



**Reconstituted Joint Monitoring and Evaluation Commission  
(RJMEC)**

**REPORT BY**

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**ON THE STATUS OF IMPLEMENTATION OF THE REVITALISED  
AGREEMENT ON THE RESOLUTION OF THE CONFLICT IN THE  
REPUBLIC OF SOUTH SUDAN**

**FOR THE PERIOD**

**1<sup>st</sup> April to 30<sup>th</sup> June 2020**

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## List of Acronyms

<i>ACHPR</i>	<i>African Commission on Human and People's Rights</i>
<i>AJMCCs</i>	<i>Area Joint Military Ceasefire Committees</i>
<i>AU</i>	<i>Africa Union</i>
<i>AUC</i>	<i>Africa Union Commission</i>
<i>BSRF</i>	<i>Board of Special Reconstruction Fund</i>
<i>CAADP</i>	<i>Comprehensive Africa Agriculture Development Programme</i>
<i>CDF</i>	<i>Commander of Defence Forces</i>
<i>CoHA</i>	<i>Cessation of Hostilities Agreement</i>
<i>CoS</i>	<i>Council of States</i>
<i>COVID-19</i>	<i>Coronavirus Disease 2019</i>
<i>CRA</i>	<i>Compensation and Reparation Authority</i>
<i>CTRH</i>	<i>Commission on Truth, Reconciliation and Healing</i>
<i>CTSAMVM</i>	<i>Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism</i>
<i>DDR</i>	<i>Disarmament Demobilization and Reintegration</i>
<i>EFMA</i>	<i>Economic and Financial Management Authority</i>
<i>FDs</i>	<i>Former Detainees</i>
<i>HCSS</i>	<i>Hybrid Court for South Sudan</i>
<i>IBC</i>	<i>Independent Boundaries Commission</i>
<i>IDEA</i>	<i>Institute of Democracy and Electoral Assistance</i>
<i>IDPs</i>	<i>Internally Displaced Persons</i>
<i>IGAD</i>	<i>Intergovernmental Authority on Development</i>
<i>ITGoNU</i>	<i>Incumbent Transitional Government of National Unity</i>
<i>JDB</i>	<i>Joint Defence Board</i>
<i>JMCC</i>	<i>Joint Military Ceasefire Commission</i>
<i>JRC</i>	<i>Judicial Reforms Committee</i>
<i>JSC</i>	<i>Judicial Service Commission</i>
<i>JTSC</i>	<i>Joint Transitional Security Committee</i>
<i>MHADM</i>	<i>Ministry of Humanitarian Affairs and Disaster Management</i>
<i>MVTs</i>	<i>Monitoring and Verification Teams</i>
<i>NCAC</i>	<i>National Constitutional Amendment Committee</i>
<i>NCC</i>	<i>National Constitutional Conference</i>
<i>NCRC</i>	<i>National Constitutional Review Commission</i>
<i>NFBS</i>	<i>National Fire Brigade Service</i>
<i>NPTC</i>	<i>National Pre-Transitional Committee</i>
<i>NTC</i>	<i>National Transitional Committee</i>
<i>NUF</i>	<i>Necessary Unified Forces</i>
<i>OCHA</i>	<i>UN Office for the Coordination of Humanitarian Affairs</i>
<i>OPP</i>	<i>Other Political Parties</i>
<i>PaCC</i>	<i>Peace and Community Cohesion Project</i>
<i>PFM</i>	<i>Public Financial Management</i>
<i>R-ARCSS</i>	<i>Revitalised Agreement on the Resolution of Conflict in the Republic of South Sudan</i>

<i>RJMEC</i>	<i>Reconstituted Joint Monitoring and Evaluation Commission</i>
<i>RTGoNU</i>	<i>Revitalised Transitional Government of National Unity</i>
<i>SDSRB</i>	<i>Strategic Defence and Security Review Board</i>
<i>SGBV</i>	<i>Sexual and Gender Based Violence</i>
<i>SPLM</i>	<i>Sudan People's Liberation Movement</i>
<i>SPLM/A-IO</i>	<i>Sudan People's Liberation Movement/Army in Opposition</i>
<i>SSOA</i>	<i>South Sudan Opposition Alliance</i>
<i>SSP</i>	<i>South Sudanese Pound</i>
<i>SSPDF</i>	<i>South Sudan Peoples' Defence Forces</i>
<i>SRF</i>	<i>Special Reconstruction Fund</i>
<i>TCRSS</i>	<i>Transitional Constitution of the Republic of South Sudan</i>
<i>TGoNU</i>	<i>Transitional Government of National Unity</i>
<i>TNL</i>	<i>Transitional National Legislature</i>
<i>TNLA</i>	<i>Transitional National Legislative Assembly</i>
<i>TSAs</i>	<i>Transitional Security Arrangements</i>
<i>UN</i>	<i>United Nations</i>
<i>UNDP</i>	<i>United Nations Development Program</i>
<i>UNSC</i>	<i>United Nations Security Council</i>

