



# DIALOGUE AND RESEARCH INITIATIVE

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## ROUNDTABLE DIALOGUE ON

### TRANSITIONAL JUSTICE, PEACE, RECONCILIATION AND HEALING IN SOUTH SUDAN: Options for Transitional Justice, Peace, Reconciliation and Healing

28 February, 2017

Juba Grand Hotel

Report





*Empowered lives.  
Resilient nations.*

*Cover photos: participants during the roundtable dialogue on transitional justice, peace, reconciliation, and healing in South Sudan that was held on 28 February 2017 at the Juba Grand Hotel. Credit: DRI 2017.*

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## ABOUT THE DIALOGUE AND RESEARCH INITIATIVE

The Dialogue and Research Initiative (DRI) is a non-political, national non-governmental organization (NNGO). DRI's areas of expertise are peace-building, human rights, policy development and advocacy. DRI's mission statement is as follows: *"DRI exists to facilitate the roles of empowered individuals in realizing just, self-actualized and dignified lives through building peace and transforming lives in South Sudan."* DRI's vision is *"A just, peaceful, democratic and prosperous South Sudanese society where equality, dignity and human rights flourish."* DRI was established in November 2013 by local peace-building experts who believe that dialogue among conflict-affected communities can generate peaceful coexistence leading to peace, justice, accountability and human rights protection in South Sudan. DRI has presence in Juba (main office), Bentiu and shares operations with a number of international NGOs in other parts of the country. DRI is one of the core team members of the Transitional Justice Working Group (TJWG – [www.tjwgsouthsudan.org](http://www.tjwgsouthsudan.org)); a coalition of civil society organizations (CSOs), representatives of women's groups and faith-based organizations interested or engaged in transitional justice initiatives in South Sudan.

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## EXECUTIVE SUMMARY

In December 2013, a political power struggle within the Sudan's People's Liberation Movement (SPLM) erupted into violence in Juba when factions of the Presidential Guard clashed. The violence quickly spread throughout the entire city. Forces loyal to former Vice President Riek Machar formed the Sudan People's Liberation Army in Opposition/Army (SPLM/A-IO) and fought against SPLM/A forces loyal to H.E. President Salva Kiir. Armed actors on both sides have been accused of grave human rights violations. In August 2015, the signing of the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS) officially put an end to the conflict. Chapter V of the ARCSS provides for three institutions that aim to achieve reconciliation and durable peace: the Hybrid Court for South Sudan (HCSS), the Commission on Truth, Reconciliation and Healing (CTRH), and the Compensation and Reparation Authority (CRA). Implementation of the peace agreement experienced significant delays and on the eve of South Sudan's fifth anniversary of independence in July 2016, when violence again broke out between forces loyal to Machar and Kiir. Several days of heavy fighting took place in the capital during which several civilians were killed, women and girls were raped and United Nations and humanitarian premises attacked. Riek Machar fled the city and has not returned to South Sudan since. In his absence, President Kiir appointed the SPLM-IO's former negotiator, Taban Deng Gai as First Vice President; a move that has been contested by many in the SPLM-IO. It is clear that South Sudanese have suffered from a long history of atrocities that the society will need to come to terms with in order to move forward.

Against this background, DRI implemented a project supported by UNDP and the UNMISS Human Rights Division to raise awareness and foster dialogue on transitional justice and Chapter V of the ARCSS, with communities in the Bentiu area. As part of DRI's transitional justice project (May 2016 – March 2017), DRI organized four community dialogues (one specifically to tend to women's concerns) in Bentiu town and the Protection of Civilian (PoC) site that were attended by a total of 310 people (179 women). DRI also organized a roundtable dialogue on 28 February, 2017 for 69 key stakeholders (14 women) in transitional justice to present the views of the participants of the community dialogue and explore options for transitional justice, peace, reconciliation and healing in South Sudan.

Several participants of the roundtable believed that for transitional justice to succeed in achieving sustainable peace and reconciliation, South Sudanese must be given an opportunity to engage in truth-telling processes. These were considered important to make victims aware of what happened to the ones they lost and to be informed of the whereabouts of family members and friends who have disappeared. During the roundtable, participants endorsed the suggestion contained in the options paper that DRI presented to construct a memorial site for victims in the Bentiu area, and the construction of burial grounds for victims of the conflict.

Some participants pointed out the need to end fighting before any meaningful process could commence, whilst others were of the opinion that justice and accountability should be pursued regardless of the ongoing fighting and possible breakdown of the peace agreement. They suggested that national CSOs must lobby regional leaders to influence the South Sudanese leadership to establish the CTRH. Once established, participants were of the opinion that the CTRH should actively engage with the public and strongly promote truth-telling.

