

Perceptions of Transitional Justice in South Sudan

FINAL REPORT

Intersections of Truth, Justice and Reconciliation in South Sudan

Rens Willems & David K. Deng

September 2016



Cover photo: Rens Willems 2016 © Billboard in Juba

The views expressed and analysis put forward in this report are entirely those of the authors in their professional capacity and cannot be attributed to organizations involved in the project or the Dutch Ministry of Foreign Affairs.

Summary

This report investigates people's perceptions and experiences of truth, justice and reconciliation in relation to the past and present conflicts in South Sudan. The main data-collection was undertaken by means of a survey, for which 1,912 respondents were interviewed in November and early December 2015 in Juba town, Juba Protection of Civilian site (POC), Wau town and Bentiu POC. Qualitative information was gathered during subsequent interviews and workshops aimed at sharing, fine-tuning and verification of findings.

More than half (52%) of the survey respondents said that they have been victimized in the past by an armed group or military actor in the context of conflict. Respondents who identified as past or current combatants were almost twice as likely to report victimization as respondents who were never combatants, suggesting a high degree of overlap between victim and perpetrator populations.

Overall, men (60%) were more likely to report being victimized by an armed actor than women (42%).¹ However, female respondents were far more likely (92%) to report victimization during the post-2013 period than male respondents (68%). This points to the tactics that the GRSS and SPLM-IO have used in the current conflict and the deliberate targeting of women and children in order to undermine and destabilize communities that are perceived as opponents in the conflict.

The survey found that there is little common ground on the causes or possible solutions to the conflict amongst South Sudanese. The widespread uncertainties about the causes of the conflict point to the importance of national dialogue in generating some consensus about the core facts and circumstances of the conflict. A truth-seeking effort could also contribute to the development of a shared national narrative of the conflict.

Survey data was collected between October and November 2015, just weeks after the GRSS and SPLM-IO signed the ARCISS. While overall, the vast majority of respondents said that they were an agreement had been signed, one-quarter of respondents in Wau and 15 percent of respondents in Juba town were not aware that an agreement had been signed. This reflects the fact that the peace agreement was negotiated among a small group of political elites in a foreign country with little effort to engage citizens in South Sudan in the discussion.

When it comes to people's specific knowledge of Chapter V of the peace agreement, levels of awareness dropped dramatically. Just 56 percent of respondents were able

¹ As more men than women were interviewed in the PoC's, this may have affected the data. However, also within the PoC's itself men were more likely to report victimization than women (81.1% of women and 91.1% of men in Bentiu PoC, and 72.7% of women and 91.6% of men in Juba PoC).

to name the CTRH, 31 percent were able to name the HCSS and 23 percent were able to name the CRA. The percentage of those who think the court will be effective is much higher among respondents who said they heard about the HCSS, suggesting that awareness raising activities about the HCSS could help to muster greater support for the HCSS.

Overall, 74 percent of respondents said that it was more important to have a public discussion about what happened during the conflict than to forgo such a discussion. Of those who favoured public discussion about the conflict, 68 percent considered such a discussion to be an important means of bringing about reconciliation and 48 percent thought it would help them to find out what happened to their families.

Most respondents (73%) said that they had to be very careful in dealing with people, demonstrating the harm that decades of conflict have done to the social fabric in South Sudan. The manner in which the conflict has affected people's views of other ethnic groups varies dramatically across survey locations. In Bentiu POC (86%) and Juba POC (82%), the vast majority of respondents say that the conflict has changed their views of other ethnic groups, whereas far fewer people in Juba (34%) and Wau (21%) reported a change in their view of other ethnic groups. These disparities reflect both real and perceived differences in the impact that the conflict has had on populations in different parts of the country. The longer that people in the POCs are cut off from the political and economic advantages of access to urban areas such as Juba and Wau, the more that feelings of marginalization and inter-ethnic tension will become embedded within people's psyches.

When asked what should be done to promote reconciliation, respondents emphasized public dialogue at the grass-roots level (64%) and at the national level (57%). This illustrates the comfort and faith people have in grass-roots level initiatives, while at the same time understanding that this cannot go without initiatives from and a political solution at the national level.

Gauging South Sudanese preferences for restorative or retributive justice, the survey found that most respondents (50%) said that punishment was the most important; just 15 percent said that compensation was the most important and 32 percent said that both were equally important. Overall, a large majority of respondents (79%) said that those suspected to be responsible for abuses during the conflict should be tried before a court. When asking about appropriate punishments for those found guilty of crimes during the conflict, respondents emphasized imprisonment (63%), execution (37%), paying compensation to victims (24%) and banning the perpetrator from office (18%).

The survey found some division of opinion among respondents with regard to amnesties; while a small majority of the respondents said that they would accept amnesties (55%), a sizeable minority 42 percent opposed amnesties. If amnesties were to be provided, the vast majority of respondents thought that conditions should

be attached. Respondents emphasized confessions (45%), changed behaviour (42%) and apologies (42%).

The success of any transitional justice program will hinge on the ability of the TGONU and its international partners to create an enabling environment for the public discussion of contentious topics such as people's experiences with human rights abuse.

In brief, the report makes the following recommendations based on its findings:

To the Government of South Sudan:

- When possible again, continue with the implementation of Chapter V of the ACRISS, and actively support and promote the establishment of the CTRH, HCSS and CRA.
- Actively promote an inclusive truth-seeking effort in order to support the development of a shared national narrative of the conflict, recognising different experiences.
- Assess where potential gaps would arise for the various proposed institutions and develop the laws and policies that will be necessary to implement Chapter V.
- Allow for open public discussion and debate on issues related to justice and reconciliation to take place but avoid polarization; focus truth and reconciliation dialogues on finding common ground and recognizing victims of violence rather than on appointing blame.
- Prioritize a plan for the return and resettlement of populations in the POCs with dignity and security to places of their choice. Include a specific focus on the different violent experiences of men and women in a transitional justice process.
- Investigate and support the potential of the various traditional authorities in reconciliation and transitional justice processes.

To all guarantors of the ACRISS, including UNMISS, the AU and IGAD+:

- Initiate a hybrid investigative unit with an official mandate to begin compiling evidence of international crimes.
- Move forward with the establishment of the HCSS and ensure it receives considerable political and material support from the region.
- Ensure programmatic connections transitional justice and justice reform efforts.
- Consider the protection of victims and witnesses in HCSS and CTRH processes as an integral part of the protection of civilians mandate.
- Actively promote continued public discussion on reconciliation and justice among South Sudanese, both within and outside South Sudan.

To donors, South Sudanese civil society and (I)NGOs:

Ensure continued support for and by civil society to keep the process of reconciliation and transitional justice moving forward by continuing discussions on and dissemination of ideas and concepts of reconciliation and justice.

- Provide psychosocial support and trauma healing for survivors of human rights violations.

Continue with the monitoring, documentation and research on the human rights impacts of conflict.

- Continue to find space for public discussion on reconciliation and justice.

Contents

Summary.....	1
Introduction	7
Project Overview	8
Methodological Note	9
Quantitative Research	9
Qualitative Methods	11
Sample.....	11
Overview of Transitional Justice Provisions in the Peace Agreement	14
Perceptions of Transitional Justice in South Sudan	18
Perceptions of Victimization	18
Perceptions of the December 2013 Crisis.....	20
Perceptions of the Peace Agreement and Chapter V Institutions	23
Perceptions of Truth-Seeking.....	28
Perceptions of Reconciliation	30
Perceptions of Justice and Accountability.....	35
Perceptions of Amnesties	39
Conclusion and Recommendations	44
Acknowledgements.....	49

Introduction

This report investigates people's perceptions and experiences of truth, justice and reconciliation in relation to the past and present conflicts in South Sudan.

The conflict that erupted in South Sudan in December 2013 has generated renewed interest in transitional justice, or the range of mechanisms that societies emerging from periods of conflict or authoritarian rule use to combat impunity and come to terms with the legacies of past human rights violations.² In August 2015, South Sudan's warring parties — the Government of the Republic of South Sudan and the Sudan People's Liberation Movement-in-Opposition (SPLM-IO) — signed a peace agreement that provides for an extensive transitional justice program, including the formation of a Commission for Truth, Reconciliation and Healing (CTRH), a Hybrid Court for South Sudan (HCSS), and a Compensation and Reparations Authority (CRA).³ However, the implementation has stalled after renewed conflict broke out in July 2016.

South Sudan presents a daunting environment for efforts to promote transitional justice. The region has been at war for 40 of the last 60 years, and the current conflict is characterized by some of the most intense violence that the country has ever witnessed. Numerous conflicts coexist and overlap in South Sudan, ranging from inter-communal conflicts over land and natural resources to more politically motivated conflicts associated with power struggles among the military and political elite. Senior figures on all sides have been implicated in abuses, and even if the political establishment can muster the political will to move ahead with the efforts to combat impunity and address the legacies of past human rights abuses, the logistical difficulties inherent in such an undertaking would present formidable obstacles.⁴

² The United Nations defines 'transitional justice' as "the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof." United Nations Secretary-General, *The rule of law and transitional justice in conflict and post-conflict societies*, U.N. Doc. S/2004/616 (23 Aug. 2004), available at http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2004/616.

³ Intergovernmental Authority on Development (IGAD), Agreement on the Resolution of the Crisis in South Sudan (ARCISS) (Aug. 2015), available at <http://www.sudantribune.com/spip.php?article56093>.

⁴ According to a UN Panel of Experts that was formed to assess the possibility of imposing targeted individual sanctions in South Sudan: "clear and convincing evidence that most of the acts of violence committed during the war ... have been directed by or undertaken with the knowledge of senior individuals at the highest levels of the Government and within the opposition." Letter dated 22 January 2016 from the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015) addressed to the President of the Security Council - Final report (S/2016/70)

Despite these challenges, a clear demand for various transitional justice processes has emerged from sectors of South Sudanese society.⁵ People are dissatisfied with the way that past peace processes have rewarded belligerent parties with blanket amnesties (implicit or explicit) and political and military appointments while victims are left to suffer without remedies. Communities have little confidence in the ability of the state to protect them, and carry out violent attacks against neighbouring communities in retribution for harm that was done to them and as a deterrent against future attacks. Meanwhile, since impunity is the norm, those carrying out revenge attacks can be confident that they will not be held accountable for their actions. The challenge for policy-makers is to develop a practical means of bridging the gap between people's demands for justice and reconciliation and viable mechanisms for pursuing these sorts of initiatives in the South Sudanese context.

This report examines South Sudanese (citizen's) perceptions of various issues relating to transitional justice with reference to survey data that the South Sudan Law Society (SSLS), the University for Peace (UPEACE) Centre The Hague and PAX compiled in 2015. The survey targeted 1,912 individuals in four locations — Juba town, Juba protection of civilian site (POC), Wau town and Bentiu PoC — in order to better understand their perceptions of and experiences with violence. The report is structured in four sections. After a brief overview of the context, including the recently signed peace agreement and its provisions on transitional justice, the second section summarizes the research methodology. The third section presents the survey findings and the fourth section offers concluding remarks and a series of recommendations to inform the development of a South Sudanese-owned and driven process of transitional justice moving forward.

Project Overview

This report is one of two final reports of a research project entitled, "Intersections of truth, justice and reconciliation in South Sudan".⁶ The project is implemented by the University for Peace Centre The Hague (the Netherlands), South Sudan Law Society (SSLS), and PAX, and started in November 2014. It is funded by the Dutch Ministry of Foreign Affairs as a part of the 'Knowledge Platform Security & Rule of Law', and is administered by the Netherlands Organization for Scientific Research (NWO).

⁵ For more on perceptions of transitional justice in South Sudan, see David K. Deng *et al.*, *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan*, South Sudan Law Society (SSLS), United Nations Development Programme (UNDP) (Jun. 2015), available at <http://www.undp.org/content/dam/southsudan/library/Rule%20of%20Law/Perception%20Survey%20Report%20Transitional%20Justice%20Reconciliation%20and%20Healing%20-.pdf>; David Deng, Matthew Pritchard and Manasi Sharma, *A War Within: Perceptions of Truth, Justice, Reconciliation and Healing in Malakal POC*, South Sudan Law Society (SSLS) (Dec. 2015), available at https://radiotamazuj.org/sites/default/files/SSLS_A_War_Within_Dec_2015_.pdf.

⁶ See, Deng & Willems (2016) *Access to Justice: Perceptions of and Experiences with Violent Crime in South Sudan*

The project takes a holistic approach to understanding violence, and investigates people's experiences in seeking justice in relation to both conflict-related and non-conflict-related violence. In order to build peace and stability, people must be able to access justice services when faced with criminal violence in their daily lives. Peace also requires dealing in some way with the violence that people have experienced as a consequence of conflict. From this perspective, the aim is to investigate people's perceptions, needs and experiences with truth, justice and reconciliation. The three main research questions of the project are:

- What are the strengths, weaknesses and interrelationships of different types of justice systems (both statutory and customary)?
- What opportunities for reform can be identified in order to bring justice services into greater conformity with user needs?
- What existing and potential opportunities for truth, justice and reconciliation can be identified in South Sudan with regard to the past and present conflicts?

This report primarily focuses on the third question, and investigates existing and potential opportunities for truth, justice and reconciliation in relation to violent conflict. Published alongside this report is the report "Access to Justice: Perceptions of and Experiences with Violent Crime in South Sudan", which places its focus on experiences with violent crimes and access to justice in South Sudan and focuses on the first two questions.

Methodological Note

The study used complementary quantitative and qualitative methods. The main data-collection was undertaken by means of a survey, which sought to better understand people's perceptions of and experiences with violence and justice, particularly from the perspective of access to justice services. Qualitative information was gathered during subsequent interviews and workshops aimed at sharing, fine-tuning and verification of findings.

Quantitative Research

In total 1,912 respondents were interviewed for the survey in November and early December 2015. The survey was conducted in four locations: Juba town, Juba Protection of Civilian site (POC⁷), Wau town and Bentiu POC. Due to limitations in time and resources only a select number of locations could be targeted. A deliberate choice was made to focus both on general populations and populations in the POCs, as both populations are affected differently by the conflict. Juba was included as it is the capital and the most populous city in South Sudan. As anecdotal evidence

⁷ The UN is currently operating six POC sites including UN House Juba POCs 1 and 3, Bor POC, Malakal POC, Bentiu POC, Melut POC and Wau POC. More than two hundred thousand South Sudanese are currently seeking refuge in these POCs.

suggested high and rising crime rates, it presented a key target for the survey. Bentiu was included as this location was omitted in an earlier survey project conducted by SSLS, and could therefore fill a knowledge gap. What further inspired the choice of locations was geographic, ethnic and political diversity. By selecting Juba, Bentiu and Wau regions of Greater Upper Nile, and Greater Bahr el Ghazal were all represented, and the sample would likely include several of the main ethnic groups as well as respondents from both sides of the political divide of the conflict.

A pilot survey of 163 respondents was conducted in Juba in April 2015, with the primary goal of verifying the relevance and logic of the questions asked, and whether respondents understand the questions in the way we intended.⁸ Based on the experiences of the pilot the questionnaire was then revised and prepared for the survey in November.

The survey was conducted on smartphones using KoBoToolbox, an open source survey tool developed for data collection in challenging environments.⁹ In each location a group of eight enumerators conducted the survey. Prior to the survey they received a two or three-day training, depending on whether they had prior experience with the KoBoToolbox application. Enumerators received training on the use of the KoBoToolbox application, and each question was elaborately discussed to ensure enumerators understood the questions. The questionnaire was developed in English, and during the training focus was also placed on finding agreement among enumerators on the translation of terms in local languages. Enumerators were monitored during the data collection by assigned supervisors in the field, as well as online by the project leaders through the monitoring tools provided by the KoBoToolbox application.

Individual households were selected using a detailed random walk technique with a built-in skip pattern. Enumerators randomly selected the oldest or youngest man or woman present according to a preset randomized table. Due to the highly sensitive and gendered nature of some questions, male enumerators only interviewed male respondents and female enumerators only interviewed female respondents. Eligible respondents had to be 18 years of age or older and South Sudanese nationals. Enumerators were instructed to interview respondents as privately and shielded from disturbances as possible. Before each interview, enumerators briefed the respondents on the purpose of the survey, stressed the confidentiality of their responses, and obtained informed consent.

⁸ For findings of the pilot, see Willems and Deng (2015) *Justice and Conflict in South Sudan. Observations from a pilot survey.* http://www.upeace.nl/cp/uploads/hipe_content/Justice%20and%20Conflict%20in%20South%20Sudan%20-%20Pilot%20Survey%20-%20Briefing%20Paper.pdf

⁹ <http://www.kobotoolbox.org/>

Qualitative Methods

A range of qualitative methods were used to enhance our understanding of the data gathered in the survey. Interviews were conducted with ordinary citizens across the four locations to gain more in-depth knowledge on peoples' perceptions of and experiences with violent crimes and the justice process. Interviews were also conducted with experts in the field, such as lawyers, representatives of the Ministry of Justice, community leaders and representatives from various NGOs and intergovernmental organizations. A semi-structured approach was taken in interviews to be able to adapt to local variation through changing the order of questions, framing questions so as to maximize their relevance to the context and to the experiences of research participants, and in general to have a structured conversation rather than extraction of knowledge that did not pertain to local circumstances.

