

REPARATIONS FOR CONFLICT-RELATED ABUSES IN SOUTH SUDAN

A PRELIMINARY ASSESSMENT OF PUBLIC PRIORITIES

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Norwegian People's Aid



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LIST OF ACRONYMS

ARCISS.....	Agreement on the Resolution of Conflict in the Republic of South Sudan
CRA.....	Compensation and Reparation Authority
CRF.....	Compensation and Reparation Fund
CTRH.....	Commission for Truth, Reconciliation and Healing
CSO.....	Civil Society Organization
GRSS.....	Government of the Republic of South Sudan
HCSS.....	Hybrid Court for South Sudan
IDP.....	Internally Displaced Person
NGO.....	Non-Governmental Organization
PoC.....	Protection of Civilians Site
SGBV.....	Sexual and Gender-based Violence
SPLA/M-IO.....	Sudanese People's Liberation Army / Movement – In Opposition
SSLS.....	South Sudan law Society
TGoNU.....	Transitional Government of National Unity
UNMISS.....	United Nations Mission in the Republic of South Sudan

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THE SOUTH SUDAN LAW SOCIETY

The South Sudan Law Society (SSLS) is a civil society organization based in Juba. Its mission is to strive for justice in society and respect for human rights and the rule of law in South Sudan. The SSLS manages projects in several areas, including legal aid, community paralegal training, human rights awareness-raising and capacity-building for legal professionals, traditional authorities and government institutions.

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NORWEGIAN PEOPLE'S AID

Funding for this project was provided by Norwegian People's Aid (NPA). Norwegian People's Aid has been working in solidarity with the South Sudanese People since 1986 and is one of the largest international organizations in South Sudan. NPA has worked closely with organizations and movements in the area both during the Civil War and after the peace agreement. The organization's engagement centres on two strategic areas: Just distribution of power and resources, and protection of life and health.

ABOUT THE AUTHOR

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EXECUTIVE SUMMARY

On August 17th, 2015, the Government of the Republic of South Sudan, Sudan People's Liberation Army/Movement – In Opposition, the 'Former Detainees', and other stakeholders signed the Agreement on the Resolution of Conflict in the Republic of South Sudan (ARCISS). The main goals of this peace agreement are to bring an end to the 2013 civil war, lay the groundwork for an inclusive transitional government, and introduce a suite of aggressive institutional reforms. Additionally, over the course of a 30-month period the Transitional Government of National Unity is expected to restore peace and security, expedite the return and resettlement of IDPs and refugees, develop a new constitution, organize national elections, and initiate a comprehensive transitional justice programme aimed at promoting truth, reconciliation, and healing.

Although the ARCISS peace agreement has generally failed to bring about any meaningful reductions in conflict, or initiate substantive political reforms, several donors, NGOs, and CSOs remain committed to promoting reconciliation as outlined under Chapter V of the agreement (Transitional Justice, Accountability, Reconciliation and Healing). In an attempt to initiate discussion on a key component of the transitional justice framework introduced in the ARCISS agreement, in early 2017 the South Sudan Law Society – in partnership with Norwegian People's Aid – completed an initial assessment of public priorities for reparations in five of the most conflict-affected areas of South Sudan. The main goals of this assessment were to conduct preliminary research on possible options for reparations and contribute to the development of a credible and transparent reparations processes for the victims of conflict in South Sudan.

Findings from this study demonstrate that the nature and extent of conflict throughout the field sites have led to widespread agreement regarding the need for reparations, types of programmes, and mechanisms of delivery. Additionally, the extent to which respondents across all field sites (regardless of age, gender, level of education, and income) have witnessed and experienced severe human rights violations has fostered significant agreement on the typology of 'victims,' priorities for material reparations, and opinions on who should be responsible for implementing any forthcoming programmes.

Beyond widespread demand for individual material goods and the belief that any attempt at redress should prioritize women, children, and elderly victims of conflict-related violations, results from this study also highlight several larger trends that require further research and discussion.

First, the nature and extent of the on-going conflict has had a devastating impact on the population of South Sudan. Targeting of civilians, use of rape as a weapon of war, and property destruction have affected millions of people; very few areas of the country have been spared. Despite the universally brutal nature of the violence, the war has resulted in different priorities for reparation that will need to be incorporated into any programme(s) moving forward. The fact that the overwhelming majority of results from this study vary significantly according to geographic location but are not affected by a respondent's age, gender, or level of education,

reinforces the extent to which reparations must account for local needs, opportunities, and challenges. Despite similar experiences with violence, a myriad of factors such as gender, ethnicity, religion, and customary law will impact the nature and potential success of reparations programmes moving forward.

Second, although there were little to no statistically significant differences between responses from men and women who participated in this study, a detailed understanding of the gendered nature of violence and structural income and power inequalities must be incorporated into all stages of the design and implementation of any reparations programme. Participants universally highlight the impacts that the conflict has had on women and the ensuing challenges widows and victims of sexual and gender-based violence will face re-establishing the most basic forms of livelihoods security. Widespread recognition that women are among the most vulnerable victims of conflict-related violations demonstrate the extent to which gender must be included in all aspects of reparations at the local, regional, and national levels, as well as in the design and implementation stages. It is not enough to say that a reparations programme focuses on gender; programmes must go out of their way to address and overcome structural inequalities and challenge practices that undermine women's roles in social, political, and economic reforms.

Finally, although reparations and other transitional justice measures are important for long-term peace, we must continue to focus on addressing the issues that create these demands in the first place. Data collected for this project demonstrate a significant demand for reparations, but respondents are quick to point out that what they truly require is food, shelter, and physical security. Although a detailed understanding of public priorities for reparation as the conflict evolves highlights the importance of transitional justice and can be used to inform future programmes, any attempt at implementation requires stable social, political, and economic relations. Before a meaningful reparations policy (and resulting programmes) can be developed, state and non-state actors *must* not only take responsibility for their actions, but also commit to legitimate political and institutional reform. Reparations without peace and legitimate government buy-in risks alienating specific communities and undermining rather than promoting peace.

1. INTRODUCTION

On August 17th, 2015, the Government of the Republic of South Sudan (GRSS), Sudan People's Liberation Army/Movement – In Opposition (SPLA/M-IO), the 'Former Detainees', and other stakeholders signed the Agreement on the Resolution of Conflict in the Republic of South Sudan (ARCISS). The main goals of this peace agreement are to bring an end to the 2013 civil war, lay the groundwork for an inclusive transitional government, and introduce a suite of aggressive institutional reforms. Additionally, over the course of a 30-month period, the Transitional Government of National Unity (TGoNU) is expected to restore peace and security, expedite the return and resettlement of IDPs and refugees, develop a new constitution, organize national elections, and initiate a comprehensive transitional justice programme aimed at promoting truth, reconciliation, and healing.

Although the Peace Agreement has generally failed to bring about any meaningful reductions in conflict or introduce substantive political reforms, a number of donors, NGOs, and CSOs remain committed to promoting reconciliation as outlined under Chapter V of the agreement (Transitional Justice, Accountability, Reconciliation and Healing).¹ According to a report on the proceedings of a UNDP-led conference on Transitional Justice held in Juba in 2015:

Given the difficulty of implementing an ambitious transitional justice agenda in a country that grapples with chronic instability and political turmoil, the TGoNU will need the robust support of both national partners, including faith-based institutions and civil society, and international partners if it is to deliver on the promises of Chapter V. Developing a consensus on a roadmap to guide the efforts of the various actors involved as they seek to establish and operationalize the three institutions will be vital to the success of the transitional justice program (UNDP, 2016:5).

In an attempt to initiate discussion on a key component of the transitional justice framework introduced in the ARCISS agreement, in early 2017 the South Sudan Law Society (SSLS) – in partnership with Norwegian People's Aid (NPA) – completed an initial assessment of public priorities for reparations in five of the most conflict-affected areas of South Sudan. The main goals of this assessment were to (1) conduct preliminary research on possible options for reparations, and (2) use the data to contribute to the development of a credible and

¹ Whether the ARCISS Peace Agreement is still valid, and if it is not, whether it can be resurrected remain key issues given on-going conflict, widespread violations of human rights, and the isolation of Dr. Riek Machar. According to the most recent report by the United Nations Panel of Experts on South Sudan (UNSC, 2017:6-7), the de facto collapse of the transitional government of national unity has resulted in a political arrangement "that does not meaningfully include significant segments of the opposition, including major elements of SPLM/A in Opposition, other political factions, and many non-Dinka communities, including large constituencies of the Nuer and the Equatorian tribes and subtribes. This arrangement is consequently not nationally unifying, has not arrested the security and humanitarian crisis and is increasingly an obstacle to genuine political reconciliation, undermining the transition to the inclusive and sustainable peace envisaged in resolutions 2206 (2015) and 2290 (2016)."

transparent reparations processes for the victims of conflict in South Sudan.² To this end, from January 31st to February 9th, 2017 a team of researchers collected data on civilian priorities for reparations in five Protection of Civilians sites (PoCs), five urban areas adjacent to the PoCs, and one IDP camp.

Findings from this study demonstrate that the nature and extent of conflict in South Sudan have led to widespread agreement regarding the need for reparations, types of goods and services demanded, and modalities of delivery. The extent to which respondents across all field sites (regardless of age, gender, level of education, and income) have witnessed and experienced severe human rights violations has fostered significant agreement on the typology of ‘victims,’ priorities for types of reparation(s), and opinions on who should be responsible for implementing any forthcoming programmes. However, despite general agreement within and between locations that reparations should be provided to victims of conflict-related abuses, overall demand for redress is currently overshadowed by immediate needs for shelter, food, and physical security. Beyond the inherent challenges of distinguishing between widespread demands for comprehensive development and programmes designed to address the needs of the most vulnerable victims of conflict-related abuses, the potential for reparations in South Sudan is currently undermined by widespread physical and political insecurity. Before a meaningful reparations policy (and resulting programmes)³ can be developed, state and non-state actors *must* not only take responsibility for their actions, but also stop the violence and commit to legitimate political and institutional reforms.

The remainder of this research brief is divided into 4 sections. Section 2 provides a summary of reparations as understood by the ARCISS peace agreement. Section 3 follows with an overview of our methodological approach. Section 4 presents key findings from the field work, and Section 5 provides a series of closing remarks.