There was consensus amongst the participants that discussions on the concept and options for transitional justice must continue because South Sudanese bear the responsibility to change the culture of violence to one of peace. During these discussions, lessons can be learned from other contexts without copy-pasting policies or laws that do not fit the South Sudanese context. The transitional justice process for South Sudan must be locally owned. Civil society actors were urged to participate and join the Transitional Justice Working Group (TJWG) in their efforts to promote transitional justice as a way for South Sudan to achieve peace, reconciliation and healing.

## LIST OF ACRONYMS

ARCSS	Agreement on the Resolution of the Conflict in the Republic of South Sudan
AU	African Union
AUC	African Union Commission
BCC	British Broadcasting Cooperation
CEPO	Community Empowerment for Progress Organization
CHRSS	Commission on Human Rights in South Sudan
CRA	Compensation and Reparation Authority
CRF	Compensation and Reparation Fund
CSOs	Civil Society Organizations
CTRH	Commission for Truth, Reconciliation and Healing
DRI	Dialogue and Research Initiative
FODAG	Foundation for Democracy and Accountable Governance
HCSS	Hybrid Court for South Sudan
ICC	International Criminal Court
JoSS	Judiciary of South Sudan
(N)NGO	(National) Non-Governmental Organization
PoC	Protection of Civilians
SPLM/A	Sudan People's Liberation Movement/Army
SPLM/A-IO	Sudan People Liberation Movement/Army in Opposition
SSCC	South Sudan Council of Churches
SSLS	South Sudan Law Society
TGoNU	Transitional Government of National Unity
TJWG	Transitional Justice Working Group
TNLA	Transitional National Legislative Assembly
UNDP	United Nations Development Programme
UN HRC	United Nations Human Rights Council
UNMISS HRD	United Nations Mission in South Sudan Human Rights Division
UNSC	United Nations Security Council
VOA	Voice of America

# 1. INTRODUCTION

## 1.1 Short Contextual Background

South Sudan has experienced great civil wars for decades. These wars have inflicted devastating harm on the civilian population. In December 2013, a political power struggle erupted into violence in Juba when factions of the Presidential Guard clashed. The violence quickly spread throughout the city. Forces loyal to former Vice President Riek Machar formed the Sudan People's Liberation Movement in Opposition (SPLM-IO) and fought against Sudan People's Liberation Movement/Army (SPLM/A) forces loyal to H.E. President Salva Kiir. Armed actors on both sides of the conflict have targeted civilians perceived to be supporting the other side. The brutality has reached new heights with the warring parties being implicated for forced cannibalism, gang rape, ethnic killings and destruction of property.<sup>1</sup> Each offensive displaced thousands of civilians, forcing them to settle in the Protection of Civilian (PoC) sites set up by the United Nations Mission in South Sudan (UNMISS). Victims feel strongly that despite decades of armed conflict with Sudan, no conflict has harmed them as directly and as intensely as the one that erupted since the 15 December, 2013.<sup>2</sup>

The 2013 conflict officially came to an end when the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS) was signed in August 2015. After many delays in the implementation of the agreement, Riek Machar returned to Juba in April 2016 and was immediately sworn in as First Vice President of the new Transitional Government of National Unity (TGoNU). This arrangement, however, only lasted for a few months. On the eve of South Sudan's fifth anniversary of independence in July 2016, violence again broke out between forces loyal to Machar and Kiir. Several days of heavy fighting took place in the capital during which many were killed, women and girls were raped (in some cases with sharp objects) and United Nations and humanitarian premises attacked. Riek Machar fled the city and has not returned to South Sudan since. In his absence, President Kiir appointed the SPLM-IO's former negotiator, Taban Deng Gai, as First Vice President; a move that has been contested by many in the SPLM-IO.

It is clear that South Sudanese have suffered from a long history of atrocities that the society will need to come to terms with in order to move forward. To this end, Chapter V of the peace agreement provides for three institutions, aimed at achieving reconciliation and durable peace: the Hybrid Court for South Sudan (HCSS), the Commission on Truth, Reconciliation and Healing (CTRH), and the Compensation and Reparation Authority (CRA). Chapter I also provides for judicial reforms. Aside from the establishment of a technical committee for the establishment of the CTRH, little progress has been made on the establishment of these mechanisms and many argue that the ARCSS is dead, or on life support at best.

