

# Opportunities for Gender Justice and Reconciliation in South Sudan

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## Introduction

The future of humanity will be decided not by relations between nations, but by relations between women and men. – D.H. Lawrence

As Africa's youngest nation embarks on the journey of becoming a democratic state within the global political arena, one of the most pressing questions is what South Sudan's government as well as the international community can and should do in order to promote gender justice and ensure that men and women enjoy the same quality of life, and the same rights before the law and in their everyday existence. Constructively and proactively addressing these crucial issues within the early stages of the post-conflict reconciliation and social cohesion agenda could contribute to setting an important precedent through the building of a just socio-economic and political foundation upon which South Sudan's democracy could flourish.

A focus on gender is an indispensable dimension of reconciliation at both the community and state levels. South Sudanese women have had limited access to peace

negotiation processes, and they have limited power and representation in government and other decision-making bodies. The marginalisation of women in these processes limits the extent to which they are able to voice their concerns and interests, in the process excluding and alienating them from the nation and the state. Despite their relative marginalisation within a highly patriarchal society, women – constituting as they do half the population of South Sudan – play a crucial role in society. However, their non-participation in nation-building and their alienation from the state run the risk of severely hampering the national healing and reconciliation process that is vital to the building of a prosperous and united South Sudanese democracy, for reconciliation is impossible while half of the population remains excluded from decision-making processes and deliberately sidelined in the process of shaping a vision that caters to the needs of all citizens. For the necessary reconciliation and healing to take place, the particular ways in which women and men have been affected by the war, and the nature of patriarchy in modern South Sudanese society, must be understood, acknowledged and redressed.

This Policy Brief explores the nexus of gender justice and reconciliation in South Sudan. It addresses women's historical engagement in reconciliation processes in South Sudan at the grassroots and national levels and highlights their achievements to date. It then discusses the challenges to inclusion South Sudanese women face, as well as current opportunities to achieve true reconciliation by actualising gender justice and equality – particularly through effective integration of women into the peace and reconciliation process. The Policy Brief concludes with a set of recommendations to civil society, community leaders, and the government.

### *Historical context and background*

The liberation struggle from the Khartoum-based government of Sudan has shaped South Sudan's course since Sudan gained independence in 1955. The initial post-independence years in Sudan saw violent conflict in which over 500 000 people were killed and hundreds of thousands more displaced. In 1972, warring factions reached a cessation of hostilities agreement in Addis Ababa, Ethiopia. Following an 11-year respite, violence broke out again in 1983 and lasted for 22 years – the longest of all armed conflicts on the African continent. Two million people died and four million were displaced. After South Sudan's long and violent struggle for justice, equality, human dignity and political and economic emancipation, the Comprehensive Peace Agreement (CPA) was signed between Khartoum and the Sudan People's Liberation Movement (SPLM) in 2005, and independence was gained in 2011.

Today the country's infrastructure remains very poor and its people continue to suffer from a lack of education, lack of access to healthcare, and psychosocial trauma from decades of war. In 2010, over 4.3 million people (half of the population) required food aid, and there was a 15 per cent malnutrition rate<sup>1</sup> and acute poverty. Although the Government of the Republic of South Sudan and its international development partners are working to improve the current physical and administrative infrastructure, much of which was destroyed during the wars, most South Sudanese still do not have access to essential goods and services. Given the highly patriarchal nature of South Sudanese society, women suffer far more than men from the lack of access to services, including lack of maternal and child healthcare, and limited access to education and justice.