## Executive Summary

This Report on the status of implementation of the activities of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) is prepared pursuant to *Chapter VII, Article 7.9* of the R-ARCSS and covers the period 1<sup>st</sup> April to 30<sup>th</sup> June 2020. The Report highlights some of the key activities undertaken over the last three months of the Transitional Period. Among these is reporting on the seven Pre-Transitional tasks carried over after the initial formation of the Revitalised Transitional Government of National Unity (RTGoNU) on 22<sup>nd</sup> February 2020.

During the reporting period, implementation of the R-ACRCS slowed markedly, with the onset of the Covid-19 pandemic, as well as delays by the Agreement Parties in reaching agreement on the responsibility sharing at the state and local government levels. This delay has impacted negatively on the formation of the Transitional National Legislature (TNL), and contributed to a security vacuum in several states; evidenced by escalating inter-communal violence in the states of Warrap, Lakes, Unity and Jonglei. Countless numbers of individuals have been killed and others wounded in ongoing cattle rustling episodes and revenge attacks.

More recently, some progress was seemingly made with regards to reaching an agreement between the Parties on the responsibility sharing at the state and local government levels. Bilateral discussions between President Salva Kiir Mayardit and the First Vice President Dr Riek Machar resulted in the former ITGoNU agreeing to nominate governors to the states of Unity, Eastern Equatoria, Warrap, Northern Bahr el Ghazal, Central Equatoria and Lakes. The SPLM/A-IO nominated governors for the states of Upper Nile, Western Bahr el Ghazal, and Western Equatoria; and SSOA for Jonglei state. However, four of the six parties comprising the Other Political Parties (OPP) have strenuously rejected the decision, arguing that it amounted to a violation of *Article 1.16.1.4* of the R-ARCSS. Notwithstanding the objections, on 29 June President Kiir through Republican Decrees No. 51/2020 and 53/2020, named eight of the ten governors and three Chief Administrators of the Administrative Areas respectively.

The NCAC is established under *Article 1.18.1* of the R-ARCSS and is mandated to revise or draft new laws, as appropriate, and also review other legislation as provided for in the Agreement. During the reporting period, the NCAC continued with the review of the *Public Financial Management and Accountability Act, 2011* pursuant to *Articles 4.12.1, 4.12.1.1, to 4.12.1.8; and Southern Sudan National Audit Chamber Act, 2011* pursuant to *Article 4.5* of the R-ARCSS. The first drafts of the bills were prepared and distributed to the Committee members for comments and input. Following the response by the members, second drafts were prepared to incorporate the members' responses and circulated. The bill together with explanatory notes is now ready for stakeholders' validation.

Concerning the status of implementation of the Transitional Security Arrangements, CTSAMVM reports indicate that some 37,000 personnel remain at cantonment sites and

barracks while around 47,000 are at the training centres, including close to 5,000 female trainees. Registration and screening have been put on hold and formal, detailed unification training was halted as at 27<sup>th</sup> March 2020, in efforts to manage the threat of COVID-19 nationwide. Also, plans to complete graduation at all training centres within 30 days from 28 May 2020, followed by immediate redeployment of the NUF have not materialised. In the meantime, both the training centres and cantonment sites continue to be affected by severe food shortages, lack of medicines, and care facilities for the female personnel. Consequently, there continues to be high levels of the forces' abandoning the cantonment sites and training centres.

The humanitarian situation in South Sudan has worsened in the recent past, with the escalating level of inter-communal violence and the continued armed clashes in the Equatorias. This violence is now the leading cause of death and distress; which is compounded by human rights abuses and growing incidents of sexual and gender-based violence (SGBV) against young girls and women. Meanwhile, the combined impacts of declining world oil prices and the COVID-19 pandemic has led to increases in the prices of basic food items, and a deterioration in the government revenues, further complicating basic livelihood.

Consistent with *Articles 5.1.4 and 5.1.5* of the R-ARCSS, the RTGoNU is expected to receive support from the UN, AU and the African Commission on Human and People's Rights (ACPHR) in furtherance of the implementation of Chapter V of the R-ARCSS. Regrettably, no such support has reportedly been received. The support to be delivered revolves around design, implementation and facilitation of the work of Chapter V mechanisms during the Transitional Period. They are the Commission on Truth, Healing and Reconciliation (CTRH), the Hybrid Court for South Sudan (HCSS) and the Compensation and Reparation Authority (CRA).