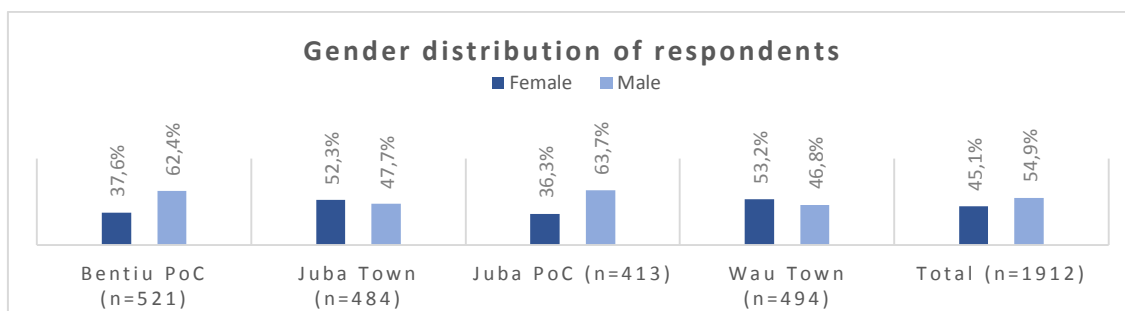
Across all four locations the team also organized workshops with the goal of sharing initial findings from the survey, and to verify and polish our interpretation of the findings. During the workshops, short presentations of findings were followed by semi-structured discussions with workshop participants. Participants included representatives of government institutions, the justice sector, intergovernmental organizations, civil society and youth and women's groups in Juba and Wau town, and local camp leadership, civil society and youth and women's groups in Juba and Bentiu POCs.

Sample

The target of the survey was to gather between 400 and 500 filled questionnaires for each location. After cleaning the dataset by deleting erroneous and incomplete forms, we had a sample of 485 in Juba town, 413 in Juba POC, 493 in Wau town, and 512 in Bentiu POC, coming to a total of 1,912. With limitations in time and resources, the survey focused on areas with relatively dense populations at the expense of a specific focus on rural areas. However, many respondents had previously lived in rural areas, and particularly in Bentiu POC many respondents were recently displaced from rural areas. The experiences of rural populations were also reflected in the locations where respondents said that they experienced crimes, many of which were in rural areas.

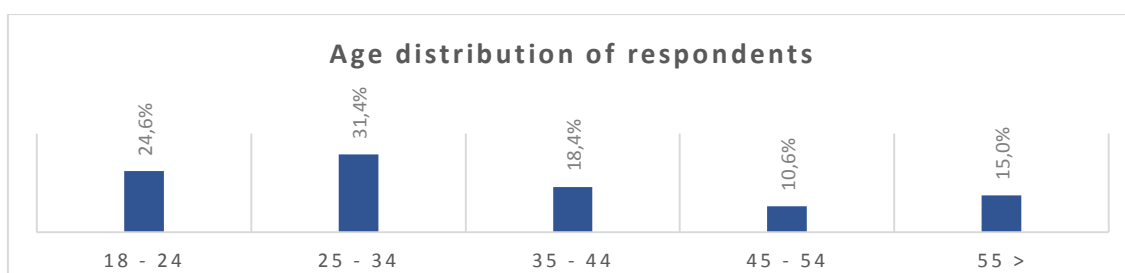
Gender

Our aim was to get an even distribution of men and women in the sample, with the results being dependent on the people present in the household and willingness to participate. In total, the sample consists of 45.1% women and 54.9% men, although this distribution does vary slightly across locations. In the POCs more men were interviewed than women, whereas in the towns more women were interviewed. This can be explained by the fact that in the POCs people are less likely to be employed, and men are therefore more likely to be in or around the household.



Age

The age distribution of the sample roughly corresponds with the census data of South Sudan's population as a whole. More than 50 percent of respondents in the sample population were younger than age 35. This reflects a more general trend in South Sudan's population as a whole, which is disproportionately young. According to South Sudan's National Bureau of Statistics, more than half (51%) of the population is below age 18 and 72 percent of South Sudanese are younger than age 30.¹⁰ The relatively large share of respondents older than 55 (15%) reflects the larger age-range, and the fact that older people are more likely at home during the day when interviews were conducted.



Household Composition

A majority (71%) of the respondents were married, almost a quarter never married (22%), and a minority of respondents were widowed (4%), or divorced or separated (3%). In the majority of all cases (60.5%) the person interviewed was also the household head. 70.9% (n=1050) of the men interviewed and 47.9% (n=862) of the women interviewed for the survey indicated that they were the head of the household.

More than half (52.1%) of all persons interviewed said they had no source of livelihood, a percentage that was similar among men and women. The indicated rates of unemployment were the highest in the POCs (87.9% in Juba POC and 53% in Bentiu POC). A side note to these figures is that people without a source of livelihood are

¹⁰ Information taken from the 2008 census. Southern Sudan Centre for Census, Statistics and Evaluation (SSCSE), Key Indicators for Southern Sudan (8 Feb. 2011), available at http://static1.1.sqspcdn.com/static/f/750842/11454113/1301369111513/Key+Indicators_A5_final.pdf?token=0JDCa5z2y%2Ffz8rrK6WdcNNk7b0o%3D.

more likely to be found at home, and may have been responsible for the household with other family members being responsible for providing an income.

Of the sample population, 7.5% had completed university, 24.2% only completed secondary school and 23.2% only completed primary school. Almost half of the respondents (44.8%) indicated that they did not complete any formal education. The sample was very well educated compared to the general population of South Sudan. In 2009 only 15.9 per cent of the population of South Sudan had completed primary education.¹¹ Only 60% of children in their early teens reported to have ever been enrolled in school, with about one third of those enrolling in primary education also completing it.¹² The relatively high education among the sample is likely due to the fact that the survey was conducted in urban areas.

The sample included more than 40 different tribal and ethnic groups and sub-groups.¹³ Due to the inclusion of Juba POC and Bentiu POC, where almost all inhabitants are Nuer, Nuer are overrepresented and make up 47% of the total sample (96.6% in Juba POC and 92.9% in Bentiu POC). The second largest group is Dinka, which makes up 10.4% of the total sample and 26.5% of the sample in Wau. Other groups with more than 5% representation in the total sample are the Balanda (8.8% of the total sample, 30.6% in Wau) and the Bari (5.2% of the total sample, 19.4% in Juba town).

Combatants, Displacement and Victimization

Out of all 1,912 respondents a total of 530 (27.7%) answered positively to the question: “Do you currently consider yourself to be a combatant in the military, a militia or a group defending your community?”, and of those who responded negatively 107 respondents said they consider themselves to have been a combatant in the past. Therefore, a total of 637 respondents (33.3%) considered themselves to be a current or past combatant. This finding does not assess whether the respondents have had any form of military training, whether at any point of time they answered to a commander, or whether they have been engaged in armed battle. Yet, the high percentage of self-identification as a combatant nonetheless illustrates the level of militarization of South Sudanese society.

With two out of four locations being a POC, it is not surprising that half of the sample population indicated they were currently displaced. This was the case for almost all of the respondents in the POCs, but also for 11% in Juba town and 7.7% in Wau town. After the survey was conducted, large scale violence erupted in Wau in June 2016

A total of 637 respondents (33.3%) considered themselves to be a current or past combatant. This illustrates the level of militarization of South Sudanese society.

¹¹ *South Sudan Statistical Yearbook 2011*, p. 34.

¹² World Bank (2012) *Education in the Republic of South Sudan: Status and Challenges for a New System*. Washington D.C.: World Bank. Available at: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/06/28/000333038_20120628035809/Rendered/PDF/705950PUB0EPI0067902B09780821388914.pdf, p. 59.

¹³ South Sudan is often said to have 65 ethnic groups, but that figure includes ethnic sub-groupings such as the Lou or Jikany Nuer and Bor, Twic or Ngok Dinka. This survey does not report on ethnic sub-groupings.

displacing some 65,000 people in and around Wau town and in July in Juba displacing again several thousand people, illustrating the unpredictable and constantly changing conflict dynamics in South Sudan.¹⁴

More than half of the respondents (51.6%) say that at one point in time they have been victimized by an armed group or military actor in the context of conflict. The percentage is of course much higher in the POCs (87.3% in Bentiu POC and 84.7% in Juba POC), as people living there have generally fled violence by armed actors, and being displaced is in itself a form of victimization. Yet also in Juba town (22.3%) and Wau town (15%) a considerable number of people reported to have been victimized at one point in their lives. This illustrates the impact of violence and conflict on the daily lives of South Sudanese.¹⁵

Overview of Transitional Justice Provisions in the Peace Agreement

In August 2015, the two warring parties — the Government of the Republic of South Sudan (GRSS) and the Sudan People’s Liberation Movement-in-Opposition (SPLM-IO) — and other stakeholders signed the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCISS). The ARCISS is based on a power-sharing model in which the GRSS and SPLM-IO are required to form a Transitional Government of National Unity (TGONU) that will be responsible for implementing an extensive post-conflict stabilization and reform program.¹⁶ Over the course of the 30-month transitional period, the TGONU is expected to secure a permanent ceasefire, establish law and order, ensure humanitarian support for conflict-affected populations, facilitate the return or resettlement of displaced populations, organize national elections, develop a new constitution and enact comprehensive reforms across a range of governance sectors. In addition, the ARCISS requires the TGONU to initiate a comprehensive program for transitional justice.

Chapter V of the agreement, entitled, “Transitional Justice, Accountability, Reconciliation and Healing,” is structured around three institutions: a Commission for Truth, Reconciliation and Healing (CTRH), a Hybrid Court for South Sudan (HCSS) and a Compensation and Reparations Authority (CRA). The CTRH is responsible for investigating, documenting and reporting on human rights abuses over a predetermined time period in order to “spearhead efforts to address the legacy of conflicts, promote peace, national reconciliation and healing.”¹⁷ Key elements of the CTRH include the following:

¹⁴ http://www.unicef.org/infobycountry/southsudan_91807.html

¹⁵ See for a more elaborate discussion of victimization and its impact on South Sudanese citizens, see Deng & Willems (2016) *Access to Justice: Perceptions of and Experiences with Violent Crime in South Sudan*

¹⁶ The TGONU was officially established with the return of Dr. Riek Machar, leader of the SPLM-IO, to Juba and his swearing in as First Vice-President on 26 April 2016.

¹⁷ ARCISS, Ch. V, Art. 2.1.1.

- **Composition** – The TGoNU Executive (comprised of leaders from the two warring factions), in consultation with the African Union (AU) and United Nations (UN), is to select and appoint seven commissioners, including four South Sudanese nationals and three from other African states.¹⁸ The chairperson is to be South Sudanese and at least three of the commissioners (two of the South Sudanese and one of the Africans) must be female.
- **Time period for review** – Ch. V, Art. 2.2.2.2 of the ARCISS suggests that the CTRH’s time period for review would be limited to human rights violations and abuses committed from 2005 to August 2015. If interpreted strictly, this time period would exclude human rights abuses committed during the 22-year (1983-2005) civil war in Sudan. Such a limited time period would seem to be problematic in that many of the most deeply felt grievances among communities in South Sudan may be traced to atrocities committed during the civil war.
- **Time period for operations** – According to the timeline set out in the ARCISS, the legislation establishing the CTRH is to be enacted six months from the establishment of the TGoNU, leaving very little time to engage the public in a process of selecting commissioners. Ch. V, Art. 2.1.3 of the ARCISS requires the Ministry of Justice and Constitutional Affairs, in collaboration with civil society and other stakeholders, to conduct public consultations of not less than one-month’s duration before the legislation is adopted. The ARCISS also requires the CTRH to submit its final report three months before the end of the 30-month transitional period, which would give the institution a maximum of 21 months to do its work.¹⁹

The HCSS is a court that will be established to bring cases against “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.”²⁰ Key attributes of the HCSS include the following:

- **Composition** – The HCSS is to be comprised of a combination of South Sudanese and African (non-South Sudanese) judges, lawyers and administrative staff. According to the ARCISS, the majority of judges in the HCSS will come from other African countries.²¹

¹⁸ Id., Art. 2.3.3.

¹⁹ This is exceedingly short when compared to lifespans of truth commissions in other contexts. For example, the South African Truth and Reconciliation Commission (TRC) was established by law in 1995 and released its report in 1998, and the Truth and Reconciliation Commission of Liberia spanned a timeframe of three years and four months from February 2006 to June 2009.

²⁰ For discussion of hybrid courts in South Sudan, see Human Rights Watch, *Ending the Era of Injustice in South Sudan* (10 Dec. 2014), available at <https://www.hrw.org/report/2014/12/10/ending-era-injustice/advancing-prosecutions-serious-crimes-committed-south-sudans>; David K. Deng, *Special Court for Serious Crimes (SCSC), A proposal for justice and accountability in South Sudan*, SLS (May 2014), available at <http://www.cmi.no/file/2760-SSLS-SCSC-Proposal-for-a-Hybrid-Court.pdf>.

²¹ ARCISS, Ch. V, Art. 3.3.2.

- **Role of AU** – The ARCISS places all major decisions regarding the design and staffing of the institution with the AU Commission.
- **Jurisdiction** – The HCSS is to have primacy over the national judiciary, meaning that it will be empowered to assert jurisdiction over cases whether or not investigations and prosecutions are being conducted in South Sudanese courts.
- **Timeline for establishment** – Timelines for the creation of the HCSS had been proposed in a near-final version of the agreement. According to that version, a memorandum of understanding (MOU) between the AU, UN and the TGoNU was to be finalized in the first six months of the transitional period, followed by national legislation in the first nine months. The final version removed the timelines from the main text but retained them in an annex, generating ambiguity as to whether the original timeline and method of establishment still apply. Irrespective of the ambiguity regarding the timeline, the main text of the ARCISS requires national-level legislation to be enacted for the HCSS, in addition to whatever agreements may be required with the AU or other intergovernmental organizations.

The CRA is a body that is to be established to provide compensation and reparations to people who lost property or were victims of abuses as a result of the conflict. The CRA is responsible for administering a Compensation and Reparations Fund (CRF) to “provide material and financial support to citizens whose property was destroyed by the conflict and help them to rebuild their livelihoods in accordance with a well-established criteria [sic] by the TGoNU.”²² Among the key attributes of the CRA are the following:

- **Composition** – The TGoNU is responsible for appointing the executive director of the CRA and the institution would be governed by an executive body comprised of representatives from the various parties in the TGoNU, in addition to representatives of CSOs, women’s groups, religious leaders, the business community and traditional authorities.
- **Timeline for establishment** – The ARCISS stipulates that the CRA should be established by legislation within six months of the formation of the TGoNU.
- **Relationship to the CTRH** – According to the ARCISS, the CRA “shall receive applications of victims including natural and legal persons from CTRH.”²³ The CTRH is also mandated to make recommendations on how to develop a reparations program for South Sudan.

Although these three institutions are provided for in the ARCISS, it remains to be seen whether this chapter of the agreement will be implemented as planned. During the writing of this report, renewed fighting erupted in Juba, after which Riek Machar fled the country and Salva Kiir installed Taban Deng Gai as First Vice President. Observers

²² Id., Art. 4.2(d).

²³ Id., Art. 4.2(f).

note that in the current context the implementation of the peace agreement is questionable.²⁴ During an interview a government official expressed his pessimism about the court, as he observed that there is no political support for it: “They will implement from ARCISS what is good with them. Other parts they will not implement. Transitional justice will be the first to go.”²⁵ While there currently seems little support for the agreement and its Chapter V provisions at the leadership level, this report shows that there is considerable support for it at the community level.

²⁴ International Crisis Group (2016) ‘South Sudan’s Risky Political Impasse’, commentary 17 August 2016, available at <https://www.crisisgroup.org/africa/horn-africa/south-sudan/south-sudan-risky-political-impasse>

²⁵ Interview, government official, 13 April 2016

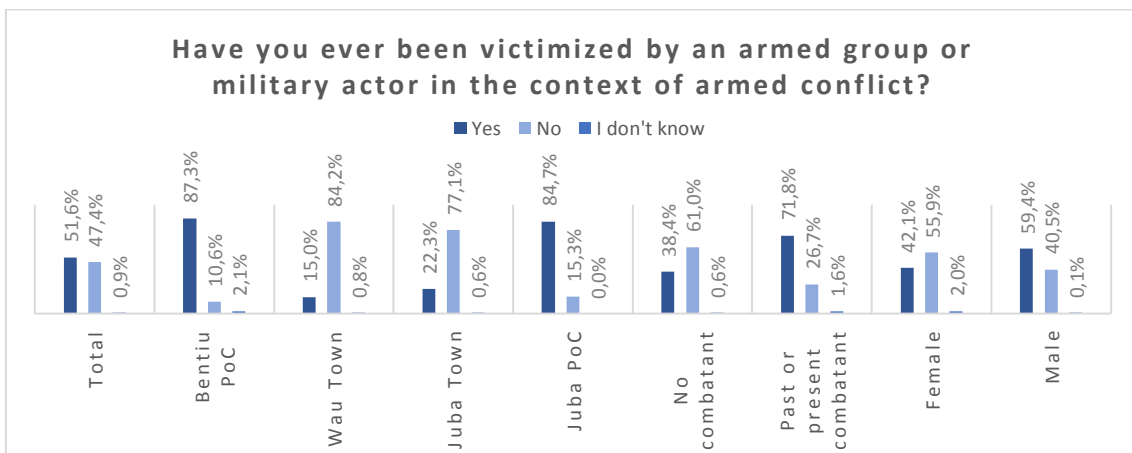
Perceptions of Transitional Justice in South Sudan

This section presents the main findings, and consists of seven chapters. The first chapter looks at perceptions of victimization. The second chapter then turns perceptions of the December 2013 conflict, particularly focusing on causes and solutions. The third chapter looks at the Peace Agreement signed in August 2015. The fourth chapter focuses the demand and opportunities for truth-seeking, the fifth chapter on reconciliation, the sixth chapter on justice and accountability, and the seventh chapter on amnesties.

