the accused or a party to a civil case the right to be given a legal assistance where the 'interest of justice so requires.' The article exempts the indigent accused or a party to a civil case from payment of the court fees if he cannot afford it. Paragraph (b) succinctly defines the meaning of the phrase, 'interest of justice so requires' in criminal matters to be determined by seriousness and severity of the offence. While in civil cases, the factors to be taken into consideration are the complexity of the case, ability of the indigent person to adequately represent him/herself, rights that are affected and the likely impact of the outcome of the case on the wider community. This declaration clearly provides for the right to legal aid in both criminal and civil cases. However, the instrument is merely a declaration and is therefore not legally binding. But the Republic of South Sudan can borrow a leaf from the instrument for the benefit of her citizens.

## **6. The Right of Access to Justice under the National Laws**

### **6.1 The Transitional Constitution of the Republic of South Sudan 2011(amended)**

The Constitution is the supreme law<sup>15</sup> of the land in the Republic of South Sudan. It is the paramount law which other laws should conform with. It lays down basic fundamental human rights and freedoms of all the citizens in the country. These are found in the Bill of Rights in the Constitution.<sup>16</sup>

The Constitution guarantees the right of access to justice though not in a comprehensive manner. It expressly guarantees everyone the right to go to courts of law to redress grievances either against individuals, institutions of the Revitalized Transitional Government of National Unity (R-TGoNU) or Non-governmental organizations in Article 20 of the Constitution<sup>17</sup>.

This article guarantees the right of access to justice to everyone to have their grievances redressed in courts of law. However, the provision of Article 19 (7) of the Constitution selectively and discriminately negates this right and this poses hurdles in accessing the gates

---

<sup>14</sup> Dakar Declaration on the Right to Fair Trial and Legal Assistance in Africa (ACHPR/RES.41/ XXVI): Resolution on the Right to Fair Trial and Legal Aid in Africa of 1996 and Came into Force on 15 November, 1999.

<sup>15</sup> See Article 3 (1) of the Transitional Constitution, 2011.

<sup>16</sup> Ibid., Articles 9-34.

<sup>17</sup> Ibid., Article 20.

of justice for those who lack the financial means to hire a lawyer in less serious offences and civil cases. The provision stipulates:

Any accused person has the right to defend himself or herself in person or through the lawyer of his or her own choice or to have legal aid assigned to him or her by the government where he or she cannot afford a lawyer to defend him or her in any serious offence.<sup>18</sup>

This provision is not protective and promotive of the right of access to justice. First, it is discriminatory and an infringement on the right to equality before the law and equal protection of the law, right of non-discrimination and the right to a fair trial.<sup>19</sup> The right to equality<sup>20</sup> entitles all persons to equality before the law and equal protection of the law without discrimination.<sup>21</sup> The article limits the right to legal assistance only to a person accused of a ‘serious offence.’ The ‘serious offence’ in the researcher’s view may be an offence carrying death penalty or long prison sentence like life imprisonment which is 20<sup>22</sup> years in South Sudan. For example, murder,<sup>23</sup> rape,<sup>24</sup> robbery<sup>25</sup> and treason<sup>26</sup> are examples of ‘serious offences.’ It leaves out other persons who are accused of crimes not included within the definition of a ‘serious crime.’ But these persons the law has excluded from provision of legal aid may be exposed to long prison sentence or penalty like 3, 4, 5, 6, 7, 8 or 9 years or a heavy fine. This exclusion, therefore, is tantamount to discrimination against them. It our considered humble view that a lay person in law no matter how well educated and intelligent he is, cannot effectively defend himself or present his case without assistance of a lawyer trained in the science of law. He has no idea on procedural rules and rules of admissibility of evidence. He does not know what questions to ask in examination in chief and cross examination. It is through cross examination that falsehood is exposed and truth unearthed in a case. Lord Denning of the UK’s HLs confirms this truth in one of his well-cherished judgements famously referred to as Petty case in the following words:

It is not every man who has the ability to defend himself on his own. He cannot bring out the points in his own favour or the weaknesses in the other side favour. He may be tongue-tied or nervous, confused or wanting in intelligence. He cannot examine or

---

<sup>18</sup> See Article 19(7) of the Transitional Constitution.

<sup>19</sup>See Kuai Wuoi Matiop, ‘*Legal Challenges on Access to Justice in South Sudan: Lessons from Kenya and Tanzania*,’ (LLM Dissertation, University of Dar es Salaam, February 2020) p.50 at para 2.

<sup>20</sup> *Ibid.*, Article 14.

<sup>21</sup> Transitional Constitution of the Republic of South Sudan 2011 (amended), Article 14.

