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Access to Justice and Rule of Law Project

Summary Findings of the Perception Survey on Truth, Justice, Reconciliation and Healing in South Sudan

July 2015

Background

On 15 December 2013 fighting began amongst members of the South Sudanese Presidential Guard. Within 24 hours, violence spilled over into residential areas and civilians were targeted along ethnic lines. Conflict quickly spread beyond Juba to the three states of the Upper Nile region—Jonglei, Unity and Upper Nile. Forces loyal to the former Vice-President Riek Machar Teny fought with the Government forces and came to be known as the Sudan People's Liberation Movement-in-Opposition (SPLM-IO). The conflict was sparked by a political dispute that had been brewing for many months among the leadership of the ruling Sudan People's Liberation Movement (SPLM) party. The fighting has displaced over two million people, including 1.6 million internally displaced persons (IDPs) and 607,608 refugees.ⁱ More than 100,000 of these IDPs are being housed in UNMISS protection of civilian (PoC) sites. There are no reliable figures regarding the number of people killed as a result of the large-scale violence that erupted in December 2013, but estimates are as high as 50,000.ⁱⁱ The more recent and still ongoing clashes in South Sudan's Upper Nile and Unity States have forced an additional 100,000 people to flee. Though triggered by politics, the speed and intensity with which the conflict spread points to a number of underlying problems, including the failure to separate the military from politics, the inability to transform South Sudan's oil wealth into tangible benefits for the majority of its people, and the legacy of decades of violence and trauma from past wars.

The 2013 violent crisis that erupted in Juba, is the latest chapter in a long history of conflict for the people of South

Sudan, whose legacy of violence in the country has been left largely unaddressed. Unresolved grievances linked to decades of civil war, a culture of impunity in the political and military class, the silence and denial that accompany mass human rights abuses, and the mental health consequences of decades of trauma are among the many factors driving the current conflict between the governing SPLM and the opposition faction SPLM-IO.

The ongoing conflict has put issues of truth, justice, reconciliation and healing on the national, regional and international agenda for South Sudan. Previous discussions on how to approach these issues have largely been restricted to high-level actors in peace talks mediated by the Intergovernmental Authority on Development (IGAD), policy-makers and a few institutions involved with reconciliation activities, such as the National Platform for Peace and Reconciliation (NPPR). In addition, the African Union (AU) established a commission of inquiry to investigate human rights violations and other abuses committed during the conflict and to make recommendations on the best ways to ensure accountability, reconciliation and healing. The commission completed its work towards the end of 2014, but the final report is yet to be made public.

Despite the immense national importance of these issues, the broader population has not been engaged in a meaningful way. Poor communication between the political elite at the national level and communities at the grassroots level serves as a significant impediment to efforts to consolidate peace.

Peace Process

Immediately following the outbreak of violence in December 2013, IGAD commenced mediation efforts between the warring parties SPLM and SPLM-IO. Over the course of months, the negotiation process led to a string of agreements. The warring parties signed the first cessation of hostilities agreement on 23 January 2014,ⁱⁱⁱ and proceeded to violate it immediately thereafter. On 5 May 2014, they signed a recommitment to the cessation of hostilities agreement,^{iv} followed by a 9 May “agreement to resolve the crisis”.^v The 9 May agreement called for a transitional government of national unity to be established. On 25 August 2014, IGAD issued a *Protocol on Agreed Principles on Transitional Arrangements Towards Resolution of the Crisis*,^{vi} a document that raised issues relating to transitional justice^{vii}, reconciliation and healing for the first time. Articles 23 and 24 outline two institutions that would be at the center of these efforts: a Commission for Truth, Reconciliation and Healing, and an independent judicial body.

In October 2014, a parallel intra-party dialogue aimed at resolving the rift in the SPLM was initiated in Arusha, Tanzania, under the auspices of the Tanzanian Chama Cha Mapinduzi (CCM) party. The dialogue resulted in the Arusha Communiqué^{viii} that included articles on public apologies from the SPLM leadership; on the development of a comprehensive programme for national unity, peace, reconciliation, healing and promoting harmony amongst the people of South Sudan; barred those convicted of crimes against humanity, war crimes, crimes against peace or gross human rights violations and abuses during the crisis from public office; and committed the parties to the establishment of a comprehensive system of transitional justice. The intra-party dialogue was immediately followed by another agreement from the IGAD peace process in Addis entitled *Areas of Agreement on the Establishment of the Transitional Government of National Unity (TGoNU) in the Republic of South Sudan*.^{ix} Section VI of the agreement addresses issues of justice, accountability, reconciliation and healing. Despite these provisional settlements, on 5 March 2015, a deadline for the parties to approve terms of a political settlement passed without agreement. In response, the UN Security Council established a framework for targeted individual sanctions for those undermining the peace process or committing serious violations of international human rights and humanitarian law. At the time of writing in June 2015, the IGAD-process is making another attempt to secure a peace agreement through an initiative called IGAD-plus, which provides for the involvement of a broader group of actors. The expanded group includes representatives from five additional African

nations (Algeria, Chad, Nigeria, Rwanda and South Africa), the Troika (US, UK and Norway), China, the EU, AU and UN. Despite the ongoing efforts to secure peace, the recent fighting in Unity State and Upper Nile tells a different story. One of the main criticisms of the IGAD-led peace process is the extent to which it is disconnected from the population of South Sudan which is also reflected in several aspects of the survey data.

In August 2015, after the finalization of the report and this summary, the Government of the Republic of South Sudan, SPLM-IO and other stakeholders signed a peace agreement aiming to end the conflict. Although the report and this summary do not discuss these recent developments, the final terms of the peace agreement as it relates to transitional justice and national reconciliation are substantially the same as what is discussed in the report.

