

POLICY PAPER

APRIL 2025

# AFRICAN UNION TRANSITIONAL JUSTICE POLICY IMPLEMENTATION GUIDANCE:

## SOUTH SUDAN

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## Introduction

South Sudan was wracked by conflict in December 2013 and July 2016, stemming from unresolved tensions within the Sudan People's Liberation Movement/Army.<sup>1</sup> The conflicts were characterised by gross human rights violations, which took on an ethnic dimension and included killings of civilians, sexual and gender-based violence, enforced disappearances, arbitrary arrests and detention, torture, inhuman and degrading treatment, looting, and burning and destruction of property. The conflicts resulted in humanitarian crises and featured massive forced displacement, the consequences of which reverberate to the present day.<sup>2</sup>

An Intergovernmental Authority on Development (IGAD) Assembly of Heads of State and Government in its 31st Extra-Ordinary Summit sanctioned a peace process that culminated in the signing of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) on 12 September 2018.<sup>3</sup> The R-ARCSS continues to be observed, despite skirmishes between various armed groups and two extensions that will amount to 84 months by the end of February 2027, instead of the previously agreed-upon 36-month transitional period.

This policy paper seeks to highlight South Sudan's priorities and the implementation status of its national transitional justice programme, measured against the African Union Transitional Justice Policy (AUTJP) as a benchmark.<sup>4</sup> The country's transitional justice programme is set out in the R-ARCSS, particularly Chapter V, which is titled 'Transitional Justice, Accountability, Reconciliation and Healing'.

The AUTJP provides member states with a guide on effective and credible transitional justice processes that aims to help them achieve their goals, among them

sustainable peace. The AUTJP contains 11 indicative elements of transitional justice gleaned from experiences observed on the African continent. The seven key elements relevant to the South Sudan context, which are discussed in this policy paper, are: peace processes; transitional justice commissions; African traditional justice mechanisms; reconciliation and social cohesion; reparations; justice and accountability; and political and institutional reforms. Some of these elements find resonance within the R-ARCSS. The paper also discusses cross-cutting issues, including the modus of including forcibly displaced persons, women and girls, and children and youth.

## Adapting AUTJP provisions to South Sudan

The AUTJP distils African countries' unique transitional justice experiences and proposes a coherent and comprehensive continental guideline for African Union (AU) member states to develop their own context-specific transitional justice policies, strategies and programmes, with the aim of achieving sustainable peace, justice, reconciliation, social cohesion, healing, and democratic and socio-economic transformation. South Sudan, being a member of the AU, is encouraged to seek guidance from the AUTJP as it undertakes implementation of its transitional justice programme.

### *Peace processes*

The AUTJP highlights peace processes and their aim to end ongoing violence and eliminate the threat of further violence. The R-ARCSS is underpinned by the rationale that it is necessary for South Sudan to deal with its grave legacies of violent conflict and historical grievances. Chapter V of the agreement proposes the

- 1 AUCISS, "Final Report of the African Union Commission of Inquiry on South Sudan" (Addis Ababa, Ethiopia: AU Commission of Inquiry on South Sudan, October 27, 2023), para 46. <https://archives.au.int/handle/123456789/8329> (accessed 24 February 2025); see also Douglas Hamilton Johnson. 2016. *The Root Causes of Sudan's Civil Wars: Old Wars and New Wars* (Oxford: James Currey), 184–189.
- 2 *Ibid.*, AUCISS Report para 1166.
- 3 Report By Amb. Lt. Gen Augustino S.K. Njoroge (Rtd), Deputy Chairperson Of JMEC On The Status Of Implementation Of The Revitalised Agreement On The Resolution Of The Conflict In The Republic Of South Sudan For The Period July 1st–September 30th 2018, 7, para 15. <https://jmecsouthsudan.org/index.php/reports/rjmec-quarterly-reports/125-rjmec-quarterly-report-to-igad-on-the-status-of-implementation-of-the-r-arcss-from-july-1st-september-30th-2018> (accessed 15 February 2025).
- 4 African Union, African Union Transitional Justice Policy (2019), [https://au.int/sites/default/files/documents/36541-doc-au\\_tj\\_policy\\_eng\\_web.pdf](https://au.int/sites/default/files/documents/36541-doc-au_tj_policy_eng_web.pdf) (accessed 24 February 2025).

establishment of three complementary transitional justice mechanisms: the Commission for Truth, Reconciliation and Healing (CTRH), the Compensation and Reparations Authority (CRA), and the Hybrid Court for South Sudan (HCSS).