More than half (52%) of the survey respondents said that they have been victimized in the past by an armed group or military actor in the context of conflict.

Perceptions of Victimization

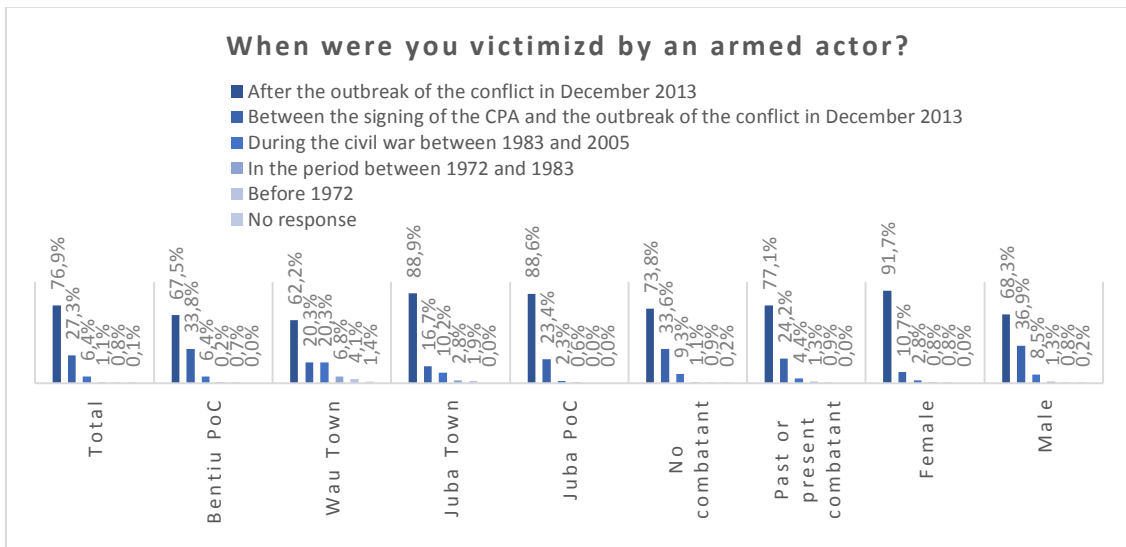
More than half (52%) of the survey respondents said that they have been victimized in the past by an armed group or military actor in the context of conflict. Respondents in Bentiu POC (88%) and Juba POC (85%) were far more likely to report past victimization than respondents in Juba town (22%) and Wau town (15%), reflecting the disproportionate harm that the conflict that erupted in December 2013 has had on populations in different parts of the country. This disparity is also apparent when the data is disaggregated by displacement status, with IDPs (83%) nearly five times more likely to report victimization than those who were not displaced (15%).²⁶ Respondents who identified as past or current combatants were almost twice as likely to report victimization as respondents who were never combatants, suggesting a high degree of overlap between victim and perpetrator populations.



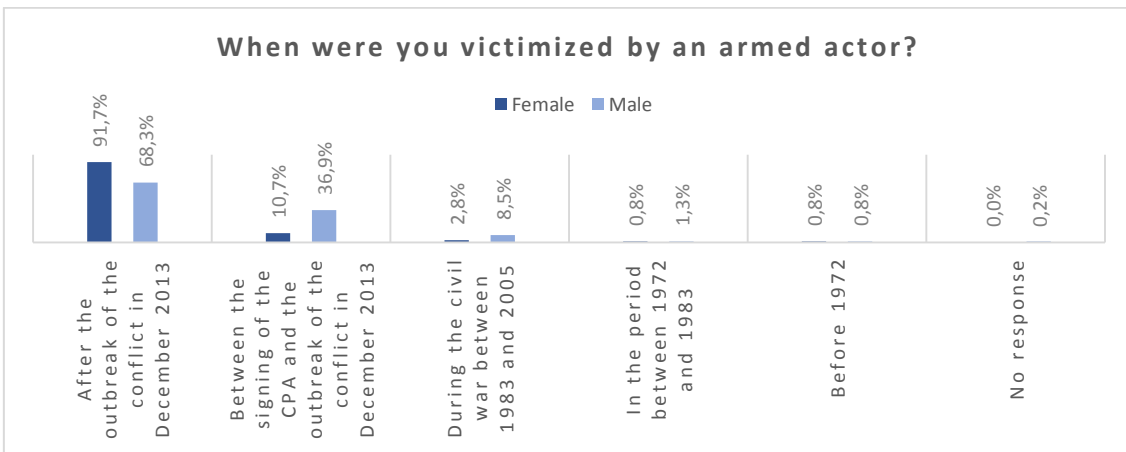
Across all survey locations, respondents were most likely to report victimization taking place after the outbreak of conflict in December 2013. However, respondents in the POCs were more likely to report victimization between 2005 and 2013 than

²⁶ Although one might assume that displacement itself would be viewed as a form of victimization, though 15 percent of those who say they have never been victimized were IDPs.

respondents in the towns, and respondents in the towns were more likely to report victimization during the 22-year civil war (1983-2005) than respondents in the PoCs.²⁷



Overall, men (60%) were more likely to report being victimized by an armed actor than women (42%).²⁸ However, female respondents were far more likely (92%) to report victimization during the post-2013 period than male respondents (68%). This points to the tactics that the GRSS and SPLM-IO have used in the current conflict and the deliberate targeting of women and children in order to undermine and destabilize communities that are perceived as opponents in the conflict.



Age is another factor to consider in interpreting these responses. More than 50

²⁷ Juba and Wau were garrison towns controlled by the Sudan Armed Forces (SAF) throughout the 22-year civil war (1983-2005), which may account for the emphasis that respondents in those locations placed on that time period.

²⁸ As more men than women were interviewed in the PoC's, this may have affected the data. However, also within the PoC's itself men were more likely to report victimization than women (81.1% of women and 91.1% of men in Bentiu PoC, and 72.7% of women and 91.6% of men in Juba PoC).

Female respondents were far more likely (92%) to report victimization during the post-2013 period than male respondents (68%), which points to the increase of deliberate targeting of women by the conflict parties.

percent of respondents in the sample population were younger than age 35. This reflects a more general trend in South Sudan's population as a whole, which is disproportionately young. According to South Sudan's National Bureau of Statistics, 51 percent of the population is below age 18 and 72 percent of South Sudanese are younger than age 30.²⁹ This means that the majority of South Sudanese were not even born at the start of the civil war in 1983. Nor did most people directly witness the human rights abuses that took place during the first decade or so of the civil war, such as the political assassinations and massacres that the Sudan People's Liberation Army (SPLA) perpetrated as it was consolidating its role as the dominant rebel movement in southern Sudan the mid-1980s, or the intense violence associated with the 'split' of the SPLA in the mid-1990s.

The varied experiences with victimization across geographic areas and demographic groups is an important factor to consider in developing the mandate for the CTRH. Unlike the HCSS, which will only focus on post-2013 abuses, the CTRH will be able to examine issues that are relevant to all South Sudanese, whether or not they were directly impacted by the conflict that erupted in December 2013. This is particularly relevant in Wau, which until recently, had not experienced conflict within the city borders to the same extent as towns such as Bor, Malakal and Bentiu in Greater Upper Nile. According to a workshop participant in Wau, "People [in Wau] don't think that the agreement will bring lasting peace. People see the peace agreement as concentrating on conflict in Upper Nile."³⁰ Another workshop participant added, "Most people in Wau don't think the peace agreement has any benefit for them."³¹ People feel excluded from the agreement and find it is focussed on the issues of others. However, it can be questioned to what extent this is particular to Wau, as many people throughout the country feel little connection to the agreement negotiated at the elite level.

In June 2016, large-scale conflict erupted within Wau town for the first time since the 22-year civil war (1983-2005). At the time of writing, the fighting in Wau has displaced tens of thousands of people and the numbers of dead are thought to be in the hundreds.³²

Perceptions of the December 2013 Crisis

Since the conflict erupted in December 2013, various groups have characterized the causes as anything ranging from an attempted coup to an effort to exterminate particular ethnic groups, with very little common ground between the various

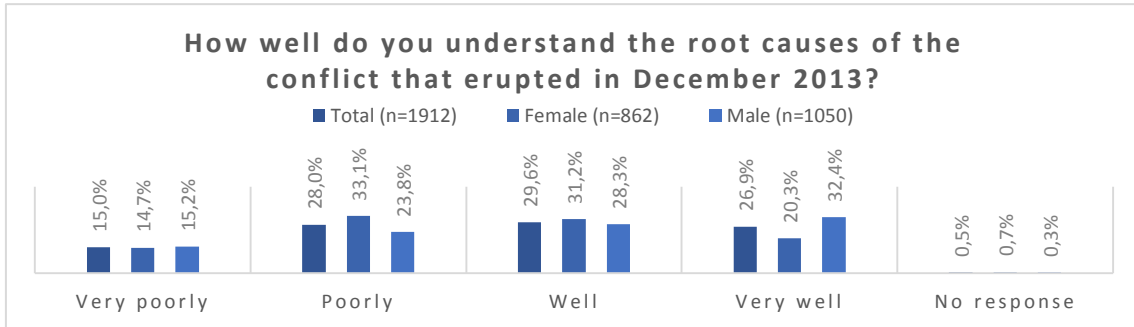
²⁹ Information taken from the 2008 census. Southern Sudan Centre for Census, Statistics and Evaluation (SSCSE), Key Indicators for Southern Sudan (8 Feb. 2011), available at http://static1.1.sqspcdn.com/static/f/750842/11454113/1301369111513/Key+Indicators_A5_final.pdf?token=0JDCa5z2y%2Ffz8rrK6WdcNNk7b0o%3D.

³⁰ Group discussion, Wau, 19 April 2016.

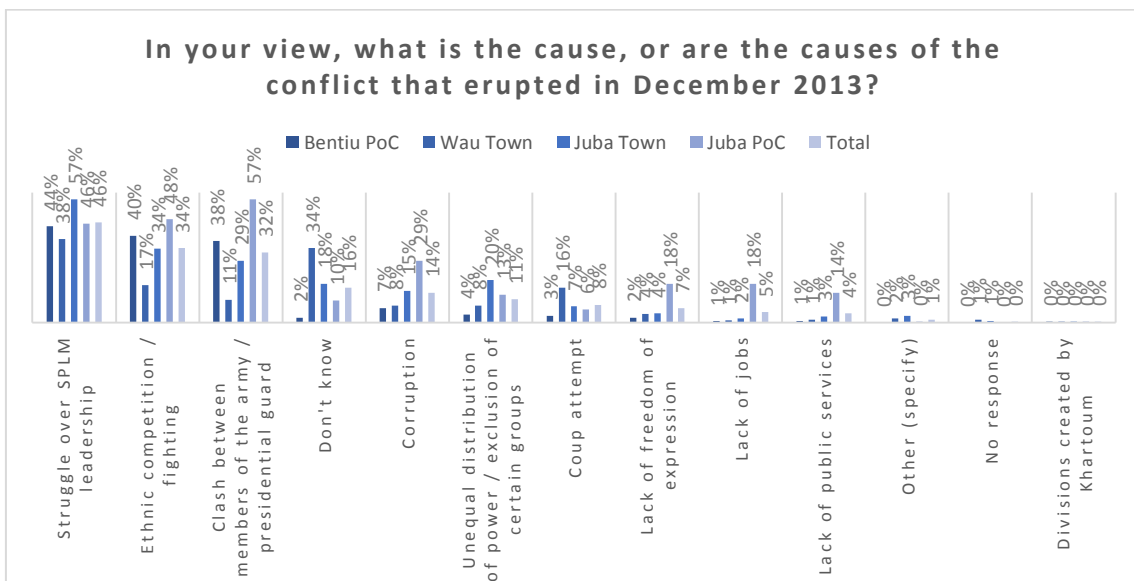
³¹ *Id.*

³² Irwin, T. (2016) 'Escaping violence in South Sudan: Lives uprooted, families torn apart.' Unicef website, available at http://www.unicef.org/infobycountry/southsudan_91807.html

viewpoints. These different interpretations about the root causes of the conflict were apparent in the survey data. Forty-three percent of respondents said that they understand the causes of the conflict 'poorly' (28%) or 'very poorly' (15%). This lack of understanding was particularly pronounced among women, 48 percent of whom said they understood the causes of the conflict 'poorly' (33%) or 'very poorly' (15%), compared to 39 percent of men.³³



When asked what people think caused the violence in 2013, respondents emphasized the struggle over SPLM leadership (46%), followed by ethnic competition (34%) and a clash between members of the army (33%). Views on the causes of the conflict diverged across survey locations. In the POCs, respondents tended to emphasize ethnic competition, whereas in Wau they tended to emphasize the coup narrative.



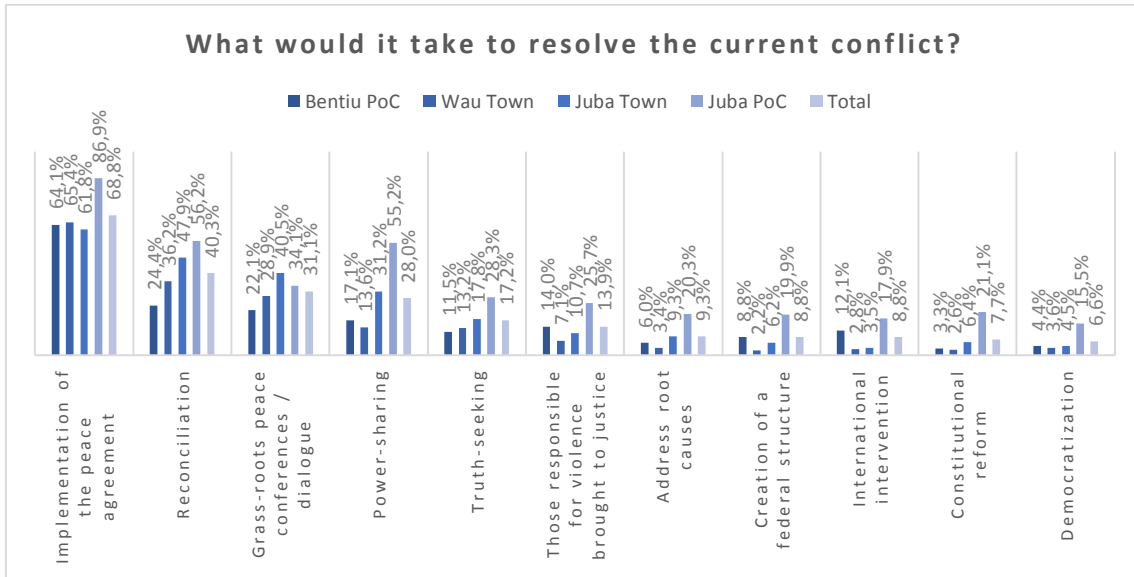
In terms of what it will take to resolve the conflict, respondents point to the implementation of agreement (69%), reconciliation (40%), grass-roots peace dialogue (31%) and power-sharing (28%).³⁴ Respondents in the POCs emphasize the

³³ As this data is drawn from a self-reported understanding of the conflict, it is also possible that women do not know less than men, but simply feel less confident about their knowledge or are more willing to admit lacking knowledge than men.

³⁴ Graphs only shows answers given by five percent of all respondents or more.