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<sup>1</sup> African Union Commission of Inquiry on South Sudan (15 October 2014. Released on 27 October 2015). Final Report. Available at <http://www.peaceau.org/uploads/auciss.final.report.pdf>

<sup>2</sup> Commission on Human Rights in South Sudan (6 March 2017). Report presented at the thirty-fourth session of the Human Rights Council. A/HRC/34/63. Available at [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwigpL-alfbSAhXEvRoKHejkDM8QFggZMAA&url=http%3A%2F%2Fwww.ohchr.org%2FEN%2FHRBodies%2FHRC%2FRegularSessions%2FSession34%2FDocuments%2FA\\_HRC\\_34\\_63\\_AEV%2520-final.docx&usq=AFQjCNEQVWE3jPAUP2Mh2bHHwsfC49tp0A&bvrr=bv.150729734.d.d2s](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwigpL-alfbSAhXEvRoKHejkDM8QFggZMAA&url=http%3A%2F%2Fwww.ohchr.org%2FEN%2FHRBodies%2FHRC%2FRegularSessions%2FSession34%2FDocuments%2FA_HRC_34_63_AEV%2520-final.docx&usq=AFQjCNEQVWE3jPAUP2Mh2bHHwsfC49tp0A&bvrr=bv.150729734.d.d2s)

## 1.2 Short Background to the Project and the Roundtable Dialogue

DRI implements a project supported by the UNDP and the UNMISS Human Rights Division to raise awareness on and discuss matters relating to transitional justice including Chapter V of the ARCSS, and peace and reconciliation with communities in Bentiu area. Through community dialogues, DRI also gains insights of the views and priorities of members of the community. After July 2016, the project engaged in collecting testimonies of victims. In order to highlight community views, concerns and priorities to other stakeholders, DRI organised a roundtable dialogue in Juba on 28 February, 2017. The meeting brought together 69 representatives (14 women) of the government (including the Judiciary of South Sudan and members of parliament<sup>3</sup>), the donor community, United Nations, and (inter)national civil society actors to discuss the implications of community preferences for the transitional justice process as well as to further identify stakeholders' roles and engagement in the transitional justice process. This report contains a summary of the proceedings of the roundtable as well as the recommendations of the participants.

The event was covered by seven radio stations: the British Broadcasting Cooperation (BBC), Voice of America (VoA), Radio Tamazuj, Bakhita Radio, Eye Radio, Miraya FM and the Catholic Radio Network, that broadcasted excerpts about the event for several days after the event took place, with the average number of listeners ranging from 5,000 - 10,000 people per day per station. The radio stations conducted interviews with DRI's Executive Director, requiring in-depth explanation about transitional justice and, insights on the way forward for the HCSS, the CTRH, and the CRA. The event also featured in newspapers (New Day and Juba Monitor) as well as online news portals.<sup>4</sup> The large amount of media attention is indicative of the interest the topic generates in South Sudan, while providing a means to raise awareness on the topic.

## 2. PROCEEDINGS OF THE ROUNDTABLE

After the opening ceremony of the roundtable, the event started with discussions on the concept of transitional justice in general and the provisions for South Sudan specifically.

### 2.1 Setting the stage: demystifying transitional justice

#### *2.1.1 Key concepts: transitional justice, peace, and reconciliation in the context of South Sudan*

Ms Harriet Kuyang Logo of the Juba University gave a presentation on the key concepts of transitional justice, peace and reconciliation, and also related these concepts to the context of South Sudan. She said that for South Sudanese to achieve peace, they have to reconcile with each other and overcome enemy fault lines. The identification of root causes of the conflict in South Sudan is important to attain long lasting peace. She expressed scepticism about the effectiveness of the National Dialogue proposed by President Kiir to achieve peace due to the lack of freedom of expression, movement and association. She brought attention to the Dialogue's need to be inclusive which, with Riek Machar and millions of South Sudanese refugees forced outside of the country, is not likely at the moment. According to Ms. Logo, the only option open to South Sudanese to investigate the root causes of the conflict, lies with the establishment of the CTRH. She also highlighted the importance for victims of the war to be compensated.

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<sup>3</sup> Committee on human rights and humanitarian affairs and the committee for economic affairs.

<sup>4</sup> Civil society organizations discuss transitional justice in South Sudan (2017, 1 March). *Radio Tamazuj*. Retrieved from <https://radiotamazuj.org/en/article/civil-society-organizations-discuss-transitional-justice-south-sudan>; Transitional justice needed more urgent, says researcher. (2017, 28 February). *Catholic Radio News*. Retrieved from <http://catholicradionetwork.org/?q=node/23198>

Following the presentation, the participants entered into discussion on transitional justice in South Sudan. Participants underscored the value of justice and accountability in restoring sustainable peace, and advocated for an inclusive and holistic approach to transitional justice in South Sudan that will unravel the root causes that lead to the conflict which erupted on 15 December, 2013. The discussions centred on the dilemmas of pursuing transitional justice in a conflict situation and the status of the ARCSS. Some participants pointed out the need to end fighting before any meaningful process can commence, whilst others were of the opinion that justice and accountability should be pursued regardless of the ongoing fighting and possible breakdown of the peace agreement.