These mechanisms are earmarked for establishment by the Revitalised Transitional Government of National Unity (RTGoNU) in collaboration with other actors, most particularly the AU, and primarily through legislation. The HCSS is to be established by the AU Commission (AUC) by way of a treaty with South Sudan, which will pass concurrent legislation that gives effect to the treaty in South Sudan.

Chapter V contemplates other transitional justice measures in addition to the above-mentioned three mechanisms. These include traditional dispute resolution, reconciliation and healing mechanisms, alternatively called traditional justice mechanisms, to be supervised by the CTRH, and vetting or lustration mechanisms for persons indicted and convicted by the HCSS. The R-ARCSS also provides for transitional justice measures outside Chapter V, such as security sector reforms under Chapter II, permanent constitution making under Chapter VI, and judicial reforms under Chapter I.

South Sudan's approach has been to prioritise transitional justice commissions, namely the CTRH and the CRA. It has apparently paused criminal accountability, which is to be pursued through the HCSS.<sup>5</sup>

#### Recommendations:

RTGoNU

- Fund the implementation of the R-ARCSS, which is intended to drive forward the transitional justice components of the peace process, that is, judicial reforms, security sector reforms, truth seeking and constitution making.

#### *Transitional justice commissions*

The truth, justice and reconciliation element of the AUTJP involves the provision of public processes for probing societies with legacies of violent conflicts and systemic or gross violations of human and peoples' rights. It is implemented through legal bodies established to examine and address violations and abuses.

Due to the conflicts and a demand to end their cycles, it was recommended that South Sudan establish a truth commission with a mandate to investigate human rights violations and drive the national peace and reconciliation process,<sup>6</sup> with the ability to provide interim reparation measures. South Sudan enacted truth commission legislation, titled the Commission for Truth, Reconciliation and Healing Act. What is pending is operationalisation of the CTRH.

The CTRH legislation gives the commission six years to implement its mandate. Some of the powers of the commission include issuing summons to give testimony and subpoena powers to compel persons to give statements or adduce documents. The commission, in line with the AUTJP, is empowered to lead efforts to facilitate local and national reconciliation and healing, record experiences of victims, develop recommendations to prevent recurrence of violence, and issue a final report that is to be made public.

#### Recommendations:

RTGoNU

- On a priority basis, unify the disparate armed groups, militias and other negative forces into a single force under one unified command structure, and thereafter re-deploy them so as to enable provision of security across the country and protection of the transitional justice process.
- Bolster efforts that promote and protect civic and political space to enable the public to engage with

5 UNDP, "Conference Report: Transitional Justice Mechanisms 15–17 May 2023," in *UNDP*, Annex 1 at Conference Resolution 31, <https://www.undp.org/south-sudan/publications/south-sudan-transitional-justice-mechanisms-conference>, (accessed 24 February 2025).

6 AUCISS, *supra* note 2 at para 1166.

the CTRH, the CRA and other transitional justice mechanisms.

#### CTRH selection panel

- Transparently and accountably recruit members of the CTRH, as guided by the CTRH Act.
- Strictly adhere to the legislation and ensure the one-third gender threshold is met when recruiting commissioners of the CTRH.

#### CTRH

- Consider putting in place measures to protect victims, witnesses and citizens engaging with the process.
- Prioritise sensitisation, particularly of displaced communities like refugees who were not consulted prior to the drafting of the CTRH Act.
- Consider establishing a separate fund and mobilise funding for it for purposes of providing interim compensation in health emergency cases and individual reparations for vulnerable victims, particularly of conflict-related sexual violence.
- Ensure adherence to the minimum one-third gender representation when recruiting assistant commissioners and when establishing the secretariat as per provision of Chapter V of the R-ARCSS.
- Consider issuing regulations on various issues such as a victim-centred approach, a gender policy to guide operations, victim and witness protection guidelines, child-friendly policy guidelines, and a displaced persons and communities' policy to enhance their access.