The most significant hindrance to the empowerment of South Sudanese is lack of education, which perpetuates lack of access to both economic independence and political engagement. This is particularly true for the women of South Sudan. It is estimated that 92 percent of South Sudanese women cannot read and write.<sup>2</sup> While the civil war resulted in a generally low level of education for both men and women, the gender disparity is acute. The division of roles within the household, along with entrenched practices such as early and forced marriage for girls, contributes to this gender disparity.<sup>3</sup> According to Lise Grande, former United Nations Deputy Resident and Humanitarian Coordinator for South Sudan, a 15-year-old girl has a higher chance of dying in childbirth than of finishing school.<sup>4</sup> This also highlights the need for South Sudan to implement a healthcare system that will improve access and lower the very high infant and maternal mortality rate. It is important that provisions be made, in these early stages of the country's rebuilding, for greater gender equality, so that this gap will continue to narrow as South Sudanese society rebuilds itself.

A number of important events and policy shifts have already taken place that have contributed significantly to highlighting the need for strengthened gender justice in South Sudan. However, implementing these policies at a national level and complying with international human rights instruments requires considerable political will and an attitudinal shift that will ensure that women rise to the level of men in all spheres of society.

## Gender and reconciliation

It is normally said that one hand cannot clap alone. That means that we need both sexes to reconstruct this very vast land.<sup>5</sup>

As state institutions are currently being developed, there is a great opportunity to work towards gender equity by understanding women's contributions and capabilities and recognising the significant role women can play in South Sudan's path towards development and reconciliation.

In post-conflict societies, deep forms of social reconciliation and transformation are needed to redress social injustice as well as the traumatic events that transpired during the conflict. A country that does not deal with the past runs the risk of returning to conflict. This was the case in South Sudan in the past. It is also the case with the majority of countries that have come out of conflict in the past 30 years and that failed to adequately redress historical injustices – such as the Democratic Republic of Congo (DRC), Zimbabwe and Somalia, to name a few. A focus on restorative gender justice and reconciliation is a necessary element of the South Sudanese reconciliation process to help men and women move beyond their trauma and begin to reconstruct their lives.<sup>6</sup> Restorative justice focuses on restoring social relations through tools such as truth telling, psycho-social healing, memorialisation and reparations and is different from punitive justice, which focuses on judicial mechanisms aimed at punishing those responsible for crimes committed.

Reconciliation is the process of repairing damaged relationships.<sup>7</sup> In order for people to come to terms with a traumatic past, a process of acknowledgement, forgiveness, reconciliation and healing is required as a stepping stone towards the building of a viable, legitimate and inclusive democracy.<sup>8</sup> Only with acknowledgement of what has gone before – at the national, community and individual levels – can relationships begin to be restored. Although the word *reconciliation* has many meanings, the basic definition entails the intersection of a search for a shared truth, some form of justice, and an element of forgiveness and healing.<sup>9</sup> During a reconciliation process, all parties should feel that the truth about the past is being revealed, recognised, and remembered; that justice is being fulfilled or re-established and injustices are being corrected; that their vulnerability is decreasing; and that healing is taking place through 'the acknowledgment of victimisation, the restoration of dignity and the management of trauma'.<sup>10</sup> By virtue of the multiple layers that constitute a holistic reconciliation process, in terms of which institutions and individuals are involved, reconciliation processes are time consuming, and require high levels of political and societal will, and adequate funding.

Post-conflict reconciliation typically occurs in a situation where war has ended, a settlement has been reached, and a new regime is faced with the challenge of reconstructing society and restoring damaged relationships. In such a context, reconciliation is a process through which a society moves from a divided past to a shared future and rebuilds relationships between former enemies on the basis of trust and mutual acceptance and tolerance. Given the fact that men and women experience conflict in different ways and thus have different post-conflict needs, a gender perspective must be included in reconciliation efforts and when exploring who needs to be reconciled with whom. To date, reconciliation discourses and practices have largely failed to address *gender reconciliation* and have not made provision for women's unique experiences of conflict to be redressed.

