

The Role of Women in Transitional Justice: Best Practices and lessons learned from South Sudan

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Abstract: This study examines the crucial role that women play in transitional justice procedures, concentrating on South Sudan, a country that is still dealing with the effects of a protracted conflict. It explores how the involvement of women promotes inclusive discourse and reconciliation in addition to strengthening the legitimacy of justice systems. The study emphasises the transformative potential of women's voices in influencing justice outcomes by examining best practices, such as the implementation of gender-sensitive legal frameworks and the participation of women's groups in peace discussions. The significance of incorporating women's experiences and viewpoints in order to confront structural violence and advance lasting peace is highlighted by the lessons learnt from South Sudan. In order to guarantee that women's contributions are acknowledged and formalised in post-conflict recovery initiatives and to further sustainable development, this research promotes policy suggestions that give women's participation in transitional justice first priority.

Keywords: Transitional Justice, Women's Participation, Gender Equality, South Sudan

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1.0. INTRODUCTION:

This paper is about the role of women in transitional justice. It will define the concept of transitional justice as a norm that obliges post-conflict states to address systematic violations of human rights, the formal and non-formal mechanisms, and the pillars of transitional justice. In the process of rebuilding a more stable, fair, and democratic polity, the paper provides insights into women's perspectives on transitional justice, also known as 'justice in transition' (Rooney, Eilish, 2013). It explores the relationship between women, peace, and security in South Sudan, drawing on case studies from Columbia, Gambia, South Africa, Tunisia, Kenya, and Rwanda. The paper suggests a definition of women's meaningful participation in transitional justice, as well as the typologies of stakeholders and the roles women play within it (Lorena, Emily, and Hariwa, 2022). There has been no systematic consideration of the positions of women, especially their specific victimization (Ligede, 2022). The paper will examine a series of lessons for advancing women's meaningful participation in transitional justice, show key lessons for women of South Sudan to learn from, and suggest benchmarks for what

would ideally look like if it were to contribute in some way towards gender transformative results/outcomes (Rooney, Eilish, 2013). The paper will conclude by highlighting the legal frameworks at the global, regional, and national level for women's inclusion in the transitional justice processes and mechanisms

1.1. Definition of transitional Justice

Transitional justice comprises the full range of mechanisms and processes that aim to strengthen the rule of law in the context of peacekeeping, conflict prevention, post-authoritarian transition, and post-conflict stabilization (Boulet, J., 2021). This includes, among others, statutory and customary accountability mechanisms; truth-telling processes; memorialization initiatives; compensation and reparation; and institutional reform for the United Nations system,

Transitional justice is the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses in order

to ensure accountability, serve justice, and achieve reconciliation (UNDP & UN Women, 2022).

Successful transitional justice programs encapsulate several mechanisms including;

- Prosecutions holding perpetrators of human rights violation accountable
- Truth seeking and reconciliation: to establish the truth about what happened and how to repair/establish new relations within communities and among the people
- Reparations: is the process of restoring and compensating the victims for the past in terms of loss, hurt and suffering
- Institutional reform: is the process of restructuring institutions, crafting and reviewing laws
- Memorialization: Remembering past events and honoring victims of past violation, e.g. Rwanda Memorial site
- Education: Teaching future generation about the consequences of what occurred in order for it not to happen again

Thus, transitional justice aims to re-establish shared norms and values based on human rights while transforming the institutions and norms that facilitated past rights violation (Boulet, J. (2021).

1.2. Pillars of measures of Transitional Justice

The measures, or “pillars,” of transitional justice includes;

- prosecution initiatives,
- truth commissions,
- reparations,
- and institutional reform(UNSG 2010: UNSC 2004, pp. 3-4; UNGA 2012)

1.3. Transitional Justice in South Sudan

1.3.1. Background and Context

In 2013, South Sudan experienced an outbreak of violence between forces supporting the government and opposition groups. During or following conflict, large-scale human rights violations or threats of such violations seriously undermine the legitimacy of state institutions and threaten society members’ trust in government and in one another. The extensive impact of the conflict necessitated an urgent response through conflict resolution. In order to establish resilient peace, the country identified transitional justice as a cornerstone of peacebuilding processes. However, since the signing of the Revitalised Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS) in 2018, its implementation concerning the clauses on transitional justice has been under scrutiny (South Sudan Conference Report and Analysis 2016). In September 2018, the

parties to the conflict in South Sudan signed the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS), committing to “national reconciliation, accountability, healing, and combating impunity,” among other priorities.

Chapter V of the R-ARCSS, entitled “Transitional Justice, Accountability, Reconciliation, and Healing (R-ARCSS, 2018),” provides a framework for addressing the legacy of conflict-related human rights and international humanitarian law violations in South Sudan. Chapter V of the R-ARCSS agreement establishes three mechanisms for transitional justice:

(1) The Commission for Truth, Reconciliation, and Healing (CTRH) is tasked with investigating and prosecuting individuals suspected of committing genocide, war crimes, crimes against humanity, serious human rights violations, and violations of international humanitarian law.

(2) The establishment of the Hybrid Court of South Sudan (HCSS) aims to prosecute individuals accountable for international crimes committed between 2013 and 2015.

(3) The third priority is the Compensation and Reparations Authority (CRA). The Transitional Government of National Unity will establish the Compensation and Reparation Authority (CRA) to manage the Compensation and Reparation Fund (CRF) during the 45th session of the Human Rights Council on September 14th and October 7th, 2020.

