

Transitional Justice and the needs of Victims of Conflict-Related Sexual Violence in South Sudan conflict. Is a Holistic Victim-Centered Approach Needed?

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Introduction

Sexual violence has been used as a tactic and strategy for waging war with devastating consequences reported in numerous conflicts in over 50 conflicts across the globe¹ including more recent conflicts in South Sudan,² Ethiopia,³ and Ukraine.⁴ There is now recognition that conflict-related sexual violence (CRSV) is a weapon of war and a threat to international peace and security.⁵ CRSV includes 'rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls, or boys that is directly or indirectly linked to a conflict'.⁶

CRSV has been widespread in the South Sudan conflict since 2013 and continued even after the signing of the peace agreement on 12 September 2018. For example, between January 2018 and January 2020, the UN Mission for South Sudan (UNMSS) documented 356 incidents

¹ Megan Bastick, Karin Grimm and Rahel Kunz, *Sexual Violence in Armed Conflicts: Global Overview and Implications for the Security Sector* (Geneva Centre for the Democratic Control of Armed Forces 2007).

² UN Human Rights Council, 'Conflict-related sexual violence against women and girls in South Sudan' (21 March 2022) UN Doc A/HRC/49/CRP.4.

³ UN Human Rights Council, 'Report of the International Commission of Human Rights Experts on Ethiopia' (19 September 2022) UN Doc A/HRC/51/46, paras 55-70; Amnesty International, 'Ethiopia: Troops and militia rape, abduct women and girls in Tigray conflict' (10 August 2021) available at <https://www.amnesty.org/en/latest/news/2021/08/ethiopia-troops-and-militia-rape-abduct-women-and-girls-in-tigray-conflict-new-report/> accessed 11/09/2023.

⁴ See UNGA, 'Independent International Commission of Inquiry on Ukraine' (18 October 2022) UN Doc A/77/533 para 88-98 available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/637/72/PDF/N2263772.pdf?OpenElement> accessed 11/09/2023; AFP, *Rape used in Ukraine as a Russian 'military strategy:'* (14 October 2022) available at <https://www.france24.com/en/live-news/20221014-rape-used-in-ukraine-as-a-russian-military-strategy-un> accessed 11/09/2023.

⁵ United Nations Security Council, 'Resolution 1888 (2009) Adopted by the Security Council at its 6195th meeting' (30 September 2009) UN Doc S/RES/1888 (2009), para 1.

⁶ Conflict-Related Sexual Violence s/2020/487 Report of the United Nations Secretary-General (03rd June 2020). [2019-SG-Report.pdf \(un.org\)](https://www.un.org/2019-SG-Report.pdf) 08 04 2023; For a scholarly discussion on the specific acts of sexual violence that can be included as a weapon of war and the motivations see Sara Meger, 'Sexual Violence as a Weapon of War' in Sara Meger (ed), *Rape Loot Pillage: The Political Economy of Sexual Violence in Armed Conflict* (OUP 2016) 93-114.

of CRSV involving 1423 victims, 302 of which were children.⁷ The goal of using sexual violence as a weapon of war in this conflict has been to ‘humiliate, terrorize and tear apart the social fabric of families and communities, to forcibly displace civilians, and to inflict individual and collective trauma’.⁸ The victims of CRSV in South Sudan are many and so too are the needs of these victims in relation to restorative and retributive justice. Accountability for perpetrators of these atrocities seem to have dominated the discourse on how transitional justice can deal with the legacies of CRSV in South Sudan⁹ and does not take into full account the complex nature of addressing the problem and the full spectrum of needs that victims of CRSV have.

Transitional justice is the response to ‘systemic or widespread’ human rights violations. This process is often tailored to the needs of countries going through a transformation after a period of pervasive human rights violations which can either be immediate or over time. The goal is to promote opportunities for peace, reconciliation, and democracy while also acknowledging victims.¹⁰ This paper argues that a holistic victim-centred approach to transitional justice is the most effective way to address the needs of victims of CRSV in South Sudan. The holistic victim-centred approach is a more comprehensive method of addressing the root causes of violations of victims and the needs of victims, especially women and girls, and helps survivors rebuild their lives by the ideals of gender equality and human rights. This paper draws on an approach that has four main goals for addressing the needs of victims of CRSV: (i) access to medical care for victims, (ii) access to justice, (iii) psychosocial support, and (iv) community reintegration.