A participant expressed her views as follows: *“If my mum is raped, what will I do when perpetrators who have guns continue to violate human rights with impunity? Can I get healing without justice?”* Dr. Justice Geri Raimondo, who represented His Lordship Chief Justice Chan Reec Madut, of the Judiciary of South Sudan (JoSS), stressed that *“the victims of war should come forward and tell all their experiences without fear, to the right jurisdiction so that the perpetrators are held accountable for their acts. Victims of the war have to be compensated and receive reparations. Transitional justice can take place at any time without conditions attached to the ongoing violence.”* He added that the church should play a vital role in advocating for peace. He furthermore asserted that *“people should not be divided into tribal churches as is evident in Juba. The church should be a uniting institution for building brotherhood, not hatred.”*

There was consensus amongst the participants that discussions on the concept and options should continue because South Sudanese have to find a way to change the culture of violence to one of peace. During these discussions, lessons can be learned from other contexts without copy-pasting policies or laws that do not fit the South Sudanese context. It was also emphasized that the transitional justice process for South Sudan must be locally owned.

### *2.1.2 Overview of Chapter V of the ARCSS and progress update on its implementation*

Taban Kiston, Deputy Executive Director of the South Sudan Law Society (SSLS), gave an overview of the Chapter V mechanisms and the progress on the establishment that has been made to date. Kiston used the United Nations definition to explain transitional justice to the participants as “the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.”<sup>5</sup> Kiston highlighted Chapter V as the key to the protection of human rights and the achievement of accountability, peace and stability in South Sudan. He explained that the establishment, mandate, jurisdiction, funding, and processes for public participation in the selection of the respective members of three institutions (CTRH, HCSS, CRA) will be defined by legislation. He continued that, upon inception of the TGoNU, it should have enacted this legislation. He gave a brief explanation of each institution and an update on the progress of their respective establishments.

#### *i. Hybrid Court for South Sudan (HCSS)*

Kiston explained that Chapter V of the ARCSS provides for the establishment of an independent Hybrid Court for South Sudan. The Court shall be established by the African Union Commission

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<sup>5</sup> United Nations (March 2010). United Nations Approach to Transitional Justice. Guidance Note of the Secretary-General. Available at [https://www.un.org/ruleoflaw/files/TJ\\_Guidance\\_Note\\_March\\_2010FINAL.pdf](https://www.un.org/ruleoflaw/files/TJ_Guidance_Note_March_2010FINAL.pdf)

(AUC) to investigate and prosecute individuals bearing responsibility for violations of human rights, international humanitarian law, and South Sudanese law that have occurred since 15 December 2013 through the end of transitional period. The AUC shall provide guidelines relating to the location of the HCSS, its infrastructure, funding and enforcement mechanisms. He added that the government has made no progress on the establishment of the HCSS. He updated the audience that several CSOs are undertaking documentation of human rights abuses and violations in order to support any future investigations.

ii. **Compensation and Reparation Authority (CRA)**

In recognition of the destructive impact of the conflict on the citizens of South Sudan, Chapter V includes the establishment of a Compensation and Reparation Fund (CRF) which shall be administered by a Compensation and Reparation Authority (CRA). Kiston explained that the CRA shall be run by an executive body to be chaired by an Executive Director appointed by the TGoNU. The executive body shall include parties of the TGoNU, representatives of CSOs, women's bloc, faith-based leaders, the business community and traditional leaders.

iii. **Commission for Truth, Reconciliation and Healing (CTRH)**

As part of Chapter V, the TGoNU shall establish the CTRH to spearhead efforts to address the legacy of conflicts, and promote peace, national reconciliation and healing. The committee will investigate human rights violations and abuses, breaches of the rule of law and excessive abuses of power, committed against all persons in South Sudan by State, non-State actors, and/or their agents and allies.

Mr. Kiston continued his presentation with remarks about the National Dialogue. In his opinion, the National Dialogue is an initiative of the Republic of South Sudan and independent from the ARCSS. He mentioned that some people may mistake the Dialogue for implementation of the ARCSS. Adopting the views of other participants, he raised the question whether the National Dialogue will be inclusive, transparent, and sufficiently participatory.

Updating the audience on progress made on transitional justice in South Sudan, Kiston also provided an overview on civil society engagement and efforts to advance transitional justice. These included a perception survey on truth, justice, reconciliation and healing that was conducted by the SSLs with support from UNDP,<sup>6</sup> the establishment of the Transitional Justice Working Group,<sup>7</sup> human rights documentation, and awareness raising projects such as the project implemented by DRI with funds from UNDP and UNMISS HRD.

During the discussion that followed the presentation, the participants agreed that advocacy for the establishment of the Chapter V mechanisms should continue. Participants expected the HCSS to be instrumental to deter future perpetrators of crimes, especially as local justice mechanisms are unable to prosecute suspects effectively due to lack of political will from the national government. Opinions were

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<sup>6</sup> David K Deng, Belkys Lopez, Matthew Pritchard and Lauren C Ng: *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan*, UNDP (June 2015), available at <http://www.ss.undp.org/content/dam/southsudan/library/Rule%20of%20Law/Perception%20Survey%20Report%20Transitional%20Justice%20Reconciliation%20and%20Healing%20-.pdf>.