1.3.2. Status of the processes leading to the establishment of the Transitional Justice Mechanism (CTHR) in South Sudan.

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Chapter V of the Revitalized Agreement on the Resolution of Conflict in South Sudan 2018 mandated the Technical Committee on the Establishment of the Commission for Truth, Reconciliation, and Healing, and appointed it through a Ministerial Order No. 2/2021. The committee’s role includes conducting nationwide public sensitization and awareness, collecting public views, and designing legislation to establish the Commission for Truth, Reconciliation, and Healing as part of Transitional Justice Mechanisms. This legislation will investigate the Legacy of Conflicts in South Sudan, Human Rights Violations, Breaches of the Rule of Law, Abuses of Power, and Any Other Crimes committed by State and Non State Actors. In its work plan, the committee formed seven (7) teams to cover the ten (10) states and three (3) administrative areas of the Republic of South Sudan. The committee tasked each team with visiting various areas and engaging with various stakeholders to gather their perspectives on the roles and appearance of the Commission for Truth, Reconciliation, and Healing. The team for Northern and Western Bahr El Ghazal comprised five (5) members—four male and one female—and they all come from different parts of the country as well as

different institutions and sectors of the South Sudanese society (Report of Greater Bahr el-Ghazal consultations of the CTRH, May 2022). law and subsequent operationalization. The Ministry of Justice and Constitutional Affairs has submitted bills on the Commission for Truth Reconciliation and Healing (CTRH) and the Compensation and Reparation Authority (CRA) to the Council of Ministers for further deliberation before submission to the TNLA.

2.0. REVIEW OF LITERATURE

Scholarly interest in women's roles in transitional justice has grown, especially when viewed through the prisms of intersectionality and feminist theory. According to scholars, conventional methods of transitional justice frequently ignore the distinctive experiences and contributions of women, leading to conflict narratives that are not fully comprehensive (Aolain et al., 2011). According to feminist researchers like Chinkin (2003), incorporating women's viewpoints is essential to attaining comprehensive justice since it upends established power structures and promotes inclusive social change.

The case for gender-sensitive transitional justice has been strengthened by incorporating the tenets of UN Security Council Resolution 1325, which promotes women's involvement in peace and security processes (UNSCR 1325, 2000). This resolution states that women's participation improves the efficacy of peacebuilding initiatives in addition to being an equity issue. According to research by Pankhurst (2008), women's participation in transitional processes results in more lasting peace outcomes because they frequently contribute community-focused viewpoints that are crucial for healing and reconciliation.

Furthermore, Minow (1998) discusses the idea of "relational justice," which emphasises the importance of community and relationships in the pursuit of justice. According to Minow, in order to provide a more comprehensive sense of justice that takes into account both individual and collective experiences, transitional justice processes need to pay close attention to the social factors that impact women. In situations like South Sudan, where community ties and societal cohesiveness are critical to long-term stability, this relational approach is especially pertinent.

In addition, Crenshaw's (1991) intersectionality paradigm clarifies how different identities—like gender, class, and ethnicity—interact to influence women's

experiences both during and after conflict. Understanding the numerous issues that women encounter in transitional justice procedures requires this viewpoint, which also emphasizes the necessity of specialised strategies that take these complexity into account (Simmons, 2018).

In conclusion, research shows that women's active involvement in transitional justice is critical to attaining results that are fair, efficient, and long-lasting. Scholars promote a rethinking of transitional justice that fully acknowledges and celebrates women's contributions, especially in situations impacted by significant social upheaval, by embracing feminist ideas and intersectional perspectives.

2.1. Theoretical framework

This study uses a feminist theoretical framework that highlights the intersections of gender, power, and justice in the context of transitional justice. According to academics like Christine Chinkin and Radhika Coomaraswamy, rectifying historical injustices and guaranteeing full accountability require taking into account women's viewpoints (Chinkin, 2003; Coomaraswamy, 2000). The UN Security Council Resolution 1325, which emphasises the importance of women's involvement in peace and security processes and acknowledges that their engagement produces more durable results, lends additional credence to this paradigm (UNSCR 1325, 2000).

Furthermore, the idea of "relational justice," as put forth by academics like Martha Minow, emphasizes the value of community and relationships in the fight for justice and implies that transitional mechanisms need to be cognizant of the social dynamics that impact women in conflict (Minow, 1998). Using this perspective, the study assesses how women function in South Sudan's transitional judicial systems, examining how their participation can change perceptions of justice and promote social justice. This theoretical framework emphasizes that women's active participation is not only advantageous but also necessary for significant societal change, offering a strong basis for comprehending the intricacies of women's responsibilities in transitional justice.

3.0 CASE STUDY OF GREATER BAHR EL GHAZAL CONSULTATION

3.1. Findings of the Greater Bahr el-Ghazal Consultation

Table I: Demography of Stakeholders met, number of meetings held, Gender and the age groups of different respondents