2. CONTEXT

According to Chapter V of the ARCISS peace agreement, the Transitional Government of National Unity is required to establish three interdependent institutions dedicated to the pursuit and implementation of transitional justice⁴:

² Beyond the obvious importance of making sure that transitional justice policies and programmes are adjusted to the diverse needs and priorities of victims, incorporating a rigorous participatory process into the design and implementation of all stages of a reparations programme has several benefits. Most notably, participatory reparations processes increase trust between victims and the state, help close information gaps, reduce the likelihood that key groups of victims are left out of the process, and increase the potential to turn victims into stakeholders (UNHCHR, 2008; Correa et al., 2009; Iliff et al., 2011).

³ Seeing as our main goal is to provide information for all reparations-related initiatives (including policies, programmes, and efforts), we do not distinguish between different types and levels of reparation projects. Moving forward, any attempt to provide reparations in South Sudan will require implementation on several different fronts.

⁴ For the purpose of this brief we understand ‘Transitional Justice’ as it is defined by the International Center for Transitional Justice (2009:1): “Transitional justice is a response to systematic or widespread violations of human rights. It seeks recognition for victims and promotion of possibilities of for peace, reconciliation and democracy.

- a. The Commission for Truth, Reconciliation, and Healing (CTRH)
Envisioned as a central part of the peacebuilding process, the CTRH is meant “to spearhead efforts to address the legacy of conflicts, promote peace, national reconciliation and healing” (IGAD, 2015:40). The main responsibility of the commission is to investigate and report on “all aspects of 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” (IGAD, 2015:41)
- b. The Hybrid Court for South Sudan (HCSS)
According to Chapter V, Section 3 of the agreement, the HCSS is an independent judicial court established to “investigate and prosecute individuals bearing the responsibility for violations of international law and/or applicable South Sudanese law, committed from 15 December 2013 through the end of the Transitional Period” (IGAD, 2015:43). The Hybrid Court is meant to be established by the African Union and function independently of the national judiciary. To date, there has been little to no movement on such a court. Rather, the TGoNU has repeatedly undermined the potential for a functioning and relevant hybrid court, stating that such a court will undermine peace and the sovereignty of South Sudan.
- c. The Compensation and Reparation Authority (CRA)
According to Chapter V, Section 4, “in recognition of the destructive impact of the conflict to [sic] the citizens of South Sudan” (IGAD, 2015:45) the TGoNU shall establish a Compensation and Reparation Fund and Authority. Although the peace agreement provides very little in way of specifics on the CRA and CRF, it clearly states that the CRA will:
 - i. Provide material and financial support to citizens whose property was destroyed by the conflict and help them to rebuild their livelihoods in accordance with well-established criteria by the TGoNU;
 - ii. Manage the Compensation and Reparation Fund;
 - iii. Receive applications from victims via the CTRH and make necessary compensation and reparation.

Although Chapter V, Article 4 seems to acknowledge the important role that compensation and reparation play as part of a comprehensive transitional justice process, the lack of detail creates significant uncertainty regarding the nature and feasibility of a comprehensive reparations process. Of note, the peace agreement does not stipulate who will qualify as a ‘victim’, whether compensation and reparations will be restricted to a specific conflict and time-frame, or how the CRA will be linked with the Hybrid Court and other transitional justice institutions.

Transitional justice is not a special form of justice but justice adapted to societies transforming themselves after a period of pervasive human rights abuses.” Typically, the main tools of transitional justice include trials, truth commissions, reparations, and legal reform.

Additionally, the ARCISS agreement equates the provision of reparations, an inherently complex *process* that has the potential to contribute to or undermine peace, with the simple provision of “material and financial support to citizens whose property was destroyed by the conflict...” (IGAD, 2015:45). Although material and financial support are often central components of reparation programmes, they are by no means sufficient. Rather, effective reparations programmes go beyond different forms of compensation to incorporate multiple ways of addressing the evolving needs of victims and demands for redress. Most importantly, according to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian law (Basic Principles), reparations measures should include restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition (UNGA, 2006).⁵ Given the initial lack of detail and restrictive understanding of what ‘reparations’ (as outlined in the ARCISS) entail, extensive research is required on the needs and demands of conflict-affected populations in South Sudan. Specifically, comprehensive information regarding the definition and prioritization of victims, types of programmes, and modalities of delivery are needed to ensure that any compensation and reparation programme addresses demands for redress in ways that contribute to, rather than undermine, peace in the medium and long-term periods.

3. METHODOLOGY

As previously noted, the main goal of this project was to gather preliminary data on priorities for reparation amongst a small sample of the millions of South Sudanese civilians directly affected by the on-going civil war.⁶ Given our goal and timeline, the research team employed a mixed methods approach designed to collect rigorous and reproducible data in multiple urban and camp settings. Researchers began fieldwork with a household survey and followed with a series of focus group discussions. Sampling procedures drew on a series of random and purposive techniques designed to obtain a representative sample of participants from different ages, genders, ethnic groups, and length of displacement. The survey collected qualitative and quantitative data on experiences with displacement, exposure to violence, and priorities for potential reparations programmes. Focus group discussions allowed researchers to further triangulate data from the surveys and gain a more nuanced understanding of key trends.

3.1 SAMPLE PLAN

First, researchers identified five initial locations according to accessibility and exposure to conflict-related violence and displacement. Initial locations included Juba, Bor, Wau, Bentiu, and Malakal. Second, researchers selected specific sites in each location with an explicit focus

⁵ For further reading on reparations, see García-Godos (2008), Nagy (2008), UNHCHR (2008), and Amezcua-Noriega (2011).

⁶ Unless otherwise specified, the ‘conflict’ and ‘civil-war’ (used interchangeably) refer to the large-scale protracted violence that broke out in Juba on December 15, 2013 and has since spread throughout the entirety of South Sudan.

on collecting data from populations living inside and outside of PoC sites. This resulted in 11 field sites, including five PoC sites, five urban areas adjacent to the PoCs, and one IDP camp (see Table 1). Working with populations inside and outside of camps effectively stratified populations according to displacement status, exposure to conflict, and ethnicity. Third, individual households were selected using a detailed ‘random walk technique’ with a built-in skip pattern.⁷ Researchers selected individual respondents within each household using the Hagan-Collier ‘Alternative’ method adjusted for gender parity.⁸ Inclusion criteria were based on age and nationality; all participants had to be 18 years of age or older and South Sudanese nationals. Finally, researchers completed four separate focus group discussions in each of the 11 field sites. Participants in the focus groups were identified in partnership with local chiefs and organized into four groups: youth, men, women, and elders.

3.2 RESEARCH INSTRUMENTS

The survey included modules on demographics, experience with displacement, and priorities for reparations. The module on reparations focused on support for a reparations programme, needs of specific victims, prioritizing groups of victims, preferences for types of reparation and modalities of distribution, and opinions on who should be responsible for implementation. Each module included a series of ‘open’ and ‘closed’-ended questions designed to collect qualitative and quantitative data while limiting the extent to which responses were guided by the interviewer. Data were collected using the KoBoToolbox programme for Android-based mobile devices.⁹

Focus group discussions were designed to gather more detailed information on the identification and prioritization of victims, potential exclusions from reparations programmes, institutional responsibility, and challenges facing potential implementation.

3.3 DATA COLLECTION

Researchers completed the survey and focus group discussions between January 31st and February 9th, 2017. During this 10-day period, the team of 12 enumerators performed a total of 365 individual surveys and 44 focus group discussions. All enumerators are South Sudanese nationals, have significant field research experience, and are fluent in local languages spoken in areas of deployment. Despite previous experience with this type of work, enumerators received

⁷ Random walk techniques provide an effective way to select households in fluid environments characterized by a lack of detailed demographic and urban planning data (e.g. informal camps and settlements). In an effort to avoid selection bias, enumerators are provided with tables of randomly generated instructions that specify all of the steps required to identify potential respondents.

⁸ The Hagan-Collier ‘Alternative’ method is a simplified version of the Trolldahl-Carter technique that is particularly useful in conflict-affected environments. The main advantage of the Hagan-Collier Alternative over similar non-probability techniques is that participants are not required to complete a household roster or know their date of birth. Respondents in contexts characterized by decades of conflict and forced migration rarely know their exact date of birth, and are often unwilling to share detailed information on household composition (especially in contexts characterized by targeted killings and human rights abuses).

⁹ KoBoToolbox is a suite of open-source research tools designed to facilitate and improve data collection in fluid environments. For more information visit www.kobotoolbox.org.

three days of training on the use of KoBoToolbox, focus group protocols, protection of human subjects, and advanced research techniques for work in fluid and conflict-affected environments.

At the end of the field research period, enumerators uploaded completed surveys to the project database and transcribed handwritten notes from focus group discussions. Survey data were analyzed descriptively and differences in responses within and between field sites assessed using Chi-Square tests of difference. Notes from focus group discussions were analyzed using inductive thematic analysis; lead researchers looked for themes and manually amalgamated trends into patterns, emerging narratives, and specific experiences that addressed our main research questions.

4. RESULTS

This section summarizes preliminary findings from the survey and focus group discussions on public priorities for reparations across the 11 field sites. It begins with an overview of the sample population and follows with key findings on support for reparations, opinions on the definition and prioritization of ‘victims’, demand for symbolic and material goods, modalities of delivery, and responsibility for implementation.

4.1 SAMPLE CHARACTERISTICS

Overall, researchers performed a total of 365 individual surveys and 44 focus group discussions in Juba, Bor, Wau, Bentiu and Malakal. Researchers completed 60 interviews and 8 focus group discussions in each location except Juba. As a result of Juba’s higher population density and presence of several PoC and IDP camps, field staff completed 120 household interviews and 12 focus group meetings in the national capital. For a breakdown of sample characteristics by location, see Table 1.¹⁰

Regarding key characteristics of the sample, just over half of all respondents are female (53%) and ages range from 18 – 97 years old. The majority of participants (75%) fall between the ages of 18 and 47, with the largest percentages falling into the ranges of 25-34 (29%) and 35-47 (31%) years of age (see Figure 1). Overall, 33% of the sample is unemployed. Of those who are currently working, the most common jobs are civil servant (14%) and employment with an NGO or CSO (13%). In terms of income generated in the past month, an alarming 24 percent of respondents report no income and an additional 30% made less than 1000 SSP.¹¹

¹⁰ Although the initial goal was to complete the same number of interviews in each location, methodological errors led to slight variations in sample sizes. These errors resulted in over-representation from the Juba PoC and Juba town sites.