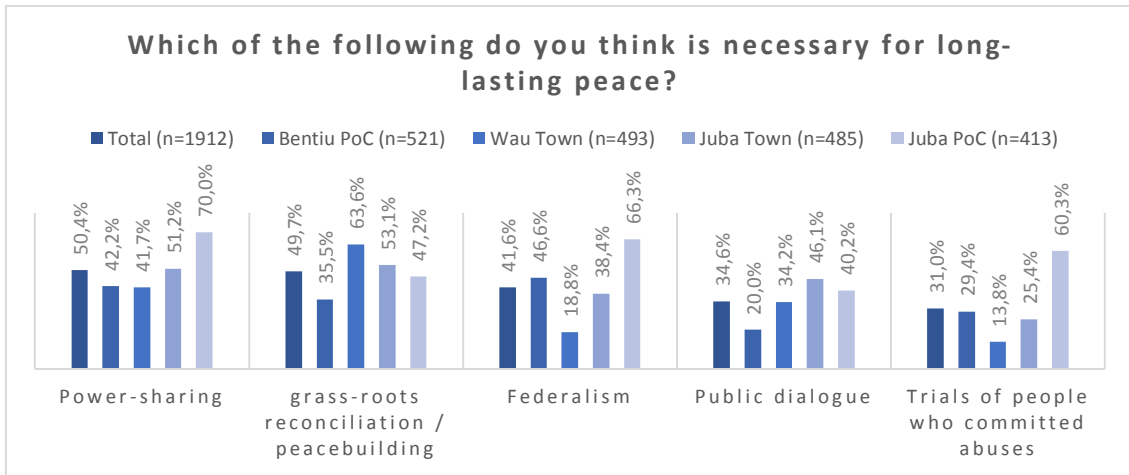
importance of international intervention, which is not surprising as these populations have been living under UN protection for extended periods of time. During discussions in Juba POC and Bentiu POC participants also expressed their expectations of stronger international involvement.

*The international community is advocating for peace, but you must make sure it is meaningful peace. People in UNMISS are killed during daytime, and all that they do is condemn. They have to take measures.*³⁵



Responses to a closed question about what is necessary for long-lasting peace also demonstrate some variation across survey locations. Respondents in the towns tend to emphasize the importance of grassroots dialogue more than those in the POCs. Conversely, respondents in the POCs emphasize federalism more than those in the towns. It is worth noting that the survey was conducted prior to the presidential order establishing 28 states, when the SPLM-IO was the primary proponent of federalism in the peace process. The support in the POCs may therefore reflect people’s support for the SPLM-IO position. Populations in the POCs also emphasize the importance of trials more than those in the towns, which is consistent with the notion that those most directly impacted by the violence are the most ardent supporters of criminal accountability for conflict-related abuses.

³⁵ Group discussion, Juba POC, April 14, 2016.



The widespread uncertainties about the causes of the conflict point to the importance of national dialogue in generating some consensus about the core facts and circumstances of the conflict.

The widespread differences in interpretation of the causes of the conflict point to the importance of national dialogue in generating some consensus – or acceptance of different interpretations of what happened – about the core facts and circumstances of the conflict. During times of conflict, information is strictly controlled by political and military actors for advantage on the battlefield and for the hearts and minds of the people. As a workshop participant in Wau observed, “People are kept in a dark cage by the politicians. You are not kept informed. Anyone can come with any information and you accept it.”³⁶ A truth-seeking effort could also contribute to the development of a shared national narrative of the conflict. Until there is greater understanding about some core facts about what has transpired and why, there will be little common ground to proceed with national reconciliation efforts.

Perceptions of the Peace Agreement and Chapter V Institutions

Survey data was collected between October and November 2015, just weeks after the GRSS and SPLM-IO signed the ARCISS. Overall, the vast majority of respondents said that they were aware that a peace agreement had been signed. It is noteworthy, however, that one-quarter of respondents in Wau and 15 percent of respondents in Juba town were not aware that an agreement had been signed. These findings reflect the fact that the peace agreement was negotiated among a small group of political elites in a foreign country with little effort to engage citizens in South Sudan in the discussion.

The substantial number of people who were not aware that an agreement was signed may also reflect efforts to politicize the agreement, particularly in Government-controlled areas. As a civil society representative in Wau explained:

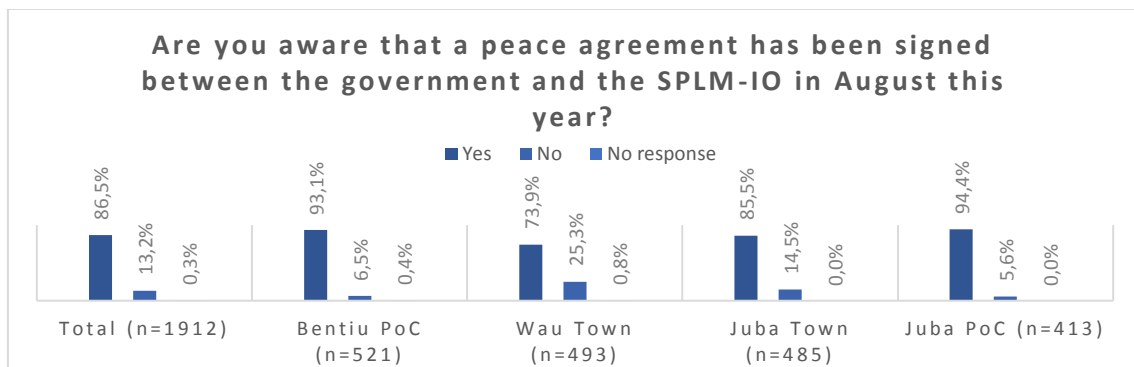
³⁶ Group discussion, Wau, 19 April 2016.

“Not so many people are familiar with the peace agreement. The CSOs tried to disseminate, but they were faced with challenges of insecurity and the recent crisis. It is not a conducive environment to dissemination.”³⁷

In addition to the security situation, awareness of the peace agreement was also undermined by government efforts to suppress discussion of what it saw as an agreement imposed by foreign powers. According to a civil society representative, “During the previous time of Rizik [the previous Governor of Western Bahr el Ghazal], it was very difficult because of no freedom of expression. Only they were saying the peace was signed with reservations. Full stop.”³⁸ Another civil society representative added:

“There is fear for CSOs and citizens. The government was not really ready to disseminate information. The emphasis was on the twelve reservations only. The current government [of Western Bahr el Ghazal] is willing, but they are complaining that the local context [in Wau] is not reflected in the peace agreement.”³⁹

Another theme that emerges across survey locations is higher levels of awareness of the peace agreement in the POCs as compared to the towns. This may be attributed to the insular nature of communities and the ease with which information flows in the POCs. As populations that are among the most directly impacted by the conflict, people in the POCs may also feel a greater stake in the outcome of the peace process and may therefore be more inclined to follow developments.



Women were twice as likely (19%) to say that they were unaware that a peace agreement had been signed than men (8%). The discrepancy in awareness of the peace process among men and women has been highlighted in other surveys as well, and highlights some of the barriers to women’s participation in public life in South

³⁷ Interview, Civil Society Representative, Wau, 18 April 2016.

³⁸ Interview, Civil Society Representative, Wau, 18 April 2016.

³⁹ Interview, Civil Society Representative, Wau, 18 April 2016.

Sudan and the challenges inherent in ensuring gender parity in civic engagement efforts.⁴⁰

Overall, respondents expressed optimism that the peace agreement would bring sustainable peace, though respondents in Juba town were noticeably less optimistic than respondents elsewhere, with 48 percent of respondents in Juba town saying that the peace agreement was either ‘unlikely’ or ‘very unlikely’ to succeed. It is not possible to determine to what extent the levels optimism were based on a wish to see the recently signed peace agreement succeed as opposed to a genuine assessment of the prospects for sustainable peace. With the return to conflict after July 2016 and the effective standstill of the implementation of the ARCISS, people likely feel very different today. As a civil society representative in Wau in April 2016 already observed, “We don’t know where to start. If there is two or three days of quiet, you think things are getting better, but then something will happen.” Indeed, during discussions about the findings in Juba POC, many expressed their current fears and uncertainties:

“When I go out of the POC, I see that Juba is being militarized, and there are rumours that these are preparations of ‘the last rain’.”⁴¹

“I am very surprised to see some events happening while they say we are in peacetime. I’m doubting now, since there are things happening that shouldn’t be happening.”⁴²

“The president didn’t sign the peace agreement in Addis, but had the paper being delivered in Juba. And when he signed he had many reservations, and declared that the document was not like a bible, repeating what Nimeiri had said [about the Addis Ababa Agreement of 1972 before he annulled it]. This causes me to doubt the agreement.”⁴³

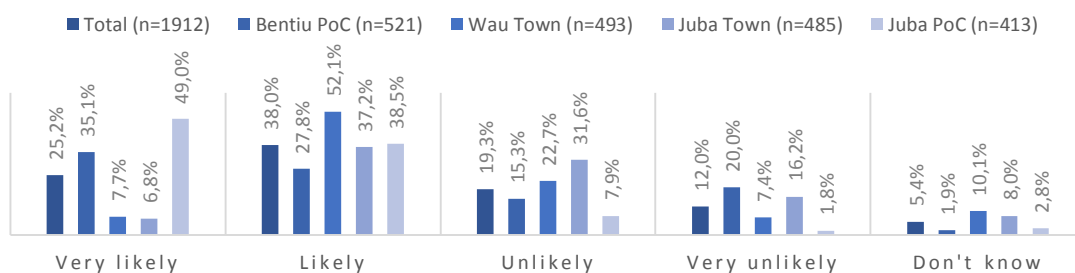
⁴⁰ David K. Deng et al., *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan*, South Sudan Law Society (SSLS), United Nations Development Programme (UNDP) (Jun. 2015), available at <http://www.undp.org/content/dam/southsudan/library/Rule%20of%20Law/Perception%20Survey%20Report%20Transitional%20Justice%20Reconciliation%20and%20Healing%20-.pdf>.

⁴¹ Group discussion, Juba POC, April 14, 2016.

⁴² Group discussion, Juba POC, April 14, 2016.

⁴³ Group discussion, Juba POC, April 14, 2016.

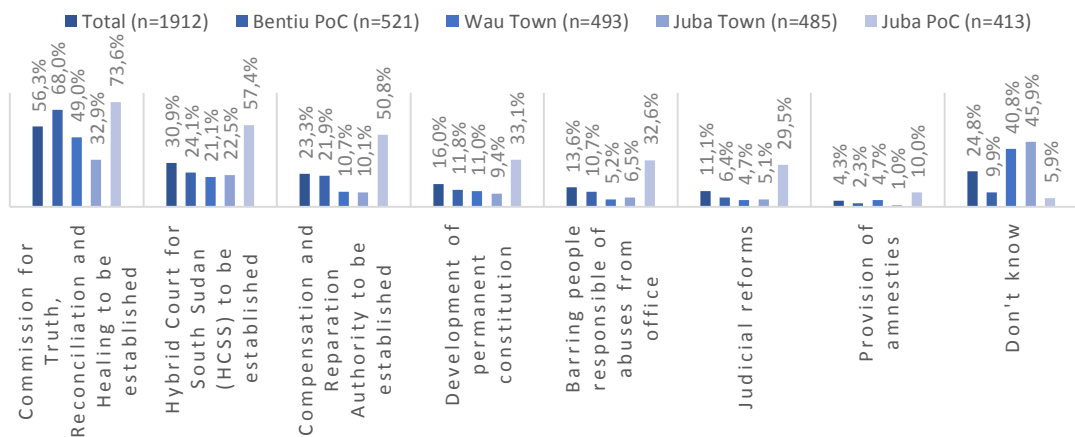
How likely do you think that the peace agreement signed between the government and the SPLM-IO will bring sustainable peace?



Just 56 percent of respondents were able to name the CTRH, 31 percent were able to name the HCSS and 23 percent were able to name the CRA.

When it comes to people’s specific knowledge of Chapter V of the peace agreement, levels of awareness dropped dramatically. In response to an open question about what the agreement had to say about truth, justice and reconciliation, just 56 percent of respondents were able to name the CTRH, 31 percent were able to name the HCSS and 23 percent were able to name the CRA. Levels of awareness varied dramatically across survey locations with respondents in the POCs far more aware of the institutions than respondents in the towns. According to a civil society representative in Wau, “People don’t know much about Chapter V. They are focused on power sharing and security [arrangements].”⁴⁴

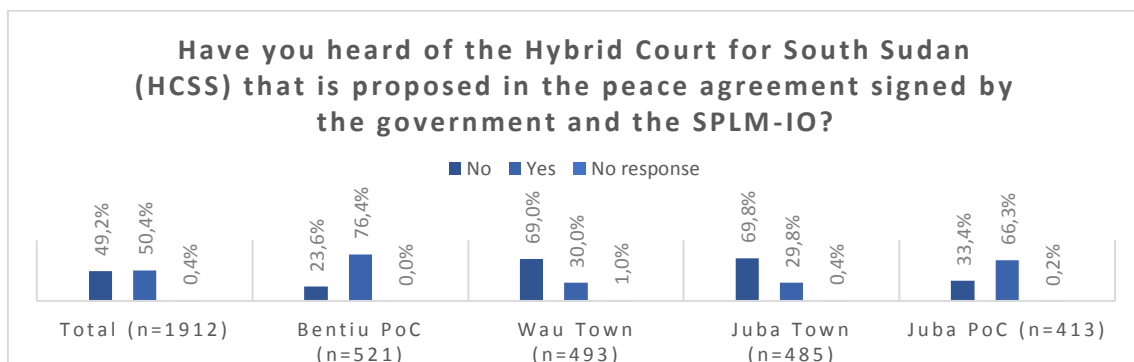
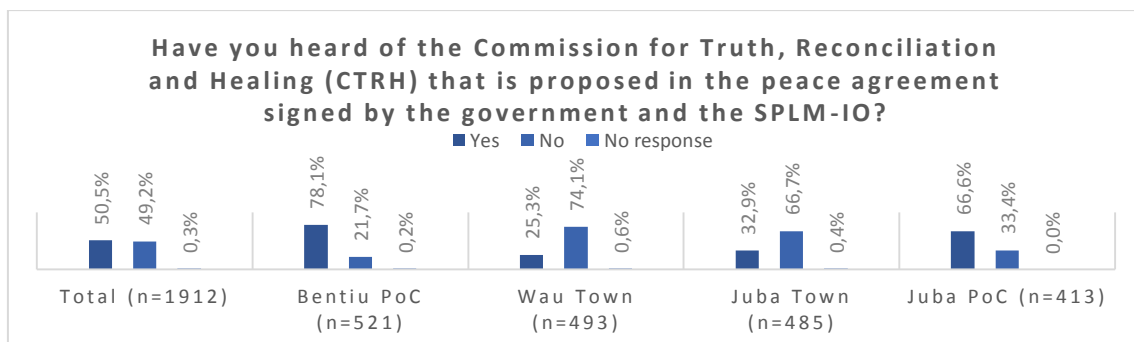
As far as you know, what does the peace agreement signed between the government and the SPLM-IO have to say about truth, justice and reconciliation?



Similar results were apparent in responses to a closed question in which respondents were asked whether they had ever heard of the CTRH and the HCSS. Overall, roughly half of the survey respondents said they had heard of the CTRH (51%) and the HCSS (50%). Again, respondents in the Bentiu and Juba POCs demonstrated far greater levels of awareness of the two institutions than respondents in the towns. For

⁴⁴ Interview, Civil Society Representative, Wau, 18 April 2016.

example, whereas 76 percent of respondents in Bentiu said they were aware of the HCSS, just 30 percent of respondents in Juba town were familiar with the HCSS. Similar disparities were apparent with respect to the CTRH. As with knowledge of whether or not a peace agreement had been signed, the higher levels of awareness in the POCs may be linked to the ease of information flow in the POCs, the greater stake that populations in the POCs may feel in the peace process, as well as the politicization of peace efforts in Government and SPLM-IO controlled areas.⁴⁵ A little over half (57%) of the respondents thought that the CTRH will be effective in promoting reconciliation in South Sudan.

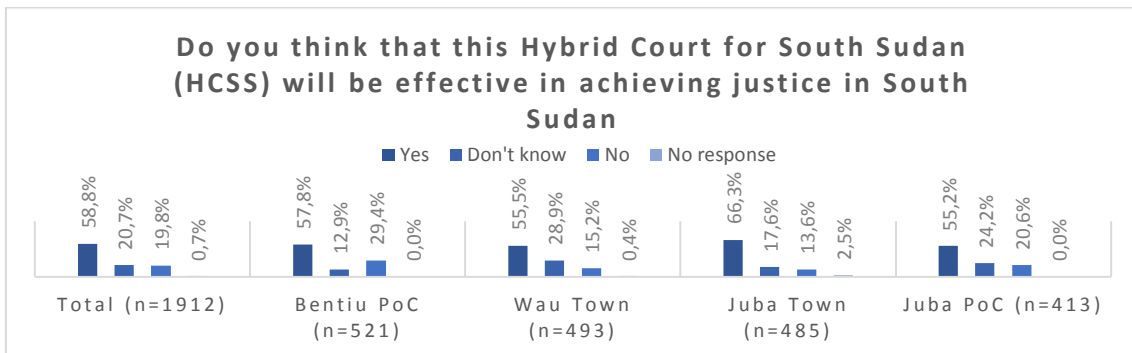


With regard to the HCSS, most respondents (59%) thought that it would be effective in achieving justice in South Sudan. About one in five respondents said that they did not think the HCSS would be effective. Among those respondents who said they heard about the HCSS, the percentage of those who think the court will be effective rises to 77 percent, suggesting that awareness raising activities about the HCSS could help to muster greater support for the HCSS. During workshops in Juba POC and Bentiu POC participants explained the confidence in the HCSS was also based on their expectations that the international community would ensure its functioning.