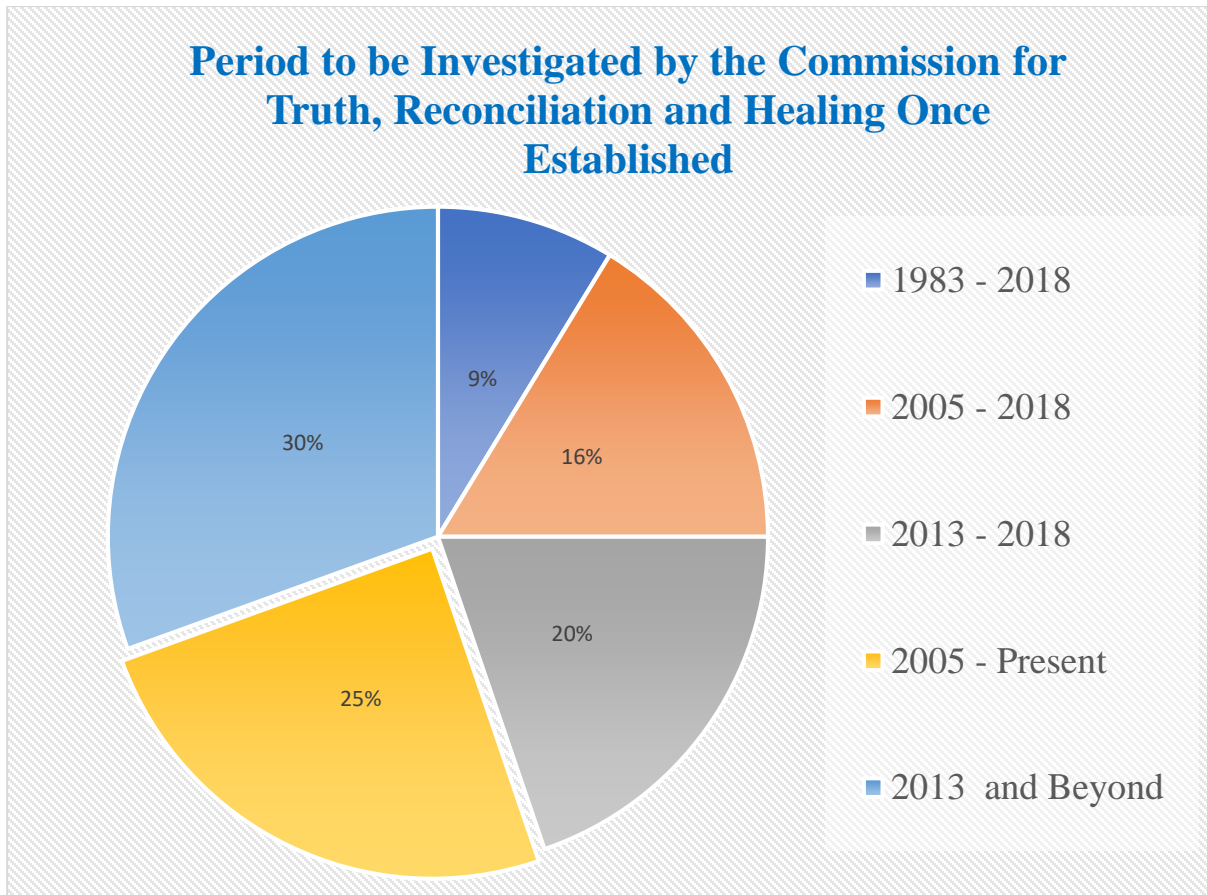
S/N	Items	Total Number	Percentage	Remarks
1	Number of Meetings Conducted	12	80%	Two of the areas mapped out in the Public Consultations plan were not reached, hence the number of meetings would have been 14 instead of 12
2	Focused Groups Discussions held	48	100%	No specific number of FGDs was in the work plan but the team managed to hold as many FGDs as they could
3	Participants reached during public meetings and Focused Groups Discussion	818	120%	The targeted number of participants to be met in each state was 300 totaling to 600 people for the two states but this number has been surpassed by 218 additional people which is well above the targeted number of participants
4	Male Participants	490	56%	Most of these people are married, others unmarried majority of them are Christians and the rest are Muslims and traditional African believers. They are ages between 21 – 72 years old. Their level of education ranges from 0 – Diploma levels.
5	Female Participants	328	44%	Most of these people are married, others unmarried majority of them are Christians and the rest are Muslims and traditional African believers. They are ages between 19 – 56 years old. Their level of education ranges from 0 – secondary school levels.
6	Self-Administered questionnaires distributed and collected	80	20%	300 Self-administered Questionnaires were distributed but only 80 were collected as most of the respondents failed to return their copies or others returned blank for reasons best known to them
7	Key Informant Interviews Conducted	12	10%	The team conducted 12 key informant interviews with different respondents identified throughout the consultations

3.2. On the Period to be investigated by the Commission for Truth, Reconciliation and Healing once Established

Based on the collected and analysed data, the majority of respondents expressed their opinions about the period the CTRH should investigate after its establishment. The agreement stipulates that the CTRH should conduct an investigation from 2005 to 2018. However, when asked if this period aligns with their preferences, citizens expressed varying opinions,

proposing different timeframes and providing justifications for their suggestions. In this regard, some respondents suggested that the CTRH should investigate the period from 1983 to present; others suggested 2013 to 2018; and the rest said between 2005 and present..