Perception Survey and Methodology

The UNDP’s Access to Justice and Rule of Law Project (A2J/RoL), and the South Sudan Law Society (SSLS) conducted a six-month survey on public perceptions of truth, justice, reconciliation and healing (October 2014 to April 2015) with funding from the Government of the Netherlands. The survey targeted a total of 1,525 individuals (747 men and 778 women) in 11 locations across six states as well as Abyei area. Researchers followed randomly selected interviews with a series of purposive sampling techniques designed to overcome issues of over- and under-representation caused by forced migration and the inability of field teams to safely access key areas of the country. When possible, every other interview was conducted with a woman to achieve 50 fifty percent gender parity. Given the sensitive nature of our questions and prevalence of sexual and gender-based violence, whenever possible researchers worked to ensure that women interviewed women, and men interviewed men. The survey instrument consisted of a series of closed and open-ended questions divided into 9 modules on demographics, peace processes, reconciliation, truth and remembrance, accountability, amnesties, reparations, exposure to trauma, and Post Traumatic Stress Disorder (PTSD). For several closed questions, respondents were given multiple answers to choose from. The enumerators used the Kobo Toolbox on smartphones to collect the data.^x It represents one of the first efforts to measure demand for programming on truth, justice, reconciliation and healing in South Sudan. The findings, alongside other material, tools and research, are a foundation to guide any support to transitional justice processes and mechanisms. By engaging with the local population, surveys such as these also function

as channels for South Sudanese citizens to add their voices to the complex political process required to develop a strategy for truth, justice and reconciliation. This summary provides the key findings, conclusions, and key recommendations drawn from the survey report.

Awareness and Familiarity with Peace Processes

Of the 60 percent of respondents who say they are aware of ongoing efforts to resolve the crisis in South Sudan, IGAD is the most frequently cited initiative (69%). Seventy percent had no or very little confidence in its ability to bring a lasting peace. A significant number of people also express familiarity with national-level processes such as the Committee on National Healing, Peace and Reconciliation (CNHPR) (36%) and the National Platform on Peace and Reconciliation (NPPR) (30%). However, only 8% reported familiarity with locally-driven initiatives at the grassroots level.

Data from the survey also demonstrates a gender gap; men (82%) are far more likely to be aware of the IGAD-led peace process than women (36%).

Figure 1: Familiarity with peace processes (%):

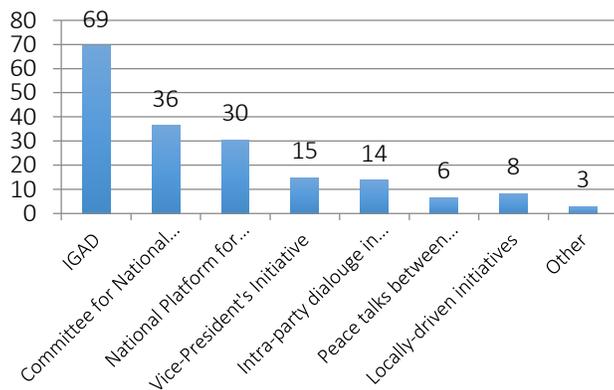
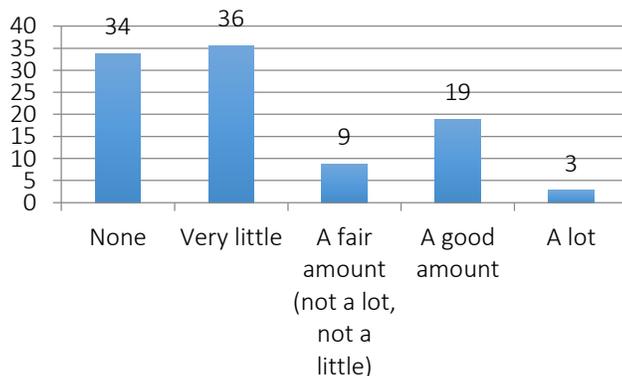


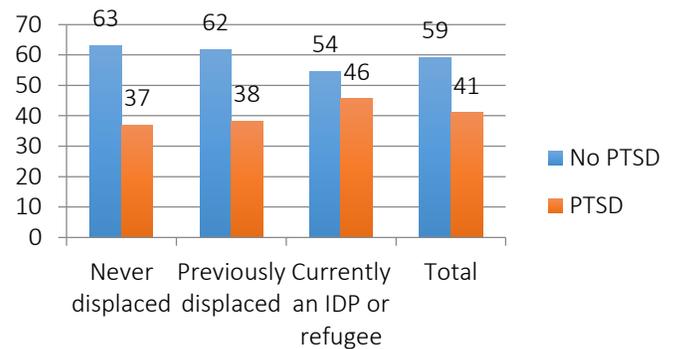
Figure 2: Confidence in IGAD's ability to bring peace (%):



Trauma and Mental Health

Decades of conflict, hunger, and economic hardship in South Sudan have resulted in high levels of Post-Traumatic Stress Disorder (PTSD), which influences how people perceive transitional justice processes, as demonstrated by the perception survey.

Figure 3: PTSD rates by displacement status (%)



The trauma exposure and PTSD module of the questionnaire used the Harvard Trauma Questionnaire (HTQ) to assess 16 different types of traumatic events and PTSD symptoms. Overall, 41% of the respondents showed symptoms of PTSD. Respondents experienced a mean of 7.62 traumatic experiences during their lifetimes, with the most frequent traumatic experiences being the killing of a close family member (63%), the destruction of a house (55%) or other property (64%). In terms of demographics of the sample group, men (45%) are more likely to suffer from PTSD than women (36%), people with less income are more likely to suffer from PTSD than those with more income, and older people are more likely to suffer from PTSD than younger people.