By gender reconciliation we refer to the convergence of men and women understanding and empathising with one another and working together to end gender injustice – including discrimination and gender-based violence – and contributing equally to the building of a democratic society. This is achieved in at least two ways: through gender justice, that is, the ending of, and the provision of redress

for, inequalities between women and men that result in women's subordination to men; and through mainstreaming gender, by incorporating strategies to ensure focus on gender and women's issues, as well as the engagement of more women personnel in all dimensions of design, implementation, monitoring and evaluations of policies and programmes.<sup>11</sup>

Violence thrives in societies entrenched in hierarchical structures and relations, and no inequality is more pervasive, both vertically and horizontally, across the globe than gender inequality.<sup>12</sup> Gender justice seeks to distinguish 'the nefarious forms of injustice women experience during and after armed conflict' from the violence experienced by men.<sup>13</sup> To date, integrating gender justice into accountability mechanisms has resulted in increasing women's representation at the decision-making table and addressing impunity for sexual and gender-based violence. While international lobby groups and the widespread use of social media have highlighted the impact of conflict on women in countries such as the DRC, South Africa and Zimbabwe (among others), and have prompted new ways of analysing and acting upon this violence, a far stricter and targeted international framework that focuses on implementation is needed to combat harmful practices.

### ***Gender-based violations in South Sudan***

Anyieth D'Awol, author of the chapter 'Sibu ana, sibu ana' ('Leave me, leave me') in the book *Hope, Pain and Patience: The lives of women in South Sudan*,<sup>14</sup> compiled by the Institute for Justice and Reconciliation, writes that because violence was a common feature of everyday life during the civil wars in South Sudan, sexual violence became pervasive, perpetrated against all women by all sectors of the population and by soldiers and civilians alike. Jok Madut Jok acknowledges that the killing and violence aimed at women increased to a point where it could be said to have become standard practice.<sup>15</sup> D'Awol argues that the key underlying cause of sexual violence is the fact that South Sudan is a deeply patriarchal society, where sexual violence occurs 'as a result of power relations that presuppose men's control over women', and the basic assumptions that tend to govern gender relations in South Sudan stigmatise those who experience sexual abuse more than those who perpetrate it.<sup>16</sup> Although the Ministry of Gender, Child and Social Welfare, created in South Sudan in 2011, has designed programmes – for example, the 7th annual 16 days of activism against gender-based violence in South Sudan campaign in December 2012 – to educate the general public, 'women in South Sudan continue to experience violence in alarming numbers,'<sup>17</sup> according to Minister Agnes Kwaje Lasuba. To date, South Sudanese authorities have failed to hold perpetrators responsible, and sexual and gender-based violence against women continues to be perpetrated with impunity. In South Sudan, women are still perceived as having to conform to their traditional cultural role as quiet and invisible subordinates with very limited social and political voice. Unequal and harmful family-level gender dynamics set a precedent for gender relations at a national level. Reinforcing this traditional role of women within the household prevents women from being active in politics, as women who are not allowed to have a role as decision-makers within their households are also expected not to take part in public affairs at the community level.<sup>18</sup> This impacts negatively on the ability of families to sustain themselves in the modern era and also sets a negative precedent for communities existing in a world that is increasingly intolerant of unequal gender relations.

Although a slight transformation of gender roles took place as South Sudanese women began to take on different roles in their families and in their communities during the war, the shift in terrain has not been significant, and much of the ground that was gained was quickly lost again as men returned home to assume their traditional roles as head of the household. The prevailing cultural norms 'that force women into subservience' are still deeply entrenched.<sup>19</sup> Since a large number of men were killed, or absent for long periods while taking part in the war effort, women stepped in to perform roles that had traditionally been performed by men. Women became very obviously the backbones of their communities, taking care of their homes and families, the sick and the wounded, as well as managing agricultural production.<sup>20</sup> In addition, many women played key roles in the armed forces, at times in direct combat but more frequently in providing the soldiers with vital logistical support as cooks, nurses, porters and couriers. As women's responsibilities increased, gender differences, which had been so entrenched before the war, began to shift. In spite of this, however, patriarchy and sexism persist today; cultural norms that subordinate women to men in almost all social interactions remain pervasive.