This paper is split into four sections, the second section examines the extent of CRSV in South Sudan to underscore the significance of the problem and the need for a comprehensive approach to addressing the problem. Section three evaluates the transitional justice provisions in the Peace Agreement to determine the extent to which they embrace a holistic approach to addressing the issue of CRSV and the needs of victims. The final section of the

⁷ UN Mission for South Sudan, ‘Access to Health for Survivors of Conflict-Related Sexual Violence in South Sudan’ (1 May 2020) para 23 available at <https://www.ohchr.org/en/documents/country-reports/report-access-health-survivors-conflict-related-sexual-violence-south> accessed 11/09/2023

⁸ Ibid, para 24.

⁹ Steven C Roach, “South Sudan: A Volatile Dynamic of Accountability and Peace” (2016) 92 (6) International Affairs (Royal Institute of International Affairs 1944-), vol. 92, no. 6, 2016, pp. 1343–59

¹⁰ International Centre for Transitional Justice (ICTJ). Focus: Transitional Justice (2009). <https://tinyurl.com/bddj6cxs> Accessed 08 04 2023

paper examines the role of relevant transitional justice mechanisms in addressing victims' needs, and the relationship and argues for a holistic victim-Centred approach in addressing CRSV in South Sudan.

The Extend of Conflict-Related Violence in South Sudan

The crisis in South Sudan, which started in December 2013, has been widely reported to be characterized by sexual violence, which is pervasive and unsettling. Cases of sexual violence, including rape, gang rape, sexual slavery, forced marriage, and sexual mutilation, have been reported in several reports from international agencies, human rights organizations, and local NGOs. All parties to the conflict, including government forces, armed opposition organizations, and militias supporting either side, have participated in these atrocities.¹¹ The former United Nations (UN) Special Representative of the Secretary-General on CRSV in South Sudan, Zanaib Bangura, was very disheartened as she described the situation be 'the worst I have seen in my over 30 years dealing with this subject'. This goes to show the extent of the issue of CRSV in South Sudan. The UN has also generated some definite Security Council Resolutions describing and condemning CRSV as a 'tactic or weapon of war'. Regardless of mainstreaming CRSV into policy, it is still an issue of grave concern.¹²

According to the UN Secretary-General report 2019 on CRSV, there was a decrease in the numbers which were significantly higher in the previous reports. In 2019, 224 cases of CRSV with over 95% being women and girls.¹³ There was a decrease in the number of cases recorded by the UNMISSSIONS in 2020 with 193 cases, and over 95% were females.¹⁴ Despite the slight increase in the number of cases recorded between January and December of 2021, women and girls remain the majority that suffer from CRSV in South Sudan with 194 cases recorded, 130 women, 35 girls, 28, men, and 1 boy. Therefore, a one-dimensional approach

¹¹ Amnesty International, 'If You Don't Cooperate, I'll Gun You Down Conflict-Related Sexual Violence and Impunity in South Sudan' (2022) p.5.

<https://tinyurl.com/2f6d9ax5> Accessed on 08 April 2023

¹² Alicia Elaine Luedke, Hannah Faye Logan, 'That Thing of Human Rights: Discourse, Emergency and Sexual Violence in South Sudan's Current Civil War' (January 2018) Vol.42(S1) p.S99-S118, Gender, sexuality, and violence in humanitarian crises. Disaster. P. S100.

<https://tinyurl.com/bkk3kshs> Accessed 09 04 2023.

¹³ Conflict-Related Sexual Violence s/2020/487 Report of the United Nations Secretary-General (03rd June 2020)[2019-SG-Report.pdf \(un.org\)](https://www.un.org/News/Press/docs/2020/2020062019-SG-Report.pdf) Accessed 08 04 2023.

¹⁴ Conflict-Related Sexual Violence s/2020/487 Report of the United Nations Secretary-General (30th March 2021) [SG-Report-2020editedsmall.pdf \(un.org\)](https://www.un.org/News/Press/docs/2021/20210321-SG-Report-2020editedsmall.pdf) Accessed 08 04 2023

of viewing CRSV only as a 'weapon of war' as portrayed in these reports is questionable. To properly appreciate the effects of CRSV, it is essential to comprehend the social and cultural context in which it happens. This includes patriarchal systems of control and gender discrimination, as well as social, political, legal, and economic marginalization of women.¹⁵ It is important to note that, CRSV is a result of historical and systematic gender inequality as well as a patriarchal and militarized society in which girls and women are subservient to boys and men.¹⁶ While it is important to see CRSV as a weapon of war it is also important to note other factors that affect women particularly which explains why they are the majority victims.