With respect to the permanent constitution-making process envisaged under Chapter VI of the R-ARCSS, the RTGoNU has, in concurrence with the RJMEC's Monitoring and Evaluation Matrix identified eleven (11) key tasks as critical for implementation during the Transitional Period. These include: the RTGoNU to initiate and oversee a permanent constitutional-making process during the Transitional Period, and to budget adequate funding; and the RJMEC to identify and engage renowned institutes to facilitate and moderate the permanent constitution-making process workshop and to convene a workshop for the Parties to agree on the details of conducting the permanent constitution-making process.

Besides the COVID-19 pandemic, the RJMEC regards inter-communal violence as a major risk factor, at this time, to the successful implementation of the R-ARCSS. It, urges the Parties to the Agreement, to step up their own efforts at bringing peace to the troubled communities. In that regard, the recent progress made in moving closer to a resolution in responsibility sharing is a very welcomed development. However, it is critical that all the

Agreement Parties are fully on board with the compromises being made in the spirit of collegiality, and continued collaboration in the implementation of the R-ARCSS. Changes made to the ratios contained in *Article 1.16.1* of the R-ARCSS on responsibility sharing, amounts to an amendment to the provision and requires that the Parties follow the procedure laid down in *Article 8.4* of the R-ARCSS.

## I. Introduction

1. This Report on the status of implementation of the tasks of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) is prepared pursuant to *Chapter VII, Article 7.9* of the R-ARCSS and covers the period 1<sup>st</sup> April to 30<sup>th</sup> June 2020. It builds on the previous quarterly reports published since the signing of the R-ARCSS on 12<sup>th</sup> September 2018, namely numbers 001/19, 002/19, 003/19, 004/19, 005/19 and 006/20.<sup>1</sup>
2. During the reporting period, implementation of the R-ARCSS virtually stalled with the onset of the COVID-19 pandemic and slow progress made by the Parties to the Agreement on resolving the issue of responsibility sharing at the State and local government levels. The Report, therefore, highlights the limited number of accomplishments observed to date, and the challenges that must be addressed in order to move the implementation of the R-ARCSS forward. These include the persistent delays in the restructuring and reconstitution of the Transitional National Legislature (TNL), comprising both the Transitional National Legislative Assembly (TNLA) and the Council of States (CoS).
3. Also highlighted in the Report is the status of implementation of several Pre-Transitional tasks that were extended into the Transitional Period.<sup>2</sup> Of note, are those related to the Transitional Security Arrangements, and in particular, the selection, screening, training and redeployment of the Necessary Unified Forces (NUF). In addition, the Report details violation committed in the course of implementation of the R-ARCSS, and the measures put forward by the Reconstituted Joint Monitoring and Evaluation Commission (RJMEC) for corrective action by the Parties. Among these is the failure to strictly adhere to the provisions of the R-ARCSS in the making of political and professional appointments within the Revitalized Transitional Government of National Unity (RTGoNU).
4. The humanitarian situation worsened during the reporting period with scores of civilians killed, and thousands displaced as a result of escalating inter-communal violence linked to cattle rustling and revenge attacks. There has also been increasing reports of attacks against humanitarian workers, and a near-complete halt to the voluntary return of Internally Displaced Persons (IDPs), and refugees. With regards to the economy, the continuing low world oil prices has led to higher consumer prices and declining government revenue.

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<sup>1</sup> All the reports can be accessed at <http://jmecsouthsudan.org>, which cover progress or lack thereof in implementation of the R-ARCSS since its signing in Addis Ababa, Ethiopia.

<sup>2</sup> Tasks to be implemented during the entire period of the Agreement are distributed between a Pre-Transitional Period and a Transitional Period. The Pre-Transitional Period started with the signing of the R-ARCSS on 12 September 2018 and ended on 21 February 2020. The Transitional Period started on 22 February 2020 with the formation of the RTGoNU, and is expected to last until the holding of elections, no later than February 2023.



5. Section II of the Report will provide greater detail on the status of implementation of the R-ARCSS during three of the four months of the Transitional Period, Section III presents RJMEC's observations and recommendations, and concludes with Section IV.