From a perspective internal to Nuer and Dinka social networks, women continue to be regarded less fully as persons, or complete human beings, than their militarily active menfolk. If anything, women's status as independent agents in men's eyes appears to have declined in the context of militarised glorifications of the raw masculine power of guns.<sup>21</sup>

Women's lived experiences of the conflict were often of both fighters and providers, and of victims of violence, including gender-based crimes. Sexual violence was used as a military strategy and as a weapon of war with the specific intent of destroying the social and cultural stability of the collective enemy. This violence led to women's physical and emotional destruction,<sup>22</sup> as well as the emasculation of men who felt helpless to protect the women in their lives from violence. In post-conflict South Sudan, poverty and disarmament, as well as the absence of coordinated reintegration programmes and trauma counselling, add to heightened emasculation of men and the break-down of communities' social and cultural cohesion. Men and women alike must acknowledge and address the impact that targeted sexual violence had on gender relations and on men's self-worth and masculinities, so that these can begin to be repaired and healing can take place.

South Sudanese individuals, community groups, police officers, customary leaders, the army, the judiciary and members of the government need to work together to forge a just society and to end impunity for sexual and gender-based crimes, in line with the South Sudan Penal code, and should continue to speak out against all forms of violence. It is especially important that advocacy against gender-based violence not be relegated to women's groups, but that South Sudanese men be encouraged to play an equal role in promoting the public acknowledgement of this violence and to challenge harmful patriarchal practices.

## **Achievements to date towards enhancing gender justice and reconciliation in South Sudan**

We, the People of South Sudan ... Dedicated to a genuine national healing process and the building of trust and confidence in our society through dialogue ... Determined to lay the foundation for a united, peaceful and prosperous society based on justice, equality, respect for human rights and the rule of law ... Do hereby adopt and promulgate this Interim Constitution of Southern Sudan.<sup>23</sup>

### *Institutional Developments*

#### **Ministry of Gender, Child and Social Welfare of South Sudan**

The Ministry of Gender, Child and Social Welfare was born out of the post-CPA Ministry of Gender, Social Welfare and Religious Affairs and was created by the South Sudanese government when the new nation was born, in July 2011. The Ministry is mandated to spearhead and support gender mainstreaming across government policies, programmes and budgets, but has lacked human, technical and financial resources for this task. The Ministry's budget does not currently allow for any project implementation.

In 2011 the proposed budget allocation to the Ministry as per the Minister of Finance 2011 January Budget speech, [was] 8.7m South Sudanese Pounds-SDP [USD 2.9m]. This continues to be one of the smallest ministerial budgets in the Government of South Sudan.<sup>24</sup>

Despite these constraints, according to the Gender Support and Development Project completion report released by the Ministry, the Women's Economic Empowerment Project has provided a considerable number of beneficiaries with increased income, agricultural training, the opportunity to use new agriculture techniques, and increased crop yield. In turn, these benefits have ensured an increase in the following safeguards: household resilience to external shocks, household food security, health status, and access to education.<sup>25</sup>

While the Ministry's Country Gender Assessment (CGA) did not achieve its primary objective of providing a focused strategy for the Government of South Sudan to create a comprehensive policy for gender mainstreaming, it nevertheless 'is a successful first step'.

Unfortunately, traditional beliefs, gender bias, and lack of resources continue to have a negative impact on the success of the Ministry of Gender's mandate. The CGA highlights the need for inclusivity of reconciliation policies, recommending that the Government of South Sudan 'ensure a credible and gender inclusive process of accountability and national reconciliation to promote healing, unity, and peaceful co-existence.'<sup>26</sup> However, it has been argued that this recommendation is too general to be practically helpful.

### **The National Gender Policy**

The Ministry of Gender, Child and Social Welfare has developed a comprehensive draft National Gender Policy (NGP), which is currently under legal review and will hopefully be tabled in parliament soon. The policy strongly advocates for programmes that have specific impact on the gender mainstreaming process and on women's empowerment. Once the policy is passed, its key programmes should be initiated urgently so as to strengthen the capacity to drive the gender policy forward.