¹¹ The official exchange rate fluctuates significantly according to inflation and whether you are changing money at the official or black market rate. At the time of research, 100SSP was approximately \$0.83 USD at the official rate and \$1.25 USD at the black-market rate.

Data on education reflect the impact that over 40 years of war have had on access to school. It is particularly alarming that more people have fought as combatants (28%) than have successfully completed any education beyond primary school (23%). Overall, 50% of respondents have not completed any schooling, 27% successfully completed primary school, and 17% completed secondary school. A further 6% report that they have a university or technical degree (see Figure 2). Gender has a significant impact on education, as women are much less likely to access and successfully complete all levels of schooling. Overall, 28% of respondents have fought as combatants in either the military or militias at some point in their lives, and 16% currently identify as combatants.

Figure 1. Ages of respondents (%)

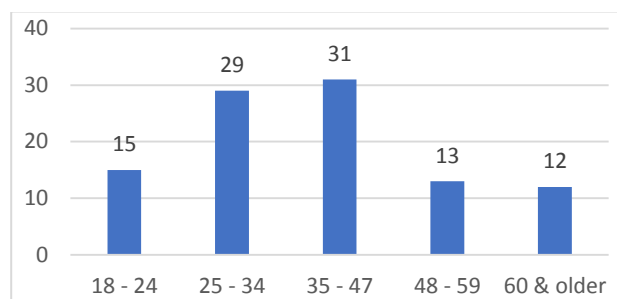


Table 1. Overview of sample population

Location	State (28)	State (10)	Respondents	Males	Females	Percent of sample ⁺
Juba town	Jubek	Central Equatoria	43	26	17	12%
Juba PoC			60	27	33	16%
Juba IDP			21	9	12	6%
Bor town	Jonglei	Jonglei	31	15	16	8%
Bor PoC			30	14	16	8%
Wau town	Wau	Western Bahr El Ghazal	28	15	13	8%
Wau PoC			32	14	18	9%
Bentiu town	Northern Liech	Unity	34	11	23	9%
Bentiu PoC			26	12	14	7%
Malakal town	Western Nile	Upper Nile	30	15	15	8%
Malakal PoC			30	14	16	8%

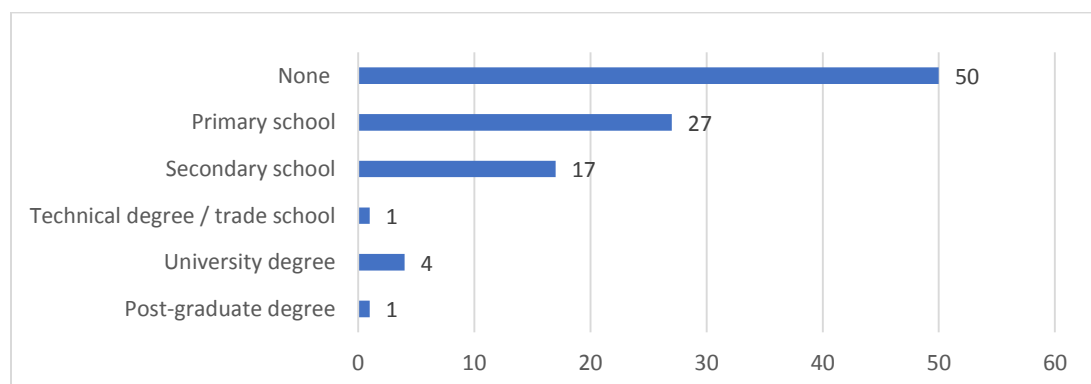
⁺ Rounded to nearest integer

4.2 ETHNICITY

The sample population includes representatives from 20 different ethnic groups, with the overwhelming majority self-identifying as Nuer (46%) or Dinka (32%). The next largest groups are the Balanda (8%) and Shilluk (4%). Although the prevalence of Nuer and Dinka is not surprising given historical migration trends and disproportionate impacts of forced migration, the numbers of Balanda and Shilluk are lower than expected given that data were collected in the Malakal PoC as well as Wau town and PoC. Further research is required on why these

communities are under-represented in the sample when compared to their respective populations in the given field-site.

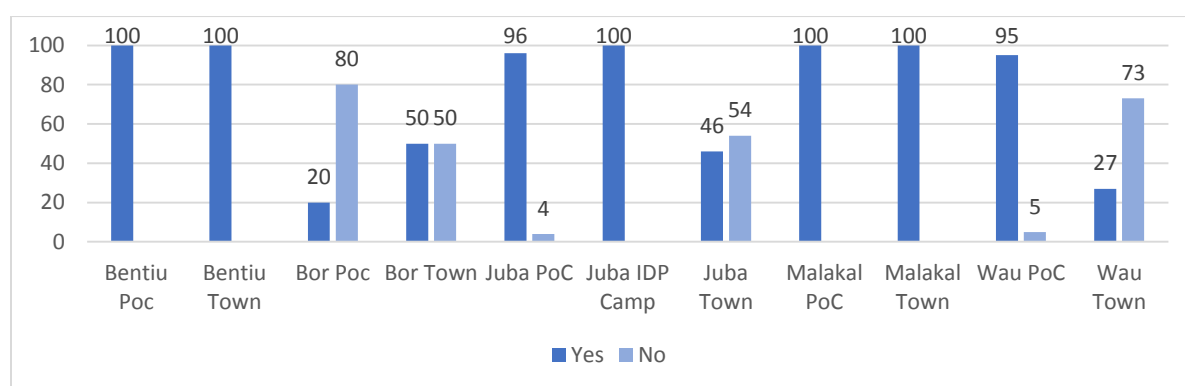
Figure 2. Highest level of education successfully completed (%)



4.3 DISPLACEMENT

Regarding forced migration, 86% of all participants who participated in this study have been displaced at some point in their lives. Of those who have been displaced, 43% have been displaced on more than one occasion. With regards to the current conflict, of the 313 respondents who have been displaced at some point in their lives, 91% were displaced on at least one occasion over the past three years as a direct result of the on-going conflict. Unsurprisingly, as field sites include five PoCs and the Mangaten IDP camp in Juba, a relatively high proportion of our sample (68%) is currently displaced (see Figure 3).

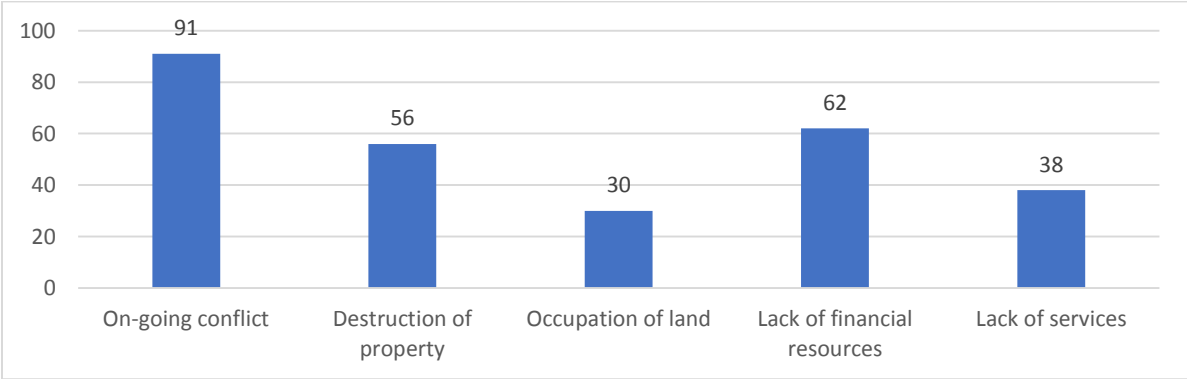
Figure 3. Currently displaced x Field site (%)



When asked an open-ended question about what is keeping them from returning home, 91% of participants who were displaced at the time of research point to 'on-going conflict.' Beyond the immediate challenges of insecurity, an additional 56% highlight property destruction, and 62% state that they lack the financial resources required to return and re-establish a basic level of livelihood security (see Figure 4). Although incredibly high across the board, concerns regarding on-going insecurity are greatest in Bentiu town (100%) and PoC (100%), Bor Town (100%) and

PoC (100%), Juba PoC (96%) and Malakal PoC (97%). Apprehensions regarding property destruction are highest in Bentiu PoC (73%), Bentiu Town (82%), and the Malakal PoC (80%).

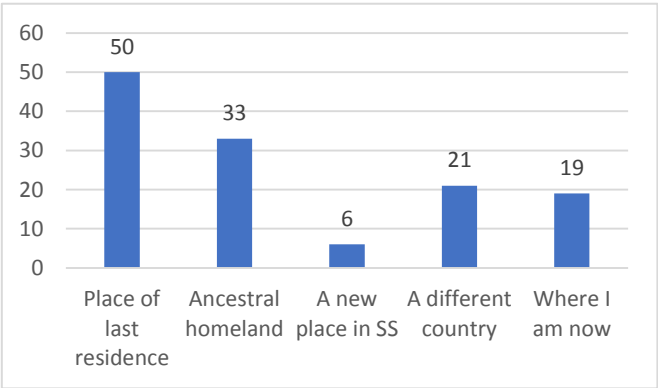
Figure 4. What is keeping you from returning home? * (%)



Despite significant obstacles to return and resettlement, 50% of respondents who were displaced at the time of research maintain that they would like to return to their last place of residence. Thirty-three (33) percent would like to settle in their ancestral homeland, and 21% would prefer to re-locate to a different country (see Figure 5). Responses vary significantly between the 11 field sites and demonstrate that conflict and displacement impact communities in different ways. Most notably, 65% of participants in Bentiu town and 46% in Bentiu PoC would prefer to live in another country; these levels are significantly higher than the average across all field sites (21%). Similarly, the desire to return to the last place of residence is highest in Malakal town (100%), Malakal PoC (97%), and Wau PoC (81%).

Moving forward, differences in exposure to violence, the length and nature of displacement, and preferences for resettlement will be essential to the design and implementation of reparations programmes. On the one hand, potential material and symbolic reparations will need to simultaneously account for large-scale returns and for those households that wish to remain in locations of displacement or settle elsewhere in South Sudan. In other words, reparations must be made available to victims in the areas where they chose to settle. On the other hand, there is significant potential for a reparations programme to capitalize on the general desire for return and resettlement by providing preliminary support to encourage and facilitate these processes.