<sup>7</sup> For more information see [www.tjwgsouthsudan.org](http://www.tjwgsouthsudan.org)

expressed that justice must not be deferred in the interest of the search for peace. The participants proposed instead, that international crimes should be domesticated into the Penal Code, so as to provide South Sudanese with avenues for redress in respect of international crimes, in the event that the African Union (AU) does not establish the HCSS. These voices also called for South Sudan to sign and ratify the 2002 Rome Statute and become a member of the International Criminal Court (ICC). Participants called for the UN Security Council (UNSC) should refer the situation to the ICC in the event that the HCSS is not established.

The participants realized the need for more documentation of human rights violations and recording and preservation of victims' testimonies to serve as evidence for future accountability mechanisms. Participants called for more resources in order to do this.

Several participants believed that for transitional justice to succeed in achieving sustainable peace and reconciliation, South Sudanese must be given an opportunity to engage in truth-telling processes. These were considered important for victims to be aware of what happened to the ones they lost and to be informed about the whereabouts of family members and friends who have disappeared. The CTRH was considered instrumental in this and many participants highlighted the failure of the TGoNU to establish the CTRH within the stipulated timeframe. They suggested that the national CSOs must lobby regional leaders to influence the South Sudanese leadership to establish the CTRH. Once established, participants were of the opinion that the CTRH should actively communicate to the public and strongly promote truth-telling about the South Sudanese conflicts.

## 2.2 Engaging communities and taking a victim-centered approach

### *2.2.1 Presenting community views on options for transitional justice, peace and reconciliation in Greater Bentiu*

As part of DRI's transitional justice project (May 2016 – March 2017) supported by UNDP and UNMISS Human Rights Division, DRI organized four community dialogues (one specifically to tend to women's concerns) in Bentiu town and the PoC site that were attended by a total of 310 people (179 women). The views expressed by participants in these dialogues are captured in a discussion paper on options for transitional justice, peace and reconciliation in Greater Bentiu. Gordon Lam, Executive Director of DRI, presented the community views and laid out the options on the table for discussion with the participants of the round table dialogue.

In summary, communities have a clear demand for stability first. Amongst other things, victims want to remember those who have lost their lives during the conflict and be compensated for the harm done to them. Victims would like to build their economic stature and livelihoods which were lost as a result of the conflict. Many communities and families who lost their belongings want to rebuild homes and properties such as health centres, churches and schools. Communities want to see commitment from government of non-repetition of war against civilians, assuring them of safety, security and justice. The paper proposes the construction of a center with archives in Bentiu and Leer town. The center should contain a burial site for those killed during the war, a collection of all bones currently still scattered around Bentiu and nearby towns, naming streets after the victims, a war memorial park for future generations to use for activities and yearly commemoration of victims of the war.

The discussion paper generated interest among participants. Justice Dr. Geri Raimondo, representative of the Chief Justice of JoSS expressed great interest and committed to bringing the paper to the attention of the Chief Justice. According to Raimondo, South Sudan must increase dialogue amongst communities and space

must be made available for this to happen. He said that *“An intensive dialogue on transitional justice which can cover all levels and reach the grassroots level for better understanding of the concept of transitional justice needs to be conducted. This is the only tool to achieve sustainable peace in South Sudan.”* He called upon the Catholic Church to preach peace more strongly to the leadership of the country who attend their church.

Veronica Redento, member of the Transitional National Legislative Assembly (TNLA), said that transitional justice advocacy should be inclusive: *“All people have to be represented regardless of age, sex and religion. We need to get the ideas of all these group of people and their views on transitional justice.”* She reiterated that *“memorialization structures have to be set up in remembrance of the victims of war for example for those who were collectively killed in one place and whose bones still lay in the outskirts of towns. These victims have to be recognized by honouring them through burials or giving names of public places with their names.”* The participants voiced similar opinions about the need to honour victims of the civil wars (first, second and the current one). They lamented that too little has been done to remember victims of the past civil wars. They pointed to the fact that only a few streets in Juba are named after victims. Families will want proper burials of the remains of their loved ones. Participants furthermore called for continued collection of testimonies of victims and their families, coupled with support and opportunity for honouring families’ members.

### *2.2.2 Raising awareness on transitional justice amongst CSOs and communities in South Sudan*

Edmund Yakani, Executive Director of the Community Empowerment for Progress Organization (CEPO), gave a presentation about raising awareness on transitional justice amongst civil society and communities in South Sudan. He said there is great interest among the people of South Sudan for dialogue and reconciliation, but war is still ongoing in the country which makes it a difficult, but not impossible, undertaking. Mr. Yakani encouraged CSOs to solidify their efforts to ensure implementation of Chapter V of the ARCSS. He attributed the continuous relapse of the country into war to the prevailing impunity.