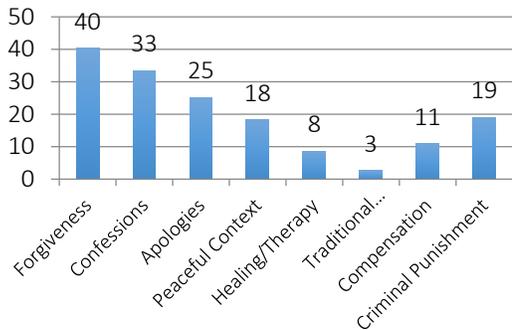
Respondents with PTSD were less likely to say that peace talks between communities would help to resolve conflict (75%) in comparison to those without PTSD (82%); they are also less likely to point towards togetherness and unity, or healing and therapy, as necessary requirements for reconciliation. Seventy five percent of respondents with PTSD thought that existing judicial systems could hold perpetrators to account compared to just 62% without PTSD. Despite this, when asked about their preferred justice system to hold perpetrators of abuses responsible, participants with PTSD expressed a preference for international justice systems over national justice systems. Those who suffer from PTSD are more likely to forgo a public discussion about South Sudan's past experiences with violent conflict. However, and in comparison to respondents without PTSD (67%), those with PTSD (81%) are more likely to want to speak publicly about

their own traumatic experiences if the opportunity was provided.

Restorative and Retributive Justice

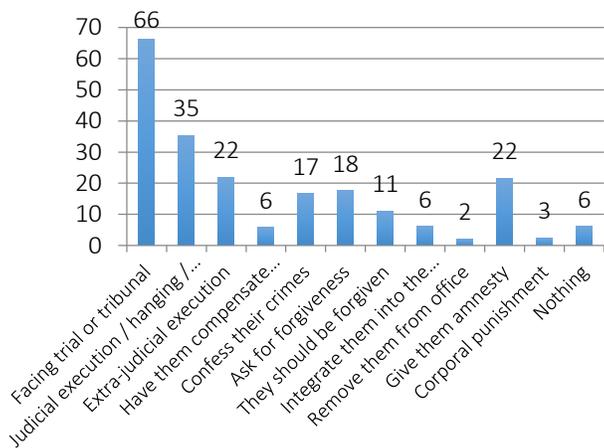
Respondent views on what is necessary to achieve reconciliation and appropriate measures to be taken against those responsible for abuses reflect the complex interplay between notions of restorative and retributive justice^{xi} in South Sudan.

Figure 4: Necessary to achieve reconciliation (%)



To achieve reconciliation, respondents expressed a preference for more restorative forms of justice such as forgiveness, confessions and apologies, over more retributive forms such as criminal prosecutions. These responses are consistent with a restorative approach to justice that emphasizes the restoration of social relationships over the punishment of perpetrators, a common feature of customary law. However, when asked how people responsible for abuses can best be dealt with, the data also shows a strong retributive sentiment that includes criminal prosecutions (66%) and executions (35%).

Figure 5: How to deal with people responsible for abuses (%):



Whereas the restorative approach to justice has a strong foundation in customary norms and practices, the more

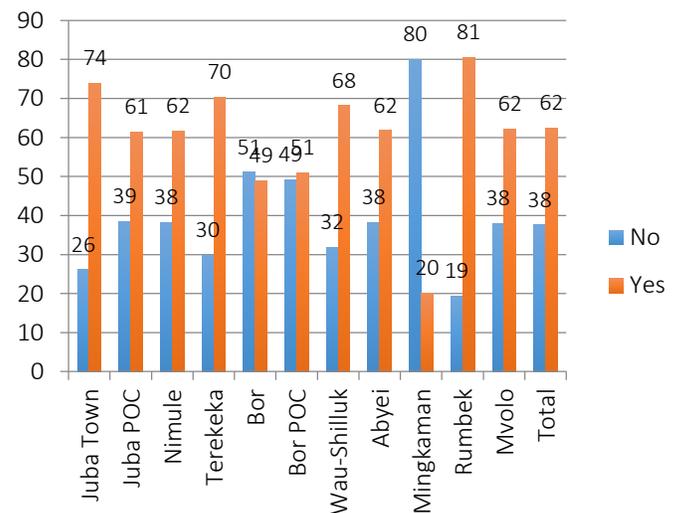
retributive approach is often associated with harsh colonial policies and wartime justice as practiced by the SPLA and other armed groups during the second Sudanese civil war. South Sudan has a pluralistic justice system in which more formal statutory courts coexist alongside informal customary courts presided over by chiefs and elders. While restorative justice is most commonly associated with customary courts and retributive justice with statutory courts, both systems reflect aspects of the two forms of justice. The justice system in South Sudan is now faced with the task of harmonizing the two systems and reconciling the two competing notions of justice.

The justice system will play a significant role in truth, justice, reconciliation, and healing processes. The central challenge is involving both the customary and statutory justice systems in a context where there is weak institutional and personnel capacity.

Inter-Communal Relations

The survey posed a series of questions to elicit feedback on the nature of the conflict, particularly the role of ethnicity and politics as drivers of conflict and how the conflict has affected inter-communal relations. The data shows that different communities and geographic locations experience and explain the conflict in different ways.

Figure 6: Can people from another ethnic group be trusted? (%)



Unsurprisingly, respondents from populations more directly affected by the conflict, such as in Bor, Bor PoC, and Mingkaman, express less trust in other ethnic groups. Similarly, when asked if they would vote for a political leader from another tribe, respondents in Bor, Bor PoC, and Mingkaman were the most likely to say "no". Survey data demonstrates that the percentages of respondents who

believe that fighting is necessary to protect their community are much higher in Abyei (41%), Mvolo (42%), Juba PoC (39%), and Bor (34%) than the average across the entire sampled areas (21%).

