

Conference on Sustaining Momentum for Transitional Justice in South Sudan 13th – 15th December 2021

Summary of Resolutions

The UN Commission on Human Rights in South Sudan (CHRSS), in collaboration with the Office the High Commissioner for Human Rights (OHCHR) and the UN Mission in South Sudan (UNMISS), convened a high-level *Conference on Sustaining Momentum for Transitional Justice in South Sudan* from 13 to 15 December 2021.¹ The Conference was held in hybrid format: physically in Nairobi – Kenya and also hosted virtually.

The Conference brought together 70 participants including a high-level delegation of representatives from the South Sudan Revitalized Government of National Unity's (R-TGoNU) Ministries of Justice and Constitutional Affairs (MoJCA), Defence and Veterans' Affairs, Gender, Child and Social Welfare, Peacebuilding, Interior and Foreign Affairs. The African Union (AU) was represented by the Commissioner for Political Affairs and Peace and Security (PAPS), Director of the Office of Legal Counsel and African Commission on Human and Peoples' Rights (ACHPR) Commissioner in charge of South Sudan. Representatives of the Revitalised Joint Monitoring and Evaluation Commission (R-JMEC), the Inter-Governmental Authority on Development (IGAD), United Nations Development Project (UNDP), South Sudan Transitional Justice Working Group, the Technical Committee on National Consultations for

establishment of the Commission on Truth Reconciliation and Healing, and the South Sudan national Human Rights Commission, as well as members of the diplomatic corps, development partners, academia, international, regional and national civil society and experts on transitional justice also attended the Conference.

In convening the Conference, the Commission took into account the decision of the R-TGoNU Cabinet in January 2021, which mandated the Ministry of Justice to move forward with the establishment of the Commission on Truth, Healing and Reconciliation (CTRH), the Hybrid Court for South Sudan (HCSS) and the Compensation and Reparation Fund and Authority (CRF/A) in accordance with Chapter V of the Revitalised Agreement for Resolution of the Conflict in South Sudan (R-ARCSS).² To this end, the Minister of Justice established a Technical Taskforce to oversee implementation of the Chapter V transitional justice mechanisms³ and, subsequently, reconstituted a Technical Committee to conduct public consultations to inform the drafting of legislation for establishment of the CTRH.⁴ Despite the challenges of travel and meetings during the pandemic, the Conference provided an important forum for open, frank and constructive dialogue between political leaders, R-TGoNU officials and non-state national, international and inter-governmental

¹ e Conference was convened pursuant to Human Rights Council Resolutions [A/HRC/RES/46/23](#), para. 26 and [A/HRC/RES/46/29](#), para. 23, requiring the CHRSS and OHCHR, respectively, to convene two workshops on transitional justice with participation of relevant stakeholders.

² Resolution of the Council of Ministers in its Regular Meeting No. 03/2021 held on Friday 29th January 2021.

³ Ministerial Order No 01/2021 for the establishment of the Taskforce in the Ministry of Justice and Constitutional Affairs to oversee, coordinate and conduct advocacy for Transitional Justice Mechanisms, Permanent Constitution-Making Process and wide range of legislative and institutional reforms as enshrined in the R-ARCSS.

⁴ Ministerial Order No 02/2021 for the establishment of a Technical Committee in accordance with provisions of Chapter V, Article 5.2.1.3 of the R-ARCSS 2018.

stakeholders and representatives, who took stock of the progress and obstacles to implementation of the Chapter V commitments. Participants also identified concrete measures to sustain the momentum created through the R-TGoNU's decision to proceed with implementation of transitional justice for South Sudan.

In particular, the Conference aimed to:

- Foster a shared vision for a holistic approach to transitional justice in South Sudan as envisaged in Chapter V of the R-ARCSS;
- Promote meaningful inclusion and participation of victims and citizens in transitional justice processes in South Sudan; and
- Support timely initiation of transitional justice measures within and beyond the R-ARCSS.

Resolutions agreed on and adopted at the conference to sustain momentum on transitional justice in South Sudan

The Conference culminated in the adoption of the Resolutions summarized below, which include key policy measures aimed at sustaining momentum for transitional justice in South Sudan.⁵ The Conference participants committed by consensus to implement the Resolutions within six months - between January and June 2022 – led by the R-TGoNU, with the support and collaboration of national, regional, and international actors and stakeholders.

Participants agreed to convene a follow-up conference in mid-2022 to assess the progress achieved in implementation of the Resolutions and consider what may be needed moving forward. It will be necessary to adopt further timelines within the envisaged six-month period for achieving the tasks identified.