The participants agreed with Mr. Yakani that public dialogues at the grassroots level should continue, and called upon international donors to fund these initiatives. Participants also agreed on the importance of sensitizing victims and the public at large about the transitional justice options and to encourage victims to come forward and engage in truth-telling and healing processes. Community-level dialogue and truth-telling can encourage communities to forgive perpetrators if there are space for dialogues on accountability, justice and reconciliation in South Sudan.

### *2.2.3 The role of the Transitional Justice Working Group (TJWG)*

Jame David Kolok, Executive Director of the Foundation for Democratic and Accountable Governance (FODAG) and a core team member of the Transitional Justice Working Group (TJWG), spoke about the role of the TJWG in promoting transitional justice in South Sudan. He asserted that civil society needs to move forward and cultivate resilience for advocacy and collaboration in support of peace, justice and accountability in South Sudan. The TJWG is a network of CSOs, formed to coordinate civil society activities in the country and function as a platform for discussions on peace, reconciliation, justice, accountability and healing. The TJWG was formed by seven CSOs representing different geographical areas in South Sudan. Mr. Kolok encouraged civil society actors to join the TJWG and participate in their effort to promote transitional justice as a way for South Sudan to achieve peace, reconciliation and healing. Participants agreed that, for any transitional justice process in South Sudan to be effective, civil society must be at the forefront of it. Participants

furthermore saw a strong role for civil society to advocate for transitional justice and especially the establishment of the HCSS.

#### *2.2.4 The role of churches in peace-making, justice, reconciliation and healing*

Father James Oyet, Secretary General of the South Sudan Council of Churches (SSCC), shared his views and experiences about the role of churches in peace-making, justice, reconciliation and healing. Father Oyet explained that *“For us to achieve the mechanisms stipulated in ARCSS, we need political will from our leaders and the individual will of the perpetrators to avail themselves for legal action. We also need to accept that what we committed was wrong according to international law. South Sudanese will have to change the country from one of violence to one with a peaceful atmosphere.”* Father Oyet noted that the role of the church in transitional justice and reconciliation processes includes reaching out to, and working with, all South Sudanese to achieve peace and healing, and spreading messages of peace, justice and equality. He said: *“South Sudanese forget the victims and the suffering of our children, mothers, and young men who die every day defending each side of the conflict. Healing cannot take place when society is further displaced every day, without food, shelter and other basic needs.”* He appealed to the participants to reach out to people within their communities to forget the route of war, and instead, advocate for peace, reconciliation, and healing through truth-telling and accountability in order to end impunity.

#### *2.2.5 The relationship between Chapter V and the National Dialogue*

On 14 December, 2016, H.E. President Salva Kiir addressed the nation and announced the government’s intention to embark on a national dialogue as a way to consolidate peace and unity in South Sudan. The dialogue’s broader objectives, according to the President, are to *“end violent conflicts in South Sudan, reconstitute national consensus, and save the country from disintegration and usher in a new era of peace, stability and prosperity.”*<sup>8</sup> The dialogue is foreseen as a measure to link political settlements (such as the ARCSS and SPLM Reunification Agreement that resulted from the Arusha process) to grassroots grievances. The concept of a National Dialogue has been welcomed, but it has also been met with a lot of scepticism and concerns have been voiced that it is an attempt to side-line the Chapter V mechanisms.

Edmund Yakani presented his views on the relationship between Chapter V and the National Dialogue. Mr. Yakani argued that the Dialogue should be inclusive and that political opposition parties should be part as a way to mobilize more actors for peace. According to him, several people see the National Dialogue as a one-sided process. Mr. Yakani underscored the importance of the TGoNU and armed opposition groups maintaining a ceasefire for the National Dialogue to succeed. He also noted that this will provide access to humanitarian relief organizations to deliver food. He argued that the National Dialogue should be considered a separate process from the transitional justice mechanisms. In his opinion, the CTRH should focus on engaging grassroots communities whilst the National Dialogue could encourage political forces to come on board to accelerate peace, reconciliation and healing.

Several participants viewed the National Dialogue as a tool which could bring peace to the country. Like Mr. Yakani, the participants raised concerns about the lack of progress, lack of inclusivity and lack of direction of the National Dialogue. Additionally, participants were very disturbed about the conflict between the political

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<sup>8</sup> Speech of His Excellency the President Announcing the Commencement of National Dialogue (14 December 2016). RSS/OOP/MO/J/1.E.1.

interests of the key leaders in Juba and the National Dialogue. Participants believed, if the National Dialogue is to succeed in bringing about lasting peace, it must be organized and led by an independent body that is not a party to the South Sudanese conflict. Several participants warned that, if not inclusive and independent, the National Dialogue may aggravate grievances and lead to further bloodshed.