## **II. Status of Implementation of the Revitalised Peace Agreement**

### **Overview**

6. The implementation of the R-ACRSSH was slowed down during the quarter under review with the onset of the COVID-19 pandemic, as well as delays by the Agreement Parties in reaching agreement on the responsibility sharing at the state and local government levels. This delay has impacted negatively on the formation of the TNLA, resulted in leadership vacuum in the states which also contributed to an increase in the level of insecurity in some parts of the country. This is evidenced by the escalation of intercommunal violence in the states of Warrap, Lakes, Unity and Jonglei. Many individuals have been killed and others wounded in ongoing cattle raiding episodes and revenge attacks.
7. Overall, there has been some progress made with regards to reaching an agreement between the Parties on the responsibility sharing at the State and Local Government levels. However, there is little or no progress in most of the areas where implementation was expected to take place during the first four months of the Transitional Period. These include restructuring and reconstitution of the TNLA and the training and redeployment of the NUF. These are two of the seven Pre-Transitional tasks that the Parties agreed to implement within the Transitional Period.<sup>3</sup>
8. Concerns over the COVID-19 pandemic and its quick spread, particularly in Juba, has further complicated progress of the first phase of the unification of forces, which was expected to have been completed during the first few months of the RTGoNU being formed. Training has stalled, and without budgetary allocation from Juba, not much can happen. In the meantime, ex-combatants will continue to abandon the cantonment sites and training centres due to lack of basic supplies such as food and medicine. This is a serious drawback on Unification of organised forces.

### **Chapter I – Revitalised Transitional Government of National Unity**

9. Progress in implementation of Chapter I of the R-ARCSS has been rather slow during the reporting period. The RTGoNU Presidency was established on 22 February 2020 and the RTGoNU Council of Ministers on 17 March. These positive developments had raised expectations that the Parties to the Agreement would expedite resolution of the pending issues of the R-ARCSS within the spirit of collegiality, inter-party dialogue and

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<sup>3</sup> Implementation of seven of the 63 Pre-Transitional tasks were moved to the Transitional Period. These are: screening, selection, training and redeployment of the NUF; submission by Agreement Parties of the TNLA representatives' members to the NCAC; apportioning of positions to the Parties at the State and local government levels; enactment of security laws, amendment bills and the Political Parties Act, 2012 (Amendment) Bill previously reviewed by the NCAC and submitted to the Minister of Justice and Constitutional Affairs of the ITGoNU; completion of a Strategic Security Assessment; completion of demilitarization of civilian areas; and appointment of an RJMEC Chairperson by IGAD. The other 56 tasks were either accomplished or implementation began during the Pre-Transitional Period.

consensus building. However, this has not happened, and implementation of the R-ARCSS has continued to slow down.

10. Based on the provisions of the R-ARCSS, priority during this quarter should have focused on: resolution of the deadlock on responsibility sharing at the states and local government levels as per *Article 1.16* of the R-ARCSS; resolving the outstanding issue of restructuring and reconstitution of the Transitional National Legislative Assembly (TNLA) as per *Articles 1.14 & 1.18.1.4* and the Council of States as per *Article 1.15* of the R-ARCSS; and establishment of an *ad hoc* Judicial Reforms Committee (JRC), in line with *Article 1.17.3*.
11. On the modalities of responsibility sharing at the State and Local Government levels – an issue that spilled over from the previous quarter – the Parties to the R-ARCSS persistently disagreed. Consequently, the leadership of SPLM/A-IO referred the matter to the RJMEC Interim Chairperson for assistance to break the deadlock. Notwithstanding RJMEC's Interim Chairperson's attempt to assist the Parties break the deadlock in line with *Article 7.11* of the R-ARCSS, the Parties could not reach consensus. The RJMEC Interim Chairperson's recommendations to the Parties in line with *Article 1.16.1* of the R-ARCSS did not make any difference as the Parties maintained their positions. In line with the provision of the R-ARCSS, the RJMEC Interim Chairperson referred the matter to the Chairperson of the Assembly of the IGAD Heads of State and Government for guidance, on 9 May 2020.
12. The RJMEC Interim Chairperson continued to engage the RTGoNU Presidency on matters pertaining to the implementation of the R-ARCSS. On 3 April, he drew the attention of President Salva Kiir Mayardit to critical issues of the implementation of the R-ARCSS that required His Excellency's action. The first issue relates to substantive alterations made to some provisions of the Constitutional Amendment Act No. 6, 2020, which were detected by the National Constitutional Amendment Committee (NCAC) as inconsistent with the provision of the Bill the Committee had submitted to the Minister of Justice and Constitutional Affairs of the Incumbent Transitional Government of National Unity (ITGoNU).
13. The other issues pertained to the procedures used in the appointment of the Undersecretary of the Ministry of Petroleum vide Republican Decree No. 37/2020, dated 13<sup>th</sup> March 2020, six ambassadors vide Decree No. 28/2020 dated 26<sup>th</sup> February 2020 and Decree No. 30/2020 dated 27<sup>th</sup> February 2020 and the Governor and two Deputy Governors of the Bank of South Sudan vide Decree No. 09/2020 dated 22<sup>nd</sup> January 2020 and Decree No. 39/2020, dated 25<sup>th</sup> March 2020.
14. In response to his letter to the President of the Republic, the RJMEC Interim Chairperson got an assurance from the office of the President that the political appointments undertaken by the Republican Decrees, particularly those made after the formation of the RTGoNU and inconsistent with the provisions of the R-ARCSS would be rectified. Also, the President directed the Minister of Justice and Constitutional Affairs to initiate the process of rectification of the provisions of the Constitutional Amendment Act No.6, 2020, which were allegedly altered and inconsistent with the provisions of the R-ARCSS and further directed that the Ministry should jointly work with the NCAC to address this matter. This is however yet to be done.