The main reasons put forward by those respondents who do not think the court will be effective in achieving justice is that the people responsible for abuses are too powerful (49%), the court will be biased (37%) or that the court will not be established

⁴⁵ Women (48%) were slightly less aware of the CTRH than men (53%), but this may be caused by the fact that more men were interviewed in the POCs where people are more aware.

(30%). As a civil society representative in Wau explained: “I’m a bit doubtful about whether the Hybrid Court can be effective because of local impunity. These things sometimes can happen in broad daylight and no one can be arrested. We will have a hard time.”⁴⁶ Another workshop participant in Wau asked rhetorically: “Can a snake bite itself? There is impunity among the forces. If I go to the court, they will only defend that person who has done wrong.”⁴⁷



Perceptions of Truth-Seeking

In order to gauge support for various processes of truth-seeking, the survey asked several questions to assess respondents’ comfort with publicly discussing the facts and circumstances of the conflict. Overall, 74 percent of respondents said that it was more important to have a public discussion about what happened during the conflict than to forgo such a discussion. There was no significant difference in responses according to gender or combatant status. Nor was there any significant difference between those who have been victimized by an armed actor and those who have not.⁴⁸ This points to a great consensus about the important role of truth telling.

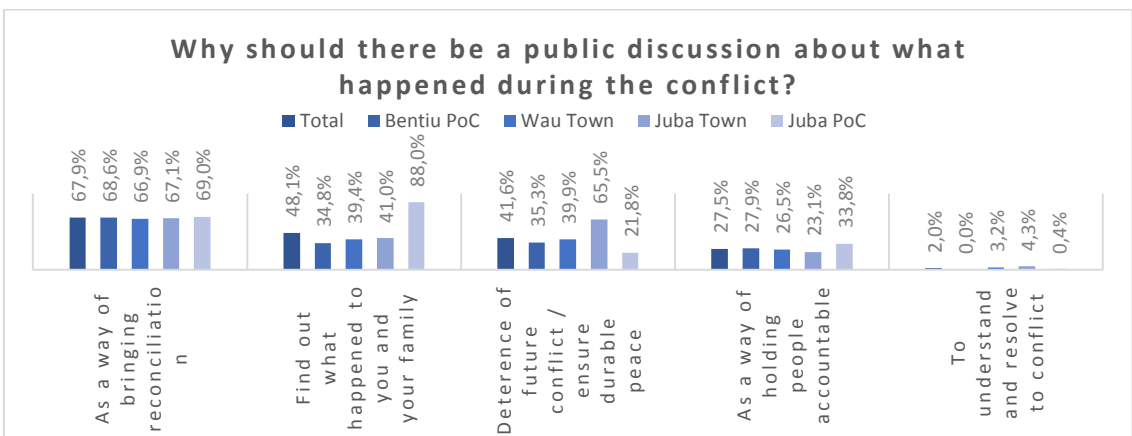
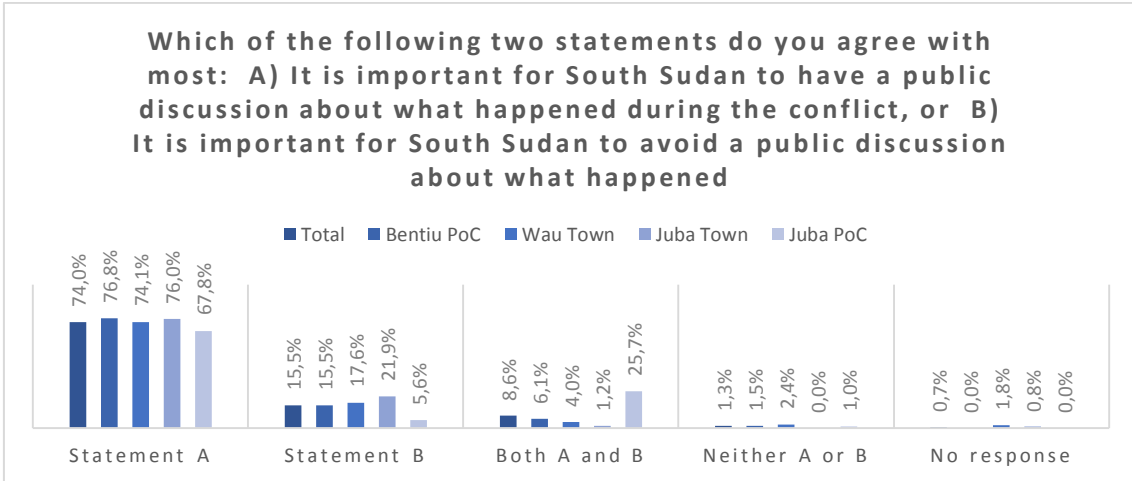
Of those who favoured public discussion about the conflict, 68 percent considered such a discussion to be an important means of bringing about reconciliation and 48 percent thought it would help them to find out what happened to their families. This latter reason was particularly important to respondents in Juba POC, 88 percent of whom saw a public discussion as a potential way for them to find out what has happened to their family members, highlighting the toll that the conflict has taken on the basic family units among populations in South Sudan.

74 percent of respondents said that it was more important to have a public discussion about what happened during the conflict than to forgo such a discussion.

⁴⁶ Interview, Civil Society Representative, Wau, 18 April 2016.

⁴⁷ Group Discussion, Wau, 19 April 2016.

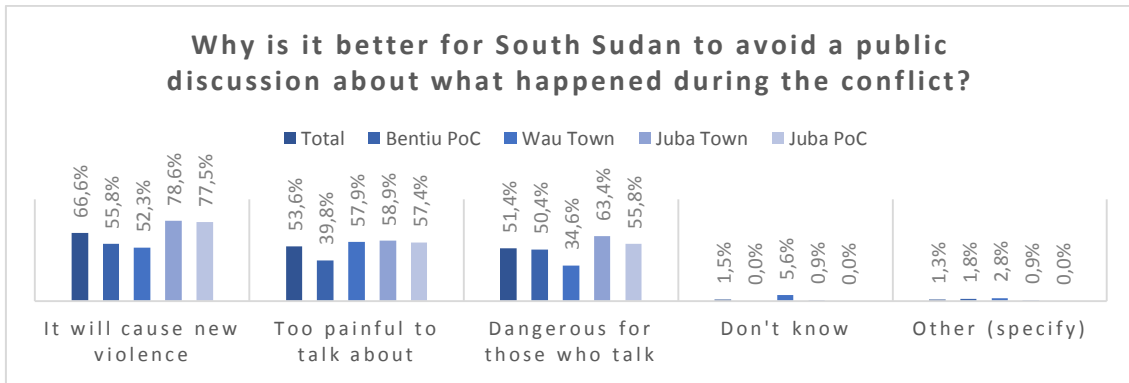
⁴⁸ Respondents that reported victimization were very slightly more likely to find both statements to be true, perhaps because they more personally feel the need to discuss and at the same time perceive this to be dangerous.



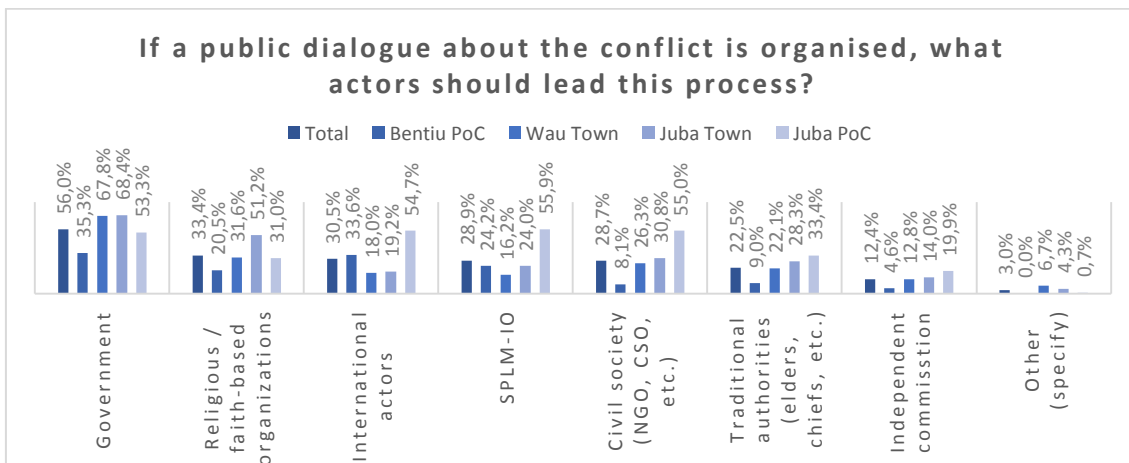
Of those respondents who were opposed to public discussion of the conflict, two-thirds said that such a discussion would cause renewed violence. Fear that a public discussion would generate more violence was especially prevalent in Juba town and Juba POC, where a majority of respondents who said a public discussion should be avoided also considered it to be dangerous for people to participate in such a discussion. Intimidation by national security operatives was a source of concern across survey locations, although the risks seemed to fluctuate with changes in politics. For example, a civil society representative in Wau explained how the new governor was trying to improve things between the state government and the people of Wau: “Even CSOs before we were monitored by NSS. They were targeting us seriously, but now it’s a bit better.”⁴⁹ With the most recent violence that erupted in Wau in June 2016, the governor has been removed and the security situation has deteriorated dramatically.⁵⁰

⁴⁹ Interview, Civil Society Representative, Wau, 18 April 2016; see also, Radio Tamazuj, available at <https://radiotamazuj.org/en/article/wau-governor-accuses-security-elements-not-cooperating-his-government>.

⁵⁰ <https://radiotamazuj.org/en/article/dozens-dead-bodies-strew-wau-streets>



Overall, a majority of respondents (56%) thought that the government should lead a public dialogue process. Respondents in Juba POC (55%) and Bentiu POC (34%) also emphasized the role of international actors, which is consistent with the heightened importance they ascribe to international participation by virtue of being sheltered within UN POCs. Conversely, in Wau and Juba towns, respondents were more likely to favour a government-led process than people in the POCs.

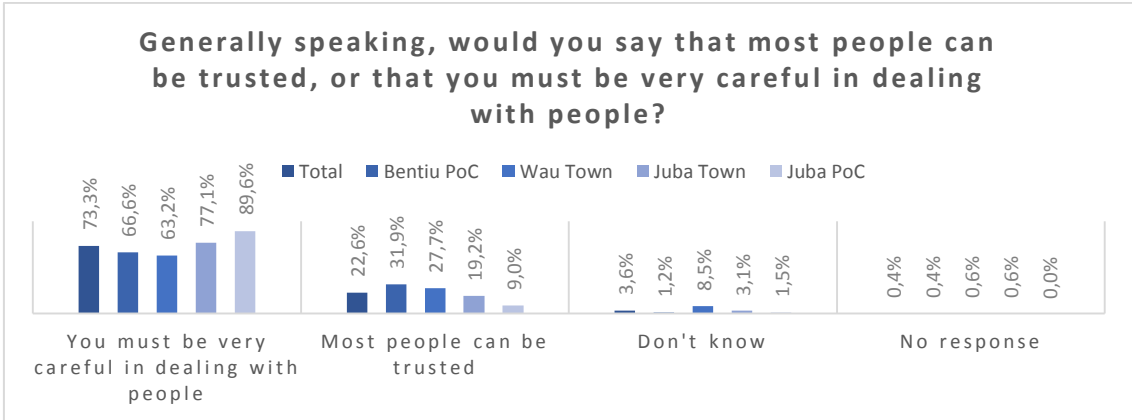


Most respondents (73%) said that they had to be very careful in dealing with people, demonstrating the harm that decades of conflict have done to the social fabric in South Sudan.

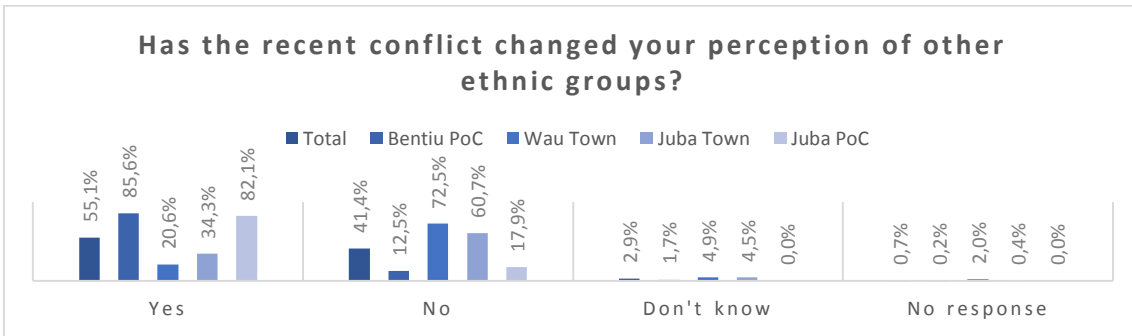
Perceptions of Reconciliation

In order to gauge levels of trust in the sample population, respondents were asked, 'Generally speaking, would you say that most people can be trusted, or that you must be very careful in dealing with people?' Most respondents (73%) said that they had to be very careful in dealing with people, demonstrating the harm that decades of conflict have done to the social fabric in South Sudan.⁵¹ Men (27%) are more likely to say that people can be trusted than women (17%), suggesting that the damage to interpersonal trust may be more pronounced among the female population, perhaps due to the manner in which the war is being fought and the increasing use of sexual violence targeting females.

⁵¹ There was no significant difference by combatant status, or for those who reported victimization by an armed actor.



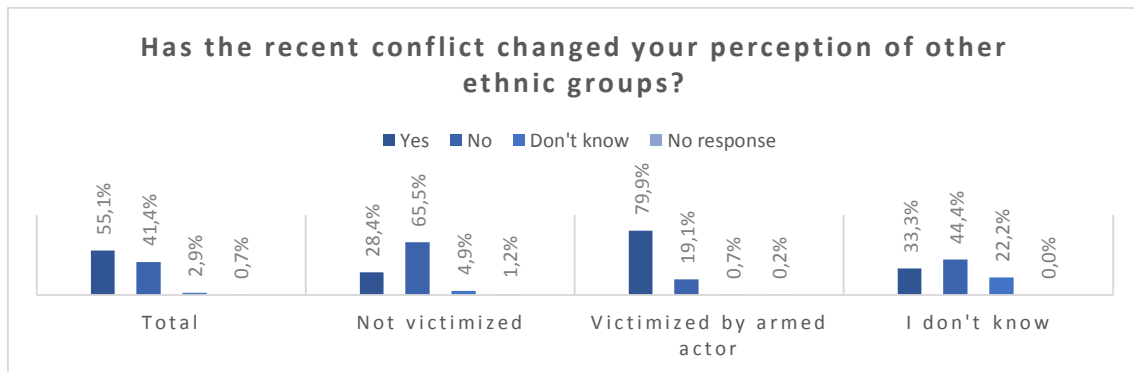
The manner in which the conflict has affected people’s views of other ethnic groups also varies dramatically across survey locations. In Bentiu POC (86%) and Juba POC (82%), the vast majority of respondents say that the conflict has changed their views of other ethnic groups, whereas far fewer people in Juba (34%) and Wau (21%) reported a change in their view of other ethnic groups. These disparities reflect differences in the impact that the conflict has had on populations in different parts of the country. The longer that people in the POCs are cut off from the political and economic advantages of access to urban areas such as Juba and Wau, the more that feelings of marginalization and inter-ethnic tension will become embedded within people’s psyches. To minimize the destabilizing impact of such a situation, it is important that a plan for the return and resettlement of populations in the POCs with dignity and security to places of their choice be put in place as an urgent priority.