## 2.3 Advancing transitional justice and the implementation of Chapter V

### *2.3.1 Discussion on options for localized transitional justice processes, engaging communities and taking a victim-centred approach*

Participants highlighted the need to use local driven justice mechanisms including the traditional practices administered by chiefs, kings and spear masters to address violent conflicts. Participants suggested that these traditional justice mechanisms can inform the design of the CTRH. Opinions were expressed that the local traditional courts should be able to handle crimes such as cattle theft. They pointed out the difficulties for the traditional leaders to arrest the perpetrators since they are armed. Further, traditional authorities lack communication facilities, infrastructure, and judicial facilities that are necessary to respond to such crimes. Participants felt that it is important that the HCSS should be established by the AU so that it maintains a sense of neutrality that is necessary for judicial processes to function.

All actors engaged in transitional justice in South Sudan must work closely with traditional leaders at the community level to increase advocacy on the role of traditional mechanisms for the fulfilment of justice and accountability as required and provided by the ARCSS. Local communities are willing to address problems affecting communities but political polarization has curbed the influence of traditional leaders, thereby weakening their position in dealing with traditional reconciliation mechanisms. The political polarization has also undermined the ability of traditional leaders to address community peaceful coexistence, conflict prevention and traditional justice. A civil society representative argued for an increase in advocacy and awareness about transitional justice activities at the grassroots level including the documentation of serious abuses affecting the civilian population such as forced displacement, disappearance, and other violations of international human rights and international humanitarian law in South Sudan.

It was suggested that DRI's handbook on transitional justice, reconciliation and healing (which was disseminated during the roundtable), could be used to facilitate awareness-raising. The handbook, which was developed as part of the current project, is intended to be used by civil society organizations to explain the basic concept of transitional justice and the mechanisms provided for in the peace agreement to communities. The engagement can be extended to include politicians, citizens, academia, traditional authorities, faith-based institutions, and the media. The participants also suggested that a simplified version of the handbook be produced that can be more easily used by actors at the grassroots level.

### *2.3.2 Discussion on roles, responsibilities and concrete opportunities for collaboration amongst stakeholders to implement Chapter V*

The participants agreed that civil society (see 2.2), parliament, the media, South Sudanese citizens and the donor community have a central role to play in the implementation of Chapter V. Civil society was encouraged to proactively raise awareness on the CTRH, HCSS and CRA. They were considered the appropriate channel for promoting peace, development and good governance. The participants called upon members of parliament to ensure that they amend and pass laws that keep the best interest of the South Sudan citizen at heart instead

of political interests. The participants called upon all members of parliament to be true representatives of the people and not messengers of the SPLM. The participants noted that the majority of the members of parliament are part of the ruling SPLM party, making it difficult to achieve tangible policy development in the country. The participants further noted that the media should endeavour to reach the people in South Sudan. In this regard, the participants noted the lack of freedom of expression for journalists in South Sudan. It was further reiterated that freedom of expression is a fundamental right of every citizen. The participants identified the need for all South Sudanese to accept the fact that tribalism is a central problem which needs to be resolved. Accordingly, it was agreed that this problem can be resolved through dialogue on transitional justice, and a recognition of its social utility in overcoming grievances of the past.

### 3. RECOMMENDATIONS OF THE ROUNDTABLE

The discussions held at the roundtable generated the following recommendations for advancing transitional justice, peace, reconciliation and healing in the Bentiu area and in South Sudan more generally:

- **Construction of a memorial site:** Attend to the massive emotional and psychological impact of those whose relatives have been killed and were unable to bury their dead during and after conflict in Unity state by constructing a memorial site;
- **Establish and maintain state and national archives:** Establish state-level archives and maintain and support the national archives to cater for memorialization initiatives, such centres, can be backed by political will and peace in the country in order to succeed;
- **Support victims groups:** Engage victims and support them to form victim groups in preparation of large scale memorialization, reconciliation and healing processes in Unity state and South Sudan;
- **Continue to raise awareness on transitional justice:** Civil society must continue to raise awareness on transitional justice and increase the number of dialogues conducted at community level so that people can learn about options for transitional justice and traditional mechanisms for peace and accountability in Unity state and elsewhere in South Sudan. UNDP, the UNMISS Human Rights Division and other partners must continue to support this work despite the political crisis and ongoing fighting in the country. These organizations should also support more community consultations;
- **Print and disseminate the DRI Handbook on Transitional Justice, Reconciliation and Healing:** DRI and UNDP must print and disseminate more copies of DRI's handbook for transitional justice, reconciliation and healing. This handbook summarizes and explains parts of the agreement pertinent to transitional justice, reconciliation and healing. It presents examples from three other countries that have experienced transitional justice processes, namely Rwanda, Sierra Leone and Kenya. Acknowledging their unique settings, these countries offer best practices and lessons learned that are applicable to the South Sudanese situation;

- **Ensure an inclusive National Dialogue led by an independent body:** Ensure that the National Dialogue is inclusive and led by a non-political body. A specific recommendation was made to request South African Archbishop Desmond Tutu to supervise the process or serve as its patron;
- **Establish the HCSS:** Civil society must advocate for the AU and the TGoNU to establish the HCSS. In the event that the AU fails to establish the HCSS, civil society must lobby the UN Security Council to refer the South Sudan case to the ICC;
- **Extend and expand the mandate of the Commission on Human Rights in South Sudan:** The United Nations Human Rights Council ( UN HRC) must extend the mandate of the Commission on Human Rights in South Sudan (CHRSS) and mandate it to investigate human rights abuses in South Sudan;
- **Continue to document human rights violations:** Civil society must continue to document human rights violations and this should be supported by UNDP, the UNMISS Human Rights Division and other partners.