### **Reparations**

The AUTJP views reparation as consisting of effective and adequate financial as well as non-financial redress or restitution for violations or losses suffered.

The forms of reparation it provides for include material reparations such as: restitution of property or rebuilding destroyed property; healing; rehabilitation (medical or psychosocial); collective reparations; and moral reparations (disclosure of facts, public acknowledgement, apologies, etc.). Furthermore, the AUTJP recommends the establishment of transformative, comprehensive and holistic reparations policy frameworks, as well as fair procedures for accessing reparations and ensuring effective administration of reparations processes.

The R-ARCSS guides the RTGoNU to establish the CRA in recognition of the 'destructive impact of the conflict to the citizens of South Sudan'.<sup>7</sup> In fulfilment of the provisions of the agreement, South Sudan recently enacted the Compensation and Reparations Authority Act of 2024. This legislation provides for various forms of possible reparations such as: the right to truth (verification of facts or public disclosure of the truth); inquiry into the whereabouts of the disappeared; public apology; non-repetition of violence (including through institutional reforms); and commemoration. The CRA is mandated to award communal reparations. The legislation provides for the possibility of recommending personal reparations (individual) to the CTRH where communal reparations (collective) are inappropriate.

#### **Recommendations:**

##### CRA

- Consider developing regulations for reparations underpinned by AUTJP guiding principles such as equality, non-discrimination, gender sensitivity and prompt, adequate and effective redress.
- Consider designing programmes that are responsive and impactful by consulting victims when designing these programmes.<sup>8</sup>
- Ensure victims of gross human rights violations have a right to access information and to know what possible remedies are on offer, how to access those

<sup>7</sup> Article 5.4.1 of the R-ARCSS.

<sup>8</sup> AUTJP, supra note 4 at para 32(i).

remedies, and the truth about the causes of violations as part of the reparations programme.<sup>9</sup>

- Consider collaboration and working with faith-based leaders and traditional and religious leaders.<sup>10</sup>

### ***African Traditional Justice Mechanisms***

The AUTJP recognises traditional justice mechanisms as playing an important role in achieving transitional justice goals, noting they can be adapted and used alongside formal mechanisms to address justice, peace, accountability, social cohesion, reconciliation and healing. The May 2023 South Sudan Transitional Justice Conference recognised the central and complementary role of traditional justice mechanisms to the CTRH and the CRA in fostering restorative justice and community reconciliation.<sup>11</sup>

The CTRH is mandated to supervise traditional justice and/or reconciliation mechanisms in supporting transitional justice goals. Chapter V of the R-ARCSS provides that the CTRH, where appropriate, develop procedures to supervise proceedings of traditional dispute, resolution, reconciliation and healing mechanisms.

### **Recommendations:**

#### CTRH

- Consider drafting standard operating procedures that inform how traditional justice mechanisms can play a positive role in supporting the truth-seeking and reconciliation process.
- Avail technical and political support to local communities and traditional leaders for adapting

- and using their traditional justice mechanisms for addressing their transitional justice needs.

#### CRA

- Consider drafting standard operating procedures that inform how traditional justice mechanisms can play a positive role in supporting the reparations process.

### ***Justice and accountability***

The justice and accountability element of the AUTJP deals with the legal measures (both formal and traditional) that should be adopted for investigating and prosecuting the crimes perpetrated, as a means of establishing accountability and giving judicial remedy to and acknowledgement of the suffering of victims. As a matter of principle, it should apply to all sides to the conflict and investigate and prosecute all crimes, including sexual and gender-based violence. Justice and accountability are to be delivered primarily through independent national courts, where they exist and have the capacity. If this is not possible, then consideration can be given to relevant regional or international judicial processes.

In the South Sudan context, international crimes may have been committed during the conflicts. This, coupled with a lack of confidence in the judicial system, led to the idea of a hybrid court.<sup>12</sup> The R-ARCSS provides for the establishment of the HCSS, with jurisdiction over the international crimes of genocide, crimes against humanity and war crimes. It also has jurisdiction over serious international crimes under South Sudan laws. This mechanism is to be established by the AUC to investigate and, where necessary, prosecute individuals bearing responsibility for violations of international law or applicable South Sudanese law committed from 15 December 2013 through to the end of the transitional period.