⁵ The comprehensive conference report provides details of the discussions outlining key challenges and identified

1. **Holistic and comprehensive transitional justice**: Transitional justice (TJ) in South Sudan should meet citizens and victims' aspiration for holistic and comprehensive processes to address root causes, ensure accountability and reparation, and guarantee non-repetition, of conflict and related human rights violations. Thus, TJ measures should include full, complementary, and mutually reinforcing implementation of the CTRH, HCSS, and CRF/A, alongside all other provisions of the 2018 R-ARCSS geared towards democratic, governance and socio-economic reforms and transformation as key pillars to guarantee non-recurrence of conflict and violations and promote sustainable peace in South Sudan.

2. **Meaningful inclusion and participation of all stakeholders**: Transitional justice processes in South Sudan should ensure meaningful inclusion and participation of citizens, victims, political and security actors, and other stakeholders at all stages of the design and implementation of TJ-related laws, policies, and mechanisms. Responsible actors should deliberately and proactively initiate measures to address existing and potential barriers to the inclusion and participation of victims and citizens in TJ processes. Special measures should be provided to ensure inclusion and participation of vulnerable and marginalized groups and areas including remote and rural areas; locations experiencing ongoing armed conflict and localized violence; women; refugees and diaspora communities; internally displaced persons; children, including those born as a result of conflict-related sexual and gender-based

strategies to advance implementation of holistic TJ processes in South Sudan.

violence (CR-SGBV); persons with disabilities; and victims of CR-SGBV. It is especially essential to ensure that victims can represent themselves and articulate their needs and priorities so that TJ mechanisms effectively understand the causes, triggers, patterns, forms, and impact of violations, identify those responsible, and provide appropriate remedies to secure accountability, reparations, and prevention of future violations.

3. **Conducive environment for transitional justice in South Sudan:**

The expansion of civic space and assurance of security, safety and protection of citizens, victims, and witnesses – including continuous access to psychosocial support – is a prerequisite for meaningful inclusion and participation, nationally owned and people-driven TJ processes in South Sudan.

4. **Mobilization and allocation of adequate financial and technical resources** is essential to ensure effective

implementation of TJ processes and related provisions in the R-ARCSS. Insufficient financial resources and weak capacities remain the most significant barriers to implementation of the R-ARCSS. The R-TGoNU should prioritize implementation of TJ processes and peacebuilding in allocation of its national budget and demonstrate progress within its available resources in order to elicit renewed financial support from development partners.

5. **Initiation of interim assistance and urgent reparation measures:**

Interim assistance measures should be initiated to address the urgent rehabilitation and psycho-social needs of conflict-affected victims, even while processes continue to establish a comprehensive reparation program. Delays in addressing victims needs from the impact of conflict-related violations have resulted in and continue to cause further physical and psychological harms against individuals, their families, and communities.

Implementation matrix for six-month action plan to sustain momentum on transitional justice in South Sudan

	Resolutions	Immediate Tasks	ResponsibleActors
1.	Transitional justice in South Sudan should be holistic and comprehensive in order to achieve sustainable peace.	<ul style="list-style-type: none"> Trust-building between parties to the peace agreement to fast-track implementation of Chapter V and other key provisions of the R-ARCSS, including transitional security arrangements, security sector transformation, judicial reforms, cohesive State and county governance structures, economic and financial reforms, and permanent constitution-making process. 	<ul style="list-style-type: none"> - R-TGoNU - AU - IGAD - R-JMEC - UN & other Development Partners
		<ul style="list-style-type: none"> Engagement between the R-TGoNU, South Sudanese stakeholders and relevant organs of the AU to elicit AU’s enhanced support in implementation of all components of TJ as reflected in Article 5.1.5 of the R-ARCSS. 	<ul style="list-style-type: none"> - AU Commissioner PAPS - AComHPR - MoJCA - Civil Society
		<ul style="list-style-type: none"> Direct communication between the AU Commissioner PAPS and the South Sudanese Ambassador to the AU to facilitate contact in order to ensure that the functionaries can meet to deal with the Memorandum of Understanding (MoU) and other arrangements to establish the HCSS. To be followed by direct dialogue between the AU-Office of Legal Counsel (AU-OLC) and MoJCA, facilitated by the UN-CHRSS, to review the 2017 MoU, broad guidelines, and draft Statute for the establishment of the HCSS, which should incorporate <i>positive complementarity</i> between the HCSS and domestic accountability mechanisms. 	<ul style="list-style-type: none"> - AU Commissioner PAPS - South Sudan Ambassador to the AU - MoJCA - AU-OLC - UN-CHRSS
		<ul style="list-style-type: none"> Identification of and engagement with partners to provide technical assistance to the R-TGoNU on the design and establishment of the CRF/A. 	<ul style="list-style-type: none"> - MoJCA
		<ul style="list-style-type: none"> Development of a comprehensive national TJ strategy to provide a roadmap with specific benchmarks and timelines toward realization of holistic TJ in South Sudan, complementarity between TJ mechanisms and processes, linkages with other provisions of the R-ARCSS, and victim and citizen inclusion, participation, and protection. The strategy must be aligned to and build on, rather than creating a parallel process that would undermine implementation of the peace agreement. 	<ul style="list-style-type: none"> - MoJCA Task Force - AU - PAPS, OLC, AComHPR - UN & other Development Partners - Civil Society