When asked whether they would prefer to live in a community of their own ethnicity, nearly half of the respondents (46%) answered “yes”. The most resistance to living in ethnically mixed communities was found in Nimule, where 72% of respondents said that they would prefer to live in a community of their own ethnicity.

Respondents were also asked directly how, if at all, the conflict that erupted in December 2013 has changed their view of other ethnic groups. The change in view was measured by a 1 – 5 scale, with 1 being much less favourable and 5 being much more favourable. A little more than half of respondents (52%) say that their view of other tribes has not changed following the 2013 crisis. Comparatively, 27% of respondents say that their view of other tribes was less favourable. Populations in Malakal, Awerial, and Bor PoC report the highest negative change in their views of other ethnic groups.

This may suggest a degree of resilience to the politicization and militarization of ethnic identities, and support the view that the crisis is first and foremost a contest for power among a small number of political leaders, as opposed to a tribal war that is driven by ethnic hatred. On the other hand, the findings may also indicate that people’s views of other ethnic groups had already solidified (whether positively or negatively) prior to the conflict, rather than an endorsement of ethnic pluralism.

Twenty one percent of respondents say that the ongoing conflict has given them a more positive view of other ethnic groups. To a certain extent, the positive change in views of other ethnic groups may be more aspirational, and a reflection of people’s desperation for the conflict to come to an end.^{xii}

Regarding gender, women reported a less favourable view of other ethnic groups as a result of the conflict than men. On a scale of 1 to 5, the mean score for women is 2.89 and the mean score for men is 3.05. Given the gendered role that women often play as primary caregivers and their influence on the hearts and minds of the next generation, the fact that women are more likely to have negative views of other ethnic groups is particularly concerning.

Regarding socio-economic status, respondents with no or low monthly incomes are also more likely to report negatively impacted views of other ethnic groups than those with higher income. Those with no income per day had a mean score of 2.62 on a scale from 1 – 5 (1 being much less favourable and 5 being much more favourable), whereas those with an income between US\$ 0.00 and US\$ 1.25 had a mean score of 3.03, and those with more than US\$ 1.25 per day had a mean score of

3.12 on the same scale. Respondents with no or limited education are also more likely to report negatively impacted views of other ethnic groups than those with higher education. Those with no schooling had a mean score of 2.83 on the 1-5 scale, those with at least some primary education had a mean score of 3.07, those with at least some secondary education had a mean score of 3.01, and those with at least some university had a mean score of 3.27 on the scale.

Rather than a direct response to the national conflict, variation within and between communities likely indicates the impacts of historical grievances and ongoing disputes linked to migration, livelihood security, and inter-communal violence at the local level in these various locations.

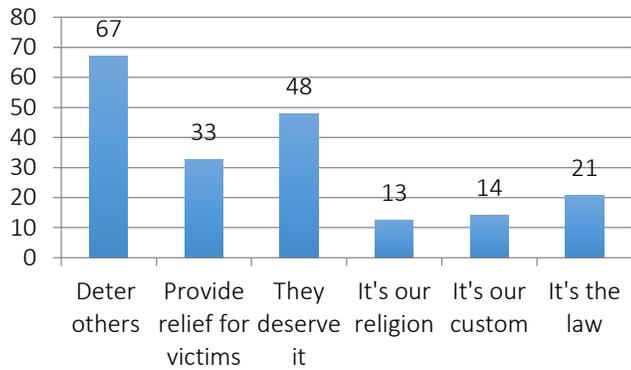
The preponderance of different narratives demonstrates that initiatives must be driven by local realities. While there is no one-size-fits-all approach, it is important that the violence that broke out in December 2013 be acknowledged as the latest in a series of conflicts driven by similar factors, including fear, mistrust, and residual trauma from repeated exposure to violence. By situating the conflict in its historical context, this approach creates space for all communities to reflect on the legacy of human rights abuses, irrespective of whether they have been directly affected by the current conflict or not.

Views on Criminal Accountability

Throughout South Sudan’s long history of conflict, very little has been done to hold perpetrators of human rights abuses accountable. The prevailing culture of impunity arises from many factors, including the weakness of the justice system and the fact that senior political and military leaders are implicated in many of the abuses.^{xiii} The data shows strong support for prosecuting the people responsible for abuses related to the ongoing conflict.

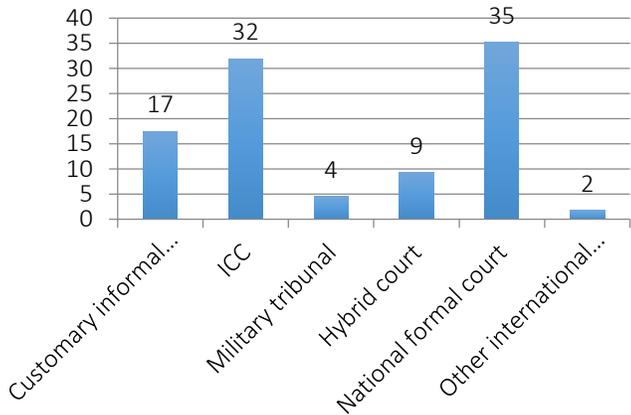
When directly asked whether the individuals responsible for abuses should be prosecuted in courts of law, 93% of respondents say “yes”. In addition, 81% of respondents for this study say that people responsible for abuses should be removed from public office.