The policy makes no mention of the following: the importance of acknowledging the role played by women during the conflict, the need to include women in the national reconciliation process, and the importance of working towards a national reparations scheme as a tool for gender empowerment. Nevertheless, the Ministry must be commended for developing a policy; very few countries in Africa currently have official gender policies.

### **The Constitution**

The Transitional Constitution is the primary document through which women's rights are defined. Parliament recently extended the constitutional review and approval process until as late as mid-2015. This extension provides an opportunity for the National Constitutional Review Commission (NCRC) to more effectively integrate a gender perspective into the new Constitution and the Bill of Rights, by including a gender expert to assist in the development process, by increasing the number of women on the NCRC, and by ensuring that national and international rights of women supersede customary law.

The CPA enshrined equal rights for men and women, providing for an Interim Constitution that would do the same,<sup>27</sup> but it also included that 'Southern Sudan shall have its source in values, customs and traditions, particularly in personal status and family law matter.'<sup>28</sup> The South Sudan Transitional Constitution, while espousing progressive human rights and equality, also includes a provision to honour family and customary law, which has the potential to reinforce practices that perpetuate gender inequality and human rights violations. For example, customary law 'often dictates that a girl who is raped should marry the perpetrator; it keeps her respectability while bride wealth provides redress to her family'.<sup>29</sup> This highlights the need for a review of the formal and customary legal system to protect the rights of women as espoused in international law. Because almost all disputes in South Sudan are dealt with in customary courts, the ruling party Sudan People's Liberation Movement (SPLM) can work with chiefs and community leaders to ensure that customary law, a fundamental part of cultural identity, is reformed and developed to conform to human rights norms and to contribute to the promotion of equality between men and women. Other African countries have addressed discrepancies between customary law and national law by constitutionally ensuring that any customary law that is discriminatory or violates a national law or an international treaty to which the nation has acceded be invalidated. Notably, the new Kenyan Constitution provides that:

Traditional dispute resolution mechanisms shall not be used in a way that: (a) contravenes the Bill of Rights; (b) is repugnant to justice and morality or results in outcomes that are repugnant to justice or morality; or (c) is inconsistent with [the] Constitution or any written law.<sup>30</sup> It makes clear that the Bill of Rights clauses trump customary law norms that conflict with constitutional provisions by stating that '[a]ny law, including customary law, that is inconsistent with this Constitution is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid'.<sup>31</sup>

Activists and advocates have formed a coalition to advocate for women's increased inclusion in the NCRC: the South Sudanese Women Constitution Review Taskforce. The Taskforce has acknowledged the efforts of the country's President Salva Kiir to appoint women to the NCRC but has voiced concern that his expressed goal of 25 per cent inclusion of women has not been met. The President appointed 10 women out of 45 members of the Commission (22 per cent), and 3 women out of 10 permanent members.<sup>32</sup> The South Sudan Women Empowerment Network and the South Sudan Civil Society Alliance echoed this deep concern, and have appealed to President Kiir to ensure that four women representing civil society groups be included as permanent members in the NCRC, in addition to the three women who are SPLM representatives.<sup>33</sup> The South Sudan Women Empowerment Network and the South Sudan Civil Society Alliance also expressed concern that the Transitional Constitution did not adequately represent women's interests, and advocated that the NCRC consult extensively with women in politics and with representatives of civil society groups during the constitutional process, in addition to ensuring inclusion and representation of the views and priorities of women as gathered during the NCRC countrywide interview process.<sup>34</sup>

While it is vital for South Sudan to create a constitution that clearly defines the rights of women and ensures their equality, even the most progressive bill of rights will require an environment on the ground to ensure its encapsulated rights can be put into effect at grassroots level.