These Views are reflected in the Pie Below



Source: Report of Greater Bahr el-Ghazal on the CTRH, May 2022

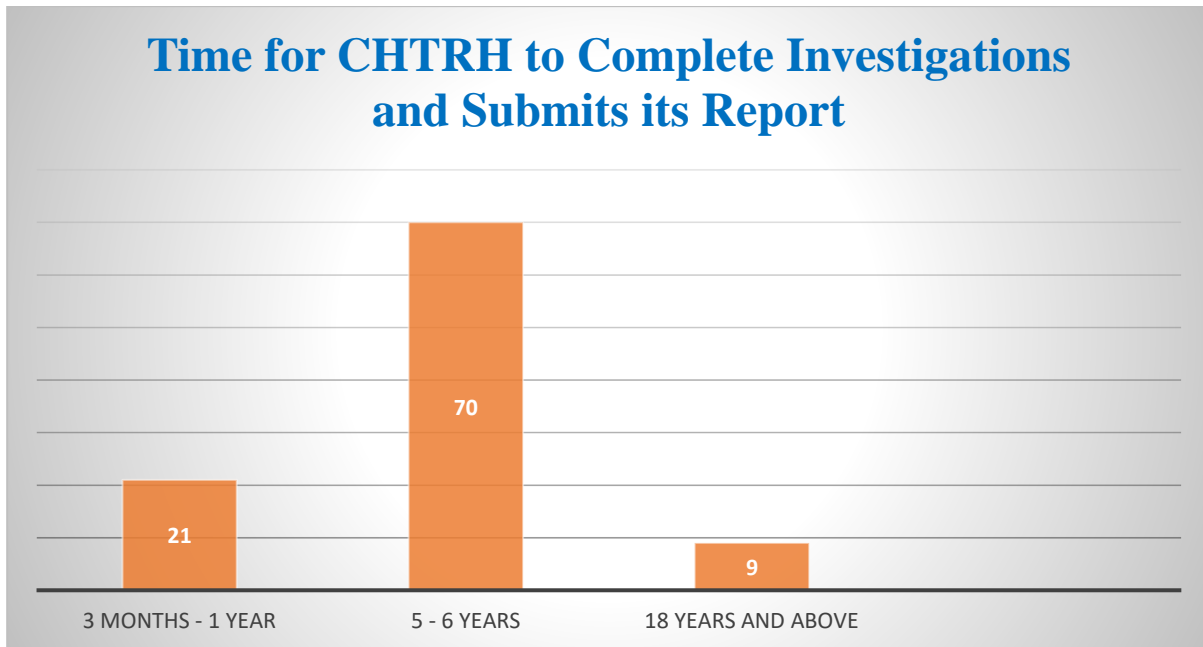
Some of the respondents suggested that the investigation should start from 2005 to present, or from 2013 onwards. This is because the majority of self-inflicted conflicts, violations of human rights, breaches of the Rule of Law, abuses of power, and other crimes committed by state and non-state actors resulted from self-rule. Therefore, the Commission should focus on uncovering the truth during this period, without necessarily going back to 1983 or stopping at 2018, as human rights violations continue to occur.

3.3 On the Time the Commission Should take to Complete its Work Once Established

On this issue, many respondents suggested that the Commission should take at least five (5) to (6) years to

complete its work. Others suggested that it should take three (3) months to one (1) year. A couple of respondents also believed that the Commission's work is significant and should continue for as long as human rights violations and other crimes continue in South Sudan.

These Views are reflected in the Chart Below:



3.4 On the Other Issues and Any Other Specific Violations to be Investigated by CTRH in addition to the Human Rights Violations, Breaches of the Rule of Law, Abuses of Power and any other Crimes Committed by State and None State Actors.

The respondents suggested that the following additional issues be investigated by the CTRH upon its establishment

- i. Corruption
- ii. Cattle Raiding and Rustling
- iii. Land grabbing and disputes
- iv. Communal Conflicts
- v. Conflict between farmers and cattle keepers
- vi. Sexual and Gender Based Violence (SGBV)
- vii. Forced and Child Marriages
- viii. Forced Recruitment of Children into the Army
- ix. Delays in payment of Civil Servants' Salaries

3.5 On Whether CTRH Should Include Members from Other African Countries

Majority of the respondents said yes on grounds that these members from other African countries will make the process neutral, impartial and truthful as well as helping the Commission to succeed with their experiences and such members will act as witnesses in whatever that the Commission shall be doing from a neutral point of view. However, some suggested that such members should not be selected from the neighboring countries as most of the citizens from the neighboring countries have in one way or the other been involved in the crisis that have been going on in South Sudan.

3.6. On the Number of Commissioners to the CTRH

The agreement stated that the Commission shall

comprise of Seven (7) Members, four (4) from South Sudan and Three (3) from other African Countries. Three of whom are women.

According to the respondents, there were a lot of suggestions pointing towards the increase of numbers because they felt that Seven (7) members are not enough for the Commission tasks with conducting. These suggestions varies from 9 commissioners to 12, others said it should be 13 commissioners for each State and three Administrative Areas to have 1 Commissioner in the Commission, others also suggested that the Commission should comprise of 15 members with 13 South Sudanese and 2 from other African countries.