The needs of victims could be classified into practical and strategic needs, especially women. The practical needs are the immediate needs like shelter, food, protection, and access to health care. Strategic needs are long-term needs that address the systemic inequalities that promote violence. These include legal access, rights to inheritance, and livelihood, reproductive rights, and even compensation which includes access to medical care. Both needs are mutually reinforcing and need to be addressed to ensure a victim-centered approach.¹⁷ CRSV victims require immediate medical attention, including treatment for injuries, HIV testing, and access to emergency contraception. Also, CRSV victims may experience trauma, anxiety, depression, and other psychological symptoms because of their experiences. Thus, psychosocial support, such as counseling and therapy, can help survivors to cope with these challenges and begin to heal. The victims of CRSV equally require legal assistance to seek justice and hold perpetrators accountable. Still, victims of CRSV are often at risk of further harm, including retribution from perpetrators and social stigmatization. Therefore, protection measures, such as safe shelters, security escorts, and community mobilization, are crucial to ensure the safety and well-being of victims. However, meeting these needs can be very challenging especially as most of these violations occur in rural communities where medical, legal, and social services are often inadequate or non-existent,

¹⁵ Human Rights Council, Conflict-related sexual violence against women and girls in South Sudan: Conference room paper of the Commission on Human Rights in South Sudan. (28 February–1 April 2022)

<https://tinyurl.com/4ce4bj3f> Access 04 01 2023

¹⁶ *ibid* 4.

¹⁷ United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), 'Conflict-Related Sexual Violence in Asia-Pacific: Putting Victims/ Survivors First' (2017).

[WPS-00-FINAL-CRSV-PACKAGE.pdf \(unwomen.org\)](#) Accessed 08 04 2023.

especially in situations of armed conflict like South Sudan. Thus, the need to employ a victim-centred approach with a one-stop centre as was the case in the Congo.¹⁸

Transitional Justice Provisions in the Peace Agreement.

The Peace Agreement of South Sudan, signed on September 12, 2018, by all parties involved in the civil war, includes several provisions related to transitional justice as chapter five is dedicated to this course. These provisions aim to address the human rights violations and abuses that occurred during the conflict in South Sudan, promote accountability and reconciliation, and establish a framework for a peaceful and stable future for the country.¹⁹ The objective of the Revitalized Peace Agreement was to put an end to the civil war that had been unfolding in South Sudan since 2013. The Intergovernmental Authority on Development (IGAD) headed the mediation effort.²⁰ IGAD is an intergovernmental organization created in 1996 by eight member states to combat drought.²¹

Transitional justice mechanisms outlined in the Revitalised Peach Agreement are both restorative and retributive. According to articles 5.1.1, 5.1.2, and 5.1.3, there shall be the establishment of a Commission for Truth, Reconciliation, and Healing (CTRH), an independent Hybrid Court called the Hybrid Court of South Sudan (HCSS), and Compensation and Reparation Authority respectively.²² An argument can be advanced that the mandate of this transitional government is focused more on restorative justice on healing the country through truth-seeking and reparations. However, by including the Hybrid Court, is more of a holistic approach to transitional justice as it combines both restorative and retributive approaches. As for some violations like CRSV, feminists have often argued that trials are not always the best way to address them. This is because criminal proceedings further enhance the trauma

¹⁸ Panzi Foundation *Handbook: Holistic Care for Survivors of Sexual Violence in Conflict* (2019) p.10-11. <https://tinyurl.com/4thp7e6d> Accessed 09 04 2023.

¹⁹ United Nations Human Rights. Office of the High Commissioner (OHCHR). 'OHCHR: Transitional Justice and Human Rights' <https://www.ohchr.org/en/transitional-justice> 08 04 2023

²⁰ Apuuli Kasaija Phillip 'IGAD's Mediation in the Current South Sudan Conflict' (April-June 2015) Vol. 8, No. 2. African Security Taylor & Francis p.120. <https://tinyurl.com/3fxdycmk> Accessed 08 04 2023.