Figure 7: Most common justifications for support for prosecutions (%)



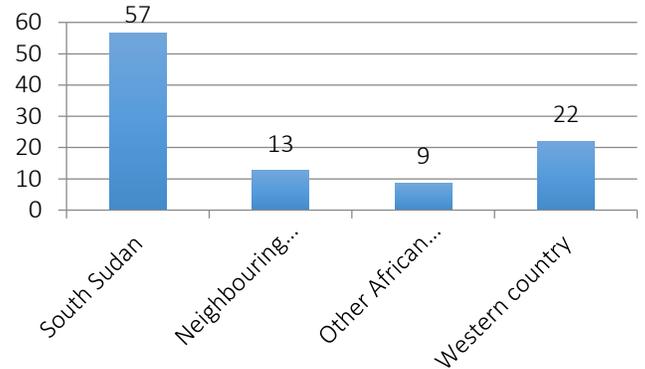
When asked which court is most appropriate to bring cases against individuals responsible for abuses, responses are split fairly evenly between national (35%) and international accountability mechanisms (34%). When asked directly whether they would support the involvement of international justice mechanisms in response to serious abuses committed in South Sudan, 83% of respondents say “yes”. This suggests that, although many people might prefer the national justice system, challenges of weak institutional capacity and widespread impunity may lend significant support to a more internationalized process, if the opportunity were available.

Figure 8: Courts considered appropriate (%)



The conflicting parties and IGAD have considered a proposal for a hybrid court in the context of the peace talks in Ethiopia. Although only 9% of respondents say that a hybrid court is most appropriate for prosecuting conflict-related abuses, this may well be the result of a low level of awareness of what a hybrid court would entail. The data shows a large amount of interest in justice and accountability, which could be well served through a hybrid court that is more visible and accessible to the local population, and preferably located in South Sudan.

Figure 9: Where should trials be held (%)



The division of allegiances within South Sudanese society is apparent in responses to the question, “Who do you think is responsible for abuses?” The three main groups identified by the respondents are the SPML-IO (24%), both the Government and the SPLM-IO (16%), and the SPLM-IO (15%). Although it is plausible that respondents from SPLM-IO areas would alter the results by placing a larger focus on government responsibility, the fact that there is already a significant range of responses from within government-controlled areas demonstrates considerable disagreement about who is most responsible for conflict-related abuses.

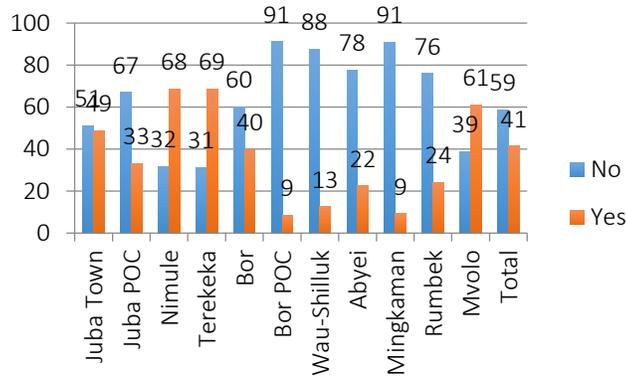
Feelings of bias towards one’s own identity group are inherent in conflicts, such as the ones in South Sudan, in which politicians and armed groups instrumentalize ethnicity in order to garner support.^{xiv} It is therefore vital that any strategy for justice and accountability in South Sudan takes into consideration the polarization of society, and ensure that accountability mechanisms are approached in an independent and balanced manner so as not to exacerbate inter-communal tensions and undermine any form of peace by targeting one side more than another.

Views on Amnesty

The typical response from the government in conflict situations in South Sudan has been to offer a blanket amnesty to the rebelling forces in order to bring them back into the fold. While several recent amnesties have succeeded in bringing non-state armed groups into the military^{xv}, the policy has generated criticism for creating a marketplace for insurrection. The data collected reflects considerable opposition to the idea of granting amnesties to people responsible for conflict-related abuses. Fifty nine percent respondents say that people responsible for abuses should not be offered amnesty. Levels of opposition, however, vary significantly across locations as specified in the figure below.

The large opposition to amnesties in Bor, Mingkaman and Wau-Shilluk may indicate higher levels of frustration with the toll that the ongoing conflict is taking on civilians in these areas.

Figure 10: Support for amnesty (by location)



The question whether the respondents would support an amnesty if it were necessary for peace did not have much of an effect on their position on the matter; 52% reported they would not support an amnesty even if it were necessary for peace.

The survey data suggests that respondents feel peace without accountability is not sustainable in the long-term.

Support for a Truth-Seeking Process

Despite the recent lack of progress on the establishment of a truth commission through a final peace agreement, approaches to truth-seeking have been initiated.^{xvi} Criticisms that South Sudanese have not been engaged regarding the establishment of a truth commission in any meaningful way, are supported by the survey data. Seventy six percent of survey respondents did not know what a truth commission was. Out of those that knew, 96%, supported the establishment of one. It could be inferred from the data that an increase in awareness on truth commissions could create a large support base for the creation of one.

The survey reflects a fairly even split between those who think it would be helpful for South Sudanese to talk openly about human rights abuses (50%) and those who would prefer to forgo the public discussion (46%) and "put it behind us". When asked to explain their choice, respondents' views reflected the following:

Figure 11: Reasons for public discussions on past human rights abuses (%)