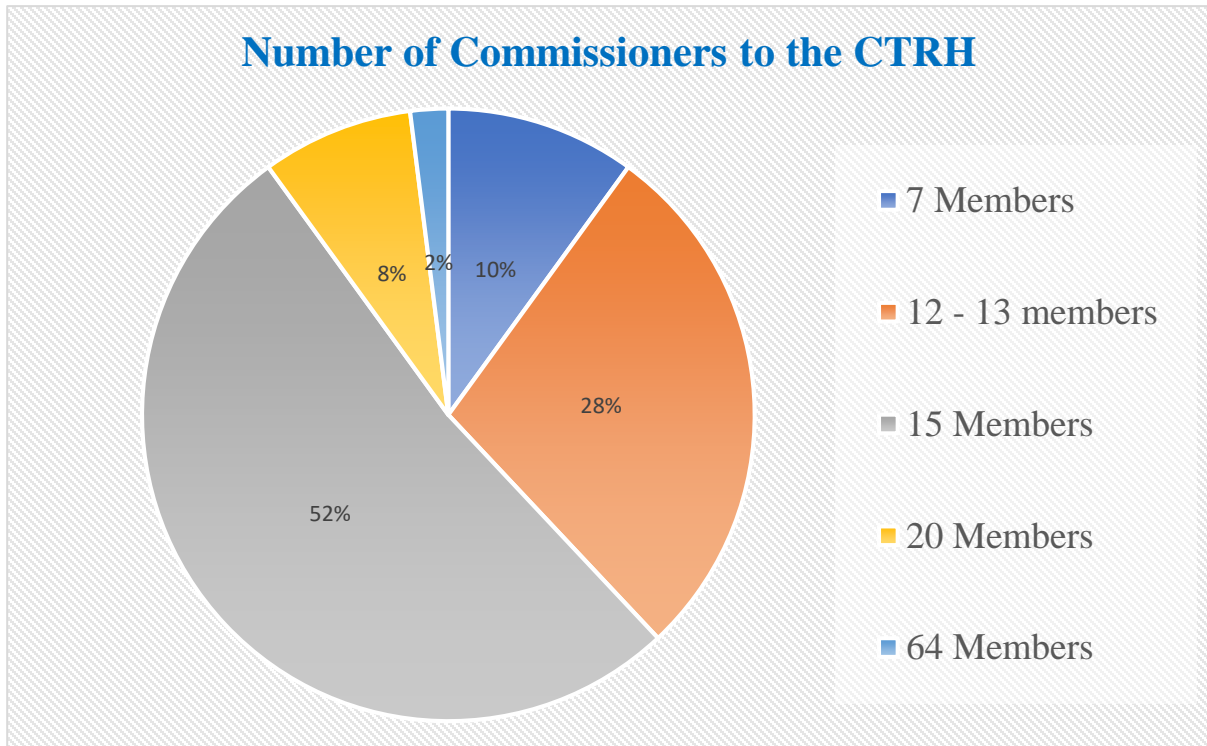
Still on this matter, there were also some of the respondents who suggested that the commission should comprise of 64 members such that each tribe of South Sudan is represented in the Commission. Others also suggested it should be 20 members but these group of respondents did not give any justifications for their numbers countrywide investigations and public consultations.

These suggestions varies from 9 commissioners to 12, others said it should be 13 commissioners for each State and three Administrative Areas to have 1 Commissioner in the Commission, others also suggested that the Commission should comprise of 15 members with 13 South Sudanese and 2 from other African countries. Still on this matter, there were also some of the respondents who suggested that the commission should

comprise of 64 members such that each tribe of South Sudan is represented in the Commission. Others also suggested it should be 20 members but these group of

respondents did not give any justifications for their numbers

These Views are reflected in the Pie below with Majority Views having the Highest Percentage



3.7. On the Selection, Appointment and Tenure of the CTRH Commissioners

On this issue, majority of the respondents agreed with the provisions stipulated in the agreement that the Commissioners shall be appointed by the RTGONU and the African Union Commission but they also suggested that the Legislature should have an oversight role in ensuring that the people that are appointed as Commissioners meets the requirements under the CTRH Legislation.

3.8. On the Independence and Removal of Commissioners of CTRH

The respondents suggested that the Commissioners should be removed by the appointing authority on grounds of:

- i. Lapse of mandate
- ii. Misconducts
- iii. Conflict of interest
- iv. Death
- v. Mental incapacitation

They also suggested that, such removal should be done through the Legislature and after thorough investigation

are conducted so as to avoid any unilateral decision by the appointing authority to fire the Commissioners at will.

3.9. On the Qualifications of Commissioners to be Appointed to the CTRH

The respondents suggested that apart from being Neutral, Impartial and morally upright, the Commissioners of the CTRH should be:

- i. Of Sound Mind
- ii. Bachelor Degree Holders and above preferably in Law, Theology, Psychology, Conflict Management and any other social science careers
- iii. The person must be free from corruption and any history of criminal involvement
- iv. Must not be a constitutional post holder or someone with military background
- v. The Chair and Deputy Chair be persons with religious background, an Academia or a Judge
- vi. Must be fluent in English and Arabic in addition to one of the South Sudanese National Languages (Excerption: Commissioners from other African Countries)

vii. At least 5 to 10 years of experience in dealing with public issues

3.10 On the Powers of the CTRH, Protection of Victims and Witnesses

The agreement has stipulated that the CTRH shall have powers to summon people and documents to appear before it during its investigations and on their part, the respondents said that the Commission should have the following additional powers:

- i. Powers to issue arrest warrants against anyone that decline to appear before them
- ii. Powers to recommend for prosecution anyone that interference with their investigations or intimidate the Commissioners, Victims and Witnesses
- iii. Powers to order for compensations and reparations
- iv. Identities of the Victims and Witnesses not to be disclosed during the processes
- v. Proper victims and witnesses protection mechanisms to be put in place
- vi. Commissioners to be given state security protection

3.11 On Public Participation in the CTRH Processes

The respondents suggested that, once established, CTRH must ensure that all the people of South Sudan are given opportunity to participate in the processes through different means including radio discussion, community meetings, individuals' submissions and testimonies, countrywide consultations and public hearings among others. This they said should be done without intimidation or interference from anyone including the security agencies.

3.12. On the Support and Funding to the CTRH

The respondents suggested that the sources of funding for the CTRH should be:

- i. RTGONU and specifically from the Oil and non-oil revenues
- ii. International Partners
- iii. UN Agencies
- iv. African Union
- v. And any other well-wisher

In addition to this, respondents stated that the involvement of international and regional partners in the CTRH process is very critical as they will be able to provide Technical, Logistical, Financial and Capacity Building assistance to the Commission.

They also said that, any fund raised on behalf of the CTRH should be used strictly for the administration of the Commission, Salaries for the Commissioners and Secretariat of the Commission, Renting office space and other facilities for the Commission, Implementing the

activities of the Commission as well as compensation for the victims and protection of Witnesses.

For accountability on these funds, they said the Commission shall submit quarterly report to the partners and RTGONU regularly and shall also be audited after every year to see whether it has applied the funds for the purpose for which they were raised.