Figure 5. If you had your choice, where would you prefer to live?* (%)



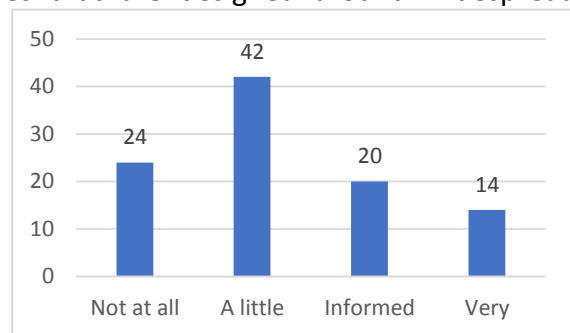
* All figures marked with this symbol are based on multiple-select questions where respondents could select more than one response. The totals in these figures add up to more than 100%.

4.4 AWARENESS OF THE ARCISS PEACE AGREEMENT

Although the argument can be made that the ARCISS peace agreement (to the extent that it was ever truly implemented) collapsed with the outbreak of conflict in Juba on July 8, 2016, the TGoNU has continued to ‘function,’ albeit at an increasingly compromised level. Given our explicit focus on reparations as introduced in Chapter V of the agreement, researchers asked a series of questions regarding the extent to which respondents have heard of ARCISS. Overall, 85% of all participants from the survey state that they have heard of the ARCISS peace agreement. This level of penetration is not surprising given that the sample focused on populations in some of the most conflict-affected areas of the country, and fact that the overwhelming majority of the sample has been displaced as a direct result of the civil war. The link between displacement and awareness of the peace process also explains why residents of the five PoC sites included in this study are more informed about the ARCISS agreement than participants in any other site.

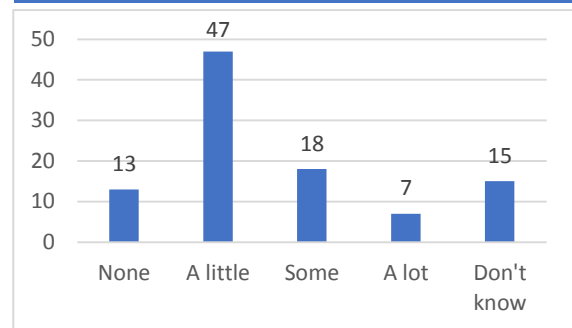
Despite widespread awareness of the agreement, respondents note that they have little detailed information about the specific institutions or requirements that it outlines. Most notably, 24% of the sample feel that they are ‘not at all informed’ about the agreement; an additional 42% feel ‘a little informed’ (see Figure 6). Level of education is the only demographic factor that has a statistically significant impact on results; 92% of participants who are ‘not at all informed’ about the agreement have either not completed any schooling or have only completed primary school. The gap between ‘awareness’ of the agreement and ‘knowledge’ of its contents demonstrates a key challenge of information sharing, as there is a significant difference between ‘hearing’ about a peace process and ‘understanding’ it. While this challenge is typical of all development and humanitarian response, addressing this gap will be a key component of any reparations process. Ensuring widespread awareness *and* understanding is especially relevant for reparations programmes, which necessarily have extensive requirements for what counts as ‘evidence’ in the identification of ‘victims,’ and generally have restricted timelines for the disbursement of material and symbolic goods. Although reparations programmes that are designed around widespread participation and tailored to local level institutions can significantly reduce information gaps, any programme will need to be accompanied by extensive dedication to creating awareness and understanding of programme goals, rights, and procedures.

Figure 6. How informed are you about the ARCISS peace agreement? (%)



Similar to overall knowledge, confidence in the ability of the ARCISS agreement to bring about lasting peace remains fairly low. When asked ‘How much confidence do you have in the ability of the ARCISS peace agreement to bring lasting peace to South Sudan?’, 47% of the sample population state that they have ‘a little confidence’, 18% have ‘some confidence,’ and 13% have ‘no confidence’ at all (see Figure 7). Once again, responses vary according to geographic location and whether or not the respondent is living inside a PoC site or IDP camp. Specifically, respondents from Bentiu, Malakal, and Bor, three communities that have experienced a significant amount of violence and displacement, have less confidence in the peace process than those living in Juba and Wau. Additionally, participants living the PoCs in each of these sites have less confidence in the peace agreement than their counterparts in town. Once again, this is likely a result of long-term displacement, exposure to extremely difficult situations in the camps, and lack of progress with political reforms and physical security. While it is fairly easy to understand why populations in the PoCs have the least amount of confidence in the peace process, the significant differences in responses within and between sites will be an essential challenge for any reparations programme.

Figure 7. How much confidence do you have in the ability of ARCISS to bring lasting peace? (%)



4.5 REPARATIONS

Given that the main goal of this brief is to provide preliminary information on civilian priorities for reparations, the following sections summarize key findings on the definition and prioritization of victims, demands for symbolic and material reparations, and potential challenges facing the implementation of rigorous and transparent reparations programmes. Initial trends drawn from the survey are supported and contextualized by data from focus group discussions.

According to me, the most pressing needs of the victims of conflict-related abuse are food, shelter, and health. Most of the people lack food, others lack where to sleep, and others can't even access medication. – Elder, Malakal town

Before moving on to an exclusive focus on reparations, we note that while the overwhelming majority of participants in both the survey and focus group discussions support the *eventual* delivery of reparations for victims of severe human rights abuses (see section 4.3), priorities in the short and medium term centre primarily on meeting their most basic needs and ending the conflict. Although the initial signing of the ARCISS peace agreement in 2015 presented several opportunities to begin planning for transitional justice programmes, continued violence and displacement over the past two years have dramatically increased both the size and needs of

South Sudan's conflict-affected population.¹² As such, any discussion of reparations and other transitional justice programmes remains secondary to demands for food security, shelter, and peace.

The importance of balancing immediate needs with medium and long-term post-conflict stabilization programmes is especially evident in data drawn from focus group discussions. Differing from survey questions which focused primarily on specific aspects of potential reparations, each focus group began with the question: 'What should be done for victims of conflict-related abuses in South Sudan?' The second question then asked: 'What are the most pressing needs of victims of conflict-related abuses?' Unsurprisingly given widespread displacement and exposure to severe human rights abuses, the majority of responses emphasize immediate needs for food, physical security, and shelter. Simply put by a male elder in Wau PoC, "Our most pressing needs are peace, security, and food."

Victims of conflict-related abuses need food and humanitarian assistance. Due to overcrowding there is need to provide more shelters to the IDPs. Ten to thirty people are sharing one shelter.

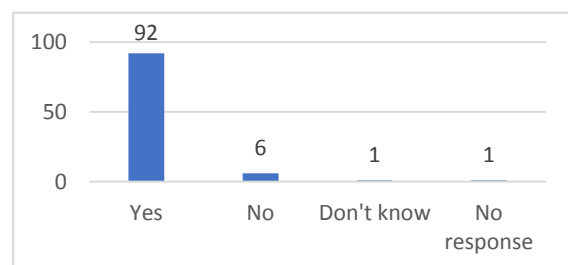
– Middle-aged woman, Bentiu PoC

Beyond the importance of meeting the most basic needs of displaced and conflict-affected populations, any attempt at introducing a reparations programme will require sustainable peace characterized by large-scale returns and political support from both the GRSS and SPLM/A-IO. Without these minimum requirements, reparations programmes risk alienating key constituencies and undermining – rather than supporting – long-term peace and stability. Unsurprisingly, many respondents in the PoCs express frustration with the fact that researchers wanted to talk about reparations while fighting was on-going. According to a member of a youth focus group in Wau PoC, "Why do you ask about what should be done for the victims of the conflict while the government continues killing the civilians up to now?"

4.6 SUPPORT FOR REPARATIONS

Although data from focus group discussions highlight a clear demand for support in meeting people's most basic needs, participants in both the survey and group discussions acknowledge that reparations will be required once South Sudan stabilizes. Overall, 92% of participants in the survey believe that reparations are required for victims of conflict-related abuses (see Figure 8). When asked why reparations are needed, respondents generally emphasize one of two interdependent arguments linked to the nature and practical impacts of violence. First, independent of location, participants link the

Figure 8. Are reparations required in South Sudan?



¹² According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA, 2017), as of April 2017 1.97 million South Sudanese were internally displaced, 217,622 people were seeking shelter in Protection of Civilians sites, and 1.83 million South Sudanese refugees were seeking shelter in neighbouring countries.

need for reparations to violence characterized by the purposive targeting of women, children, and the elderly; groups that are traditionally not viewed as ‘legitimate’ targets of large-scale organized violence. According to a focus group of middle-age men in Bentiu PoC:

Many problems happened to this community. There were rampant killings of civilians, women, children, including old aged people. I witnessed burning and destruction of houses and properties...young boys were castrated and killed, young women and girls were raped and killed. There were many people who were burnt in houses and livestock looted by the forces and the neighbouring counties.

While these populations have been targeted on a number of previous occasions (especially during the Second Sudanese Civil War), respondents believe that overall forms of violence changed following 2013. For example, a male elder in the Bentiu PoC notes that:

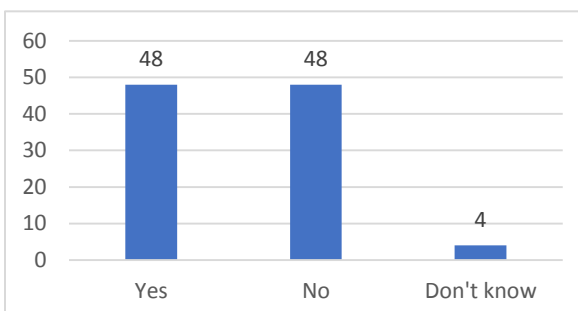
During the Sudan conflict with the Southerners, people moved into town and the Sudan government did not kill people or rape women and girls. The things that are done in this conflict of 2013 have never been done before.

Second, beyond intentionally targeting civilians and violating ‘traditional’ norms governing violence, participants in focus groups discussions explain that reparations are needed because the conflict has destroyed peoples’ livelihoods. Differing from support linked to violations of international or local norms, these claims concentrate on the practical obstacles that individuals will face as they begin to re-build their homes and lives. According to a group of men in Juba:

I strongly admit that victims of conflict-related abuses should be given reparations because our livelihood has been destroyed...People should get reparations because the bread winners in some families were killed.

