

CHAPTER RECOMMENDATIONS

Chapter I: Transitional Government of National Unity of the Republic of South Sudan

Chapter I describes the establishment, seat, term, mandate, composition, structure, and selection of the transitional government. It also more clearly defines the roles of the President, First Vice President, and the Vice President, and details how the parties will share power. The chapter also establishes the Transitional National Legislative Assembly (TNLA). The functions and mandate of the TNLA will remain as agreed in the transitional constitution unless specified differently by the final agreement. The TNLA will include 400 members, comprised of the existing 332 members plus an additional 68 representatives.

Although the chapter references 25 percent participation of women in the legislative bodies as laid out in the Transitional Constitution of South Sudan, 2011, Article 16 (4a), and calls upon the government and the Sudan People's Liberation Movement–In Opposition (SPLM-IO) to nominate women to the Council of Ministries, it remains to be seen if this will be enforced. To date, women's representation in key governance institutions has fallen far short of the 25 percent quota.ⁱ The agreement also does not extend the quota to the state level – a key gap in addressing women's participation.

Recommendations:

1. Mandate that the parties abide by the 25 percent quota and ensure the meaningful representation of women in the TNLA, National Constitutional Committee, and state governments. Establish penalties for non-compliance such as decreased funding or authoritative power;
2. Identify election measures that ensure greater representation of women in the post transitional government such as targeted civic education for women as voters and candidates, along with the creation of a funding stream designated for female candidates; and
3. Ensure that parties appoint a percentage of representatives in the Council of Ministers and Deputy Ministers who have work experience from civil society, particularly women's organizations, to ensure broad-based experience and participation.

Chapter II: Permanent Ceasefire and Transitional Security Arrangements

This chapter calls for the implementation of a permanent ceasefire, as well as transitional security arrangements. It mandates a number of structures to oversee these processes including the Ceasefire and Transitional Security Arrangements Monitoring Mechanism (CTSAMM) and the Strategic Defence and Security Review (SDSR) Board, both of which specifically call for women's participation by way of one representative from the Women's Bloc.ⁱⁱ

The CTSAMM will be built from the existing IGAD Monitoring and Verification Mechanism, which is responsible for monitoring the Cessation of Hostilities Agreement. Among other things, the CTSAMM will monitor “acts and forms of sexual and gender-based violence, including

sexual exploitation and harassment” – an important step in guaranteeing those violations are weighted equally with others.

Mandating only one position on both the CTSAMM and SDSR Board does not go far enough to guarantee women’s meaningful participation. Women are frequently overlooked when it comes to “hard” security issues, yet they bring a breadth of knowledge, expertise, and access that would lend credibility to these bodies and processes. They played myriad roles during the conflict including as combatants, cooks, and nurses to male combatants. Their unique needs and services required as a result of those roles must be included in implementation of any transitional security arrangements. In the implementation phase, women can also provide a critical access to communities. They can gather information on violations of the ceasefire that may not get reported otherwise. The current IGAD monitoring mechanism includes community liaisons whose role is to link the monitors with communities and gather information about human rights abuses. These positions—which will continue in the CTSAMM—should be filled equally by men and women.

Other bodies set out in Chapter II make no mention of including women. For example, the Temporary National Architecture for the Implementation for Permanent Ceasefire (TNAIPC) is a joint mechanism which will oversee and coordinate the actions of all security forces and operationalize the permanent ceasefire. This body is made up only of military personnel, predominantly men. It is therefore critical that women’s perspectives and needs are taken into account when implementing the ceasefire arrangement. At a minimum, the TNAIPC should ensure the needs of female ex-combatants, sympathizers, and members of conflict-affected communities are addressed via a gender advisor who actively consults with the key stakeholders.

It is also unclear how a sustainable ceasefire will be reached that truly addresses the security concerns of the communities. While the chapter calls for the creation of safety and security for civilians, it is unclear how this will be achieved beyond demilitarizing certain areas. It also does not require liaising with community organizations to design and implement disarmament, demobilization, and reintegration of ex-combatants, even though civil society will assume responsibility for much of this process.