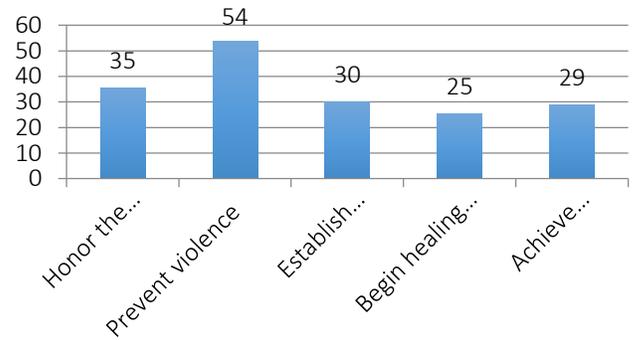
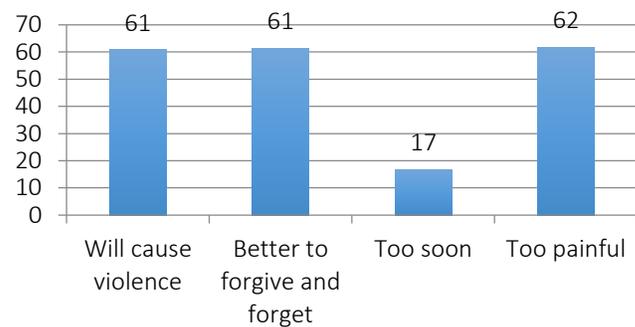


Figure 12: Reasons for not having public discussions on past human rights abuses (%)



While responses to the first question suggest a difference in opinion on public dialogue about South Sudan's past experiences with violent conflict, there is far more consensus among respondents in relation to personally engaging with a truth-seeking process. Nearly 75% of all respondents state that they would be interested in speaking publicly about their traumatic experiences if the opportunity were provided.

The different responses to the two questions^{xvii} may point to people's fears about the continuing conflict and the manner in which they prioritize peace above all else. While the conflict is ongoing, people may feel that it is better to forgo a public discussion of human rights abuses and focus efforts on stopping the violence, hence the split between those who think it is preferable to talk about their experiences versus those who would prefer to forgo a public dialogue and put their traumatic experiences behind them. The fact that most respondents say that they would engage with a truth-seeking process if one were established presumes sufficient support to initiate a truth commission. Responses may be less tied to the current conflict than the question about whether to talk about their experiences or put their experiences behind them.

A truth-seeking process must be sensitive to the different gender roles in the public sphere. Male respondents express more willingness to speak publicly than female respondents, with 80% of men saying that they would be interested to

speak publicly about their experiences compared with just 66% of women.

In light of this finding, a gender-inclusive truth-seeking process would have to devote special attention to securing the participation of female survivors. This can be achieved in part by ensuring gender parity both at the level of commissioners as well as staffing at every level of the truth commission. The mandate of the truth commission should also devote special attention to human rights abuses that disproportionately affect women and girls, such as sexual violence, and human trafficking.

A nationally-owned truth-seeking process cannot be pursued with any degree of independence until a peace agreement is committed to and the fighting stops. However, by engaging South Sudanese on these questions at this stage, the ground can be prepared for truth-seeking efforts as part of the transitional agenda if and when a peace agreement is achieved and violence stops. Determining appropriate entry points for such a conversation requires policy-makers to account for the low level of awareness about truth-seeking processes among populations in South Sudan. The results of the survey suggest that special efforts must be made to engage people at the state and local level in the design and implementation of any truth-seeking process. Community engagement strategies must also account for variations according to key demographic factors. Similar to other findings, men, people with more education, and people with higher income are all more likely to know what a truth commission is than women, those with less education and those with less income. For a national dialogue on the subject to be meaningful, policy-makers must devise strategies to take into account these different demographics and gendered findings.

Accountability and truth-seeking

Parties negotiating peace will often opt for truth commissions as an alternative to criminal prosecutions, which are seen as more of a threat to political and military leaders that may have been implicated in human rights abuses.

When asked whether people should avoid prosecution if they have appeared in front of a truth commission, 58% of those respondents who know what a truth commission is say that people appearing before a truth commission should not be prosecuted.^{xviii} Survey data suggests that such a trade-off might have support among certain constituencies in South Sudan, though the fact that 42% oppose the idea suggests that many people are not willing to sacrifice accountability for truth-seeking. It must be noted that a prohibition on amnesties for war crimes, crimes against humanity, and

genocide has emerged at the international level and such amnesties are considered to be violations of international law.

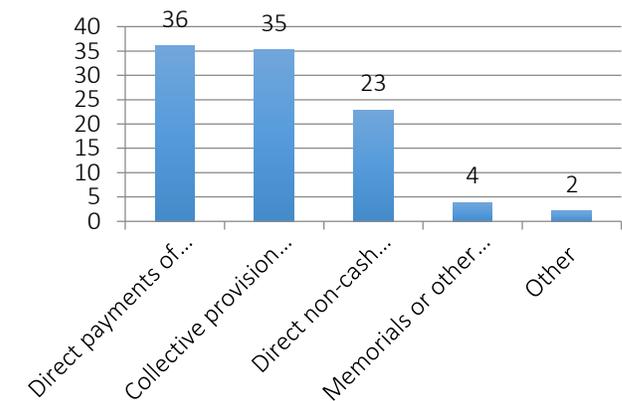
Reparations

Material

Whether reparations should be provided to survivors of human rights abuses that have occurred since December 2013 has been a source of disagreement in the IGAD-led peace talks, with the SPLM-IO in favour (through a reparations commission) and the government opposed. The idea of providing reparations to survivors of human rights abuses had considerable support among those surveyed.

Eighty one percent of respondents said that the government should provide any form of compensation to victims of human rights abuses – 40% were in favour of providing them to individuals, 26% to communities, and 34% to both.

Figure 13: What form should compensation take (%)



Reparations programmes are notoriously difficult to implement.^{xix} Although respondent preferences indicate widespread support for reparations, the designers of a justice and reconciliation programme may want to consider whether to tackle this process immediately or whether it is better to address reparations as an outgrowth of the truth-seeking process. The information on the nature and extent of human rights violations compiled during the truth-seeking process would provide a good starting point for the design of a reparations programme.