²¹ African Union. Intergovernmental Authority for Development (IGAD). History <https://au.int/en/recs/igad> 08 04 2023

²² Intergovernmental Authority on Development (IGAD) Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) (12 September 2018) <https://tinyurl.com/9zsdj8hb> Accessed 06 04 2023.

of victims as was the case of the International Tribunal of the Former Yugoslavia.²³ Thus, the Peace Agreement has learned from past experiences of countries like South Africa which was more focused on reparation and compiling historical records, and the Former Yugoslavia which was more focused on the trials which left many victims, especially of sexual violence disappointed. Also, tribunals like that of the Former Yugoslavia, Rwanda, Sierra Leone, and Cambodia, the Special Panel Court, and the International Criminal Court (ICC) all recognize CRSV especially rape as a crime against humanity and genocide which explains the Hybrid Courts.²⁴ Therefore, to provide a more comprehensive approach to dealing with the legacies of human rights violations focusing on one over the other does not necessarily meet the needs of victims as some victims prefer trials and other reparation while others just want to tell their stories or forget. As such, this comprehensive approach puts victims' needs at the fore by offering them different options depending on which is best suited for each victim. The establishment of the CTRH and HCSS in 2021 is a step in the right direction in addressing the needs of victims of CRSV which include but are not limited to the right to the truth, justice, reparation, and non-reoccurrence.²⁵

Upon their formation, the CTRH, HCSS, and CRA will work independently to further the shared objective of supporting the promotion of truth, healing, and reconciliation as well as restitution and reparations in South Sudan.²⁶ Hence, the implementation of the peace agreement is imperative for the success of the mandate of the transitional government. All parties to the peace agreement should commit to implementing the agreement in its entirety, including the provisions related to sexual violence. This includes the establishment of a justice system that can hold perpetrators of sexual violence accountable for their actions.

The Role of Transitional Justice Mechanisms in Redressing Violations of CRSV

²³ Damian Etone. 'The Prospects and Potential Advantages and Disadvantages of a Regional Truth-Seeking Mechanism in the West Balkans' (Fall 2016) Vol. 2(2) The International Journal of Conflict & Reconciliation, p.7. <https://tinyurl.com/ygh89xpt> Accessed 10 03 2023.

²⁴ Patricia Viseur Sellers 'The Prosecution of Sexual Violence in Conflict: The Importance of Human Rights as Means of Interpretation' p.11 <https://tinyurl.com/hkp6prtu> Accessed 10 04 2023

Helen Durham, and Katie O'Byrne. 'The Dialogue of Difference: Gender perspectives on International Humanitarian Law'. (March 2010), Vol (2 No. 877. International Review of the Red Cross. 36.

²⁵ Marta Hurtado, United Nations Human Rights. Office of the High Commissioner (OHCHR). 'Press briefing notes on South Sudan' (2 February 2021) <https://tinyurl.com/bdz42ysh> Accessed 09 04 2023.

See Ibis 1. P.3

²⁶Ibid 13. Article 5.1.3.

Transitional justice in achieving its goal of addressing the legacies of gross human rights violations like CRSV in South Sudan could employ either restorative or retributive mechanisms. Restorative justice is concerned with victim empowerment and promoting healing, while retributive justice provides a sense of closure and deterrence.²⁷ The choice of either or both mechanisms depends on the specific circumstances, needs, and preferences of the victim as well as the general goal of the transitional justice process. Ultimately, it is important to ensure that any mechanism chosen is sensitive to the needs of the victim and supports the path to healing and recovery both as individuals and as a community or country. Restorative justice can be particularly effective in seeking justice for victims of CRSV in South Sudan by empowering victims, giving them a voice and a chance to participate in the justice process which promotes healing and reduces trauma. Examples of restorative mechanisms are truth and reconciliation commissions, reparation, lustration vetting amnesty, and administrative reforms. However, restorative justice requires the willingness of both the offender and the victim to participate, which may not always be possible in cases of CRSV, particularly in South Sudan where the perpetrators are mostly armed groups dominating the victim. This trend is evident in the reports by the UN and Amnesty International where the military and armed militias as well as local armed groups were all implicated as perpetrators of CRSV. Accordingly, where perpetrators are influential, it is important to bring in punitive justice to change the narrative of impunity associated with these violations that are rooted in patriarchal systemic norms. Nevertheless, not all CRSV is perpetrated by combatants as other underlying factors equally contribute to these violations like Ivory Coast and Columbia.²⁸ Retributive justice, on the other hand, is focused on punishing the offender for their crimes. It involves a formal legal process in which the offender is held accountable for their actions and punished accordingly examples are 'local, national, or international civil and/or criminal trials. However, retributive justice can also be difficult to achieve in cases of CRSV, particularly in conflict-affected areas, where the legal system may be weak or non-existent.²⁹