Recommendations:

1. Mandate that the warring parties include women in the CTSAMM and SDSR Board in addition to the one representative from the Women’s Bloc;
2. Ensure implementation arrangements are explicit about how monitoring and verification bodies will consult with women, youth, and other civil society organizations to guarantee their participation in decision-making;
3. Ensure the monitoring and verification teams under the CTSAMM are equipped with training on how to engage with the communities and that at least 50 percent of the community liaison positions are filled by women;
4. Include women in the design and implementation of any disarmament, demobilization, and reintegration and security sector reform programs. These programs must also

recognize both male and female ex-combatants and make provisions for their specific needs;

5. Mandate a gender adviser to the TNAIPC to ensure that the separation, assembly, and cantonment of forces takes into consideration accommodations for female fighters and female support roles such as cooks and nurses;
6. Ensure additional security arrangements are provided in places that are particularly dangerous for women and girls, such as food and firewood collections points, markets, and frequently traveled roads;
7. Provide continuous training for all personnel in the various security mechanisms on how to engage women in the communities, what the differing needs of female combatants are, and how to integrate gender considerations into the security sector; and
8. Require the SDSR Board to liaise with women's organizations in their comprehensive assessment of the military and non-military security challenges to reflect women's experience of security and safety in the eventual Security Sector Transformation Roadmap.

Chapter III: Humanitarian Assistance and Reconstruction

This chapter outlines the humanitarian assistance and reconstruction principles for the pre-transition phase including humanitarian rights and needs that the parties shall ensure, including the right of refugees and internally displaced persons (IDP) to return to their homes. It also requires the TGONU to institute programs for relief, protection, repatriation, resettlement, reintegration, and rehabilitation for returnees and calls for fast-tracking visas and imports for humanitarian relief.

There is only one mention of women in this chapter—section 1.2.2 lists women as part of those who will be offered “special consideration to conflict-affected persons.” The particular needs of women are not differentiated within any of the cited populations such as refugees, IDPs, families, and civilians in need of emergency humanitarian assistance and protection. Furthermore, there are no specified confidence-building measures to encourage the return of women, IDPs, prisoners of war, or child soldiers. For implementation to be successful, those unique needs and concerns must be addressed and prioritized throughout.

The chapter also does not call for women to be a part of the Board of Special Reconstruction Fund, which will determine the priorities for reconstruction of infrastructure in conflict-affected states and areas. The program will also include assistance and protection to IDPs, returnees, and families, the provisions of which will inevitably fall unofficially to women's and other civil society organizations.

Recommendations:

1. Ensure at least 35 percent women's representation on the Board of Special Reconstruction Fund;

2. Specify provisions for women's assistance, such as psychosocial support for victims of sexual violence and accompaniment of female returnees to ensure safe passage. These efforts will also act as confidence-building measures ensuring the population is safe to return to their homes; and
3. Establish a relief committee with a mandate to ensure that programs for relief, protection, repatriation, resettlement, reintegration, and rehabilitation of IDPs and returnees are instituted in cooperation with community-based, women's, and civil society organizations. This committee must also acknowledge the varying needs of men and women by conducting consistent and broad community consultations.

Chapter IV: Resource, Economic, and Financial Management Arrangements

This chapter outlines the principles for ensuring transparent, effective, and accountable systems for managing resources, economics, and finances during the transitional period and beyond. At least five new institutions will be created as a result of this agreement including the Economic and Financial Management Authority, which will provide oversight and management particularly over the oil/petroleum sector. None of the institutions; however, explicitly mandates women's participation. While this chapter does make a number of calls for the participation of communities and landowners in various capacities, such as deciding contracts and mechanisms for resource extraction, there is no language explicitly referencing the participation of women. This could be particularly problematic for single women and widow landowners who will not have protection based on the principles outlined.

It is unclear whether or not there will be a body dedicated to monitoring oil revenue. While it might be controversial to require the government to establish such a body, the agreement could set up an impartial civil society-led bodyⁱⁱⁱ made up of men and women to monitor contracts and revenue distribution.

Women play a crucial role in agriculture and feeding their communities,^{iv} while also being among the poorest in the nation. Not including women's direct participation in these implementation arrangements, particularly on resource allocation, suggests that women's roles and needs are not understood and effectively guarantees they will be overlooked during implementation.

