**Elizka Relief Foundation’s Response to the Call for Input on Reparation for Child Victims and Survivors of Sale and Sexual Exploitation**

**Introduction**

With a civil war that only ended in 2020 and remaining unrest, there are many child victims of sale and sexual exploitation in South Sudan that continue to have few alternatives for obtaining justice and meaningful reparation due to the pervasive disregard for international human rights and humanitarian law. Although reparative justice mechanisms now exist, they are yet to be fully operationalized and effective. Lack of funding, political unrest, and impunity are some of the factors behind why the reparation for child victims and survivors of sale and sexual exploitation in both conflict and non-conflict settings in South Sudan is delayed.

**Types of abuses**

Although the use of child soldiers is a violation of already existing child protection instruments such as the Conventions on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, this phenomenon is popular in South Sudan. Even though thousands of child soldiers have been rescued from the battlefield as part of the ongoing disarmament, demobilization, and reintegration (DDR) program, which is mandated by the September 2018 peace agreement, South Sudan was singled out as the nation with the greatest number of child soldiers. The African Union Peace and Security Council (AUPSC) verified that armed groups and terrorist organizations continue to exploit children in their hostilities, despite the fact that doing so is prohibited by both AU and UN instruments.

Exploitation also comes from those least expected, workers belonging to international aid organizations. In South Sudan’s Malakal United Nations camp, also known as the POC site, where thousands of internally displaced people first took refuge in 2013, a report revealed that sexual abuse had been going on for years. Exploitation in form of rape and sexual abuse of minors took place and in some cases, women and girls were reportedly pressured to have sex for gifts. The accused international organizations included IOM, MSF, WFP and WV. According to the report, claims of sexual assault started to surface in 2015, and despite a U.N.-led task group established to address the issue, the scope of the abuse has since increased. Because the United Nations Mission in South Sudan (UNMISS) does not permit access to South Sudanese officials, the South Sudanese government has not been able to conduct any investigations at the sites. Despite these international aid organizations running investigations of their own, with one of them suspending the staff member in question, no information on whether reparations have been made to the victims or not.

**Failed role of duty bearers**

*The Hybrid Court*

On the 30 January 2021, the government of South Sudan finally approved to form the Hybrid Court, as specified in the 2015 Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS) and the 2018 Revitalized ARCSS. The court was one of the mechanisms proposed to address past abuses perpetrated during more than six years of conflict in the country, alongside the Commission for Truth, Healing and Reconciliation (CTHR), and the Compensation and Reparations Authority (CRA).

The Hybrid Court received praise from the international community, but the majority of South Sudanese citizens thought it would be unable to pin down the culprits and victims of the atrocities. Many believe that the Hybrid Court cannot be a suitable method for transitional justice in the current, sensitive circumstances in a society where vengeance is the norm and where everyone is aware of who committed which atrocities.

People questioned how a government that presides over corrupt institutions led by ethnic mercenaries and lacking in legitimacy would be able to see the court constituted correctly. In the citizen’s opinion, it will be challenging to hold people accountable while many of the offenders are still in positions of authority, numerous strong ethnic militias are uncontained, the government has lost legitimacy, and the nation is still divided along ethnic lines. For them, the court will be impotent because there are no institutions or authorities to uphold law and order. There are also suspicions that in order to maintain their positions of power, the government and opposition keep the nation at war. Some believed that the Hybrid Court would provide these individuals greater justifications for holding onto power and avoiding accountability.

Furthermore, because the Hybrid Court is unfamiliar and is not widely accepted, it can be manipulated by those in positions of authority. Instead, people prefer a tried-and-true strategy. Many South Sudanese, particularly the Dinka and the Nuer, believe that justice does not necessarily involve guilt and punishment but rather reminding people of their social roles and responsibilities as citizens of society. Because of this, people have gathered in several instances around the nation and decided to put an end to strife without demanding retribution.

Therefore, the international community and peace partners must keep exerting diplomatic pressure on the government to deal with problems like the dysfunctional system, lack of legitimacy, and ethnic divisions first. This includes limiting the movement of war criminals and freezing their assets in neighboring nations. At the same time, careful research among ordinary citizens is necessary to give the international community a greater knowledge of South Sudanese society's views on justice. Supporting local peace and reconciliation initiatives led by chiefs and churches may also provide more fruitful outcomes than top-down strategies. Even among the youth who participate in political-sponsored confrontations, these public officials are still regarded as legitimate.

*Compensation and Reparations Authority*

Under chapter 5 of the Revitalized Agreement on the Cessation of Conflict in South Sudan (R-JMEC), the establishment of the Compensation and Reparations Authority was supposed to take place. Concern was however expressed over proof that no progress has been made towards the establishment of this transitional justice mechanism along with the Hybrid Court. With the country’s transitional government of power sharing to end in February 2023, according to the deadlines set out in the peace deal, South Sudan faces a difficult task to prepare for elections, avoid a resurgence of conflict and guarantee the establishment of an elected government.