3.13 On the Relationship between the CTRH and other Transitional Justice Mechanisms and the National Judicial Institutions

The respondents stated that the three mechanisms are complementary to each other and as such, CTRH is free to share its report and give recommendations to the other Mechanisms and national Judicial Institutions for implementation and/or execution.

3.14 On the Secretariat of the CTRH

The respondents said, the Secretariat must be established by the CTRH and the people who should manage this Secretariat should be:

- i. South Sudanese Nationals
- ii. University grandautes from recognize Universities
- iii. Five (5) years of experience in administrative positions
- iv. Be honest, neutral and free from corruption
- v. Fluent in English and Arabic Languages
- vi. Committed and focused
- vii. Morally upright

3.15 On the Report of the Commission

The respondents stated that the report of CTRH upon the completion of its work should be Accurate, Factual, Truthful, Meaningful and Comprehensive by all standards.

They also suggested that the Commission should make it report public and share it widely with both the National and States Governments, National, Regional and International Human Rights Institutions, National, Regional and International Judicial Institutions as well as IGAD, African Union and the United Nations Security Council.

4.0 WOMEN'S ENTRANCE INTO THE TRANSITIONAL JUSTICE DEBATE

Globally, the literature on women and transitional Justice remains theoretical, and largely qualitative; Yet important themes in this field include women's participation in transitional justice mechanisms, inclusion of issues disproportionately or uniquely affecting women in transitional justice processes, and the extent to which transitional justice can facilitate societal transformation (in

reshaping a country's political, social, and economic processes, Verveer, Melanne

In South Sudan, the R-ARCSS, 2018 provides a break through ground for the systematic and comprehensive platform for South Sudanese women to enter into transitional Justice debate and participate effectively on transitional Justice mechanism (Eluzai.I.E,20230

4.1 Transitional justice and the Women, Peace and Security agenda

Transitional justice agendas are in the main, at least nominally, informed by an awareness that since conflict-related violence is experienced in gendered ways, they need to be gender-responsive.

Transitional justice has also become a mainstream feature of transition processes from conflict or authoritarian rule. This is evident in how wider policy and normative frameworks relating to global peacebuilding and rule of law agendas have evolved. It remains a struggle, however, to ensure that gender-responsive transitional justice mandates and mechanisms are fully resourced, and that women's groups and gender activists have access to and influence over the decision-making spaces where transitional justice is negotiated and defined, and its implementation monitored.

Ensuring that women have voice and influence in defining transitional justice mandates is an explicit objective of the Women, Peace and Security (WPS) agenda. WPS work has the merit of being located across key policy spaces – national and international levels – where transitions from conflict and post-conflict reforms are negotiated and defined. This creates opportunities to support gender-responsive

4.2 Women's entrance into the debate of Transitional Justice

The scope and the aim of transitional Justice widens, women enter the debate in two different ways: in the importance of women actively participating in transitional justice mechanisms and in the inclusion of harms that disproportionately or uniquely affect women in transitional justice processes. (Warren, R. Applebuum. A, Mawby, B., Fuhrman, H, Tukington R. and Alam, Mayesha(2017). Literature stresses the significance of both.

The term "meaningful" in the context of the right of women to participation is intended to challenge superficial efforts to include women without genuinely extending them the opportunity to influence outcomes.

To be clear, the exclusion of women is not about culture; it is about power. The meaningful participation of women is often prevented on this basis.

The 'quantity' of women at all levels and in all elements of transitional justice is a necessary part of meaningful

participation—clearly, women must be present. However, women's meaningful participation is not simply about the quantity of women, but about the quality and effectiveness of their role to influence transitional justice processes and outcomes (UN Women Policy Brief, 2022)

Meaningful women's participation involves the convergence of several elements and manifests when women from diverse background

- ✚ Have the ability to enter settings, mechanisms and positions of power freely and unhindered and without fear for their safety;

- ✚ Are present in settings, mechanisms and positions of power so that they can directly seize opportunities to inform, influence and make decisions;

- ✚ Possess self-efficacy, knowledge and confidence to effectively represent their whole and diverse intersectional range of 'gendered' interests, values and experiences;

- ✚ Deploy their agency by gathering evidence, substantively setting agendas, building coalitions and collaboratively mobilising strategies to impel change;

- ✚ and Exert influence that alters decision-making outcomes to better reflect diverse women's interests, values and experiences and, therefore, also those of the wider society.

Increasing the numbers (i.e. numeric or descriptive participation) of a diverse cross-section of women and enabling the conditions by which the quality and impact of their roles (i.e. the substantive representation of their gendered interests in decision-making) can be deepened are vital twin-tracks of meaningful inclusion (UN WOMEN Policy Brief,2022)

5.0 INTERNATIONAL FRAMEWORK FOR WOMEN'S MEANINGFUL PARTICIPATION IN TRANSITIONAL JUSTICE

Women have a human right to participate in transitional justice processes, guaranteed under equality provisions of existing international human rights conventions (UNDP & UN Women, 2022), including:

5.1. UNSCR 1325 on Women, Peace and Security(2000)

The contemporary framework requiring women's meaningful participation in transitional justice stems from the wider women, peace and security (WPS) agenda, first comprehensively laid out in UN Security Council resolution 1325 (2000). Women's meaningful participation in transitional justice has been an established requirement of international peace and security responses for over 20 years. The principle of women's meaningful participation in all aspects of transitional justice is particularly reinforced in: UNSCR 1325: women, peace and security (2000)

First requires women's equal participation and full involvement in all efforts for the maintenance and

promotion of peace and security, and the need to increase their role in decision-making;

Commitments to women's meaningful participation are also included in the 2010 Secretary-General's Guidance Note on United Nations Approaches to Transitional Justice (UNDP & UN Women, 2022). Principle 4: Strive to ensure women's rights through transitional justice processes and mechanisms.