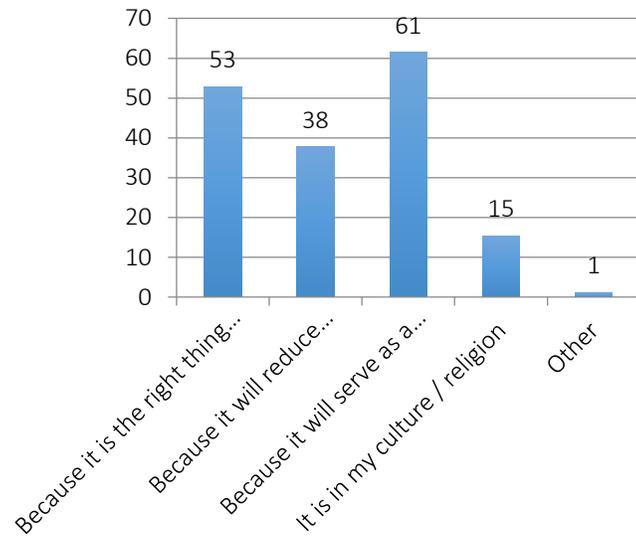
Symbolic

Symbolic reparations can take the form of memorialization initiatives through which society acknowledges past human rights abuses and transforms them into tools for understanding both historical and contemporary injustices. Memorialization can take many forms such as museums and monuments, collections of condolence notes, flowers,

pictures of victims at sites where they died or vanished, graffiti art, and photo and poster exhibitions.

Ninety percent of respondents say that efforts should be made to honour victims of conflict in South Sudan for the following reasons.

Figure 14: Why make efforts to honour the victims (%)



When asked what should be done to honour victims, the most frequent response was the creation of a day of national remembrance (29%). Other prominent responses include the construction of monuments or memorials (24%) and the development of teaching materials for schools that discuss the history of conflict in South Sudan (23%).

General Conclusions

The survey data demonstrates a demand for truth, justice, reconciliation and healing. Respondents expressed widespread support for various processes of transitional justice and national reconciliation, including criminal prosecution of people suspected of conflict-related abuses, documenting and reporting facts and circumstances of human rights violations, providing reparations to survivors of human rights abuses, and honouring those killed or missing.

When reconciliation is taken as the preferred objective, respondents tend to emphasize restorative forms of justice, such as confessions, apologies and forgiveness. When the focus is shifted on how to deal with people suspected of abuses, more retributive attitudes emerge and criminal prosecution and punishment become the preferred options. Interestingly, this demand for justice, whether restorative or retributive, remains pronounced despite the potential impact that it could have on prolonging the conflict. Calls for justice

and promises of prosecution may create disincentives amongst key actors to resolve the conflict out of fear of being brought to justice. The demand for justice suggests that many South Sudanese do not view blanket amnesties and political rewards - that were traditionally offered to potential spoilers of the peace process - as legitimate.

High rates of PTSD and exposure to trauma further complicate an already complex situation. The trauma and suffering that the people of South Sudan have experienced in current and past conflicts are a consequence, and possibly a driver, of violence in the country. PTSD and trauma must be addressed in their own right as integral components of humanitarian and development programs, including any effort to promote truth, justice and reconciliation.

The survey data supports the idea of incorporating transitional justice and national reconciliation mechanisms and processes in the agenda for the proposed transitional government. Achieving this in an environment characterized by weak institutions, high levels of distrust, and where senior political and military actors are alleged to have played a role in human rights violations and abuses remains a central difficulty. The complexities of pursuing truth, justice and reconciliation in the South Sudanese context highlights the importance of developing a strategy that is carefully tailored to the context and enjoys the support of the people.

Recommendations

On designing and implementing a programme for justice and reconciliation, the survey report puts forth the following key recommendations:

1. **Appropriately frame the objectives** to ensure that the justice and reconciliation programme is tailored to address specific priorities in the South Sudan context.
2. **Consider sequencing** both in terms of what sorts of initiatives can be pursued in the current context while the conflict still rages and what must wait until after a peace agreement is secured, as well as how the various justice and reconciliation mechanisms are sequenced relative to one another.
3. **Adopt a holistic approach** to justice and reconciliation that pursues multiple goals simultaneously by creating space for forgiveness and social healing to take place while also promoting accountability and remedying the harms that people have suffered.
4. **Initiate a justice and reconciliation programme**, including the establishment of a truth commission and hybrid court, during any transitional period that follows

the end of the conflict, while building a longer-term strategy to promote these issues moving forward.

5. **Incorporate both top-down and bottom-up strategies** that pursue relevant initiatives at national level while creating space for justice and reconciliation initiatives at the local level.
6. **Anticipate and mitigate efforts to politicize justice and reconciliation** by emphasizing independence and legitimacy in all aspects of programme design and implementation. Independent mechanisms will require the strong and active involvement of non-state actors and the direct participation of international institutions.
7. **Conduct widespread public consultations** to raise awareness about the options for justice and reconciliation and to enable the design of a programme that is responsive to South Sudanese views and aspirations.
8. **Ensure women's participation** in all justice, peace and reconciliation mechanisms and processes. Staffing and training at all levels of relevant institutions should provide for gender parity and sensitivity.
9. **Streamline psychosocial and mental health support services in humanitarian and development interventions** to ensure that mental health issues are devoted the attention and resources they deserve.
10. **Include trauma and mental health as an integral component** of any programme for transitional justice and national reconciliation moving forward.