9 “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law” 16 Dec 2005 General Assembly resolution 60/147, para 24, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law | OHCHR <https://www.ohchr.org/sites/default/files/2021-08/N0549642.pdf> (accessed 16 February 2025).

10 UNDP Conference Report, supra note 6 at Annex 1, Conference Resolution 27.

11 UNDP Conference Report, supra note 6 at Annex 1, Conference Resolution 32.

12 AUCISS Report, supra note 1, para 1148.

**Recommendations:**

## AUC and RTGoNU

- Ensure that the instruments that establish the HCSS conform to those provided for in Chapter V of the R-ARCSS, including jurisdiction, primacy over national courts, composition of personnel (a majority of whom shall not be South Sudanese), powers of the court, principles of international criminal law including individual criminal responsibility, and non-applicability of amnesties or irrelevance of official capacity.
- Consider enacting legislation that bars those facing indictments or eventually convicted by the HCSS from holding public office.
- Cooperate with the HCSS and enact legislation that enables the HCSS to effectively operate in South Sudan. The domesticating legislation should enable: recognition of international crimes, including sexual and gender-based violence; removal of legal impediments to effective prosecution, such as amnesties, pardons, immunity for security personnel or statute of limitations; guarantees of the participation of victims, particularly women, in proceedings, the cooperation of perpetrators and the awarding of reparations; guarantees of due process of the law, including fair trial rights; and establishment of procedures that accord particular attention to sexual and gender-based violence and ensure the participation of women victims.

**Amnesties and pardons**

During transitional periods, as noted in the AUTJP, amnesties are general reprieves for offences committed in the past that are often implemented in processes as part of the mandate of transitional justice commissions. This is for the purpose of preventing further violence and the facilitation of accountability and reconciliation.

In South Sudan, the president has the power to issue amnesties and pardons, and indeed the president exercised this power after the 2016 conflict in pursuit of peace negotiations.<sup>13</sup> The CTRH Act provides that the CTRH can recommend a person to receive amnesty for abuses and crimes committed by that person. However, amnesties cannot be recommended for crimes of genocide, crimes against humanity and war crimes. The R-ARCSS provides that the HCSS will not be impeded or constrained by any statutes of limitations, pardons, amnesties or immunities.

**Recommendations:**

## CTRH

- Do not recommend 'blanket' or unconditional amnesties that prevent investigation of the most serious crimes that facilitate impunity or perpetuate negative institutional cultures. Any amnesties recommended should strictly comply with the CTRH Act.
- Consider putting in place measures that allow for victim participation in deliberations on amnesties and how they are crafted.
- Consider establishing operational processes and procedures that guarantee impartial, transparent and accountable operations within the CTRH.
- In cases recommended for amnesty, provide victims with remedies, including the right to truth, full acknowledgement of suffering, and reparations.

## RTGoNU, CTRH, HCSS and CRA

- Collaboratively formulate guidelines for exchange of information in order to avoid transitional justice bodies contradicting or undermining each other's mandates particularly around amnesties and pardons.

13 Xuxin. n.d. Review of *South Sudanese President Grants Amnesty to Rebel Leader*. *Xinhua*. [http://www.xinhuanet.com/english/2018-08/09/c\\_137379146.htm](http://www.xinhuanet.com/english/2018-08/09/c_137379146.htm). 2018-08-09 (accessed 17 February 2025).

## Political and institutional reforms

The AUTJP advises that political and institutional reforms should aim at addressing patterns of discrimination and inequality that make the population vulnerable to violations. Furthermore, it advises that such reforms should ensure inclusion and effective participation of the people, including women and youth, in decision-making processes. Constitutional reform should be followed by institutionalisation of the principles of accountability, legality, transparency, responsiveness and respect for human rights, including non-discrimination and equality in government decision making and in the conduct of the affairs of the state, as well as civilian control of security institutions.

Chapter VI of the R-ARCSS and the Constitution Making Process Act of 2022 provide for the process of drafting a permanent constitution for South Sudan based on a range of principles, including recognition of the supremacy of the people, promotion of people's participation in governance, and respect for ethnic and regional diversity. Mechanisms mandated to spearhead aspects of constitution making, such as the National Constitution Review Commission (NCRC) and the National Constitutional Conference (NCC), are expected to ensure the process adheres to certain guiding principles, such as accountability of the people, non-discrimination, accommodation of diversity and principles of human rights and the rule of law.