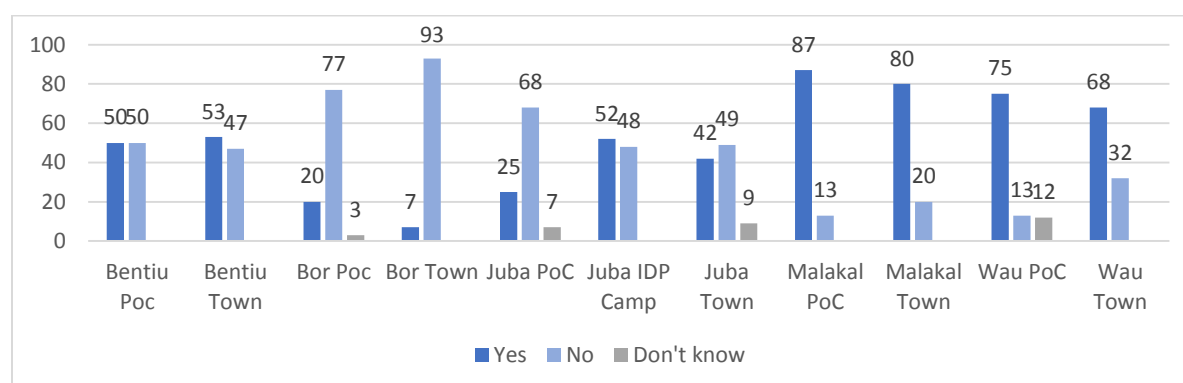
Independent of whether respondents understand the need for redress as a direct result of human rights violations or challenges facing livelihood security, a key issue moving forward will be the link between demands for compensation and the potential for long-term peace. In response to the question ‘Are reparations required for long-term peace in South Sudan?’, 48% of the sample answered ‘yes’, and another 48% answered ‘no’ (see Figure 9). Responses varied significantly between field sites, with participants from Bor (PoC and town) and Juba PoC more likely to believe that reparations are required for long-term peace than those in any other location. Conversely, respondents in Malakal and Wau (both towns and PoCs) generally believe that there can be peace in South Sudan without providing reparations (see Figure 10). These results re-enforce the need to cater reparations programmes to the needs and priorities of local populations who have not only

Figure 9. Can there be peace without providing reparations for victims of conflict-related abuses? (%)



experienced significant differences in the nature and extent of violence, but whose demands for redress are informed by differences in religion, customary law, and a myriad of other factors.

Figure 10. Can there be peace without reparations x Field site (%)



Beyond general support for reparations and potential links to long-term peace, 63% of the sample believe that reparations should be provided for conflict-related abuses committed prior to December 2013. Interestingly, support for extending compensation to victims of previous conflicts declined dramatically in focus group discussions, where respondents generally explain that any reparations should be restricted to victims of the current crisis. Participants in focus group discussions across all field sites note that while conflict-related abuses have been committed in the past, reparations are not required because: (1) the country eventually achieved independence from Sudan, and (2) previous conflicts did not affect civilians in the same way. According to a female respondent from the Mangaten IDP camp in Juba:

Our previous war with Sudan did not kill women and children like this one. Mostly only men died in the war, but they didn't die in vain because it is their sacrifice that brought the Independence of South Sudan in 2011. Only this war [2013] should have reparations. – Middle aged woman, Juba IDP camp

No! Reparations should not be provided for victims of previous conflicts. The war between South Sudanese and Arabs was a war for freedom. We were fighting for our freedom, our children's future. In my view it is this war [2013] that victims need reparation.

Additionally, participants in focus groups also note that a widespread lack of funds and institutional capacity, combined with the sheer number of people affected by the current conflict limit the potential to provide reparations for victims of previous conflicts.

Although further research is required on why responses differ significantly between individual surveys and focus group discussions, the fact that participants in focus groups were asked to explain their responses likely had a significant impact. Here, rather than a belief that victims of previous conflicts do not require (or deserve) reparations, explanations tend to focus on the

need to prioritize the most vulnerable victims of recent fighting. In other words, the issue is about prioritization rather than limiting the rights of previous victims.

4.7 DEFINING 'VICTIMS'

One of the biggest challenges a reparations process will face is the definition and prioritization of the 'victims' who qualify for compensation. Too narrow a definition will limit access, ignore legitimate claims, and has the potential to undermine the stability of a peace process; this is especially true when reparations are viewed as politically motivated or divided along partisan (or ethnic) lines. At the same time, a broad definition will not only lead to an overwhelming number of claims, but also undermine the extent to which a programme can address the needs of the most vulnerable victims of conflict-related violations. According to Carrington and Naughton (2012:6):

Broadly worded categories such as "conflict-affected" or "poor and vulnerable" are unlikely to suffice; they invite ambiguity into the policymaking process and create unrealistic expectations that can lead to incoherent implementation. Those who are more tangentially affected by the conflict will entertain expectations of receiving benefits equal to those who were directly harmed.

Reference to key social, political, and economic characteristics can help prioritize amongst groups of victims, but these categories should not be the only criteria used to determine who qualifies for reparations (Carrington and Naughton, 2012). While a breakdown of the challenges and best practices regarding the definition of 'victim' goes beyond the scope of this brief, determining who qualifies for reparations in South Sudan must be based on extensive participation, and at a minimum prioritize victims of gross violations of international human rights law and humanitarian law. According the Basic Principles (UNGA, 2006:5):

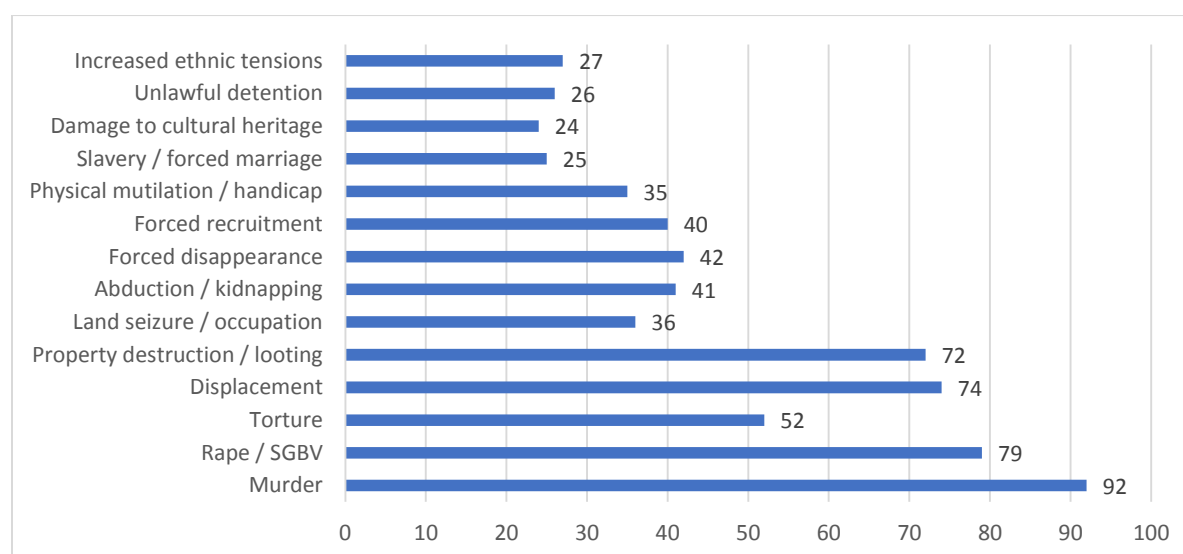
...victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term "victim" also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

Although this (already broad) definition leaves out those populations that are generally viewed as 'conflict-affected', these and other broad categories of individuals can be addressed through additional programmes that are part of the larger peacebuilding and transitional justice programmes (Iliff et. al, 2011) rather than via the direct delivery of reparations.

In order to understand who should receive reparations, researchers began by asking respondents to identify the most serious conflict-related abuses that have occurred as a result of the on-going conflict. Although participants from the survey highlight a wide range of abuses,

murder, rape / SGBV, displacement, property destruction, and torture are seen as the most serious (see Figure 11). Specifically, 92% of the population highlight ‘murder’, 79% point to ‘rape / SGBV’, 74% to displacement, 72% to property destruction and looting, and just over half (52%) to torture. Once again, although participants generally agree on the most serious abuses, results vary significantly between field sites, as well as whether the respondent is living in a PoC site. For example, a significantly higher percentage of respondents in Bentiu and Bor (towns and PoCs) and Juba PoC highlight rape and SGBV than participants any other field site. Similarly, respondents living in PoCs in all locations except for Wau are much more likely to identify rape / SGBV as among the most serious conflict-related abuses than those living in adjacent towns or in the Mangaten IDP camp in Juba. Differences within and between locations regarding opinions on the most serious conflict-related abuses will have a significant impact on the immediate and long-term needs of victims, and must be incorporated into the design and delivery of any reparations programme moving forward.

Figure 11. Most serious conflict-related abuses* (%)

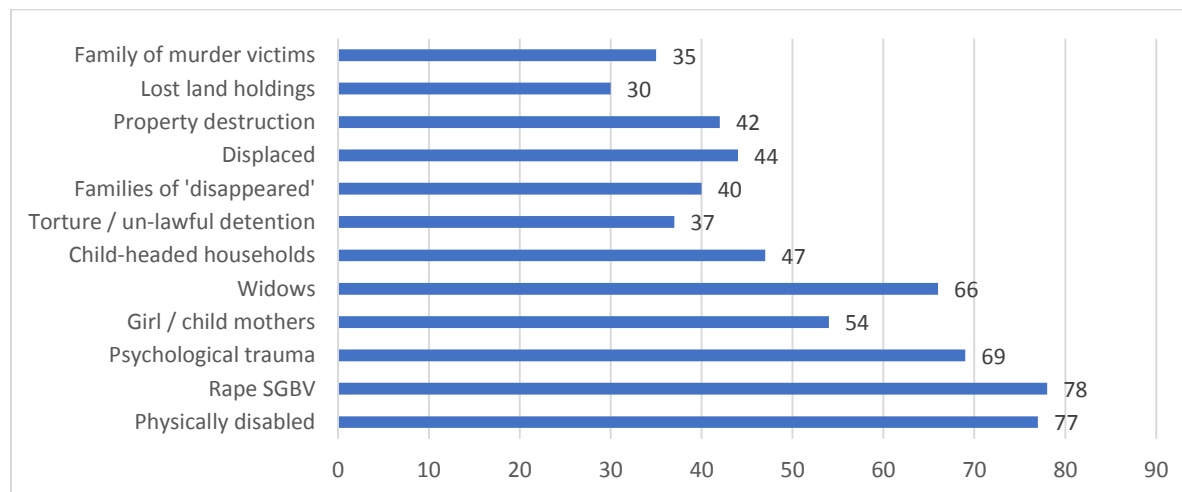


Following directly from opinions regarding the most serious conflict-related abuses, researchers asked respondents to identify the most vulnerable groups of victims. Once again, this open-ended question resulted in a wide range of answers (see Figure 12), but the majority of participants highlight four key groups. Seventy-eight (78) percent of the sample point to victims of rape and SGBV, 77% to ‘people physically disabled or injured by violence’, 69% to victims of psychological trauma, and 66% to widows. These findings complement data from focus group discussions, which clearly demonstrate that participants across all field sites believe that that women, children, and the elderly have been most affected by recent and on-going violence. When asked why these three groups of victims are the most vulnerable, explanations once again emphasize violations of traditional norms of

To me, it is the orphans and the widows who should be given priority for reparations. I lost my husband, there is nobody who can help me. – Middle aged woman, Juba IDP camp

conflict and the challenges that these groups will face when trying to rebuild their livelihoods (see section 4.6).