In line with the geographic differences, respondents who reported victimization by armed actors (80%) were far more likely to have changed perceptions of other ethnic groups than those who did not report victimization (28%).⁵² The fact that inter-ethnic distrust is so pronounced among the victim population provides support for a victim-centred approach that is inherent in truth commissions. By addressing the grievances of the victim population, truth commissions can help to lay the groundwork for

⁵² In a follow-up question asking whether respondents felt more or less favorable about other ethnic groups, a majority (63%) said they felt less favorable.

longer-term reconciliation and healing.⁵³ This requires discussing negative perceptions other groups caused or exacerbated by violent. As a workshop participant in Juba observed, “We can talk of negatives for years and years, which is the bitterness of people’s experiences, but what’s needed is to learn the lessons of those experiences.”⁵⁴

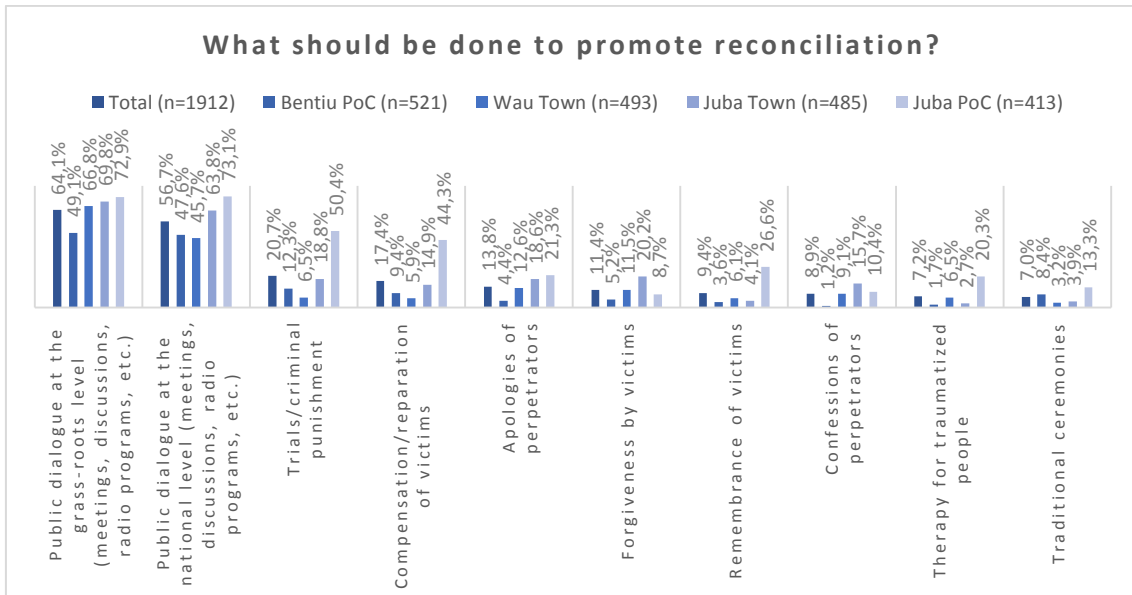


When asked what should be done to promote reconciliation, respondents emphasized public dialogue at the grass-roots level (64%) and at the national level (57%). This is similar to the answers on what is needed to resolve the conflict, where with 40% mentioned reconciliation and 31% mentioned grass-roots dialogue. This illustrates the comfort and faith people have in grass-roots level initiatives, while at the same time understanding that this cannot go without initiatives from and a political solution at the national level.

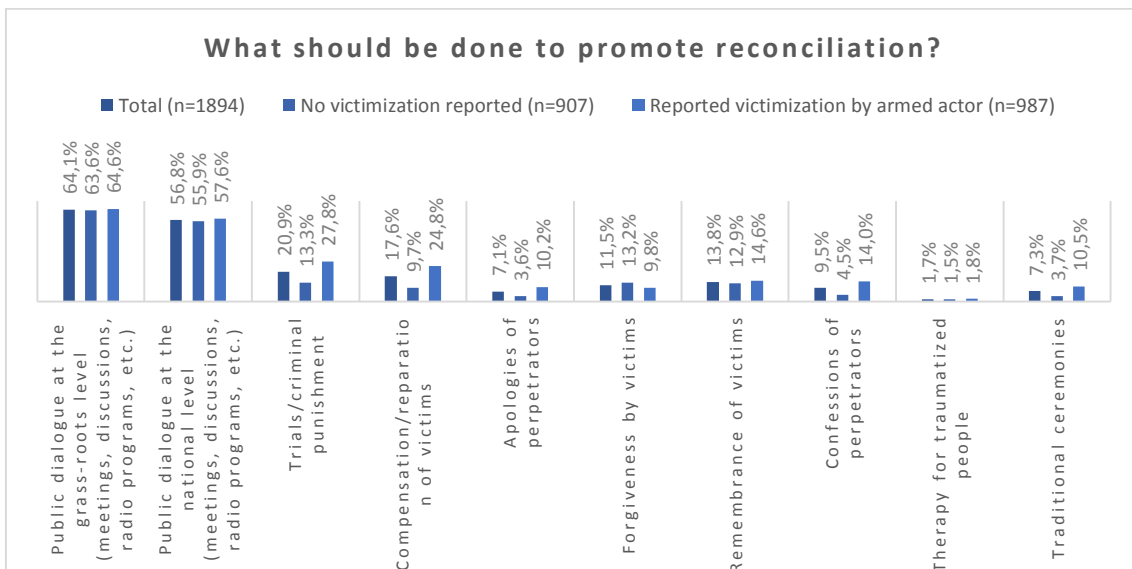
About one-fifth of the respondents mentioned the need for trials and criminal punishment, though that figure rose to 50 percent in Juba POC. Where these figures are drawn on a question focused on reconciliation, when directly asking about requirements for justice the support for trials is much higher (see further in this report). Twenty-six percent of respondents in Juba POC also emphasized remembering the victims as an important means of promoting reconciliation, highlighting the importance of memory initiatives to social healing.

⁵³ Women (47%) are less likely to report changed perceptions than men (62%). This finding stands in contrast to the lower levels of trust that women expressed in relation to the preceding question about whether people can be trusted or whether you have to be careful in dealing with people.

⁵⁴ Group discussion, Juba town, April 13, 2016

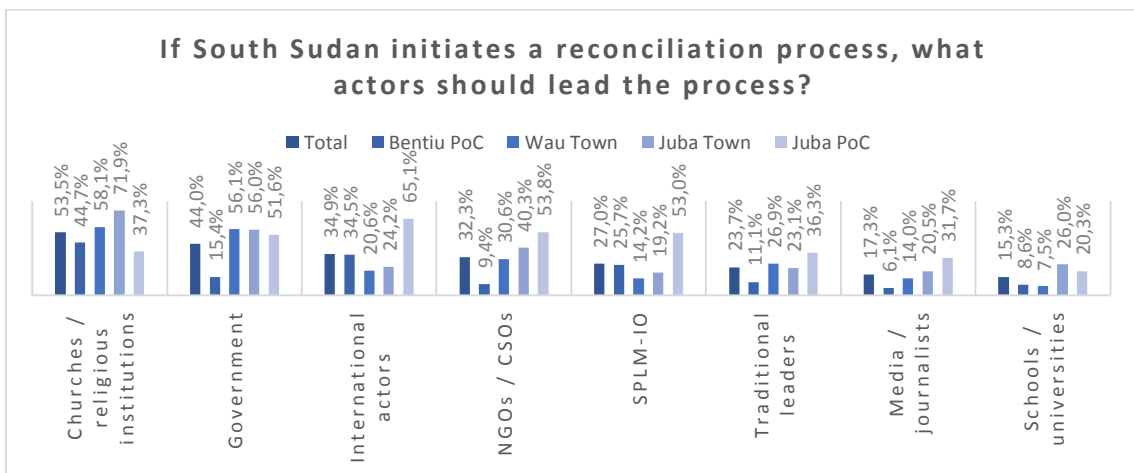


Respondents that have been victimized by an armed actor (28%) were more likely to say that trials, compensation, apologies and confessions were important to promote reconciliation than those who were not victimized, whereas respondents who did not report victimization were more likely to mention the need of forgiveness by victims. Respondents that reported victimization by an armed actor were also more than twice as likely to say compensation is a requisite for reconciliation. To the extent that many victims of the current conflict lost livelihoods and access to employment as a result of the fighting, reinstating that employment or providing them with alternative livelihood options would be important for various reasons, including reconciliation.⁵⁵



⁵⁵ The reinstatement of public sector employees, for example, could be considered a form of reparations.

Respondents considered the national level the most crucial level to undertake reconciliation on (72%), followed by the local level (55%) and the state level (46%). While people considered the government best in place to lead a national dialogue process, religious institutions are most often mentioned as being best placed to lead a reconciliation process in South Sudan. The difference in responses may point to the breadth of what would be covered in national dialogue, in that religious leaders tend to have a very specialized expertise on forgiveness and reconciliation but less so on governance matters and that both would have a particular role to play in a national dialogue process. Support for a government-led reconciliation process was particularly low in Bentiu POC (15%).



The Government of South Sudan has little experience with national-led reconciliation initiatives. The first post-war national reconciliation initiative was launched with the ‘south-south dialogue’ in the run-up to the signing of the CPA in 2005. In Western Bahr-el-Ghazal, for example, there was a meeting of the Dinka, Fertit and Jur communities in a place called Mapel in 2004. During the war, these communities fell on opposing sides of the battlefield, with Dinka and Jur largely supporting the SPLM/A and the Fertit largely supporting the national government in Khartoum. According to a resident in Wau: “Our problems date back to the war. There was tension between Dinka and non-Dinka population. The town was even divided into two. If people from one community pass to the other side, they will be killed.”

The Mapel conference was the first time these issues were addressed openly. According to a civil society representative,

“After the CPA, Dr. John [Garang] called for a south-south dialogue. There was no compensation, but it was a seven-day conference. The three groups [Dinka, Fertit and Jur] reported on what happened, the historical background, the consequences and the way forward. The people agreed to reconcile and bring

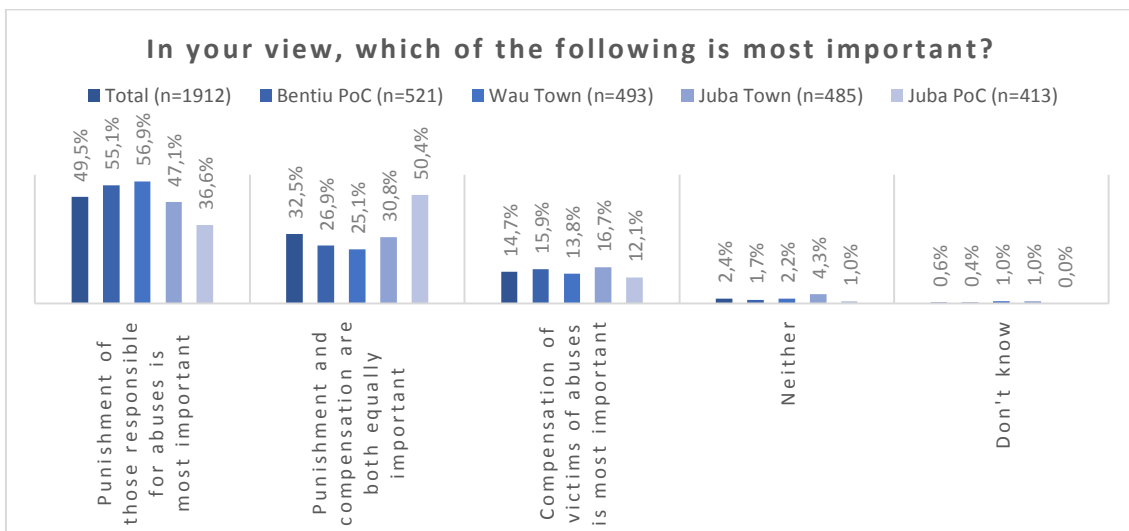
peace among them. The causes of the conflict were about power grabbing and land.”⁵⁶

However, soon after the signing of the CPA and the establishment of the regionally-autonomous Government of Southern Sudan in 2005, attention shifted to the referendum on self-determination and reconciliation initiatives such as the south-south dialogue were deemed potentially too destabilizing to pursue. As a result, wartime grievances were left to fester. As the civil society representative observed, “There were many resolutions in Mapel Declaration but they failed to honour. People may not trust for it to be done again.”⁵⁷

Respondents most often (50%) said that punishment was the most important; just 15 percent said that compensation was the most important and 32 percent said that both were equally important.

Perceptions of Justice and Accountability

One central question with regard to South Sudanese perceptions of justice concerns people’s views of restorative versus retributive justice. Customary law, for example, is often characterized as placing a greater emphasis on restorative forms of justice, often based on compensating the aggrieved party for their loss through the payment of cattle or other livestock. Such approaches to justice seek to reconcile disputing parties and disincentive self-help. As a workshop participant in Juba explained: “If there’s no compensation, then that’s where revenge comes in. If all avenues fail, revenge is the only option.”⁵⁸ Conversely, Western-styled justice is often characterized as more retributive, focusing on punishment of perpetrators and less concerned about remedying harms to victims.



In order to gauge South Sudanese perceptions on this issue, the survey posed a question about whether people thought the punishment of perpetrators or the compensation of victims was more important. Respondents most often (50%) said

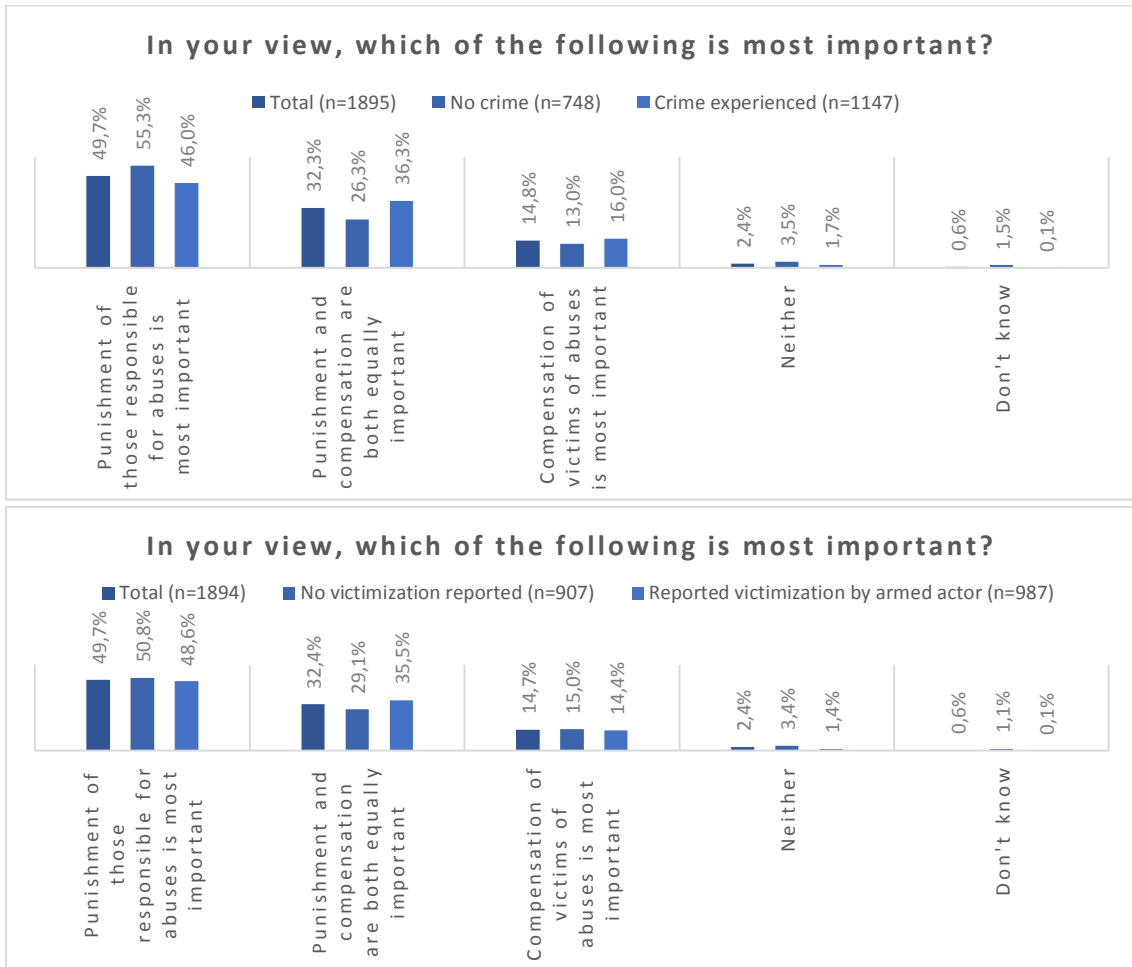
⁵⁶ Interview, Civil Society Representative, Wau, 18 April 2016.

⁵⁷ Interview, Civil Society Representative, Wau, 18 April 2016.

⁵⁸ Group discussion, Juba town, April 13, 2016

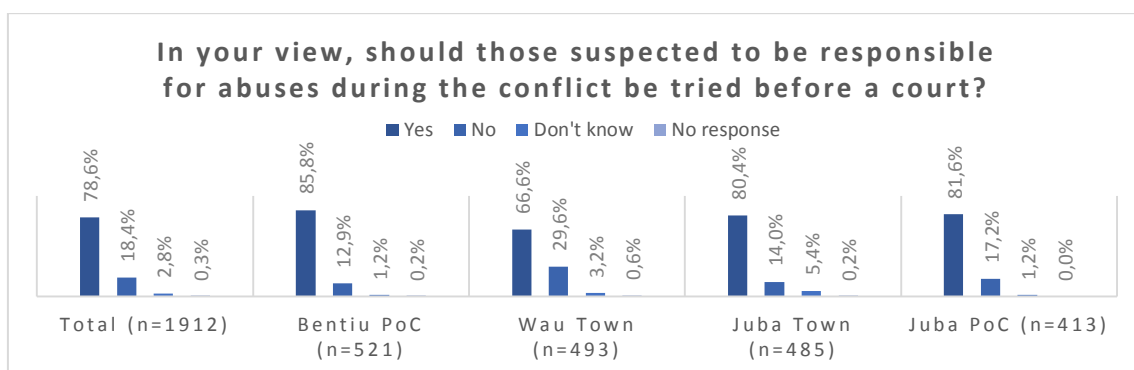
that punishment was the most important; just 15 percent said that compensation was the most important and 32 percent said that both were equally important.