2.	Transitional justice processes and mechanisms should ensure meaningful inclusion and participation of citizens, victims, political and security actors, and other stakeholders at all stages of the design and implementation of TJ-related laws, policies, and mechanisms.	<ul style="list-style-type: none"> Public awareness and sensitization on TJ processes and avenues for engagement and participation – targeting citizens, victims’ groups, and community leaders e.g., chiefs, traditional authorities, religious leaders. 	<ul style="list-style-type: none"> - MoJCA - Ministry of Peacebuilding - Technical Committee on CTRH - Civil Society - Development Partners
		<ul style="list-style-type: none"> Ministry of Gender, Child and Social Welfare should support MoJCA in development of policies to ensure gender-sensitive TJ processes and consultation with marginalized and vulnerable groups. 	<ul style="list-style-type: none"> - Ministry of Gender, Child and Social Welfare
		<ul style="list-style-type: none"> Sustain and scale up efforts to support establishment of victims’ networks for their enhanced engagement in the design, implementation and monitoring of TJ laws, policies, and mechanisms. 	<ul style="list-style-type: none"> - Civil society - UN & other Development Partners - Ministry of Peacebuilding - Ministry of Gender, Child and Social Welfare
		<ul style="list-style-type: none"> Creation of special measures to ensure direct participation of victims in discussions about transitional justice, including public consultations and hearings on the CTRH legislation. 	<ul style="list-style-type: none"> - MoJCA - Technical Committee on the CTRH - Civil society
		<ul style="list-style-type: none"> Allocation of adequate time for national consultations on CTRH – in accordance with R-ARCSS “<i>not less than one month</i>” – to ensure comprehensive, widespread, and inclusive consultations. 	<ul style="list-style-type: none"> - MoJCA - Technical Committee on CTRH
		<ul style="list-style-type: none"> Support grassroots and people-to-people peace and reconciliation processes to complement efforts to promote reconciliation at the national level. Ensure that such efforts are factored into strategic frameworks for TJ at all levels and across the various mechanisms envisaged by the R-ARCSS. 	<ul style="list-style-type: none"> - Ministry of Peacebuilding - MoJCA - Civil Society - UN & other Development Partners

3.	Expansion of civic space and assurance of security, safety and protection of citizens, victims, and witnesses in TJ processes in South Sudan.	<ul style="list-style-type: none"> Fast track review, adoption and implementation of security sector laws and policies to delineate the roles and responsibilities of the National Security Service (NSS) and other security organs, and safeguard citizens' fundamental freedoms. 	<ul style="list-style-type: none"> R-TGoNU - Ministry of Defence and Veterans' Affairs & Ministry of Interior Transitional National Legislative Assembly (TNLA) Civil Society Lawyers' professional association(s)
		<ul style="list-style-type: none"> Fast track implementation of Chapter II of the R-ARCSS – unification, training, graduation, and deployment of security forces – to improve security across the country and create a more conducive environment for transitional justice processes. 	<ul style="list-style-type: none"> R-TGoNU
		<ul style="list-style-type: none"> Minister of Justice and Constitutional Affairs to issue a Ministerial Order for the guarantee of fundamental freedoms and a conducive environment for citizen and victim participation in TJ processes. 	<ul style="list-style-type: none"> MoJCA
		<ul style="list-style-type: none"> Utilize existing domestic and regional accountability mechanisms to pursue accountability and challenge legality and constitutionality of actions by state security actors that violate citizens' fundamental freedoms of expression, association, assembly, press etc. – including through public interest litigation. 	<ul style="list-style-type: none"> MoJCA Ministry of Interior Lawyers' professional association(s) Civil society
		<ul style="list-style-type: none"> Monitor and report on violations by state security actors, and engagement with R-TGoNU on adoption of measures to safeguard citizens' fundamental freedoms and expand civic space, including the provision of psychosocial support and psychological first aid. This will require continuous capacity development for all actors to enhance their awareness and skills and initiate effective measures to continuously mitigate potential risks and ensure safety, protection and well-being of victims, witnesses, and their communities. 	<ul style="list-style-type: none"> Civil society AU UN agencies R-JMEC