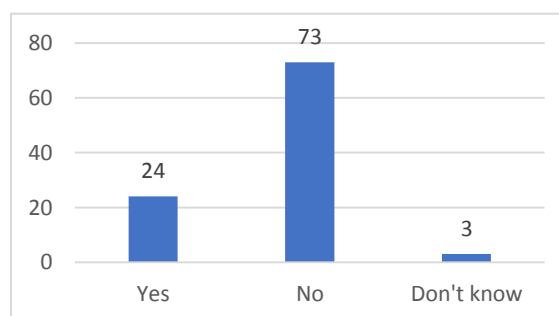
Figure 12. Which groups of victims (of conflict-related abuses) are the most vulnerable?* (%)



In addition to specific questions about the most serious conflict-related abuses and most vulnerable victims, any attempt to define which victims qualify for reparations will have to grapple with potential exclusions. Here, exclusions do not refer to those who have not experienced severe violations, but to those who have and are purposefully excluded from a programme. Generally, reasons for excluding certain groups of victims relate to their actions during the conflict (e.g. members of specific militias or radical political groups). While the inclusion and exclusion criteria in South Sudan will need to draw on significant research and amount of funds available for reparation programmes, this brief is based on a strong belief in the inherent rights of all victims, and fact that such rights should not be restricted because an individual victim may also be identified as a perpetrator (García-Godos, 2008; Iliff et al., 2011).

When asked if any victims of conflict-related abuses should be excluded from reparations, 73% of the entire sample answer 'No' (see Figure 13). Explanations regarding why reparations should not exclude anyone emphasize that the conflict has affected everyone and that peace will only be possible if members of all ethnic groups are treated equally. According to a participant in a men's focus group in Juba, "I strongly believe that this conflict affected all of us equally, hence no one should be excluded from the process." However, overall support for exclusions increase significantly when researchers asked respondents whether members of militias, the SPLA, and SPLA-IO should be excluded from reparations

Figure 13. Should any victims of conflict-related abuses be excluded from receiving reparations? (%)



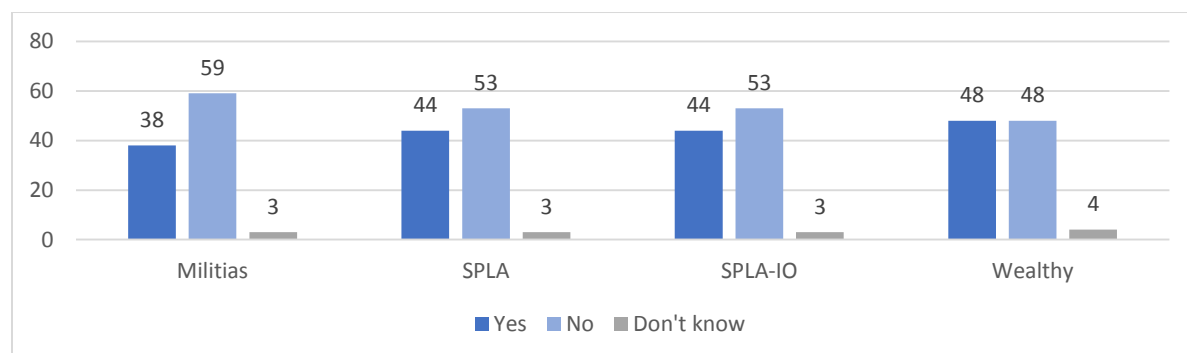
programmes (see Figure 14).¹³ Specifically, 38% of respondents believe that members of militias should be excluded; another 44% state that members of the SPLA and SPLA-IO should be excluded. Data from focus groups show that support for excluding members of the armed groups involved in the conflict relates to their roles in killing, looting, and displacement. According to a member of a youth discussion group in Bor, “I think that those who have committed crimes should be excluded from receiving reparations because they have caused atrocities in the country.”

Interestingly, respondents are more likely to want to exclude victims from wealthy families than they are to exclude members of the military and armed groups responsible for the violence. Notably, almost half of all respondents (48%) feel that victims of conflict-related violations who come from wealthy families should not qualify for reparations. On the one hand, lower levels of support for including wealthy individuals can be linked to the nature of the conflict and fact that the war is being driven for the personal and political gain of a small cohort of political-military-economic elite. This feeling was expressed by a participant in a woman’s focus group discussion in the Mangaten IDP camp in Juba:

Yes, the rich people and those who are benefiting from this conflict should be excluded from receiving reparation. We are dying here but their children are not here in South Sudan. They hide them abroad while they are killing the innocent, they should be excluded. – Middle aged woman, Juba IDP Camp

On the other hand, data from focus group discussions suggest that while most respondents believe that reparations should include all victims of conflict-related abuses, excluding wealthy victims is more about prioritizing the needs of the most vulnerable (considering severe restrictions on funds and capacity) than it is about restricting overall access. In other words, while victims from wealthy families may have experienced severe conflict-related violations, they are less likely to require significant support when looking to rebuild their livelihoods.

Figure 14. Should members of the following groups be excluded from reparations? (%)



¹³ Specific needs of soldiers and members of militias can also be addressed through other projects that overlap with reparations programmes (e.g. disarmament, demobilization, reintegration, and reinsertion (DDRR) and pensions).

4.8 NATURE OF REPARATIONS

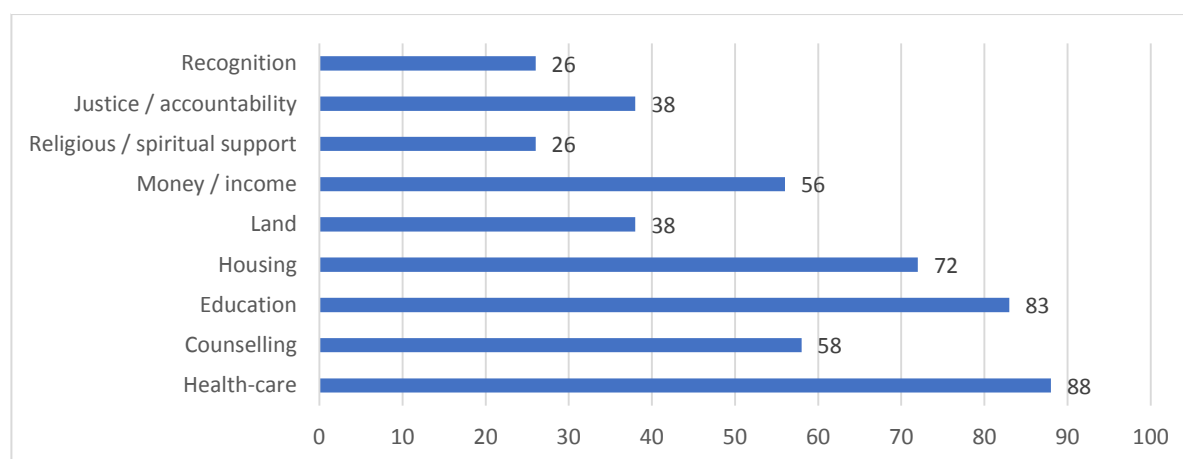
In addition to the inherent challenges of defining and prioritizing victims, reparations programmes need to strike the correct balance between material and symbolic goods, and mechanisms of delivery (individual and collective). On the one hand, this balance will be informed by the needs and demands of those who qualify as 'victims' according to the given policy or programme. On the other hand, the eventual balance between types of reparations cannot be separated from available funds and the capacity of the state. States with limited funds and institutional capacity generally attempt to prioritize the delivery of symbolic and collective reparations over individual and material goods, as the former are generally significantly cheaper and easier to implement. However, while symbolic and communal forms of reparation are essential components of any programme, they are never a substitute for individual material reparations for the victims of the most serious violations (García-Godos, 2008; UNHCHR, 2008; Rosenfeld, 2010). According to Rosenfeld (2010:744):

Above all, it must be borne in mind that collective reparation addresses collective harm alone, and not individual harm. In most cases, it will therefore only have a supplementary function. Individual harm will still have to be remedied by individual reparation.

Additionally, although researchers for this project asked a series of questions about preferences for type of reparation and modalities of delivery, these categories are not mutually exclusive. Rather, creative reparations programmes find ways to combine individual and communal delivery simultaneously. For example, providing victims of rape and SGBV with free (or radically subsidized) access to health care (including psychosocial support) will not only address specific needs of individual victims, but can also be implemented in a way that brings victims together at local treatment centres to increase support and foster more collective forms of redress.

Even though material and symbolic goods delivered at the individual and communal level are all important aspects of effective reparations programmes, decision makers and implementing agencies are often forced to prioritize according to available funds and needs of victims. For this project, we began by asking participants to identify the most pressing needs of the most vulnerable victims of conflict-related abuses. Eighty-eight (88) percent of respondents point to health care, 83% to education, 72% to housing, 58% to counselling, and 56% to money / income (see Figure 15). Once again, significant variations between field sites as well as between the needs of those living in PoCs demonstrate the importance of tailoring goods and mechanisms of delivery to not just different demands, but also to existing services in each area. For example, respondents in Juba (town, PoC, and the Mangaten IDP camp) are much less likely to emphasize the need for education and health care services than participants in other areas of the country, as they generally have the best (although by no means sufficient) access of any community in South Sudan.