Respondents that said they had been victimized by an armed actor, and respondents that reported to have experienced a violent crime within their household within the last five years experienced were more likely to also consider compensation as being equally important to punishment.



Overall, a large majority of respondents (79%) said that those suspected to be responsible for abuses during the conflict should be tried before a court. This trend held across each of the four survey locations, though support for prosecutions was somewhat lower in Wau (67%) than other locations. Respondents overwhelmingly favoured court trials, but those that reported victimization (84%) were more likely to think that those suspected of abuses should be tried before a court than those that were not victimized (73%). At the time the survey was conducted, the population in Wau had not yet been exposed to the same level of violence as a result of the conflict that erupted in December 2013 as populations in other survey areas. The two findings read together therefore support the logical finding that victim populations are likely to be the most supportive of efforts to hold perpetrators accountable. One might

hypothesize based on these results that the outbreak of large-scale violence in Wau in June 2016 might cause support for prosecutions to increase among affected populations.



Interestingly, self-reported combatants (84%) were more likely to feel trials should be held than non-combatants (75%). While one might assume that since combatants are more likely to have committed crimes they would be less likely to support trials, it seems that for the respondents in this survey that expectation does not hold. The counter-intuitive finding could be explained in any number of ways. Combatants may be more likely to be victims of violence, or may be more likely to consider themselves as victims rather than as perpetrators, and therefore interested in seeing the people who have harmed them held to account. Trauma that combatants have experienced may also explain more retributive attitudes. But there is also a tendency of people to identify themselves and the group they belong to as victims and being on the defensive side of violence, rather than identifying themselves or individuals belonging to their group as perpetrators.

“A perpetrator of a crime can in his own community be considered a hero, and they are hidden and protected.”⁵⁹

“I’m a Dinka. People say that Dinka have been killing people, but I don’t know who. In 2013 I lost my grandmother and uncle. I know it was the White Army, and we believe the White Army is Nuer. But I don’t know who did it. [...] We need to confront these problems ourselves. There is a loop of people blaming others and shielding their own.”⁶⁰

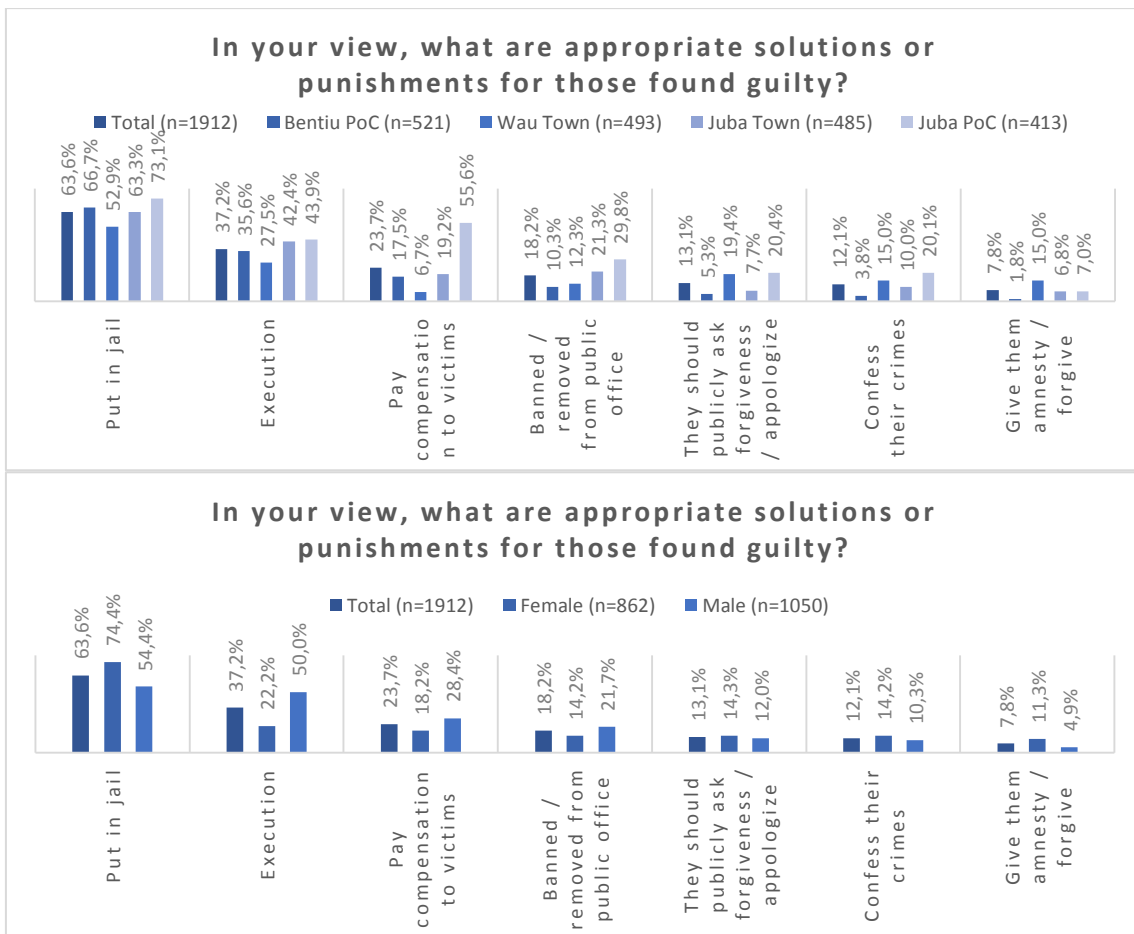
When asking about appropriate punishments for those found guilty of crimes during the conflict, respondents emphasized imprisonment (63%), execution (37%), paying compensation to victims (24%) and banning the perpetrator from office (18%). There are some differences across locations, with compensation being particularly prevalent in Juba POC, and the call to ban those responsible from office more common in Juba (both town and POC) where the government resides than in Bentiu and Wau. People’s

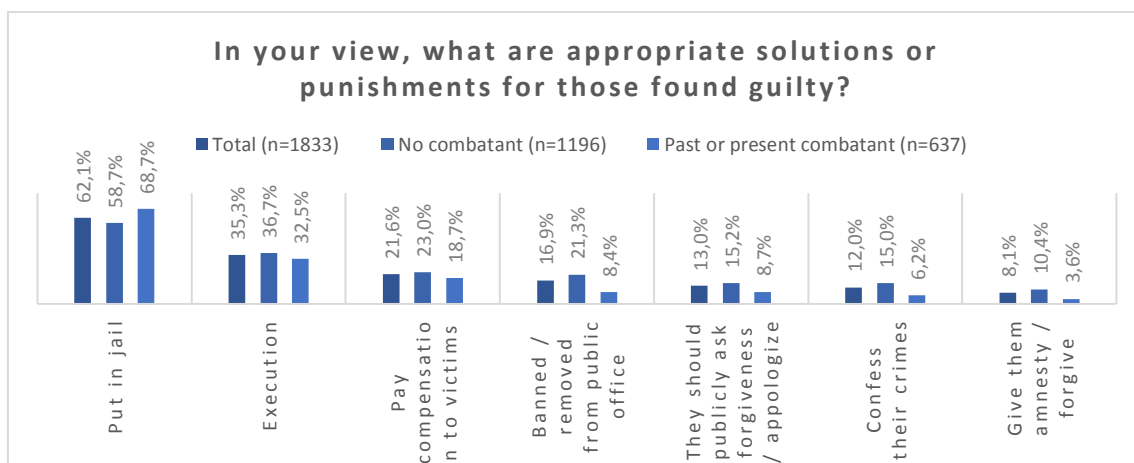
⁵⁹ Group discussion, Juba town, April 13, 2016

⁶⁰ Group discussion, Juba town, April 13, 2016

proximity to the national government in Juba may therefore translate into higher levels of dissatisfaction with its performance and heightened demand for those responsible for conflict-related abuses to be removed from office.

Women (74%) were much more likely to consider jail time appropriate than men (54%), and men (50%) were much more likely to consider execution appropriate than women (22%). Combatants (69%) were more likely to consider jail appropriate than non-combatants (59%). Combatants were also less likely to call for payment of compensation than non-combatants.





The ARCISS makes specific provision for the adoption of customary justice mechanisms in the transitional justice program. Chapter V, Art. 2.1.5, for example, says that the CTRH “shall draw on existing traditional practices, processes, and mechanisms, where appropriate.” While there are some concerns with the capacity of traditional authorities to adjudicate complex international crimes, providing them a role in the process could help to make justice more meaningful for South Sudanese and extend the transitional justice initiatives to the grassroots level. As a civil society representative in Wau observed:

“We can use different methodologies according to the customs of the people. For example, in Fertit, when you kill someone’s brother there is a traditional way by compensation and then they reconcile by slaughtering sheep or goat. They confess to each other and they reconcile and promise that this won’t happen again. We can encourage this one.”⁶¹

Perceptions of Amnesties

A common theme of debate about efforts to hold perpetrators criminally liable in post-conflict settings concerns tensions between peace and justice.⁶² Those who favour sequencing justice efforts as a medium to long-term initiative and forestalling efforts to investigate and prosecute offenses until stability has returned to the country argue that such efforts would undermine the fragile political balance that exists after conflict. As a civil society representative in Wau explained:

“For me, between reconciliation or forgiveness and justice, I prefer the former. In my organization, we are now starting to hear from people. Even the victims come and tell their stories and we ask them for the solution. They say we want peace. When you ask what type of peace, the people say they want to forgive and move on.”⁶³

⁶¹ Interview, Civil Society Representative, Wau, 18 April 2016.

⁶² Teitel, R. (2014) *Globalizing Transitional Justice*. Oxford: Oxford University Press, 34

⁶³ Interview, Civil Society Representative, Wau, 18 April 2016.

While a small majority of the respondents said that they would accept amnesties (55%), a sizeable minority 42 percent opposed amnesties.

Those who favour pursuing justice efforts alongside peacebuilding efforts argue that the two initiatives can actually be mutually reinforcing by helping to establish a culture of respect for human rights and rule of law, which is so lacking in post-conflict states. As a workshop participant in Juba POC noted: “I disagree with amnesties. Because if they have killed thousands, and they are forgiven, then they will do it again.”⁶⁴

Nowhere are the synergies and tensions of peace and justice more pronounced than with regard to amnesties. South Sudan has a long history of using amnesties to encourage belligerent parties to commit to the terms of a settlement. In the Juba Declaration of 2006, for example, President Salva Kiir offered an amnesty to the South Sudan Defence Forces (SSDF) of Paulino Matip to encourage them to join the SPLA and prevent any effort by Khartoum to use them as proxy forces in southern Sudan. Many other amnesties were offered before and after the Juba Declaration. However, this study shows South Sudanese are sceptical about the ability of amnesties to secure longer-term peace and stability. Those opposed to amnesties point to the perverse incentives of rewarding people who use violence to pursue their political (or personal) objectives in anticipation of being rewarded in the context of a peace process with blanket amnesties and political or military appointments.

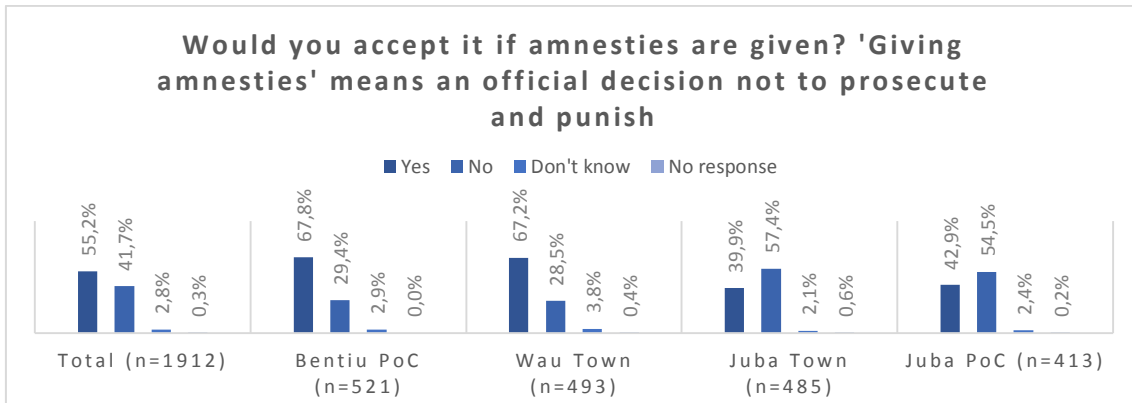
As with other studies, this survey found some division of opinion among respondents with regard to amnesties, defined in the survey as an official decision not to prosecute and punish.⁶⁵ While a majority of the respondents said that they would accept amnesties (55%), a sizeable minority 42 percent opposed amnesties.⁶⁶ Large differences emerged across survey locations, with most respondents in Bentiu POC (68%) and Wau town (67%) willing to accept amnesties and most respondents in Juba town (57%) and Juba POC (56%) opposing amnesties.⁶⁷

⁶⁴ Group discussion, Juba POC, April 14, 2016

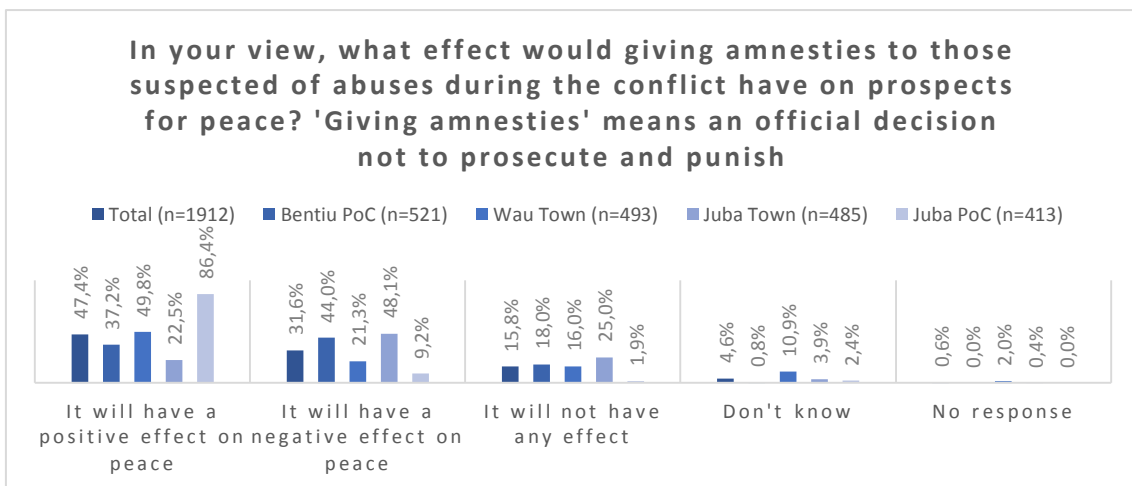
⁶⁵ Other surveys by the SSLs have also documented considerable opposition to amnesties. One survey involved 1,525 individuals in 11 locations across six states and Abyei and found that 60 percent of respondents opposed amnesties. See David K. Deng *et al.*, *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan*, South Sudan Law Society (SSLs), United Nations Development Programme (UNDP) (Jun. 2015), available at <http://www.undp.org/content/dam/southsudan/library/Rule%20of%20Law/Perception%20Survey%20Report%20Transitional%20Justice%20Reconciliation%20and%20Healing%20-.pdf>; Another survey that involved 1,178 individuals in the Malakal PoC found that 69 percent of respondents opposed amnesties. See, David Deng, Matthew Pritchard and Manasi Sharma, *A War Within: Perceptions of Truth, Justice, Reconciliation and Healing in Malakal POC*, South Sudan Law Society (SSLs) (Dec. 2015), available at https://radiotamazui.org/sites/default/files/SSLs_A_War_Within_Dec_2015_.pdf.

⁶⁶ Women were slightly more divided on the issue than men: of the women in the sample 52% would accept amnesties and 45% would not, compared to 58% of men accepting amnesties and 39% not accepting amnesties.

⁶⁷ Respondents that reported victimization by an armed actor (59%) were slightly more likely to accept amnesties than those who did not report victimization (53%), but this deviation was only minimal. Combatants (60%) were also slightly more likely to accept amnesties than non-combatants (53%).



Forty-eight percent of respondents thought that giving amnesties would have ‘no effect’ or a ‘negative effect’ on peace and an equal number (48%) thought amnesties would have a positive effect on peace.⁶⁸ However, considerable differences emerged across survey locations. In Bentiu POC (44%) and Juba town (48%) respondents tended to think that amnesties would have a negative effect, whereas in Juba POC (86%) and Wau town (50%) most respondents thought amnesties would have a positive effect.