<sup>22</sup> The Penal Code Act (No. 9) 2008.

<sup>23</sup> The Penal Code Act, 2008 section 206(death or life imprisonment).

<sup>24</sup> *Ibid.*, section 247 (14 years imprisonment).

<sup>25</sup> *Ibid.*, section 305 (10 years imprisonment).

<sup>26</sup> *Ibid.*, section 64 (Death or life imprisonment).



cross-examine witnesses.... A magistrate says to a man: “You can ask any question you like”; whereupon, the man immediately starts to make a speech. If justice is to be done, he ought to have the help of someone to speak for him; and who better than a lawyer who has been trained for the task? I should have thought, therefore, that when a man’s reputation or livelihood is at stake, he not only has a right to speak by his own mouth. He also has a right to speak by counsel or solicitor.<sup>27</sup>

This writer has watched unrepresented parties in court-rooms asking irrelevant questions or talking about their case when it is not even their turn to give their statements. The USA’s Supreme Court has also pronounced itself on the relationship between lack of legal representation and its consequences on access to justice. For instance, the Court said and we quote verbatim;

Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence... He lacks both the skills and knowledge adequately to prepare his defence, even though he has a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. If that be true of man of intelligence, how much more true is it of the ignorant and illiterate or those of feeble intellect?<sup>28</sup>

This is a true justification that the Transitional Government should provide free legal aid to an indigent accused person in a criminal trial regardless of the nature of his offence. This author has argued in one of his works that the yardstick for granting legal aid should be on the basis that the accused is poor, has no financial ability to hire an advocate and would get injustice if he faces the accusations against him all alone in the criminal justice system, and not the seriousness of the offence or civil nature of his case.<sup>29</sup>

## **6.2 Code of Criminal Procedure Act, 2008**

The Code of Criminal Procedure Act main objective is to have procedural rules to regulate the criminal justice system in South Sudan in order to create and enhance a

---

<sup>27</sup>*Pett v Greyhound Racing Association Ltd* [1968] 2 ALL. E.R 545,549

<sup>28</sup>See *Powell v. Alabama* (1932 287 US 45 quoted in Chris Maina Peter, ‘*Human Rights in Tanzania: Selected Cases and Materials*, (Rudiger Koppe Verlag. Koln, 1997) p.334 at para2.

<sup>29</sup>See Matiop, Kuai Wuoi, ‘*Legal Challenges on Access to Justice in South Sudan: Lessons from Kenya and Tanzania*,’ (LLM Dissertation, University of Dar es Salaam, February 2020) p.60 at para 1.

just and peaceful society.<sup>30</sup> This law also negates the right to be heard hence, denial of the right of access to justice in South Sudan. The law denies accused person accused of less serious offences to be offered free legal aid by the government. For example, the law provides;

Every person accused before any Court under this Act, may as of right, be defended by a pleader; provided that, in the case of serious offences, if the accused is a pauper the Minister, on application by the accused, and if satisfied that it is necessary in the interest of justice, shall appoint an advocate to defend the accused and pay all or part of the cost.<sup>31</sup>

This implies that an accused person who has financial muscle has a right in law to be defended by a lawyer because he can afford to pay him.

However, the Minister of Justice can only appoint an advocate to represent an indigent accused. There are four conditions the accused must fulfil for the Minister to appoint an advocate to represent the accused.

First, the accused must be a poor person; secondly, the accused must have submitted an application either to the trial Court or the Minister asking for legal aid.

Thirdly, the accused must have been charged with a serious offence and fourthly, it must be in the interest of justice for the Minister to assign a pleader to provide legal representation to the indigent accused. And lastly, the Minister must approve the accused's application for legal aid if the 'interest of justice so requires. However, the law does not define the phrase, 'interest of justice.' Hence, this gives the Hon. Minister unfettered discretion to grant or refuse the application. The Revitalized Transitional Parliament of National Unity has not yet passed into law, the Legal Aid Bill. This makes it a challenge to have clear criteria the Minister can use to grant or refused the accused's applications for legal aid.

It is our considered view that most people appearing before the courts in South Sudan have no any iota of idea about their constitutional and legal right to legal representation and especially the right to be provided with free legal aid by the Government. Most of them have low education or are illiterate. Secondly even

---

<sup>30</sup> Laws of South Sudan, the Code of Criminal Procedure Act, 2008 section 3.

<sup>31</sup> Laws of South Sudan, The Code of Criminal Procedure Act, 2008 section 184.

those who are literate, some are literate in Arabic language and the laws are written in English language which they cannot read.

Therefore, a trial judge handling the case should be the one to recommend provision of legal aid and write to the Minister of justice for legal aid.