Way Forward

With the outbreak of the 2013 conflict, subsequent peace process and ongoing fighting in the Upper Nile region, issues of transitional justice have been put on the table. The survey report contains the results of initial consultations about transitional justice with the people of South Sudan. It has generated insights into the perceptions of truth, justice, healing and reconciliation held by the South Sudanese population that are relevant for the development of programs and strategies designed by all actors involved with transitional justice in South Sudan. Any successful transitional justice program will require public participation and needs to take into account the experiences of conflict-affected populations. The findings from the survey will be used by the UNDP A2J/RoL project team as a basis for further consultations with key stakeholders, communities and partners which will be held at national and state levels. UNDP will use the survey

findings and consultations to develop transitional justice initiatives that will be responsive to the South Sudanese context and needs of the people. These initiatives will be geared towards creating a strong sense of local ownership and build the capacity of the key stakeholders to create space, opportunity and capacity for a locally-owned transitional justice process in South Sudan.

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Endnotes

ⁱ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), South Sudan Humanitarian Bulletin (15 July 2015), available at South Sudan, https://docs.unocha.org/sites/dms/SouthSudan/2015_SouthSudan/South_Sudan_15_July_2015_Humanitarian_Bulletin_01.pdf

ⁱⁱ International Crisis Group, Sudan and South Sudan's Emerging Conflicts, Africa Report No 223 (29 January 2015), available at <http://www.crisisgroup.org/en/regions/africa/horn-of-africa/sudan/223-sudan-and-south-sudan-s-merging-conflicts.aspx>

ⁱⁱⁱ Intergovernmental Authority on Development (IGAD), Agreement on Cessation of Hostilities Between the Government of the Republic of South Sudan (GRSS) and the Sudan People's Liberation Movement/Army (in Opposition) (SPLM/A in Opposition) (23 Jan. 2014), available at http://www.sudantribune.com/IMG/pdf/signed_agreement_cessation_of_hostilities.pdf

^{iv} IGAD, Recommitment on Humanitarian Matters in the Cessation of Hostilities Agreement Between the GRSS and the SPLM/A in Opposition) (5 May 2014), available at <http://cewarn.org/attachments/article/252/Recommitment%20to%20Humanitarian%20Matters%20of%20COH,%205%20May%202014.pdf>

^v IGAD, Agreement to Resolve the Crisis in South Sudan, Addis Ababa (9 May 2014), available at http://www.sudantribune.com/IMG/pdf/agreement_to_resolve_the_crisis_in_south_sudan.pdf.

^{vi} IGAD, Protocol on Agreed Principles on Transitional Arrangements Towards Resolution of the Crisis (25 Aug. 2014).

^{vii} According to former United Nations (UN) Secretary General, Kofi Annan, the term 'transitional justice' refers to "the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation." See United Nations Secretary General, *Rule of Law and Transitional Justice in Post-Conflict Societies*, ¶ 8, U.N. Doc. S/2004/616 (23 Aug. 2004), available at <http://www.unrol.org/files/2004%20report.pdf>.

^{viii} Chama Cha Mapinduzi (CCM), Intra-SPLM Dialogue, The Arusha Communiqué, Agreement on the Re-unification of the SPLM (21 Jan. 2015), available at <http://www.gurtong.net/LinkClick.aspx?fileticket=FTCuK-FBDz5%3D&tabid=124>.

^{ix} IGAD, Areas of Agreement on the Establishment of the Transitional Government of National Unity (TGoNU) in the Republic of South Sudan (1 Feb. 2015), available at <http://www.gurtong.net/LinkClick.aspx?fileticket=reaNmG1rToQ%3d&tabid=124>.

^x Restorative justice is a way of responding to criminal behaviour which emphasises repairing the harm caused by the crime and 'restoring' harmony as much as possible between offender, victim/survivor and society. It mainly involves some form of mediation and conflict resolution and often results in apologies, reparation, compensation and community service. Retributive justice focuses more on punishing the offender via a two-way relationship (offender and state). Source: UN Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, ECOSOC Resolution 2002/12, available at <http://www.un.org/en/ecosoc/docs/2002/resolution%202002-12.pdf>.

^{xii} Note: Widespread experience in post-conflict and post-disaster contexts demonstrate that respondents are not only incredibly adept

at providing researchers with the information they 'want' to hear, but also responding in a way to maximize potential for future support.

^{xiii} UNMISS, "Flash Human Rights Report on the Escalation of Violence in Greater Upper Nile, (April/May 2015), available at <http://unmiss.unmissions.org/Portals/unmiss/Reports/Final%20version%20Flash%20Human%20Rights%20Report%20on%20the%20Escalation%20of%20Fighting%20in%20Greater%20Upper%20Nile.pdf> and Human Rights Watch, "They Burned it All" Destruction of villages, Killings and Sexual Violence in South Sudan, (July 2015), available at https://www.hrw.org/sites/default/files/report_pdf/southsudan0715_web_o.pdf

^{xiv} UNMISS, "Flash Human Rights Report on the Escalation of Violence in Greater Upper Nile, (April/May 2015), available at <http://unmiss.unmissions.org/Portals/unmiss/Reports/Final%20version%20Flash%20Human%20Rights%20Report%20on%20the%20Escalation%20of%20Fighting%20in%20Greater%20Upper%20Nile.pdf>

^{xv} For example, the Juba Declaration and the reintegration of the South Sudan Defense Forces (SSDF).

^{xvi} Lesley Anne Warner, Armed-Group Amnesty and Military Integration in South Sudan, (24 December 2013), available at <http://www.tandfonline.com/doi/pdf/10.1080/03071847.2013.869722>

^{xvii} The first question was 'Is it better to talk about our past experiences with violent conflict or put it behind us and move on?' The second question asked the respondents to explain their choice.

^{xviii} An international norm against amnesties for international crimes has emerged and institutions such as the United Nations are barred from dealing with institutions that offer them.

^{xix} Ruben Carranza, The Right to Reparations in Situations of Poverty, (September 2009), International Center for Transitional Justice, available at <https://www.ictj.org/sites/default/files/ICTJ-Global-Right-Reparation-2009-English.pdf>



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