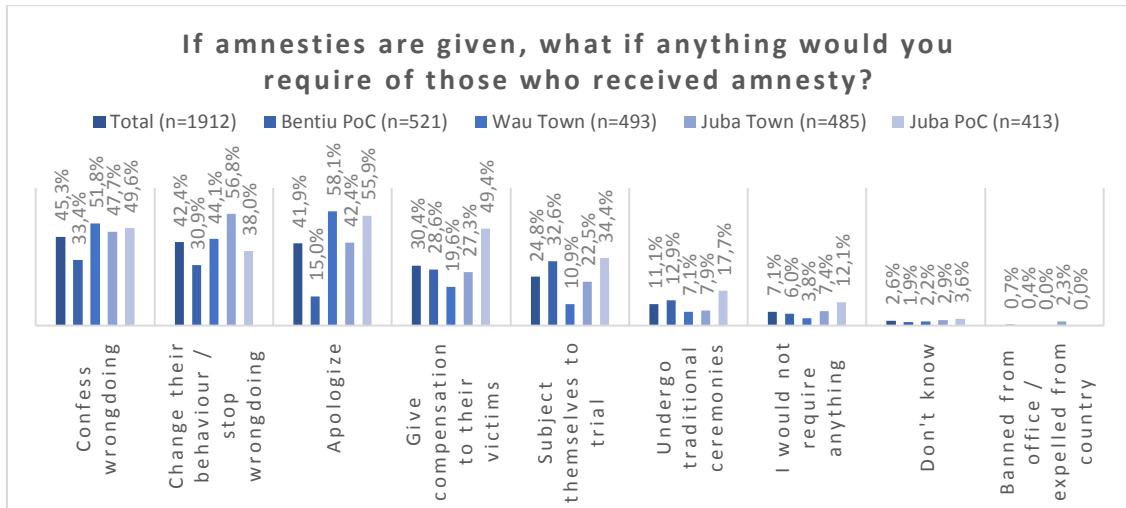


Respondents that reported victimization (54%) by an armed actor were more likely to believe that giving amnesties would have a positive effect than those who did not report victimization (40%). Combatants (53%) were also more likely to believe in the positive effect of amnesties compared to non-combatants (42%).

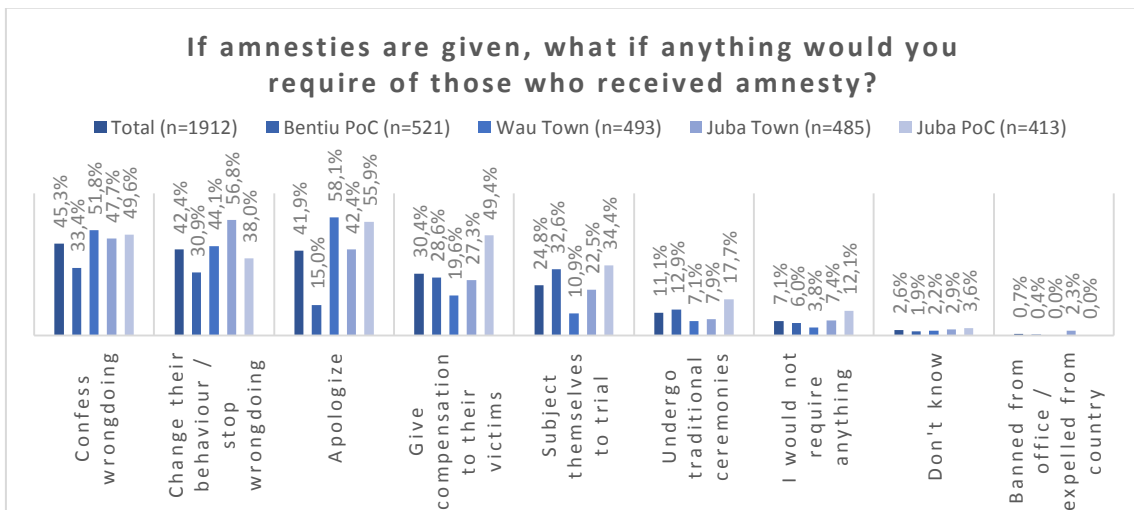
If amnesties were to be provided, the vast majority of respondents thought that conditions should be attached. Respondents emphasized confessions (45%), changed

⁶⁸ Viewing amnesties as having a positive effect on peace is not completely tied to acceptance of amnesties. Although believing amnesties will have a positive effect on peace does make acceptance of amnesties more likely, 23 percent of those who accept amnesties believe it will negatively affect peace, and 38 percent of those who do not accept amnesties do believe it might positively affect peace.

behaviour (42%) and apologies (42%). For example, a respondent during a group discussion in Juba POC explained, “you can only forgive someone if they confess. You cannot forgive someone who denies the crimes he committed.”⁶⁹



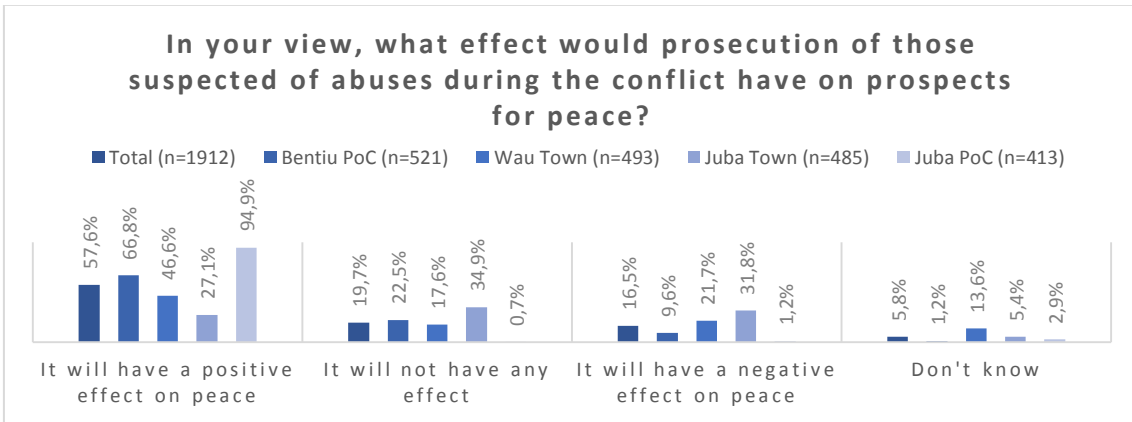
Calls for those responsible for crimes to be subjected to trial and apologizing as conditions for their being granted amnesties were strongest in the POCs. Respondents that reported victimization by an armed actor were also more likely to call for trials and compensation as requirements for amnesty as compared to respondents that did not report victimization.



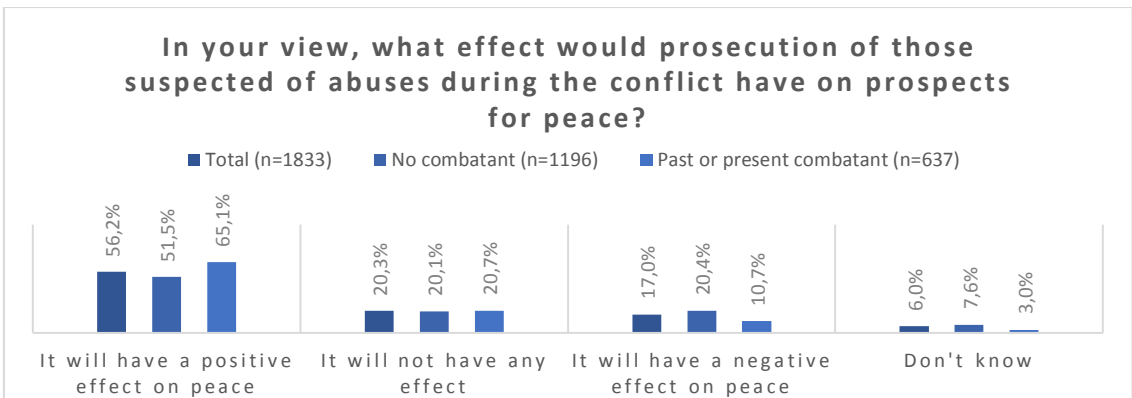
Overall, a majority of respondents (58%) thought that the prosecution of individuals responsible for abuses during the conflict would have a positive effect on peace. This viewpoint was particularly pronounced in Juba POC, where 95 percent of respondents thought that prosecution would have positive effects. Conversely, in Juba town, just 27 percent of respondents thought that prosecution would have a positive impact on

⁶⁹ Group discussion, Juba POC, April 14, 2016

peace. Women (53%) too were less likely to think that prosecution would have positive effects than men (61%).



Interestingly, people who identified as past or present combatants (65%) were more likely to think that prosecutions would have a positive impact on peace than non-combatants (52%), which resonates with combatant views on criminal trials discussed in the preceding subsection.



Conclusion and Recommendations

While there currently seems little support for the agreement and its Chapter V provisions at the leadership level, this report shows that there is considerable support for it at the community level. When people are familiar with the institutions proposed in the agreement they also express greater trust in these institutions, suggesting that awareness raising activities could help to muster greater support for justice and reconciliation efforts. The report also finds that more than half of the people interviewed have been victimized by an armed group or actor, and that women are increasingly targeted in the post-2013 period. Furthermore, people diverge widely on the causes and possible solutions to the conflict, as well as on how to balance punishment (and amnesties), compensation and reconciliation.

This shows the importance of continued discussions on transitional justice and reconciliation in the current context. South Sudanese also overwhelmingly consider it important to have a public discussion about what happened during the conflict, indicating a great consensus on the importance of truth telling. At the same time, space for this is decreasing and people fear the consequences of participating in a truth-telling process. A truth-seeking effort could also contribute to the development of a shared national narrative of the conflict. Until there is greater understanding about some core facts about what has transpired and why, there will be little common ground to proceed with national reconciliation efforts.

Reconciliation is something that is not only undertaken at the national level. When asked what should be done to promote reconciliation, respondents emphasized public dialogue at the grass-roots level (64%) and at the national level (57%). This illustrates the comfort and faith people have in grass-roots level initiatives, and that such efforts should continuously be supported. However, at the same time these percentages show an understanding that the success and durability of grass roots initiatives depends on initiatives from and a political solution at the national level.

The resurgence of conflict in December 2013 and July 2016 have clearly demonstrated the importance of addressing legacies of past human rights violations and widespread impunity to achieve sustainable peace. South Sudan peace processes have failed to address contentious issues relating to justice and reconciliation only to have them resurface in dangerous and unpredictable ways. The success of any transitional justice program will hinge on the ability of the (transitional) Government of South Sudan and its international partners to create an enabling environment for the public discussion of contentious topics such as people's experiences with human rights abuse. Coordination between national and international actors will be critical to ensure that transitional justice efforts are streamlined and mutually reinforcing so as to avoid a myriad of stand-alone projects being implemented without an overarching strategy.

The challenges inherent in this undertaking in the South Sudanese context should not be underestimated. The three institutions proposed in the ARCISS — the HCSS, CTRH

and CRA — each require a considerable amount of institutional capacity, a government that is willing and able to guarantee the safety and security of citizen-led dialogue on politically loaded issues of truth and accountability, and a citizenry that trusts its public institutions enough to engage in such a process. Adding to the complexity of the undertaking, the timelines stipulated in the ARCISS in some cases are exceedingly short in light of the lingering insecurity and the logistical difficulty of operation in South Sudan.

Perhaps a more immediate threat to genuine truth, justice and reconciliation concerns a potential lack of political will to address these contentious issues in a period of flux when political and military leaders will be looking to consolidate support among their allies, many of whom are implicated in human rights abuses. Other contexts have shown that processes of transitional justice are most successful in countries where the political establishment views it as an opportunity to break with the past and usher the country into a new political dispensation. Such transformational change is more difficult in circumstances where there is continuity in the political and military leadership.

These concerns about feasibility and political will notwithstanding, opportunities such as those presented by the ARCISS are rare and unfortunately cannot be scheduled to arise at our convenience. Experience has shown in other contexts that it can take a long time, sometimes generations, for a country to come to terms with an extended period of conflict or authoritarian rule, and the process must start somewhere. As these issues are being addressed for the first time in South Sudan, resources should be devoted to cultivating demand for truth, justice and reconciliation among populations in South Sudan, ensuring that survivors' voices are amplified in the process, and designing institutions that are tailored to the needs and aspirations of the South Sudanese people.

In order to develop a South Sudanese-owned and driven transitional justice program, this policy brief recommends the following:

To the (transitional) Government of South Sudan:

- When possible again, continue with the implementation of Chapter V of the ACRISS, and actively support and promote the establishment of the CTRH, HCSS and CRA in order to promote peace. Pro-actively include citizens and civil society and religious institutions in the process in order to connect these institutions with South Sudanese – and making sure these institutions respond to diverse citizen's needs.
- Actively promote an inclusive truth-seeking effort in order to support the development of a shared national narrative of the conflict, recognising different experiences. Until there is greater consensus about some core facts about what has transpired and why, there will be little common ground to

proceed with reconciliation efforts. In order for such an effort to be successful, all parties in South Sudan need to be actively engaged and included.

- Assess the existing human and financial resources and determine where gaps would arise for the various proposed institutions, take stock of different models that have been used in other contexts and consider what is most appropriate for South Sudan, and develop the laws and policies that will be necessary to implement Chapter V.
- Allow for open public discussion and debate on issues related to justice and reconciliation to take place but avoid polarization. The data presented in this report show that all sides are victimized by the violence, and that people who are victimized by armed actors are more inclined to have negative perceptions of other groups. Focus truth and reconciliation dialogues on finding common ground and recognizing victims of violence rather than on appointing blame.
- Prioritize a plan for the return and resettlement of populations in the POCs with dignity and security to places of their choice be put in place as an urgent priority. The longer that people in the POCs are cut off from the political and economic advantages of access to urban areas, the more that feelings of marginalization and inter-ethnic tension will become embedded within people's psyches. This contributes to polarization and hampers reconciliation.
- Include a specific focus on the different violent experiences of men and women in a transitional justice process. The data presented in this report show an increased targeting of women, increased SGBV, and women have lower levels trust of others than men. This calls for a focus on women's specific grievances and needs.
- Investigate and support the potential of the various traditional authorities in reconciliation and transitional justice processes in order to connect local and national efforts and help to make reconciliation and justice more meaningful for South Sudanese and extend the transitional justice initiatives to the grassroots level.

To all guarantors of the ACRISS, including UNMISS, the AU and IGAD+::

- Initiate a hybrid investigative unit with an official mandate to begin compiling evidence of international crimes to lay the groundwork for the HCSS, while building national capacity to participate effectively in the HCSS, and keeping in mind that there are fears such activities might undermine peace.

- Move forward with the establishment of the HCSS and ensure it receives considerable political and material support from the region, and investigate ways in which the HCSS can support in building capacity of the South Sudanese judiciary and justice system, including traditional justice mechanisms.
- Ensure programmatic connections between transitional justice and justice reform efforts. With the large number of crimes being committed in the context of conflict, transitional justice and justice reform cannot be treated as completely independent from each other. Transitional justice efforts should include a focus on justice reform and capacity building. Supporting access to justice can also support transitional justice efforts when bringing suspects at leadership levels is not (yet) possible.
- Consider the protection of victims and witnesses in HCSS and CTRH processes as an integral part of the protection of civilians mandate, and develop a strategy to ensure witness protection. If necessary, by the temporary or permanent relocation of witnesses for cases of the HCSS.
- Actively promote continued public discussion on reconciliation and justice among South Sudanese, both within and outside South Sudan. The findings presented in this report show a need and demand for such public discussions, while at the same time an increasing fear to participate. Efforts should focus on reversing this trend and opening up of space for open debate.

To donors, South Sudanese civil society and (I)NGOs:

- Ensure continued support for and by civil society to keep the process of reconciliation and transitional justice moving forward by continuing discussions on and dissemination of ideas and concepts of reconciliation and justice. There is an urgent need for advocacy to inform the decisions that are being made about these issues at all levels in South Sudan, regionally and internationally. Building interest in and demand for truth, justice and reconciliation at these various levels can help to ensure a South Sudanese-owned and driven process that leaves a lasting legacy on the national context. Civil society can play a significant role in enhancing civic engagement in transitional justice processes and ensuring a victim-centred approach.
- Provide psychosocial support and trauma healing (including identifying and providing support for existing coping mechanisms at the family level, or among religious or customary institutions) for survivors of human rights violations. The data indicate a large proportion of the population has violent and traumatic experiences, and psychosocial support can help to build confidence among victims and ensure greater and more effective participation in the truth-seeking effort.

- Continue with the monitoring, documentation and research on the human rights impacts of conflict. These documentation efforts could help to advance the collective understanding of the context and support the efforts of the CTRH, while also giving civil society additional valuable information that could be leveraged in civil society's advocacy efforts and in their engagement with communities. Such efforts may also be of use to the HCSS.
- Continue to find space for public discussion on reconciliation and justice. The findings presented in this report show a need and demand for such public discussions, while at the same time an increasing fear to participate. Efforts should focus on reversing this trend and opening up of space for open debate.

Acknowledgements

This report was made possible with financial support received from the Netherlands Organization for Scientific Research (NOW-WOTRO), commissioned by the Ministry of Foreign Affairs of the Kingdom of the Netherlands in close collaboration with the Knowledge Platform Security & Rule of Law. The authors would like to thank the team of 34 enumerators that helped to conduct the survey in Juba, Juba POC, Bentiu POC and Wau. The authors would also like to extend their deep appreciation to all who agreed to be interviewed as part of this study. The bravery that they have demonstrated in their willingness to discuss these issues is a testament to the resilience of South Sudanese despite the difficult periods that the country has struggled through.