Although it was confirmed by a South Sudanese representative that a ministerial task force has been set up by the Ministry of Justice to work on the establishment of a Compensation and Reparations Authority, what South Sudan suffers from is the absence of support from the international community in the form of technical assistance and capacity building, particularly for the rule of law institutions, in regards to the needs identified by the government.

**Good practices initiated by stakeholders**

South Sudanese children received help in different forms through an intensive UN program over the last few years. Young people who had recently been demobilized have been attempting to start new lives close to the town of Yambio, capital of the state of western Equatoria in the south of the country, at the Tindoka vocational training center, funded by UNICEF and other stakeholders. Over 3,500 children who were exploited by South Sudan's military forces and armed groups have been freed and helped reintegrate into society since 2015 due to UNICEF's assistance. The comprehensive program for reintegration addressed the many difficulties these children endured, assured successful reintegration into society, and safeguarded the children from being recruited again. Most of the children who finished the program haven not joined any more armed forces or groups.

Lack of funding is however threatening to cripple such a program. Due to a persistent lack of funding, crucial reintegration programs for children in South Sudan ran the risk of being discontinued in March 2020. About 900 children were already scheduled for release, but UNICEF would not have been able to help them adjust to civilian life without urgent fresh financing. The three-year reintegration program, which provided education services, family tracing and reconnection, psychosocial support, and a dedicated social worker, along with other important services for just US$2,000 per child, helped children reconstruct their lives.

Since the program has been so severely underfunded for more than a year, the UN Children's Fund was compelled to take money away from other projects in order to continue providing vital assistance to children who are in grave danger. As these resources are now depleted, UNICEF was faced with the dilemma of discontinuing its reintegration program if new funding was not made available.

**Role of civil society**

Civil society organizations in South Sudan, and anywhere for that matter, cannot guarantee access to justice, especially with the delay of the necessary transitional justice mechanisms but what they can do is guide victims and provide them with mental and physical assistance and also provide technical assistance to other organizations.

The Safeguarding Resource and Support Hub (RSH), which assists organizations in the aid sector in strengthening their safeguarding policy and practice against SEAH, is a good example of that. Although the South Sudan Hub is a part of the RSH, it was created specifically to serve smaller, local organizations engaged in South Sudan's humanitarian sector. Earlier this year, the RSH South Sudan Hub held a mentorship program in Juba for four months. Several local CSOs took part in it and demonstrated a strong dedication to preventing and responding to SEAH.

Child marriage, especially when girls are married off in exchange for cows, is another form of exploitation where civil society has had a role in countering, to the best of their abilities. ChildBride Solidarity, a women-led South Sudanese national NGO, does its part by offering scholarships to girls whose parents abandon them after they oppose early marriage. In one case, a 17-year-old South Sudanese girl was able to convince her parents to not marry her off to a 50-year-old man but they refused to pay her school fees as punishment and ChildBride Solidarity stepped in and were able to send her to South Sudan’s capital to continue her studies.

**Areas of intervention that need to be introduced**

Besides operationalizing the reparation mechanism that already exists, a mechanism that is solely focused on the needs of children needs to be established. Reparations for the sale and sexual exploitation of children need to be separated from other types of reparation in order to reach faster results. With the tools, funds and capacities focused on a child-centric mechanism, more children will receive the justice they need and deserve. Such a child-centric mechanism should be monitored by a committee that is led by non-state actors such as non-governmental organizations and grassroot organizations so they can closely follow up and check if the reparations made were actually effective for the children. Besides following up, this committee could also serve as a body that is also dedicated to hear and understand how child victims and survivors would perceive meaningful reparation.

**How can States and other stakeholders deliver more effectively?**

Just like South Sudan cannot do it on its own, other stakeholders cannot force the government unless it shows it is willing to take effective steps. Reparations, whether for adults or children, cannot be made without the mechanism itself which is delayed due to several reasons. From the State’s side, a lack of political will is the main problem which is shown in the continuous delay of establishing the needed mechanisms. Even the people of South Sudan feel their state’s unwillingness which translates into lack of trust in the governments and its institutions.

On the other hand, the South Sudanese government is lacking support from the international community in the form of technical assistance and capacity building, particularly for the rule of law institutions. Scaling up on funds for UN programs so they do not run the risk of shutting down is equally important. In order for funds to be more effective as well, cities need to be financed directly, not through the government as the mayor of cities could be more aware of what is happening on the ground and are more aware of the needs of the people, including children.