15. Furthermore, the IGAD Council of Ministers convened its 71<sup>st</sup> Extraordinary Session on the situation in South Sudan on 23<sup>rd</sup> April 2020. The Interim Chairperson of the RJMEC briefed the Council on the status of implementation of the Revitalized Peace Agreement. On restructuring and reconstitution of the TNLA, the Council urged the President of the Republic of South Sudan to dissolve the incumbent TNLA before 30<sup>th</sup> April 2020, and called upon the Parties to reconstitute the TNLA in accordance with the R-ARCSS within ten (10) days of the dissolution of the incumbent TNLA. In addition, the Council urged the Parties to immediately resume discussions and consultations and reach on an agreement within fifteen (15) days of the issuance of its Communiqué.<sup>4</sup> However, the TNLA is yet to be dissolved and a new TNLA reconstituted.
16. Following the IGAD Council of Ministers' meeting, the Parties to the R-ARCSS continued to engage each other bilaterally on the state allocation. The press releases from the Minister for Presidential Affairs of 7<sup>th</sup> May and 17<sup>th</sup> June 2020 showed the outcomes of efforts in an attempt to reach consensus. However, in both cases, some of the Parties applauded the responsibility sharing arrangements while others rejected them. The recent announcement was the outcome of bilateral discussions between President Salva Kiir Mayardit and the First Vice President Dr Riek Machar in which the former ITGoNU shall nominate governors to the states of Unity, Eastern Equatoria, Warrap, Northern Bahr el Ghazal, Central Equatoria and Lakes. The SPLM/A-IO to Upper Nile, Western Bahr el Ghazal, and Western Equatoria; and SSOA to Jonglei.
17. The Parties to the R-ARCSS reacted differently to the decision contained in the press release from the Minister for Presidential Affairs. Four of the six parties comprising the OPP rejected the decision, arguing that it amounted to a violation of *Article 1.16.1.4* of the R-ARCSS and that the deadlock was referred to the IGAD leadership. The SSOA Chairperson rejected the resolution, arguing that the Vice President representing SSOA in the Presidency was not part of the decision-making process and expressed preference to an earlier decision of 7<sup>th</sup> May 2020. The Secretary-General and Secretary for Security of SSOA welcomed the decision but appealed for all the Parties to the Agreement to meet and reach consensus on the matter. Besides, the four OPP parties jointly wrote to the RJMEC Interim Chairperson re-stating their position and appealing to the RJMEC to intervene and to stop the implementation of the decision contained in the press release as all the OPP parties had not been consulted.
18. Notwithstanding the objections to the contrary, on 29<sup>th</sup> June President Salva Kiir Mayardit, through Republican Decrees No. 51/2020 and 53/2020, named eight of the ten governors and three Chief Administrators of the Administrative Areas<sup>5</sup> respectively. Hon. Makur Kulang (Lakes); Hon. Tong Aken Ngor (Northern Bahr el Ghazal); Hon. Bona Panek Biar (Warrap); Hon. Sarah Cleto Rial (Western Bahr el Ghazal); Hon. Alfred Futio Karaba (Western Equatoria); Hon. Dr. Joseph Monytil (Unity); Hon. Louis Lobong (Eastern Equatoria); and Hon. Emanuel Adil Anthony (Central Equatoria) were named as governors. Also, Hon. Kuol Deim Kuol (Abyei), Hon. Joshua Konyi Irer (Greater Pibor) and Hon. William Chol Awulic (Ruweng); were named as Chief Administrators. Out of the eight governors appointed by the President, only one (12.5%)

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<sup>4</sup> The full IGAD Communiqué of its 71<sup>st</sup> Extraordinary Session can be found at <https://igad.int/2414-communicue-of-the-71st-session-of-the-extraordinary-meeting-of-igad-council-of-ministers>.