Figure 15. Needs of the most vulnerable victims* (%)



Second, researchers asked respondents if reparations should be prioritized for individual victims or for entire communities. Fifty-three (53) percent of the sample believe that reparations should prioritize entire communities; the remaining 47% believe that individual victims should be prioritized (see Figure 16). Once again, responses have a significant spatial dimension, as demand for individual reparations is highest in Bentiu PoC (85%) and Bentiu Town (82%), and lowest in Malakal PoC (0%) and Malakal Town (7%) (see Figure 17).

Figure 16. Should reparations prioritize individual victims or entire communities? (%)

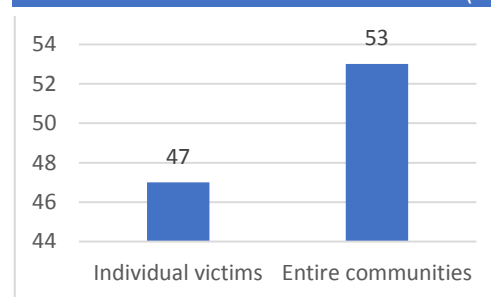
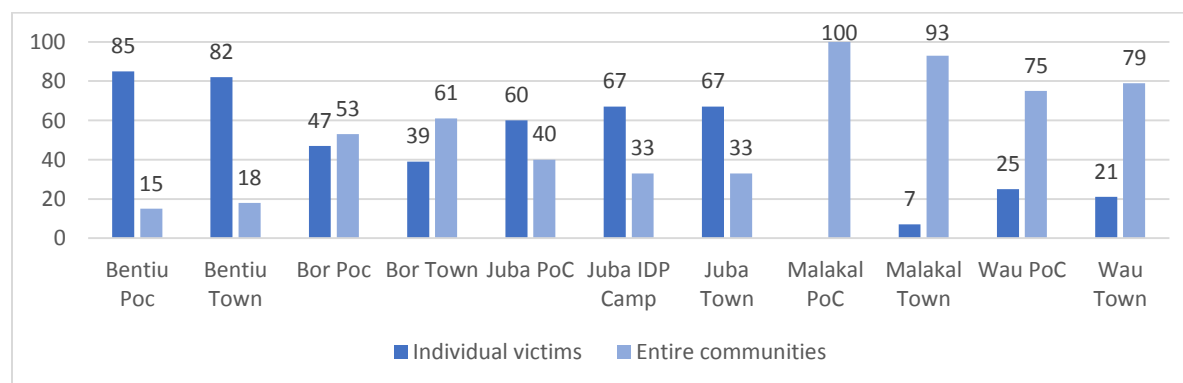


Figure 17. Should reparations prioritize individuals or communities x Field site (%)



Third, respondents were asked if reparations should prioritize material or symbolic goods. The overwhelming majority (83%) of the sample believe that material goods should be prioritized in South Sudan. While this is a bit of a surprise given the almost even split between preference for individual versus communal goods, and widespread recognition of the state's lack of capacity, these results cannot be separated from the widespread lack of livelihood security and access to

the most basic services. In other words, seeing as the state has thus far failed to provide citizens with access to education, health-care, reliable electricity, and clean water, these goods are being demanded as part of a potential reparations process. Moving forward, separating between the State's inherent responsibility for development and provision of reparations to victims of conflict-related abuses will be an important challenge. While governments will often try to pass off development projects as reparations programmes, these two must not be conflated. Development projects, by their very nature, are not designed to address the specific needs of victims of severe conflict-related violations. Some governments try to blur this distinction by providing basic services to conflict-affected communities, and argue that providing victims with priority access in the short-term counts as 'reparations.' According to UNHCHR (2008:26), the main problem with this approach is that "since the benefit is not the goods themselves, but the temporal ordering of their distribution, once the ordering becomes irrelevant, as when the goods in question become generally available, the benefit dissipates."

In response to an open-ended question about what type of reparation is most important for individual victims of conflict-related abuses, the majority of respondents answer 'direct payments of cash.' Regarding priorities for delivery, 52% of the entire sample explain that cash payments should be given as a one-time lump sum, the remaining 48% prefer that payments are spread out over several years. The UNHCHR (2008:31) effectively summarizes some of the challenges facing this decision:

International experience suggests that it is better to distribute compensation awards in the form of a pension rather than a lump sum. Although lump sums in theory maximize individual choice, in some contexts coming into what may be seen as sudden wealth may cause divisions within communities, and more frequently, within families. There is also some evidence that lump sums are often misspent and that they have less impact in the long term than expected. Women, in particular, would seem to benefit more from a pension system than a one-off payment (which might make them the centre of demands for assistance and in effect do away with the whole award). Finally, and most importantly, a pension is more likely to be interpreted as a contribution to the quality of life of survivors rather than as the price that the Government puts on the life of a loved one or on the pain endured by victims. The very regularity of a pension may contribute to the experience of recognition of victims and to fostering trust in institutions from which they receive regular support.

To this, we would also add that issues of access and amount of trust that civilians have in the state must also be accounted for. Distribution of a pension not only requires institutions that are accessible to the majority of victims, but also that victims trust that the state will be willing and able to distribute the promised funds.

Beyond a general preference for lump sum payments versus pensions, researchers also asked who in a given household should receive the funds. Overall, 67% of participants believe that cash (no matter how it is distributed) should be given directly to the individual victim. The

remaining 33% believe that payments should be distributed to the household head. Interestingly, gender, level of education, and whether a respondent is the male head of household do not have a significant impact on results.

4.9 RESPONSIBILITY FOR REPARATIONS

According to the Basic Principles on reparation (UNGA 2006:7),

In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.

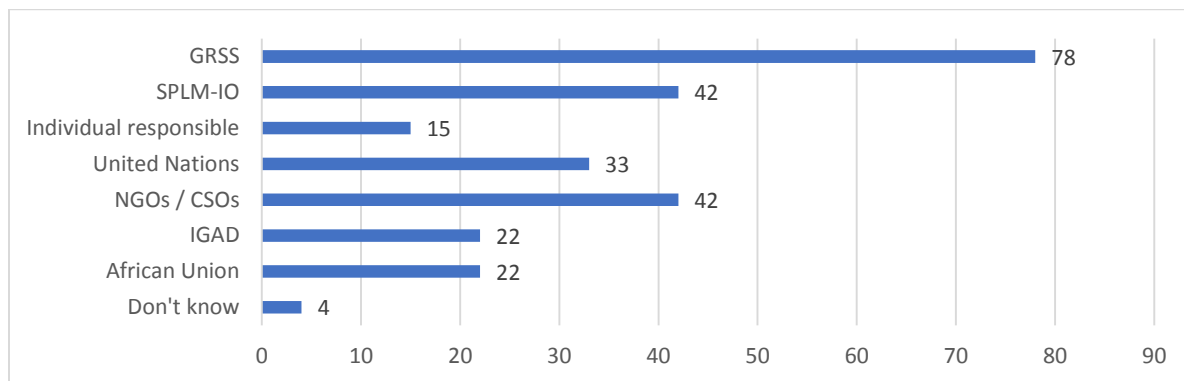
Responsibility for reparations falls to government, non-state, and individual actors involved in severe human rights violations and violations of international humanitarian law. At the same time, governments are also responsible for providing reparations if they have failed to protect citizens from severe violations committed by non-state actors and individuals. However, independent of the number of groups and individuals who have committed grave conflict-related violations in South Sudan, any attempt at providing victims with redress cannot succeed without the GRSS, SPLM/A-IO, and other key actors taking responsibility for their actions.¹⁴

Beyond basic responsibilities outlined in international law and best practices, local perceptions about responsibility also have a significant impact on the nature and success of a reparations programme. For this project, we were especially interested in who respondents think should be responsible for funding and implementing reparations programmes. In response to the open-ended question ‘Who should be responsible for providing reparations for to victims of conflict related abuses?’, 78% of the sample point to the GRSS. An additional 42% point to the SPLM-IO, and a further 42% highlight non-governmental organizations and civil society members (NGOs/CSOs) (see Figure 18).

It is important to note that participants do not necessarily equate responsibility providing reparations with responsibility for conflict related abuses. Indeed, despite a general focus on a range of actors who should be responsible for providing reparations, the majority of respondents believe that both the GRSS and SPLM/A-IO have committed severe human rights abuses. Ninety-one (91) percent of the sample state that the GRSS should apologize for violations of severe human rights; 81% believe that the SPLM-IO should apologize (see Figure 19). Finally, 94% of the sample believe that the GRSS should apologize for failing to protect civilians from conflict-related abuses.

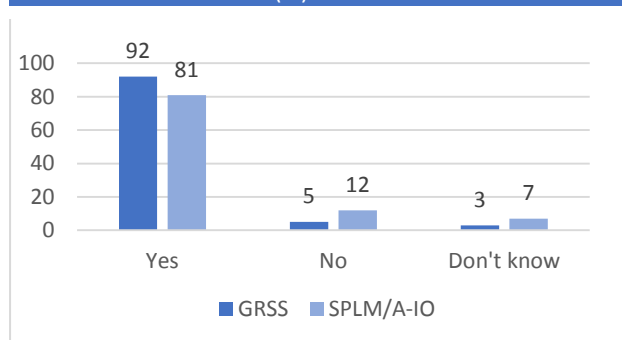
¹⁴ Further discussion on the legal and moral aspects of ‘responsibility’ for reparations is beyond the scope of this brief.