From our critical analysis of Article 19(7) of the Constitution, the author would like to categorically point out that the Constitution does not allow a plaintiff in a civil claim and lacks financial means or is too poor to engage services of an advocate to be provided with legal aid at State's expense. This is the position of the current law despite even when there are very serious technicalities in the civil claims either in terms of facts, law or evidence. This is clearly discriminatory on the basis of personal economic status and type of his case. South Sudan joined the family of the United Nations on July 9, 2011 at 12am. Therefore, its laws and actions should and must not be inconsistent with the customary rules and principles enshrined in the Universal Declaration of Human Right (UDHR), 1948 and other human rights instruments.

Moreover, a party who is not represented by an advocate cannot be said to have been given a fair hearing contrary to the rules of natural justice which originates from God in the Garden of Eden episode recorded in the Holy Bible, Genesis 3:1-24 where God did not passed punishment on Adam and Eve before hearing them in their defence although He was watching them doing the prohibited act. The audi alterum partem rule is a rule of natural justice and ingrained in both the laws of God and man which says that no person should be condemned unheard in his defence.<sup>32</sup>

On top of that, a party who is not represented by an advocate cannot effectively get a 'fair trial' which is a constitutional right and the real foundation of South Sudan Justice System on right to be heard. The author must emphasize here that a party to a case and especially an accused person, regardless of the gravity of the offence or charge, must be able to understand every step of the case and what is happening in the courtroom. A system short of this, is unfair, unjust, hostile and discriminative of the unrepresented litigants. This fact is echoed by Tyler and Zimmerman in their article that people with an attorney feel more able to effectively represent their case in court.<sup>33</sup>

---

<sup>32</sup> See *Byrne v. Kinematograph Renters Society Ltd*[1958], *Central Organization of Trade Unions (Kenya), Benjamin K Nzioka and others* (1993), *Painter v. Liverpool Oil Gas Light Co.*, (1836)3

<sup>33</sup> Tyler, Tom R. and Zimmerman, Nourit, 'Between Access to Counsel and Access to Justice: A Psychological Perspective,' 37 *Fordham Urban Law Journal* 473-507 (2010).

## **7. Conclusion**

This article has established beyond reasonable doubt that the right to be represented by a lawyer is a fundamental right which is the basis for realization of the right to a fair hearing and consequently, of the right of access to justice. However, a party can only be considered to have been fairly heard when he speaks through a lawyer because access to justice is not just only about knocking at the door of a court but it is about being able to effectively present one's case or legal defence. This can only be achieved by a party being represented by a lawyer. This author must emphasize that access to justice is one of the essential services like other basic services that the GOSS provides to its citizens. Therefore, when a person is poor and has no money to hire an advocate, the Government should provide him with free legal aid regardless of the seriousness of the offence he is charged of or whether his case is a criminal or civil matter. The criteria for provision of free legal aid by the government should be on the indigence of a party who is seeking justice from the court, but not on the grounds that he is charged of a 'serious criminal offence' and or 'non-civil nature of his case.'

Providing legal aid to parties who have no financial capability to hire lawyers of their choice will proportionately increase the right of many people to be heard and hence, access to justice and this will certainly contribute to peaceful resolution of disputes in the country without them resorting to self-help measures. Based on the foregoing, there is evidence of positive correlations between the right to be represented by a lawyer and the right of access to justice.

## **8. Recommendations**

The R-TGoNU should amend Article 19(7) of the Transitional Constitution 2011(amended) to;

- (a) Remove "any serious offence" and replace it with "any criminal offence."
- (b) Provide legal aid to an indigent accused person and litigant with a serious civil claim regardless of the civil nature of his case or seriousness of the offence he is charged.
- (c) The basis of providing an accused with free legal aid at State's expense should be his indigence, and not the serious nature of the offence charged or civil nature of a case.
- (d) The University of Juba School of Law should establish a Legal Aid Centre at the University like UDSM and the UON for provision of legal awareness, legal assistance.
- (e) Development partners should support the GOSS and South Sudan Bar in provision of legal aid provision to the indigent population since majority of the citizens are poor.

- (f) Parliament should pass the legal Aid Bill of 2018 into law to regulate provision of Legal Aid services.
- (g) The Government should include in its annual fiscal budget funds for the provision of legal aid.

**Name: MR. KUAI WUOI MATIOP**

**Lecturer, DR. JG-MUST**

**LLM, University of Dar es Salaam School of Law**

**LLB, University of Juba School of Law**

**Advocate & Legal Consultant-Juba**

**[Kuaiwuoi2014@gmail.com](mailto:Kuaiwuoi2014@gmail.com)/+211 922 243 229**