<sup>5</sup> The three Administrative Areas of Abyei, Pibor and Ruweng are all under the control of the former ITGoNU.

is a woman nominated by SPLM/A-IO. The appointment fell short of the 35% women representation as provided for in *Article 1.4.4* of the R-ARCSS.

19. The RTGoNU was expected to establish an independent Judicial Reforms Committee (JRC) within the first three months of the Transitional Period as provided for in *Article 1.17.3*. The JRC has not yet been established. The RTGoNU will need to expedite the process of establishing the JRC through initiating the requisite legal framework.

### **The National Constitutional Amendment Committee**

20. The NCAC is established under *Article 1.18.1* of the R-ARCSS and is mandated to revise or draft new laws, as appropriate, and to review other legislation as provided for in the Agreement. During the reporting period, the NCAC continued with its review of the *Public Financial Management and Accountability Act, 2011* pursuant to *Articles 4.12.1, 4.12.1.1, to 4.12.1.8; and Southern Sudan National Audit Chamber Act, 2011* pursuant to *Article 4.5* of the R-ARCSS. The first drafts of the bill were prepared and distributed to the Committee members for comments and input. Second drafts were prepared incorporating the members responses and circulated. The bill together with members accompanying notes are now ready for stakeholders' validation, following which they will be finalized, and submitted to the RTGoNU Minister of Justice and Constitutional Affairs.
21. In addition, the reviews of the *Petroleum Act, 2012* and the *Petroleum Revenue Management Act, 2013* in accordance with *Articles 4.7.1.8. and 4.7.1.10* of the R-ARCSS respectively, are ongoing. Initial literature review and comparative analysis is complete along with the preparation of a concept note. Consultations with relevant institutions and external subject matter experts were conducted, and a marked-up version of the *Petroleum Act 2012* was prepared. The Committee is preparing to hold an experts' meeting in July 2020 to define the scope of the amendments to the laws.
22. The receipt by NCAC of a list of nominees of respective parties indicated in Chapter 1, *Article 1.13* of the R-ARCSS relating to the appointment of the members of the TNL is still pending. The Committee is to examine the list of the nominees to ensure that the criteria of eligibility as per *Article 62* of the Transitional Constitution of the Republic of South Sudan 2011 (as amended) and the R-ARCSS have been adhered to by the Parties during the nominations. The list shall then be submitted to the President of the Republic of South Sudan.
23. During this period, the Committee received a response from the Minister for Presidential Affairs on its comparison of the Constitutional Amendment (No.6) Act, 2020 to the Constitutional Amendment Bill (No.6) 2020 as previously submitted to the ITGoNU Minister of Justice and Constitutional Affairs. The response was analysed by the members and a comprehensive rejoinder prepared. The NCAC has received communication from the Ministry of Justice and Constitutional Affairs to the effect that, upon the directive of H.E the President, they are currently undertaking a review of the constitutional provisions, which are considered to have diverted from the terms of the Agreement. The Ministry is expected to forward the observations, comments and remedies to those provisions for the Committee's further consideration.

24. The Committee experienced the challenges posed by the ongoing COVID-19 pandemic including the meeting restrictions, and continued to seek ways to work within the existing government guidelines on the same. During this quarter, NCAC resolved that meetings would be held online and members would be provided with modems and internet bundles to facilitate their work. Hard copy documents were delivered to members respective residences and their feedback collected for review.
25. A WhatsApp group for NCAC was also established to ensure members were constantly updated on emerging issues. During the period, the Chairperson held weekly zoom meetings with the Secretariat and conducted one meeting with the members pending the issuance of the modems that will allow the Committee meetings to resume as normal from July 2020. In addition, several zoom meetings with the subject matter experts were held.
26. Sadly, the Committee lost a key member who represented the Party of the Former Detainees (FDs), Hon. John Luk Jok, and the RTGoNU Minister for East African Community Affairs who passed on suddenly. As a former Minister of Justice and Constitutional Affairs, Hon. Luk contributed enormously to the work of the NCAC drawing from his vast knowledge and experience having spearheaded the drafting of the Transitional Constitution of the Republic of South Sudan, 2011 and most of the other legislation in the country. The Committee notes that the late Minister steadfastly supported the peace process in the Republic of South Sudan and will be remembered for his unwavering commitment to the rule of law and democracy in the country.
27. The issue of support to the Committee members was raised and NCAC wrote to RJMEC to identify the relevant government agency that will support its work during the Transitional Period. The NCAC also submitted a budget to the National Transitional Committee (NTC) for its consideration.