In terms of judicial reforms, IGAD and South Sudan set up an ad hoc Judicial Reforms Committee (JRC) in South Sudan, which after several months of work submitted a report with recommendations. On security sector reforms, the Strategic Security Sector Review Board (SDSRB) submitted five critical defence and security

policies, including the Security Sector Transformation Roadmap.<sup>14</sup>

### Recommendations:

RTGoNU

- Fund mechanisms established to drive forward the constitution-making process, such as the NCRC, which are operationally ready to implement their mandates.<sup>15</sup>
- Urgently study and seriously consider implementing recommendations from the JRC report, such as investing in court infrastructure, increasing the number of judges, enhancing the judiciary's independence, enhancing capacity of personnel, and increasing gender representation of women.<sup>16</sup>
- Prioritise the evaluation, adoption and implementation of the SDSR Board policy proposals for the country to realise security sector transformation.
- Pay close attention to the CTRH interim and final reports, which could provide more insight on institutional reforms from a human rights and accountability lens.

### Memorialisation

According to the AUTJP, memorialisation entails measures beyond the immediate transitional period that are necessary for truth, reconciliation and healing, involving public acknowledgement of victims and institutionalising both societal dialogue across generations and non-impunity in national discourse.

- 14 Radio Tamazuj, "Defense and Security Review Board Concludes Validation of Five Key Documents", 26 April 2024, <https://www.radiotamazuj.org/en/news/article/defense-and-security-review-board-concludes-validation-of-five-documents>. The five policy frameworks are the Strategic Security Assessment, the Security Policy Framework, the Revised Defence Policy, the White Paper on Defence and Security, and the Security Sector Transformation Roadmap.
- 15 The African Union (AU) High-Level Ad Hoc Committee for South Sudan (C5). "Outcome of the Ministerial Field Mission Visit of the African Union Ad Hoc High-Level Committee for South Sudan (C5) to Juba." Press release, February 3, 2025, <https://www.peaceau.org/en/article/outcome-of-the-ministerial-field-mission-visit-of-the-african-union-ad-hoc-high-level-committee-for-south-sudan-c5-to-juba#itemCommentsAnchor> (accessed 24 February 2025).
- 16 Daniel, Michael. "President Kiir Receives Report on Judicial Reforms." Eye Radio. 21 December 2024. <https://www.eyeradio.org/president-kiir-receives-report-on-judicial-reforms/>. See also Chief, Editor In: 2024. "Judicial Committee Finds Strong Public Support for Reforms - Radio Tamazuj." Radio Tamazuj. 24 October 2024. <https://www.radiotamazuj.org/en/news/article/judicial-committee-finds-strong-public-support-for-reforms>.

The CRA Act provides that South Sudan will establish victim support and memorial centres at the national, state and local levels to enable communities to learn about the past. Furthermore, some of the reparative measures that the CRA can recommend include commemorations and tributes to victims.

### Recommendations:

RTGoNU

- Consider including multiple voices in memorialisation efforts and allow for multiple narratives and multiple discourses and different understandings of the past, as well as varying experiences of different groups.
- Foster intergenerational dialogue and involve educational activities targeting children and youth, including through commemorative programmes and annual ceremonies.

## Cross-cutting issues

### *Internally displaced persons and refugees*

According to the AUTJP, for there to be sustainable peace, there is need for substantial inclusion of Internally Displaced Persons (IDPs) and refugees in transitional justice processes and that their issues be fully addressed. IDPs and refugees have the right to be consulted in the design of transitional justice processes, and violations against them should be prioritised for investigation and prosecutions, given their continued state of vulnerability and the sheer size of their population.

Displaced populations should have provisions in reparations programmes, where appropriate benefits are accorded to refugees and IDPs for violations that caused them to flee, and further that take into account the violations they suffered while displaced.

Lastly, there is a need for measures that enable displaced populations to be resettled, receive restitution for lost land, have their citizenship restored, and benefit from programmes that assist in the rebuilding of homes and property.