### International agreements

Despite promising rhetoric, South Sudan has not yet shown real commitment to providing and implementing a framework that aims to enhance the position of women in society. President Kiir in 2011 acknowledged the urgent need to revise existing laws and enact new ones to ensure they met international human rights standards. 'We also need to ratify as soon as possible international and regional human rights instruments,' he said. 'Top of these treaties is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Maputo Protocol.'<sup>35</sup> However, South Sudan is still one of only seven countries that have not yet signed or ratified CEDAW, a landmark international agreement that affirms principles of fundamental human rights and equality for women around the world. Nor has South Sudan signed the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa – known as the Maputo Protocol – which calls for the protection of women's human rights. All AU member states – with the exception of newcomer South Sudan – have become state party to the African Charter, and 26 of them have accepted the Women's Protocol.

South Sudan has however adopted the African Union's Post-Conflict, Reconstruction and Development strategy, which calls for gender mainstreaming to inform member states' nation- and state-building projects. As a member of the African Union (AU), South Sudan is also subject to the provisions of the Solemn Declaration on Gender Equality in Africa. Although there are no enforcement mechanisms, South Sudan has a responsibility to ensure that the Declaration is adhered to. As the AU website states:

The Declaration is an important African instrument for promoting gender equality and women's empowerment as it strengthens African ownership of the gender equality agenda and keeps the issues alive at the highest political level in Africa. Through the Solemn Declaration, Heads of State and Government commit themselves to report annually on progress towards gender equality. In addition, the Chairperson of the AU Commission is expected to submit an annual report to the Assembly on progress made in the implementation of the Solemn Declaration as well as on the state of gender equality and gender mainstreaming at the national and regional levels.<sup>36</sup>

To date, only seven AU member countries have submitted reports on progress in their contexts, but this is an ideal time for South Sudan to lead the way by beginning a timely due diligence with regard to implementation of the Declaration. Although the established policy framework gives women's organisations meaningful tools to legitimise their demands, in South Sudan endemic discrimination is still a significant barrier to achieving the goals of inclusivity and gender equality enshrined in these institutional structures and international agreements.

## Recommendations and suggested interventions

### *To the Government of South Sudan:*

- Focus on gender reconciliation and restorative justice as a means of helping women to transcend their trauma and rebuild their lives and relationships.
- Initiate a national acknowledgement-of-harm-and-wrong-done campaign, to ensure that all South Sudanese citizens feel acknowledged for their contribution and sacrifice in the pursuit of an independent South Sudan.
- Establish healthcare and psycho-social rehabilitation centres, at district and community levels, that are equipped with trained staff able to deal adequately with women's unique post-conflict needs arising from experiences of sexual and gender-based violence.
- Harmonise the national laws dealing with crimes of sexual violence with the provisions of the Rome Statute of the International Criminal Court.
- Amend the Transitional Constitution to address women's rights with greater clarity – making provision for national reconciliation processes and structures that are inclusive of women.
- Amend the Transitional Constitution to include at least 30 per cent representation by women in parliamentary leadership roles.
- Immediately sign and ratify CEDAW without any reservation and domesticate enabling legislation to ensure principles and objectives of this legal instrument are adhered to. The principal law must procedurally ensure that CEDAW takes precedence over conflicting domestic laws.<sup>37</sup>
- Immediately sign and ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.
- Strengthen the capacity of the Ministry of Gender, Child and Social Welfare.
- Ensure that each Ministry develops a strategic plan for the implementation of the National Gender Policy and develops a capacity-building plan in gender skills for its personnel.
- Establish mechanisms for bilateral engagement between all Ministries and the Ministry of Gender, in the form of gender focal points within each Ministry to ensure that all their policies, programmes, and budgets are gender responsive. Facilitate gender budgeting allocation processes at National, State and Payam<sup>38</sup> levels to ensure that adequate funds are available to implement the National Gender Policy and other gender justice objectives.
- Provide access to basic communication services, within a reasonable distance, to all people in South Sudan.
- Ensure that road and feeder road status is improved and made secure to help the users (who are mostly women) in accessing basic services, especially healthcare and education but also water points and markets.