## **Chapter II – Permanent Ceasefire and Transitional Security Arrangements**

28. The Permanent Ceasefire between the signatories continued to hold during the first few months of the Transitional Period. However, since the formation of the RTGoNU in particular, there has been an increase in intercommunal clashes in various parts of the country, including in Lakes, Jonglei, Unity and Warrap some of which appear to be well armed and well organised attacks. These have resulted in significant loss of lives and disruption to the civilian population.
29. The other area of immediate concern is the escalation of fighting, allegedly between the SSPDF/SPLA-IO and NAS in the areas around Yei in the Equatorias, and the adverse effect on the protection of civilians. The deliberate attacks and ambushes are causing indiscriminate deaths and displacement of civilians at a time when communities are preoccupied with the fight against the COVID-19 pandemic. Efforts by CTSAMVM to investigate and verify these clashes have been severely restricted by the limitations placed on the movements of both CTSAMVM and UNMISS. The overall result is that the CTSAMVM Monitoring and Verification Teams (MVTs) have been unable to establish communication and access to NAS field commanders in order to verify any of the reported clashes first hand. RJMEC has recommended the actualization of the Rome resolutions made with the assistance of the Community of Sant'Egidio.

30. Whilst the number of civilian centres occupied by armed forces has decreased slightly since the previous quarter, it is disappointing that 18 civilian centres still remain occupied by armed forces (all by SSPDF). These are in the areas of Malakal (2), Yambio (3), Torit (8), and Yei (5); with little evidence of serious commitment by the government forces to rectify this violation of the R-ARCSS since the last report.
31. There have been no confirmed reports of COVID-19 in the cantonment sites or training centres. However, COVID-19 has had a significant effect on the leadership in the security sector, logistic support to the cantonment sites and the training centres, and efforts to hold the graduation of the NUF. The NTC leadership were also constrained for weeks and were only beginning to impact the process late in the reporting period.
32. There have been continued sexual and gender-based violence (SGBV) incidents, including rape and gang rape in some areas of the country. CTSAMVM confirmed two rape cases in Mapoko Boma in Yei, and two rape cases in Lasu, Otego County in Yei, Central Equatoria. The cases in Mapoko Boma involved a 48-year-old woman and her 32-year-old daughter-in-law who were raped by SSPDF soldiers. The suspects were apprehended and taken to the SSPDF Brigade Headquarters where the Commander confirmed the incident and subsequent arrest and promised that he will ensure that justice is done.
33. The cases in Otego County, Lasu involved a 14-year-old girl and 22-year-old woman who were raped by two soldiers from the Lasu SSPDF Mobile Forces. In its report, CTSAMVM highlighted that the incidents were confirmed by Lasu SSPDF Mobile Forces and Otego County authorities and that the two perpetrators were arrested and are in Yei prison awaiting trial. During the period, CTSAMVM released its report on SGBV cases in Rubeke, Central Equatoria. CTSAMVM confirmed that there have been multiple cases of SGBV, specifically rape and gang rape, committed in Rubeke on 13<sup>th</sup> February 2020 by soldiers from the Lasu-based SSPDF mobile force.
34. It also confirmed that the rape of women in Maiwut, Upper Nile between 1<sup>st</sup> and 4<sup>th</sup> August 2019 were committed by soldiers from SPLM/A-IO. CTSAMVM also recorded more than twelve alleged rape cases (1 in Logo, Central Equatoria involving a 6-year-old girl, two in Rajaf, Central Equatoria including of a minor, seven in former Yei River State, one in Falaja, Wau, Bahr el Ghazal involving a female soldier, an undisclosed number of cases in Leer, Unity and two in Magwi, Eastern Equatoria) that are under investigation and yet to be confirmed. In an effort to fight against SGBV, the RTGoNU through the Ministry of Gender, Child and Welfare launched a helpline for reporting cases of gender-based violence.

### **The Cantonment Process and the Training of the Necessary Unified Forces<sup>6</sup>**

35. Of the 25 cantonments sites, 24 still remain operational with one cantonment site unoccupied (Turow) and one replaced (Puluturuk replaced by Lankien). However, there are persistent reports of several of the cantonment sites being abandoned due to a lack of food and essential life support resources. Recent CTSAMVM reports indicate that the situation in cantonment sites has become significantly worse than the previous quarter and the concern is the effect on command and control, personnel morale and the

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<sup>6</sup> This is one of the key Pre-Transitional tasks that the Parties agreed to continue into the Transitional Period with the hope of a quick resolution.

increasing number of armed personnel moving to civilian communities in search of food and essential resources.