As of December 2024, about 1.8 million South Sudanese are IDPs, and another 2.3 million South Sudanese are refugees in neighbouring countries, representing Africa's largest refugee crisis. This is partly as a consequence of the conflicts in South Sudan since the 1950s. The outbreak of conflict in Sudan in 2023 led to the return of about 1 million people, a majority being South Sudanese, due to adverse conditions faced in Sudan.<sup>17</sup>

### Recommendations:

RTGoNU

- Prioritise the establishment of the Special Reconstruction Fund and Board envisaged in Chapter III of the R-ARCSS. This board would have a mandate to reconstruct conflict-affected states and provide assistance to IDPs, returnees and families affected by conflict.

CTRH and CRA

- Prioritise consultations with displaced populations, especially refugees, in order to provide them with the opportunity to be part of designing transitional justice processes and sensitising them early on to bolster their participation and engagement in the peace process.
- Consider establishing procedures and processes that ease access barriers and make it much more possible for displaced populations, especially refugees, to participate in transitional justice. The CTRH and the CRA should design interventions and remedies that respond to displaced populations' needs after consulting with them.

17 UN OCHA and UNOCHA, "South Sudan: Humanitarian Snapshot (December 2024)" (UNOCHA, 9 January 2025), <https://www.unocha.org/publications/report/south-sudan/south-sudan-humanitarian-snapshot-december-2024> (accessed 24 February 2025).

## Women and girls

The AUTJP encourages member states to pursue investigative and prosecution actions for sexual and gender-based violence; adopt measures that ameliorate cultural stigma and procedural and evidentiary requirements that militate against accountability for this type of violence; and adopt measures to address the psychosocial, medical and livelihood needs of survivors. Further, it encourages transitional justice processes to recognise the gendered nature of conflicts, in which women and girls are affected disproportionately, both directly and indirectly, by violence. Gender concerns must be incorporated into transitional justice processes through mainstreaming gender as a cross-cutting issue. Women and girls should be granted rights of participation in transitional justice.

The conflicts in South Sudan witnessed widespread violations, including sexual and gender-based violence, which included rape, gang rape, mass rape, abductions, detention, sex slavery, beatings and cruel and inhuman treatment against women and girls.<sup>18</sup> The R-ARCSS in Chapter V provides that there shall be 35% women representation in transitional justice institutions. The CTRH and the CRA legislation include a strict provisional requirement that this minimum gender quota be observed. The CTRH, the CRA and the HCSS are thus required to have their leadership constituted by the RTGoNU in a manner that ensures observance of the mandatory gender representation. They in turn must adhere to this requirement when recruiting personnel. The agreement defines some of the functions of the CTRH as recording the experiences of victims, including women and girls.

### Recommendations:

#### CTRH and CRA

- Consider implementing protection measures for victims and witnesses, including women and girls.

- Ensure that women are consulted and able to participate in the design and implementation of transitional justice processes.
- Consider addressing physical violations against women and girls on a priority basis, and also addressing structural conditions that permit these violations to occur.
- Consider designing holistic approaches to reparations for sexual and gender-based violence, which address the societal structures and conditions that permit such violations.
- Consider designing reparation programmes that are transformative and promote equality, non-discrimination and participation of victims, in particular women and girls.

#### AUC and RTGoNU

- Consider adopting laws and procedures that enable efficient and effective investigation and prosecution of crimes related to sexual and gender-based violence.
- Ensure independent judicial and investigative institutions with adequate representation of female judicial and investigation experts, coupled with procedures (confidential and secure) that guarantee the participation of victims, particularly women and girls.
- Consider according higher consideration to women and girl IDPs and refugees who have suffered displacement and continue to suffer its gendered effects.

## Children and youth

The AUTJP recognises that children are most vulnerable to and affected by conflicts, including as direct targets of violence through killings, acts of mutilation or torture,

18 AUCISS Report, supra note 1, para 382. See also UN Commission on Human Rights in South Sudan, “Conference Room Paper on Conflict-related Sexual Violence Against Women and Girls in South Sudan” (presented on 21 March 2022 before the UN Human Rights Council in its 49th Session, Geneva, Switzerland 28 February –1 April 2022), 9–12, [https://www.ohchr.org/sites/default/files/2022-03/A\\_HRC\\_49\\_CRP\\_4.pdf](https://www.ohchr.org/sites/default/files/2022-03/A_HRC_49_CRP_4.pdf) (accessed 24 February 2025).

abductions, and recruitment and enrolment as soldiers. Transitional justice processes should take account of the disproportionate impact of violence on children and make adequate provision for children as victims. They should adopt the principle of the best interests of the child and ensure child-centred approaches.