		<ul style="list-style-type: none"> • Conduct risk assessments and develop mitigation plans to ensure physical and psychological safety of victims and witnesses, as well as information collected through the Technical Committee for national consultations on the CTRH and other TJ processes, including de-identification of victims and witnesses, and collaboration with CBOs/NGOs for continued protection measures. 	<ul style="list-style-type: none"> - MoJCA - Technical Committee on CTRH - Civil society
		<ul style="list-style-type: none"> • Conduct outreach and sensitize political and military leaders on the importance of a holistic approach to TJ to longer-term peace and stability and seek their assurances to communicate the importance of allowing discussions about TJ to proceed without interference by security organs and relevant institutions at all levels. 	<ul style="list-style-type: none"> - Civil Society - Technical Committee - MoJCA - Ministry of Defence and Veterans' Affairs - UN & Development Partners
4.	Mobilization and allocation of adequate financial and technical resources is essential to ensure effective implementation of TJ processes in South Sudan	<ul style="list-style-type: none"> • Disbursement of SSP 25 million committed by the RTGoNU to kick-start national consultations on the CTRH by the Technical Committee. 	<ul style="list-style-type: none"> - R-TGoNU – Treasury
		<ul style="list-style-type: none"> • Establish a Fund to facilitate contributions from development partners and non-state actors to plug the deficit of the budget required by the Technical Committee to conduct comprehensive and inclusive consultations on the CTRH. 	<ul style="list-style-type: none"> - R-TGoNU - MoJCA - Development partners
		<ul style="list-style-type: none"> • Foster partnerships between the Technical Committee and civil society actors working on TJ to facilitate complementary consultative processes in different parts of South Sudan. 	<ul style="list-style-type: none"> - Civil Society - Technical Committee on the CTRH - Development partners
		<ul style="list-style-type: none"> • Investigations, prosecution, and sanctions against individuals involved in reported cases of economic crimes, including corruption and misappropriation of national resources. 	<ul style="list-style-type: none"> - R-TGoNU –MoJCA - Regional and international actors
		<ul style="list-style-type: none"> • Map actors and allocation of technical support to meet the capacity needs identified by MoJCA in September 2021, including provision of consultants by the AU and UN-OHCHR to support the Task Force overseeing implementation of Chapter V, VI and judicial reforms & Technical Committee on the CTRH. 	<ul style="list-style-type: none"> - UN-OHCHR - AU - Development partners
		<ul style="list-style-type: none"> • Technical assistance, training, logistical and infrastructural support to enhance capacity, reach, and coordination of domestic accountability mechanisms to address conflict-related violations including military justice courts; traditional/customary law courts; SGBV court; mobile courts; and SGBV police 	<ul style="list-style-type: none"> - Development partners

		protection units and one-stop centers.	
5.	Interim assistance measures should be initiated to address the urgent rehabilitation and psycho-social needs of conflict-affected victims, even while processes continue to establish a comprehensive reparation program.	<ul style="list-style-type: none"> • Conduct comprehensive assessment to concretely identify victims' immediate and long-term needs and priorities, including building on existing documentation obtained by civil society and humanitarian actors, and survivors' groups. 	<ul style="list-style-type: none"> - R-TGoNU - UN Agencies & Development partners - Humanitarian actors - Civil society
		<ul style="list-style-type: none"> • Support victims and survivors to voice their needs and inform discussions on interim assistance, including facilitation of exchanges and sharing of experiences with victim groups in other countries. 	<ul style="list-style-type: none"> - Civil Society - Development Partners
		<ul style="list-style-type: none"> • Collaboration between R-TGoNU, humanitarian actors, and development partners to secure resources and initiate interim assistance measures to address impact of conflict-related violations on victims, including access to physical, psychological, sexual and reproductive health care; education; and socio-economic assistance. 	<ul style="list-style-type: none"> - R-TGoNU - Humanitarian actors - Civil society