²⁷ Howard Zehr, 'Doing Justice, Healing Trauma: The Role of Restorative Justice in Peacebuilding' (Spring 2008) Vol. 1(1) South Asian Journal of Peacebuilding, Peace Prints p.3. <https://tinyurl.com/mvfi655p> Accessed 28 03 2023.

²⁸ Elisabeth Jean Wood. 'Conflict-related sexual violence and the policy implications of recent research' (2014) 96 (894) International Review of the Red Cross. 457–478. 495. <https://tinyurl.com/43ymjwd7> Accessed 10 04 2023

²⁹ Ibid 15. 2

The difficulty of gathering evidence and identifying perpetrators is one of the main drawbacks of transitional justice processes in addressing sexual abuse. This is because CRSV is frequently committed in secret, and victims are often reluctant to come out for fear of 'reprisals and stigma'. In addition, those who commit CRSV could be challenging to find because they might have done so covertly often by armed groups as such, many instances of CRSV go unreported, and even when they are, it can be challenging to gather the proof required to hold offenders accountable.³⁰ The lack of political will to pursue accountability for these crimes is another disadvantage of transitional justice processes in resolving CRSV. Political leaders occasionally engage in CRSV or refrain from seeking redress out of concern for their standing in society. In other instances, there can be a lack of resources or competence to investigate and prosecute CRSV cases, or there might be a lack of awareness of how crucial it is to deal with these crimes within the framework of transitional justice.³¹

Notwithstanding these drawbacks, transitional justice procedures have been used to address sexual violence in various situations with some degree of effectiveness. As an illustration, the International Criminal Tribunal for Rwanda (ICTR) and the ICC respectively have brought cases against people for sexual assaults that occurred during the genocide in Rwanda and the conflict in the Democratic Republic of the Congo which saw the conviction of the Congolese Vice President by the ICC.³² Truth and reconciliation commissions have additionally given victims of sexual assault a platform to discuss their experiences and have assisted in raising awareness of the problem.

Holistic Victim-Centred Approach, Transitional Justice Mechanisms, and Addressing CRSV

To address CRSV in South Sudan, it is imperative to integrate a holistic victim-centred approach into transitional justice mechanisms. The holistic victim-centred approach is a comprehensive strategy that puts victims and survivors at the centre of interventions, offers them extensive assistance, and attends to their physical, psychological, social, and economic needs. Transitional justice mechanisms, on the other hand, refer to a collection of policies and tactics intended to redress the legacy of grave human rights abuses in post-conflict communities. These policies and tactics include truth commissions, reparations, criminal

³⁰ Ibid 9. 24

³¹ Ibid 9.38

³² Human Rights Watch. 'A World Report' (2018). [World Report 2018 Book \(hrw.org\)](https://www.hrw.org/world-report-2018) Accessed 09 04 2023.

prosecutions, and institutional reforms. But, in the interest of effectively addressing the needs of victims, all parties including the government, the community, and the victims must take part.

Commission for Truth Reconciliation and Healing (CTRH)

In designing the 'conceptual framework' of the commission, whose mandate is to 'spearhead efforts to address the legacy of conflict, promote peace, national reconciliation and healing'.³³ Priority should be given to victim consultation to understand their perspectives and experiences as was the case in South Africa where restorative techniques were considered. This can be accomplished by using participatory techniques such as focus groups and community consultations to address the underlying causes of violence. Also, to put an end to further violations, the root causes of CRSV like patriarchal norms, and the commodification of the female body often used as a reward for combatants in South Sudan must be addressed.