In the various conflicts in South Sudan, particularly in 2013, children had their rights grossly violated, including through summary executions, mass killing, rape, gang rape, conscription into armed groups, abduction, denial of the right to education, and forced displacement.<sup>19</sup>

### Recommendations:

#### CTRH and CRA

- Provide avenues for the participation of children, youth and youth groups in transitional justice processes.
- Consider collaboration with the Special Reconstruction Fund Board (when established) to focus on collective reparations that restore the right to education, including building and rebuilding educational institutions affected by the conflicts.
- Collaborate with government and non-government agencies to realise medical and psychosocial services for young victims of violence who continue to suffer its consequences.
- Identify children victims and perpetrators and issue interim services and interim reparations, while at the same time recommending them for other remedial measures.

## Conclusion and way forward

Borrowing from the preamble of the CTRH Act, the R-ARCSS, including Chapter V, presents a blueprint that enables South Sudan to lay a firm foundation for national healing and reconciliation, given the untold human suffering experienced during its past. It also represents an opportunity in the form of a bridge between a past of

deep division and struggle and a future founded on respect for human rights, rule of law and a South Sudan at peace with itself. Therefore, faithfully implementing the R-ARCSS in letter and spirit, despite the many existing obstacles and challenges, will contribute immensely to transitional justice goals that inform the rebuilding of the nation and the state.

Policymakers and other key stakeholders in South Sudan are urged to assure the implementation of a transitional justice strategy and programmes over and above the specific recommendations outlined above, including the following:

- Provide guaranteed funding to the CTRH, the CRA and other transitional justice processes to enable their success.
- Gender justice frameworks should be integrated into transitional justice processes, including the CRA and the CTRH, to ensure active and representative participation by women and girls.
- Transitional justice should be decentralised and devolved using a victim-centred approach to enable the widest possible level of participation from the grassroots.
- Promotion and protection of civic and political space, including media freedoms, are necessary to enhance public participation in transitional justice.
- Improving security provisions for communities is key to creating a conducive environment for citizen participation in transitional justice, especially the CTRH. Thus, the government must contain the ongoing community insecurity to pave the way for a successful truth-telling, reconciliation and healing process.
- Victim support centres should be established to provide immediate services, especially psychosocial support services, to victims and survivors across different pockets of the country and from all sides of the conflicts.

<sup>19</sup> AUCISS Report, supra note 1, para 726. From a study conducted AUCISS on refugee camps of Kenya, Uganda and Ethiopia after the 2013 conflict, are that demographics demonstrated that the highest percentages of refugees in all camps are women between the ages of 18 and 59 years, followed by boys between the ages of five and 11 years.

## Acronyms and abbreviations

<b>AU</b>	African Union	<b>JMEC</b>	Joint Monitoring and Evaluation Commission
<b>AUC</b>	African Union Commission	<b>JRC</b>	Judicial Reforms Committee
<b>AUCISS</b>	Africa Union Commission of Inquiry on South Sudan	<b>NCC</b>	National Constitutional Conference
<b>AUTJP</b>	African Union Transitional Justice Policy	<b>NCRC</b>	National Constitution Review Commission
<b>CRA</b>	Compensation and Reparations Authority	<b>R-ARCSS</b>	Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan
<b>CTRH</b>	Commission for Truth, Healing and Reconciliation	<b>RJMEC</b>	Reconstituted Joint Monitoring and Evaluation Commission
<b>HCSS</b>	Hybrid Court for South Sudan	<b>RTGoNU</b>	Revitalised Transitional Government of National Unity
<b>IDPs</b>	Internally Displaced Persons	<b>SDSRB</b>	Strategic Security Sector Review Board
<b>IGAD</b>	Intergovernmental Authority on Development	<b>UN</b>	United Nations

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