### *To the Ministry of Gender, Child and Social Welfare:*

- Enact the National Gender Policy with urgency, as a national development priority.
- Ensure the National Gender Policy contains targeted sectoral recommendations, with clear timeframes and clearly defined goals.
- Establish training programmes for police, prosecutors and the judiciary to assist them to deal with gender-based violations.
- Sensitise and capacitate women and men to participate actively in decision-making positions at State, Payam and Boma<sup>39</sup> levels up to at least 30 per cent of decision makers.
- Work towards achieving 50/50 gender parity in representative politics within the next 10 years.
- Facilitate and support the revision of existing gender discriminatory laws to ensure equal rights for women and men.
- Ensure that existing laws are effectively enforced and that awareness of laws protecting women is significantly increased.
- Establish a National Women's Council: a forum for women's empowerment and active participation in the national development process. Its role could include advocating for women's rights and gender equality, mobilising women to participate in different development activities, and capacity building/training.



- Establish a National Gender Cluster: a forum for government, development partners, private sector stakeholders, and civil society actors to discuss planning, coordination and prioritisation of gender equality interventions. It could focus on facilitating the collaboration and coordination of all interventions in the area of gender by sharing experiences, generating new ideas, identifying gaps, and lobbying and advocating for achieving gender equity and equality in sectors across the country.<sup>40</sup>
- Provide women with access to microfinance along with focused skills training.
- Establish a national directory of all service providers offering assistance to women.
- Facilitate and support the enhancement of rural women's entrepreneurial skills.

***To the National Constitutional Review Committee (NCRC):***

- Appoint a gender specialist to the NCRC.
- Appoint four women to the NCRC who represent civil society interests and are not affiliated with a party, in addition to the three female SPLM representatives.
- Modify sections 6 (i), 166 (1), and 170 (8), to ensure that national and international rights of women supersede customary law.
- Repeal all statutory and customary laws that are discriminatory against women, including provisions that prevent their inheritance and land access.<sup>41</sup>
- Ensure that awareness of women's rights as human rights is significantly raised.
- Include progressive articles that safeguard women's rights.<sup>42</sup>
- Launch a campaign to end the practice within customary law that compels victims of rape to marry the offender.
- Enact legislation to address domestic violence.
- Ensure that a gender-sensitive legal and regulatory framework for microfinance is in place.
- Provide rehabilitation and skills training for women associated with the armed forces and for displaced persons who did not benefit from formal training programmes.
- Launch an extensive gender sensitivity training programme for all members of the NCRC, all members of government and all community leaders.
- Sensitise community leaders to encourage the prosecution of rapists and abductors.
- Ensure that public, private and civil society organisations are equipped with the necessary instruments – including policies, procedures, strategies and guidelines – to facilitate gender mainstreaming processes.

***To a prospective South Sudan Truth, Peace and Reconciliation Commission:***

- Provide South Sudanese women with a forum through which they can express their views, interests and concerns regarding national reconciliation in a safe and gender sensitive space.
- Ensure that women and men participate equally in conflict prevention, peace building and reconciliation mechanisms.
- Ensure the safety of women who testify – through in-camera testimony and women's-only hearings led by female commissioners who have been trained to respond sensitively to women's testimonies.
- Encourage national and political leadership to acknowledge gender crimes, recognise suffering and apologise to victims.
- Include reparations as a tool for gender empowerment into the early planning of the Commission.
- Conduct and fund research and documentation of human rights violations as well as women's needs to ensure that future policies are gender disaggregated and challenge cultural assumptions that may hamper the reconciliation project.

***To Civil Society:***

- Engage, lobby and raise awareness of the need for gender justice in South Sudan and its impact on a sustainable reconciliation process.
- Through the provision of training, improve access for women, especially in rural areas, to information and communication technologies.
- If and where possible, document human rights violations and gender-based violence.