Generally, conflicts and harm if not always involve issues of fairness and injustice, and these issues of injustice frequently involve trauma. 'Every violence is an effort to do justice or undo injustice', as discussed by James Gilligan. To address these questions of 'justice and injustice', both conflict and justice systems must develop new strategies. Restorative justice offers a framework for doing this. Consistent with the goals and tenets of conflict transformation restorative justice could be considered a way to alter conflicts and promote peace.³⁴ Consequently, in addressing CRSV in South Sudan, the Commission will offer an opportunity for victims to tell their stories, and it will also provide a comprehensive historical record of systemic CRSV. Though other truth commissions around the world like in Uganda, Argentina, Bolivia, Zimbabwe, Uruguay, and the Philippines did not do public hearings like South Africa, however, focusing on the victim, doing public hearings would mainstream the CRSV in South Sudan and give the crime more visibility and reduce stigmatization as it will no longer be a taboo subject.³⁵

To remedy historical violations of human rights, truth commissions are transitional justice processes. They seek to establish the truth about previous wrongdoings, offer victims

³³ Ibid 14.58.

³⁴ Ibid 19.

³⁵ Robert .I. Rotberg, 'Truth Commissions and the Provision of Truth, Justice, and Reconciliation' *Truth v. Justice* Princeton University Press (2000) p.4. <https://tinyurl.com/4uwyf28j> Accessed 10 04 2023

compensation, and foster peace. By giving victims a forum to express their stories and hold offenders accountable, truth commissions can be utilized to address sexual abuse in settings of transition. Truth commissions, however, may not fully satiate the urge for vengeance because they are not intended to give criminal justice. One of the main goals of truth commissions is to enhance reconciliation which often accountability of perpetrators is sacrificed to enhance national peace.³⁶ However, some scholars have argued the efficiency of this truth-telling process pointing out that some victims prefer to forget as these commissions become an 'arena of contested truths'³⁷

Hybrid Court of South Sudan

Article 5.3.2.1.4. of the Revitalised Peace Agreement gives this court special jurisdiction to try cases of gender-based violence for which CRSV is an integral part. Justice and peace are closely related, to achieving accountability for atrocity crimes is crucial for the consolidation of peace in post-conflict countries. This serves as a potential deterrence when done properly because Impunity damages the social fabric of societies and creates mistrust among communities especially towards the State, thereby weakening a permanent peace.³⁸ Owing to feminist activism and research, attention to the problem of sexual violence in war gained a new status elevating conflict-related rape to the top of international policy agendas. Rape and other similar crimes in armed conflict are now punishable under the Rome Statute of the International Criminal Court (ICC), which went into effect July 1, 2002. The lack of Political will to fully implement the peace agreement, undermine the transitional justice process³⁹.

The parties to the agreement have been slow to implement key provisions, including those related to transitional justice. As re-echoed by the UN Secretary-General in his 2022 recommendation to South Sudan, It is imperative to consider his recommendation which implores the authorities to put into effect the 2018 Revitalized Agreement on the Settlement of the War in the Republic of South Sudan, including the security measures, especially those about the unity of troops. He further demands that the action plan for the armed forces on

³⁶ Ibid 28.9.

³⁷ Rosalind Shaw, Rethinking 'Truth and Reconciliation Commissions': Lessons from Sierra Leone', Special Report, no. 130. Washington, D.C., United States Institute for Peace, 2005. Accessed 10 04 2023. <https://tinyurl.com/27ef8nzn> Accessed 04 04 2024. <https://tinyurl.com/5n8jfprx> Accessed 10 04 2023

³⁸ United Nations, Office on Genocide Prevention and Responsibility to Protect, Accountability. <https://www.un.org/en/genocideprevention/accountability.shtml#> Accessed 10 04 2023.

addressing sexual violence linked to the crisis in South Sudan be fully implemented.⁴⁰ While combatants were frequently accused of committing CRSV, this action plan aimed to increase trust between the military and civilian populations. It projected a six-pillar strategy that included external communication, training, awareness-raising, sensitization, accountability, and oversight, protection of victims, witnesses, and judicial actors, as well as monitoring, evaluating, and reporting on CRSV in South Sudan. It also called for mainstreaming sexual violence consideration into the security agreement, which was done.⁴¹ For example, the military court in 2020 prosecuted 28 and convicted 26 soldiers though some victims were still not convinced they were still in custody even though this military effort has been widely praised.⁴²