Recommendations:

1. Mandate a critical mass of women in all commissions established under this section of the agreement;
2. Require the implementation arrangements liaise with women's organizations in determining resource allocation, particularly in rural communities;
3. Allocate 35 percent of the oil revenue to the establishment of the Women Enterprise Development Fund as laid out in this section to ensure that it is operational and effective; and

4. Ensure the voices of the community are heard during the in-depth national debate to review the current national land policy and the Land Act. Enlist prominent members of the community, particularly women, to participate in the debate and to conduct extensive consultations with communities prior to the debate to understand the needs and interests of the people.

Chapter V: Transitional Justice, Accountability, Reconciliation, and Healing

This chapter establishes three mechanisms to implement transitional justice, accountability, reconciliation, and healing programs:

1. Commission for Truth, Reconciliation, and Healing (CTRH)
2. Hybrid Court for South Sudan (HCSS)
3. Compensation and Reparation Authority (CRA)

The CTRH will address the “legacy of conflicts, promote peace, national reconciliation, and healing.” It will create a historical narrative of grievances since the Comprehensive Peace Accord was signed in 2005. It is also responsible for educating, consulting, and informing the public of its work and soliciting continuous feedback. The HCSS will “investigate and prosecute individuals bearing the responsibility for violations of international law and/or applicable South Sudanese law, committed from 15 December 2013 through the end of the transition period (30 months after the signing of the agreement). Finally, the CRA will “provide material and financial support to citizens whose property was destroyed by the conflict and help them to rebuild their livelihoods.”

While this chapter does point to the unique experiences of women, it does not do enough to guarantee women’s participation beyond being beneficiaries of these arrangements. Three out of seven positions on the CTRH are designated for women, two of which are South Sudanese nationals to be determined by the transitional government. Explicit criteria should be established and enforced when selecting those positions to ensure appointees have adequate technical expertise and are representative of the people they are serving. Regarding participation in the HCSS, however, there is no language mandating the appointment of women as judges or prosecutors. Additionally, the chapter does not call for members of the three bodies to be trained on how to ensure gender considerations are integrated into the structure or practice of the bodies.

The successful implementation of these modalities is critical to ensuring impunity does not persist and the country avoids delving into further conflict. Women should be characterized as constructive contributors to justice and accountability mechanisms, not just as victims whose needs must be addressed.

Recommendations:

1. Ensure all bodies tasked with justice and accountability in South Sudan mandate equal representation from each sex and be appointed, where possible, by an impartial body;

2. Require training for all members within these bodies on how to mainstream gender into all programs;
3. Create a Commission for Truth, Reconciliation, and Healing women's outreach committee to help women navigate these various arrangements and ensure safety and security to the victims who come forward with their stories;
4. Reference international humanitarian, human rights, and criminal law regarding women, including UN Security Council Resolution (UNSCR) 1325^v and related resolutions^{vi}, as well as the Convention on the Elimination of all Forms of Discrimination Against Women^{vii} in the final agreement; and
5. Create a steering committee comprised of prominent South Sudanese, international, and regional leaders with expertise in incorporating gender into all of the processes related to justice, accountability, reconciliation, and healing.

Chapter VI: Parameters of Permanent Constitution

Chapter VI details the process for drafting a permanent constitution during the transition period and lays out the principles upon which the constitution will be based. The chapter also calls for the reconstituted National Constitution Review Commission (NCRC) to consult with all key stakeholders in drafting the constitution.

Although extensive consultations are mentioned, the list of key stakeholders does not specifically include women. The chapter does not specify how many women will be included in the NCRC, the National Constitutional Conference, and the Constituent Assembly. It does make note of including representatives from the Women's Bloc in the NCRC, but does not specify how many and does not require the other groups to include women in their delegations.