Secondly conflict and situations of gross human rights violations. Entrenched forms of gender-based violence also make women and girls particularly vulnerable to conflict-related human rights abuses, including systematic sexual violence which often continues unabated even after conflict ends. The social stigma and trauma associated with reporting such crimes and women's exclusion from public-decision making processes make it particularly challenging for women to engage with transitional justice mechanisms. Transitional justice mechanisms must thus provide for special measures to ensure that women receive adequate redress for conflict-related violations, that women can fully participate in these processes and that their rights and perspectives are adequately addressed. Transitional justice mechanisms that incorporate a gender and women's human rights perspective, such as prosecution initiatives that punish those responsible for committing sexual violence and other women's rights abuses during conflict, or consultations with women to determine their priorities for transitional justice initiatives, can help ensure accountability for conflict-related women's rights abuses and that oppression or maltreatment of women is not perpetuated into the future."

Embedded within the international Women, Peace and Security (WPS) policy framework are key assertions for why women's meaningful participation in transitional justice matters. Women have an equal right to participate in all efforts to prevent and resolve conflict. Beyond this, their meaningful participation has concrete impacts on outcomes.

Thirdly, recognizing that an understanding of the impact of armed conflict on women and girls, effective institutional arrangements to guarantee their protection and full participation in the peace process can significantly contribute to the maintenance and promotion of international peace and security Urges Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict; "2. Encourages the Secretary-General to implement his strategic plan of action (A/49/587) calling for an increase in the participation of women at decision-making levels in conflict resolution and peace processes".

5.2 UNSCR Subsequent Resolutions/Family Tree of UNSCRs

All ten resolutions from the Security Council on WPS4

consistently reinforce and extend the principle of women's meaningful participation for all aspects of peace and security, including transitional justice. Perhaps the most recent and elaborated UN 'definition' of women's meaningful participation in peace and security was articulated in the Secretary-General's 2018 report to the Security Council on WPS:

5.3 Universal Declaration of Human Rights (1948)

✚ Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

✚ Article 6. Everyone has the right to recognition everywhere as a person before the law.

✚ Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

✚ Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law

5.3. International Covenant on Civil and Political Rights (1966)

✚ Article 3 The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

✚ Article 25 Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

✚ (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

✚ (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

✚ (c) To have access, on general terms of equality, to public service in his country.

5.4. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)

Article 7 States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office

and perform all public functions at all levels of government;

(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

5.5. General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations (2013)

46.b. Ensure women's equal representation at all decision-making levels in national institutions and mechanisms, including in the armed forces, police justice institutions and the transitional justice mechanisms (judicial and non-judicial) dealing with crimes committed during the conflict

81.e. Ensure that women are involved in the design, operation and monitoring of transitional justice mechanisms at all levels so as to guarantee that their experience of the conflict is included, their particular needs and priorities are met and all violations suffered are addressed; and ensure their participation in the design of all reparation's programmes

5.6. Beijing Declaration and Platform for Action (1995)

Women and armed conflict strategic objectives

✚ Increase the participation of women in conflict resolution at decision-making levels and protect women living in situations of armed and other conflicts or under foreign occupation.

✚ Reduce excessive military expenditures and control the availability of armaments.

✚ Promote non-violent forms of conflict resolution and reduce the incidence of human rights abuse in conflict situations.

✚ Promote women's contribution to fostering a culture of peace.

✚ Provide protection, assistance and training to refugee women, other displaced women in need of international protection and internally displaced women.

✚ Provide assistance to the women of the colonies and non-self-governing territories.

Women in power and decision-making strategic objectives

✚ Take measures to ensure women's equal access to and full participation in power structures and decision-making.

✚ Increase women's capacity to participate in decision-making and leadership. Human rights of women strategic objectives

5.6.1. Promote and protect the human rights of women, through the full implementation of all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination against Women.

5.6 .2. Ensure equality and non-discrimination under the law and in practice. I.3. Achieve legal literacy

5.7. 2030 Agenda for Sustainable Development

Goal 5: Achieve gender equality and empower all women and girls

Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. Fabián Salvioli, links transitional justice with the Sustainable Development Goals process through a people-centred and victim-centred approach. She assessed the meaningful role that people-centered transitional justice processes can play in breaking cycles of violence and as a key drivers of change. Thus guides states commitments in the context of the Sustainable Development Goals. (Fabian Salioli,

5.8 Regional Frameworks for women's participation in Transitional Justice

African Union's Transitional Justice Policy (2019)

What is the African Union transitional justice policy?

The African Union Transitional Justice Policy Framework is conceived as a practical and actionable tool to: a) consolidate peace, reconciliation and justice in Africa and prevent impunity; b) help end repressive rule and conflicts and nurture sustainable peace with development, social justice, human and peoples' rights. The rationale for the AU transitional Justice policy is that:

A programmatic and normative imperative: As the embodiment of Africa's determination for peace, justice, and reconciliation, the AU is obliged to engender programs that make possible the realization of the African transitional justice vision and aspirations. Furthermore, given that achieving peace, reconciliation, and justice in the aftermath of mass atrocities is a complex matter which requires extraordinary measures, it elaborates in a holistic manner the entire continuum of measures required to demonstrate the commitment to peace, justice, and reconciliation, and lays down minimum standards and benchmarks for combating impunity and evaluating compliance.

b. A determination to enhance global accountability and imbue African values: International norms and standards of accountability for international crimes are evolving rapidly but without the essential African input and voices.

c. Provide a platform for International Engagement and Partnership with Africans in Enhancing Global Accountability:

Ending impunity and promoting peace, justice, and reconciliation in Africa are indistinguishable from the core objectives that underpin the formation of the AU and its embodiment of international human rights norms in its constitutive instruments.

d. Addressing Knowledge gaps on Transitional Justice in the African Context

This framework recognizes the urgent need to document and further clarify in a coherent manner the practical and philosophical underpinnings of the various African traditional justice mechanisms practiced in different countries (International Peace Institute, 2013)

The principles underpinning the ATJ framework include:

- ✚ The entrench African values in transitional Justice
- ✚ Promote local ownership and inclusive participation
- ✚ Sequencing peace, Justice and reconciliation
- ✚ Broadening the understanding of justice
- ✚ Complementarity with the ICC (Africa and International Justice)
- ✚ Strengthening African Union capacity to combat impunity (African Union Panel of the Wise, 2013).

5.9. National Framework for Transitional Justice Policy Frameworks

5.9.1 Transitional Constitution of South Sudan 2011, as amended

The Transitional Constitution of South Sudan 2011, as amended is the supreme law that provide progressive rights for women's inclusion and participation.

► **Article 16** of the Transitional Constitution of the Republic of South Sudan (TCRSS) stipulates the 'Rights of Women.'

► **Article 16(4)(a)** provides for 35% affirmative action intended to enhance women's participation and representation in public life. The country has also acceded to international conventions such as the United Nations Security Council

► A 35 per cent quota is mandated in each level of legislative and executive organs.

► These efforts are part of a broader commitment to constitutionalism, democracy, and rule of law that recognizes the vital role of women in these processes.

5.9.2. Revitalized Agreement on the Resolution of Conflict in South Sudan (R-ARCSS, 2018)

Chapter V of the ARCSS agreement establishes three mechanisms for transitional justice: (1) The Commission for Truth, Reconciliation and Healing (CTRH); (2) The Hybrid Court of South Sudan; and (3) Compensation and Reparations Authority (CRA). Additionally, the agreement calls for the reform of several institutions, including the Bank of South Sudan, the Anti-Corruption Commission, and the National Audit Chamber.

Transitional justice will help South Sudan heal from the atrocities committed during the conflict and move forward peacefully

Institutional Reform under R-ARCSS, 2018

The TGoNU will embark on judicial reform as well as reform of the security sector, including the Defence, Police, Prison Service, and National Security Service. Other South Sudanese institutions to be reformed include:

- Bank of South Sudan (BoSS)
- Human Rights Commission (HRC)
- Judicial Service Commission (JSC)
- Civil Service Commission (CSC)
- Land Commission (LC)

New institutions will also be established, including:

- National Revenue Authority
- Environmental Management Authority
- Economics and Financial Management Authority

The TGoNU will also implement, develop, and establish enterprises, associations, and funds for diverse populations, including Micro, Small and Medium Enterprises. Enterprise Development Funds will include: (1) Youth Enterprise Development Fund, (2) Women Enterprise Development Fund, and (3) Social Security Fund (R-ARCSS, 2018, Chap. IV)

5.9. Women's participation in transitional justice takes many forms

Stakeholder Typologies	<ul style="list-style-type: none"> • Survivor-victims of large-scale past abuses – who experience legacies of harm, traumas, threats to their safety and marginalization both during and after the abuses suffered • Relatives of survivor-victims – who experience different legacies of loss, trauma, threats to their safety and marginalization both during and after the abuses suffered • Witnesses – who experience their own legacies of trauma and insecurity • Women's survivor-victims' organizations, associations and networks, as well as allied women's organizations (local, national and international) • Women leaders of allied local, national and international organizations/movements (e.g. for survivor-victims, human rights, women's rights, etc.) • Catalytic and emblematic 'advocates'—from political, legal, human rights, peacebuilding cultural, scientific trades, professional, business, religious, traditional and other realms • Women from wider society—allied stakeholders who did not experience the direct effects of large-scale past abuses, but ultimately live the indirect social, economic and political consequences of the past • Women bystanders and perpetrators—potentially including former female combatants and/or members of the security sector (whether state or non-state)
Role Typology/ As agents of accountability – women holding duty-bearers to account:	<ul style="list-style-type: none"> → Demanding and using transitional justice rights and 'benefits', such as reparations → Participating in and influencing public consultations, such as in the design of transitional justice processes and mechanisms → Seeking truth, filing criminal cases and testifying (including, for example, women journalists reporting on past human rights abuses as a form of truth-telling) → Monitoring transitional justice processes and mechanisms, as well as working as women's rights and human rights defenders → Initiating legal challenges and reforms → Mobilizing and representing the collective demands of communities and social organizations → Standing for elected positions and other direct political action → Facilitating survivor-victim outreach and advocating with government → Mobilizing public feedback, information, education, advocacy and 'mass action' campaigns → Researching and analysing case studies, thematics and practices, building and sharing expert knowledge bases → Documenting, evidence gathering and local truth seeking of violations
Role Typology/As agents of social change	<p>Providing networking, relief, legal aid, health, psychosocial, protection and monitoring services and spaces for survivor-victims</p> <ul style="list-style-type: none"> → Memorialising, especially through appropriate local, gendered and traditional practices → Healing, peacebuilding and reconciliation, at the personal, family, community and social levels → Inspiring other women to participate in public life, including in justice-related professions → Educating the public and raising public awareness → Leading and catalysing women's networking/mobilization and 'mass action' public mobilization to demand change → Taking over as household heads and income earners → Acting as unacknowledged private/domestic social agents, as mothers, spouses, carers, memory-keepers, faith leaders, etc. in the family and in the community

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