Figure 18. Who should be responsible for providing reparations? (%)



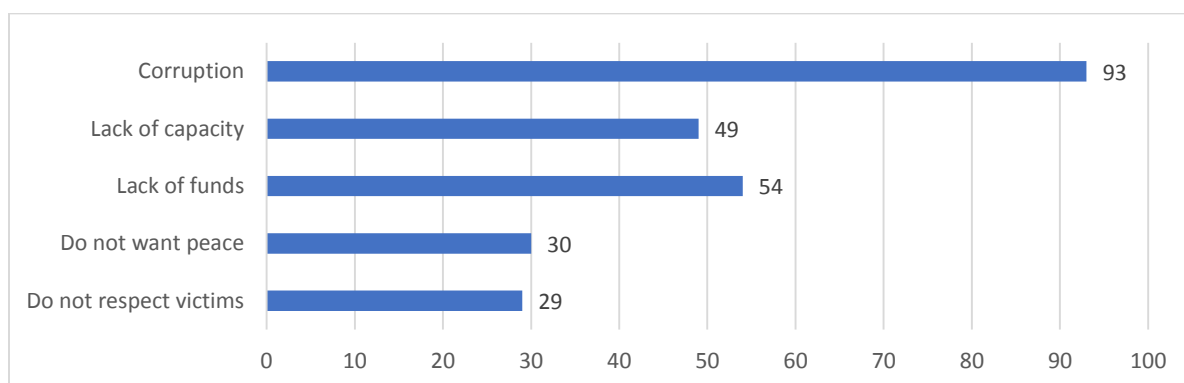
Differentiating between responsibility for abuses and responsibility for providing reparations also explains why a large-percentage of participants believe that NGOs, CSOs, and UN agencies should play an active role in any reparations programmes. Participants do not hold these agencies accountable for the conflict (although UNMISS has failed to protect civilians on a number of occasions), but do believe that they will

Figure 19. Should the GRSS and SPLM/A-IO apologize for conflict-related abuses? (%)



need to provide a significant amount of funding and technical support to overcome widespread corruption and lack of government capacity. Data demonstrate that conflict-affected populations have a number of concerns regarding the GRSS' willingness and ability to implement a rigorous reparations programme. Most notably, only 36% of the entire sample believe that the GRSS will be able to provide reparations in a fair and transparent manner. When asked why confidence in the government's ability is so low, 93% of respondents point to corruption, 49% to a lack of institutional capacity, and 54% to lack of funds (see Figure 20).

Figure 20. Why will the GRSS not be able to provide reparations in a fair and transparent manner? (%)



To me, I believe our government cannot do reparation because of corruption and tribalism. I think that it should be given to the UN and other NGOs. – Elder, Mangaten IDP camp

According to the Basic Principles and lessons learned from previous contexts, funding for reparations programmes must consider the group(s) and individuals responsible for harm (UNGA, 2006; Iliff et al., 2011). While the international community will need to provide extensive support to South Sudan, this should (as much as possible) be limited to technical support. Sufficient

funds can be obtained through a special trust fund, dedicated line in the budget (preferable), and number of creative solutions such as debt swaps, special taxes, and targeting illegally obtained assets (UNHCHR, 2008). In South Sudan, the main issue will not be the government access to funds but the state's willingness (and ability) to shift spending from the military and militias to reparations and development programmes. Although reparations programmes are expensive and do require a significant amount of money, extensive experience from other countries and programmes demonstrate that the main impediment to success is political will, not a lack of funds. Specifically, "an analysis of failed efforts clearly shows that normally, without strong and broad coalitions in favour of reparations, no plans, or at best very modest plans, are implemented even if the country can afford a better one" (UNHCHR, 2008:32). In South Sudan, the main obstacle to designing and implementing an effective reparations programme that will contribute to long-term peace will not be the availability of funds, but what the GRSS decides to spend them on.

5. RECOMMENDATIONS

FOR THE GOVERNMENT OF SOUTH SUDAN

- The warring parties should immediately end the current ongoing military confrontation in order to pave way for establishment of key transitional justice mechanisms;
- Establish Compensation and Reparations Authority (CRA) to immediately begin engaging with affected populations in preparation for its daunting task;
- Enact the legislation that clearly stipulates mandate of CRA and its scope of work as well as develop comprehensive legislation to guide the return and resettlement process, with a specific focus on dispute resolution and protecting the HLP rights of displaced populations. Refugees, IDPs, and host communities should be involved in the design and implementation of return and resettlement programmes;
- Implement articles Ch.V of the 2015 ARCISS Peace Agreement;
- Develop the criteria, methodology and prioritize victims' identification while mainstreaming gender and vulnerability as key components of this exercise;
- Given the high level of trauma and SGBV, ensure that women's rights to access institutions concerned with reparations, health and psycho-social support are identified and their services brought closer to the affected populations;
- Develop training materials and disseminate information on rights and procedures outlined in the Ch. V of ARCISS, and forthcoming National dialogue. Focus should be on increasing awareness of and availability of means of access to institutions concerned with reparations;
- Develop alternative ways of resolving conflict-related disputes that build on local mechanisms of dispute resolution, but protect the rights of women, ethnic minorities, and marginalized groups. Provide clear guidelines on how conflict-related disputes should be dealt with by non-statutory authorities.

FOR THE UNITED NATIONS, INTERNATIONAL NGOS, CIVIL SOCIETY ORGANIZATIONS, AND DONORS

- Support the implementation of the 2015 ARCISS, establishment of CRA to early engage with affected populations or communities;
- Work alongside the GRSS to ensure that forthcoming legislation on CRA is adapted to the opportunities and challenges presented by on-going conflict, abuses committed against individuals and communities, displacement, and large-scale returns;
- Strongly mainstream gender in any programmes on reparations, truth-telling, reconciliation and healing;
- Provide technical and financial assistance to support programmes on transitional justice with focus on reparations;
- Develop and implement programmes to increase awareness of Ch. V of ARCISS and procedures for access to CRA, its mandate and scope of work;
- Monitor and evaluate the implementation of the CRA (if established), forthcoming National Dialogue, and the efficiency of customary and statutory mechanisms of dispute resolution;

- Monitor government and community-led procedures of victims identification to ensure that the processes are transparent, simple, well publicized, and do not undermine the customary and statutory rights of all victims;
- Identify and advocate for alternative mechanisms of dispute resolution that are transparent, affordable, and accessible to marginalized groups;
- Monitor and evaluate government-led initiatives on transitional justice with focus on reparations programmes.

GENERAL FOR PROGRAMMING AND DESIGN OF ACTIVITIES ON REPARATIONS

- Adjust reparations to local experiences, priorities, and opportunities: The fact that the overwhelming majority of results from this study vary significantly according to geographic location but are not affected by a respondent's age, gender, or level of education, reinforces the extent to which reparations must account for local needs, opportunities, and challenges. Despite similar experiences with violence, a myriad of factors such as gender, ethnicity, religion, and customary law will impact the nature and potential success of reparations programmes moving forward
- Early gender mainstreaming can help: Although there were little to no statistically significant differences between responses from men and women who participated in this study, a detailed understanding of the gendered nature of violence and structural income and power inequalities must be incorporated into all stages of the design and implementation of any reparations programme
- Reparations programmes should be gender sensitive: Widespread recognition that women are among the most vulnerable victims of conflict-related violations demonstrate the extent to which gender must be included in all aspects of reparations at the local, regional, and national levels, as well as in the design and implementation stages. It is not enough to say that a reparations programme focuses on gender; programmes must go out of their way to address and overcome structural inequalities and challenge practices that undermine women's roles in social, political, and economic reforms
- Root causes must be comprehensively addressed: Although reparations and other transitional justice measures are important for long-term peace, we must continue to focus on addressing the issues that create these demands in the first place
- Early engagement on transitional justice should be prioritized: Although a detailed understanding of public priorities for reparation as the conflict evolves highlights the importance of transitional justice and can be used to inform future programmes, any attempt at implementation requires stable social, political, and economic relations.
- Reparations require legitimate and sustained commitments to peace and institutional reforms: Before a meaningful reparations policy (and resulting programmes) can be developed, state and non-state actors *must* not only take responsibility for their actions, but also commit to legitimate political and institutional reform. Reparations without peace and legitimate government buy-in risks alienating specific communities and undermining rather than promoting peace.

- Further research required: Given the initial lack of detail and restrictive understanding of what ‘reparations’ (as outlined in the ARCISS) entail, extensive research is required on the needs and demands of conflict-affected populations in South Sudan. Specifically, comprehensive information regarding the definition and prioritization of victims, types of programmes, and modalities of delivery are needed to ensure that any compensation and reparation programme addresses demands for redress in ways that contribute to, rather than undermine, peace in the medium and long-term periods.

6. CONCLUDING REMARKS

Given initial to commitments transitional justice outlined in the 2015 ARCISS agreement and importance of reparations to long-term peace, this paper provided a preliminary assessment of public priorities for reparations in South Sudan. Beyond widespread support for individual material goods and the belief that any attempt at redress should prioritize women, children, and elderly victims of conflict-related violations, data demonstrate several larger trends that require further research and discussion.

First, the nature and extent of the on-going conflict has had a devastating impact on the population of South Sudan. Targeting of civilians, use of rape and SGBV as weapons of war, and widespread property destruction have affected millions of people; very few areas of the country have been spared. Despite the universally brutal nature of the violence, the war has resulted in different priorities for reparation that will need to be incorporated into any programme(s) moving forward. The fact that the overwhelming majority of results from this study vary significantly according to geographic location but are not affected by a respondent’s age, gender, or level of education, reinforces the extent to which reparations must account for local needs, opportunities, and challenges. Despite similar experiences with violence and opinions on priorities for reparations, a myriad of individual, communal, and regional factors will impact the nature and potential success of reparations programmes moving forward.

Second, although there were little to no statistically significant differences between responses from men and women who participated in this study, a detailed understanding of the gendered nature of violence and structural income and power inequalities between men and women must be incorporated into all stages of the design and implementation of any reparations programme. Participants universally highlight the impacts that the conflict has had on women and the ensuing challenges widows and victims of sexual and gender-based violence will face re-establishing the most basic forms of livelihoods security. Widespread recognition that women are among the most vulnerable victims of conflict-related violations demonstrate the extent to which gender must be included in *all aspects* of reparations at the local, regional, and national levels, as well as in the design and implementation stages. It is not enough to say that a

reparations programme focuses on gender; programmes must go out of their way to address and overcome structural inequalities and challenge practices that undermine women's roles in social, political, and economic reforms.

Finally, although reparations and other transitional justice measures are important for long-term peace, we must continue to focus on addressing the issues that create these demands in the first place. Data collected for this project demonstrate a significant demand for reparations, but respondents are quick to point out that what they truly require is food, shelter, and physical security. Although a detailed understanding of public priorities for reparation as the conflict evolves highlights the importance of transitional justice and can be used to inform future programmes, any attempt at implementation requires stable social, political, and economic relations. Before a meaningful reparations policy (and resulting programmes) can be developed, state and non-state actors *must* not only take responsibility for their actions, but also commit to legitimate political and institutional reform. Reparations without peace and legitimate government buy-in risks alienating specific communities and undermining rather than promoting peace.

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