Compensation and Reparation

The rule of law, peacebuilding, and institutional reform process are all strengthened by reparations and compensation. A longer-term vision of social change is impossible if the necessity for reparations such as ‘monuments, parks, and renamed structures in addition to money’ is disregarded, according to Martha Minow.⁴³ Therefore reparation is integral to the peace process and seeking justice for victims of CRSV in South Sudan. Some victims who were to receive compensation as ordered by the military court were still not paid after a year. This is because reparation is often expensive as people prefer to pay a personal rather than a financial price. The cases of South Africa and Rwanda show that though reparations are good, they are also very expensive and countries in transition are often economically not viable in paying reparation schemes as they are very expensive to run. Reparations can be in the form of compensation or subsidized housing, medical, and educational where disadvantaged people can access these services at a reduced or free rate.⁴⁴

Limitations of the victim-centred approach include a lack of awareness. CRSV victims could be unaware of their rights or may lack trust in the justice system, which can impede their

⁴⁰ Ibid 9.3.

⁴¹ The Republic of South Sudan Joint Defence Board (JDB), Action Plan for the Armed Forces on Addressing Conflict-Related Sexual Violence in South Sudan. (January 2021- December 2023). P.11-17
<https://tinyurl.com/vh9f4kur> Access 10 04 2023

⁴² Ibid 10.37.

⁴³ Ibid 29. 12.

⁴⁴ Bloomfield David, Reconciliation: An Introduction. in Bloomfield David and Barnes Teresa and Huyse Luc (eds), Reconciliation After Violent Conflict A Handbook Bulls Tryckeri AB Halmstad (2003) 16.
<https://tinyurl.com/yuyyff78> Accessed 11 04 2023.

participation in transitional justice mechanisms. Deficiency of resources for implementation, transitional justice mechanisms can be resource-intensive, and funding may not always be available to address the needs of CRSV victims. The victim-centred approach may prioritize the needs of certain groups over others, leading to the marginalization of some CRSV victims. Integrating the victim-centred approach to transitional justice mechanisms to address the needs of victims of CRSV in South Sudan requires political will and support from the government, which may not always be forthcoming, particularly as some government actors are implicated in the CRSV.

Conclusion

Seeking justice for victims of sexual violence during the South Sudan conflict has been a challenging and complex process. Despite efforts by the government and international community to address the issue, progress has been slow and hindered by a range of obstacles. To address CRSV in South Sudan a victim-centred approach and transitional justice schemes are crucial. The victim-centred approach puts survivors at the centre of the legal system, giving them the power to actively participate in their healing and ensuring that their voices are heard. Recoding historical facts is made possible by transitional justice procedures including truth commissions, prosecutions, and reparation, which also offer victims healing, accountability, and deterrence. These procedures can aid in addressing the underlying factors that contribute to CRSV, such as structural inequity, impunity, and a culture of violence. A major obstacle has been South Sudan's underdeveloped legal system, lack of political will, and lack of financial resources. It has also been challenging to hold those responsible for sexual violence accountable due to a culture of impunity and reluctance to disclose incidents. Nevertheless, there have been some encouraging developments, such as the creation of the CTRH and HCSS in 2021, tasked with investigating and prosecuting individuals responsible for crimes against humanity like CRSV and other serious violations of international law. Additionally, victims of CRSV through the Truth Commission gain access to a range of support including but not limited to counselling. Truth commissions and criminal prosecutions both strive to investigate, compile, and explain the circumstances surrounding violations, but they

have different goals, strategies, and processes. They may be complementary and supportive of one another at times, and incompatible in theory and practice at others.⁴⁵

It is essential that attempts to pursue justice for South Sudanese victims of CRSV are given priority and support going forward. This includes enhancing the legal system and ensuring that offenders are made to answer for their deeds. It is crucial to give victims access to a range of services, such as medical attention and psychosocial support. Justice for those who suffered sexual assault during the South Sudanese conflict may only be achieved in the long run with persistent efforts.

⁴⁵ Sunga Iyal S, Ten Principles for Reconciling Truth Commissions and Criminal Prosecutions. in Jose and others (eds), *The Legal Regime of the International Criminal Court* Martinus Nijhoff Publishers (2009) 1071. <https://tinyurl.com/2kxhbxe2> Accessed 11 04 2023.