Recommendations:

1. Require commitment from the executive to consult with ethnic and regionally diverse women's organizations and women leaders prior to appointing the NCRC;
2. Ensure that the NCRC's consultations and civic education programs prioritize participation of women and take into account social and cultural factors that may impede women's access to these programs (e.g., domestic responsibilities, child care, freedom of movement);
3. Mandate at least 35 percent women's representation in the NCRC and the National Constitutional Conference (NCC);
4. Ensure the legislation or policy governing the constitutional process requires the NCRC, the NCC, and the Constituent Assembly to consider the impact of the draft text on women. This should include training for these bodies on how to integrate gender throughout the text;

5. Commit the NCRC, NCC, and the Constituent Assembly to incorporating the principles of UNSCR 1325 and other key resolutions in the draft constitution text, as aligned with the principles listed in Chapter VI, Article 1 (1.2) and (1.4); and
6. Obtain commitment from the transitional government to include a gender advisor among the regional and international experts supporting the constitution drafting process.

Chapter VII: Joint Monitoring and Evaluation Commission

Chapter VII describes the Joint Monitoring and Evaluation Commission (JMEC), which will oversee and monitor the “implementation of the agreement and the mandate and tasks of the TGONU, including the adherence of the Parties to the agreed timelines and implementation schedule.”

The chapter notes that the composition of the JMEC will include one representative from the Women’s Bloc under section 2.2, but does not require that women be included as representatives of the parties or other regional and international guarantors and partners of South Sudan.

The JMEC’s role cannot be overstated. Ensuring the inclusion of the people of South Sudan, particularly women, in the implementation of the peace accord must be a priority. Sending a clear signal from the very top that inclusion is non-negotiable throughout implementation will help ensure the violence ends, the roots causes of conflict are addressed, and South Sudan is put on a path toward sustainable peace.

Recommendations:

1. Mandate women’s representation in the JMEC including as Chair and Deputy Chairs and within the quorum;
2. State publicly that inclusion of the South Sudanese people, particularly women, must be prioritized throughout the implementation of the peace agreement;
3. Train all members of the JMEC on gender awareness and how to incorporate that into their monitoring of the implementation of the agreement; and
4. Include in JMEC’s terms of reference that it must regularly inform and consult with the people of South Sudan, particularly women, to accurately monitor implementation.

ⁱ Nyathon, James and Hoth, Mai, “Policy Brief: The Role of Women in Peace-Building in South,” The SUDD Institute (December 2015). <http://www.suddinstitute.org/assets/Publications/Roleofwomen-.pdf>.

ⁱⁱ The IGAD mediation provided observer status to a small group of women, which became known as the Women’s Bloc, who were also signatories on the peace agreement.

ⁱⁱⁱ In Ghana, 120 organizations and professional bodies—including community-based organizations, faith-based groups, research institutions, gender-based groups, and trade unions, as well as individuals— came together to form the Ghana Civil Society Platform on Oil and Gas. The platform strengthens civil society to advocate on oil and gas legislation, revenue collection, and environmental protection to ensure transparency and accountability in the oil and gas industry in Ghana. Coordination Team, “Civil Society and Oil and Gas Governance in Ghana,” *European Commission*, (April 26, 2013). <http://capacity4dev.ec.europa.eu/article/civil-society-and-oil-and-gas-governance-ghana#sthash.YVejR5O3.dpuf>.

^{iv} SUDD Policy Brief – p.7

^v “Security Council Resolution 1325 (SCR1325) was unanimously adopted by United Nations Security Council on 31 October 2000. SCR1325 marked the first time the Security Council addressed the disproportionate and unique impact of armed conflict on women; recognized the under-valued and under-utilized contributions women make to conflict prevention, peacekeeping, conflict resolution, and peace-building. It also stressed the importance of women’s equal and full participation as active agents in peace and security.” “Resource Center” *Peace Women*, http://www.peacewomen.org/security_council_monitor/about-women-peace-and-security-agenda.

^{vi} The Security Council adopted seven resolutions on women, peace and security: Security Council Resolutions 1325 (2000), 1820 (2008), 1888 (2008), 1889 (2009), 1960 (2010), 2106 (2013), and 2122 (2013). “About Women, Peace & Security Agenda,” *Peace Women*, <http://www.peacewomen.org/security-council/WPS-in-SC-Council>.

^{vii} “[The Convention on the Elimination of All Forms of Discrimination against Women \(CEDAW\)](http://www.un.org/womenwatch/daw/cedaw/), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.” “Women Watch,” *UN Women*, <http://www.un.org/womenwatch/daw/cedaw/>.