## ANNEX

### 1. Tentative Programme of the Roundtable Dialogue

<p><b>ROUNDTABLE DIALOGUE ON</b></p> <p><b>TRANSITIONAL JUSTICE, PEACE, RECONCILIATION AND HEALING IN SOUTH SUDAN:</b> Options for Transitional Justice, Peace, Reconciliation and Healing</p> <p><b>By</b> Dialogue and Research Initiative (DRI)</p> <p><b>Tuesday, 28 February 2017</b> Juba Grand Hotel</p>		
<b>Tentative Timetable</b>		
<b>8:30 - 9:00 am</b>	Arrival and registration	DRI staff
<b>Introduction and official opening of the workshop</b>		
<b>Moderator: Jame Kolok, Executive Director - FODAG</b>		
<b>9:00 - 9:30 am</b>	<ul style="list-style-type: none"> <li>Introduction of workshop participants</li> </ul>	Taban Francis, Program Manager, DRI
<b>9:30 - 9:35 am</b>	<ul style="list-style-type: none"> <li>Opening prayers</li> </ul>	Rev. James Baak, Executive Director, SMARD
<b>9:35 - 9:45 am</b>	<ul style="list-style-type: none"> <li>Welcoming remarks and background of the roundtable</li> </ul>	Gordon Lam, Executive Director, DRI
<b>9:45 - 9:55 am</b>	<ul style="list-style-type: none"> <li>Remarks from UNDP</li> </ul>	Andrew Shuruma, Team Leader Democratic Governance and Stabilization Unit, UNDP
<b>9:55 - 10:05 am</b>	<ul style="list-style-type: none"> <li>Opening Remarks from SSRRC</li> </ul>	Chairperson, SSRRC
<b>10:05 - 10:15 am</b>	<ul style="list-style-type: none"> <li>Keynote speech</li> </ul>	Representative of Chief Justice, Justice Geri Raimondo, Judiciary of South Sudan (JoSS)
<b>Setting the stage: demystifying transitional justice</b>		
<b>10:15 - 10:30 am</b>	Key concepts: transitional justice, peace, and reconciliation in the context of South Sudan	Dr. Harriet Kuyang Logo Centre for Peace and Development Studies, Juba University

10:30 - 10:45 am	Overview of Chapter V of the ARCSS and progress update on its implementation	Taban Kiston, D/Executive Director, SSLS
10:45 - 11:15 am	<b>Group picture and tea break</b>	
<b>Engaging communities and taking a victim-centered approach</b>		
11:15 - 11:35 am	Presenting community views on options for transitional justice, peace and reconciliation in Greater Bentiu	Gordon Lam, Executive Director, DRI
11:35 – 11:55 am	Raising awareness about transitional justice amongst CSO and communities in South Sudan and the role of the Transitional Justice Working Group (TJWG)	Paleki M. Obur, Executive Director, SSWEN
11:55 - 12:15 pm	The role of churches in peace-making, justice, reconciliation and healing	Father Oyet, Chairperson, SSCC
12:15 – 1:00 pm	Discussion on the relationship between Chapter V and the National Dialogue	Edmond Yakani, Executive Director, CEPO
1:00 – 2:00 pm	<b>Lunch</b>	
<b>Advancing transitional justice and the implementation of Chapter V</b>		
2:00 – 3:00 pm	Discussion on options for localized transitional justice processes, engaging communities and taking a victim-centered approach	Moderator: Gasper Amule, SSLS
3:00 – 4:00 pm	Discussion on roles, responsibilities and concrete opportunities for collaboration amongst stakeholders to implement Chapter V	Moderator: Taban Kiston, D/Executive Director, SSLS
<b>Closing remarks</b>		
4:00 – 4:05 pm	<ul style="list-style-type: none"> <li>Closing remarks by DRI</li> </ul>	Gordon Lam, Executive Director, DRI
4:05 – 4:10 pm	<ul style="list-style-type: none"> <li>Closing remarks by SSRRC</li> </ul>	Chairperson, SSRRC
4:10 – 4:15 pm	<ul style="list-style-type: none"> <li>Closing remarks by SSCC</li> </ul>	Father Oyet, Chairperson, SSCC
4:15 – 5:00 pm	<b>Tea and networking</b>	