- Mount an ongoing national campaign sensitising the public about gender-based and all other forms of violence, for the achievement of a peaceful and tolerant society. Create new and support existing initiatives for interactive and collaborative networks that overcome physical barriers to knowledge and information sharing.
- Design a mechanism allowing women in distant/remote women's groups to share and document their experiences. For example, in Uganda, the Isis-Women's International Cross-Cultural Exchange (WICCE) set up three rural information units equipped with reading material, a tape recorder and tapes, for women to record both human rights violations and community success stories. The units are still operational and the contents of hundreds of tapes have been transcribed by Isis-WICCE and disseminated via e-mail lists from Kampala.
- Train citizens to access and add data to the South Sudan Protection Cluster situation map, and create categories of violations including gender-based violence and other crimes, as well as cattle-raids and attacks (accessed at <http://southsudanprotectioncluster.org/map/>).

*To the International Community:*

- Assist the Government of South Sudan and South Sudanese civil society with project implementation and capacity building.
- Provide financial and technical support for the implementation, monitoring and evaluation of projects and grants aimed at ending gender-based violence, furthering gender justice and empowering women.

## **Conclusion**

While this Policy Brief celebrates the progress and successes achieved to date in furthering social justice and gender justice in particular, it also highlights the many challenges that lie ahead for South Sudan to ensure that all its citizens enjoy equal rights, irrespective of gender or ethnicity.

Cultural change is often slow, taking the form of discrete reforms that manifest in society as a result of conflict, global industrial and technological shifts and/or politico-economic needs. Occasionally, revolutionary reforms are prompted primarily by grave crises on a significant scale. South Sudan is in the process of revolutionary reforms, and has an opportunity to shape itself 'with a commitment to respect the human rights, human dignity and fundamental freedom of all people', as stated in its Declaration of Independence.<sup>43</sup> The decisions made and the policies put in place during this period of transition will determine the future trajectory of the newest country in the world, and it is in this context that a shift in gender relations is not just possible but critical.

Gender-sensitive processes that involve men and women equally and at all levels are more successful than those that do not.<sup>44</sup> By expanding the accessibility of health, educational, economic and other services to the women of South Sudan, an investment is made in the sustainability of the country's socio-economic well-being. Women played a crucial role during the country's longstanding war – as mothers, wives, in holding together communities in the absence of men and providing vital support services such as nursing, cooking and caring. To build a sustainable democratic and inclusive South Sudan, women must thus have a seat at the tables at which the current and future shape and vision of the country are defined and negotiated.

## Notes

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- 41 For example, the Zimbabwean Constitution provides that 'no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority' and that 'no law shall make any provision that is discriminatory either of itself or in its effect'. It then states that '[n]othing contained in any law shall be held to be in contravention of subsection (1) (a) to the extent that the law in question relates to any of the following matters-(a) matters of personal law; (b) the application of African customary law in any case involving Africans or an African and one or more persons who are not Africans where such persons have consented to the application of African customary law'. Constitution art. 23 (1)(a, b) (2009) (Zim.). In: Ndulo, M. 2011. *African customary law, customs, and women's rights*. Cornell Law Faculty Publications Paper 187 [online]. Available from: <http://scholarship.law.cornell.edu/facpub/187> [Accessed 21 April 2013].
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# ABOUT THE INSTITUTE FOR JUSTICE AND RECONCILIATION



The Institute for Justice and Reconciliation (IJR) was launched in 2000 in the aftermath of South Africa's Truth and Reconciliation Commission with an aim of ensuring that lessons learnt from South Africa's transition from apartheid to democracy be taken into account in the interests of national reconciliation. IJR works with partner organisations across Africa to promote reconciliation and socio-economic justice in countries emerging from conflict or undergoing democratic transition. IJR is based in Cape Town, South Africa. For more information, visit <http://www.ijr.org.za>, and for comments or inquiries contact [info@ijr.org.za](mailto:info@ijr.org.za).

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