36. Notwithstanding the increasing exodus of the ex-combatants, CTSAMVM reports<sup>7</sup> that an estimated 35,000 personnel still remain in cantonment sites and barracks, although this number could not be verified at the time of this Report. In terms of registration, the figures have been difficult to quantify in the current climate, but the latest available figures show that around 78,500 personnel have been registered in total at the cantonment sites/barracks and elsewhere (e.g. at the training centres).<sup>8</sup>
37. During this reporting period, registration and screening have been put on hold and formal, detailed unification training was halted as at 27<sup>th</sup> March 2020, in efforts to manage the threat of COVID-19 nationwide. However, the Joint Transitional Security Committee (JTSC) received 3,000 copies of the basic military training syllabus from UNMISS on 22<sup>nd</sup> June and are about to begin distribution in the training centres. Whilst efforts by the JTSC to deliver food and in-kind resources to some of the training centres, in particular those in the Equatorias, have been achieved, the provision and delivery of resources to the training centres in Bahr el Ghazal and Upper Nile has proved more challenging. The key issue is that cantonment sites contain only opposition forces, whilst Government forces remain in relatively better conditions in Army, Police and NSS barracks.
38. CTSAMVM reports that as of 4<sup>th</sup> June 2020 around 47,000<sup>9</sup> (from both government and opposition forces) of the expected total of 83,000 personnel were located in the 17 operational training centres including close to 5,000 female trainees.<sup>10</sup> In view of the considerable challenges faced by the security mechanisms (JDB, JMCC and JTSC) that include: insufficient funds; an inability to deliver sufficient food and essential resources; insufficient facilities and resources for female trainees, including a number of pregnant women and nursing mothers; a lack of administrative and training resources and the adverse effects of the COVID-19 pandemic; the RTGoNU took the difficult decision to announce an early graduation of personnel at all training centres with the subsequent redeployment of the NUF into the existing security and organised forces structure.
39. This decision was taken to avoid a potential crisis in the training centres across the country, prior to the completion of the planned training of the 83,000 NUF during Phase One. The initial plan was to complete graduation at all training centres within 30 days from 28<sup>th</sup> May 2020, followed by immediate redeployment of the NUF; however, this plan has not materialised. To date, no alternative graduation schedule or deployment plans have been announced by the JDB. Unconfirmed reports point to plans to have the VIP Protection Unit at Gorom Training Centre to be the first to graduate over the next few weeks, followed by the organised forces at Rajaf, Rombur and Lologo training centres.
40. The establishment of the NUF in Phase One has always been seen as a provisional arrangement principally to demonstrate political will for the unification of the South Sudanese defence, security and organised forces and not the integration of existing armed

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<sup>7</sup> Figures released at CTSAMVM CTC Meeting of 9<sup>th</sup> -10<sup>th</sup> June 2020.

<sup>8</sup> Registration of armed forces announced at CTSAMVM CTC Meeting of 9<sup>th</sup> -10<sup>th</sup> June 2020 - a total of 78,500 registered.

<sup>9</sup> CTSAMVM Status of Training Centres Report dated 4 June 2020 indicates a total of 47,014 trainees at the 17 operational training centres.

<sup>10</sup> Figures provided by CTSAMVM as at 4 June 2020.

forces. However, it is recognized by all parties that early graduation and redeployment will not achieve full unification and that continuation training will need to be put in place at unit locations following redeployment. What is apparent from recent CTSAMVM reports is that formal training of the NUF and the VIP Protection Force, as per the agreed curriculum for each of the organized forces in accordance with Chapter II of the R-ARCSS, has still not been completed, with only preliminary training such as basic drill, physical fitness and moral orientation having been conducted.

41. At the time of preparing this Report, the NTC, together with the Joint Defence Board (JDB) and JTSC, under the combined direction of the Minister of Defence and the Commander of Defence Forces (CDF), General J.J. Okot, have deployed resources to provide up to a month's worth of food to the training centres in Upper Nile and Bahr el Ghazal. Furthermore, the Demobilization Disarmament and Reintegration (DDR) implementation process has also been put on hold, whilst the DDR Commission teams for the training centres and the DDR administrative staff, destined for the Regional Authority HQs have been unable to carry out their responsibilities and tasks.

### **Mechanisms for Security Arrangements<sup>11</sup>**

42. The mechanisms for security arrangements during the Pre-Transitional Period were under the direction of the NPTC. This included the Joint Defence Board (JDB), Joint Military Ceasefire Commission (JMCC), Joint Transitional Security Committee (JTSC), Strategic Defence and Security Review Board (SDSRB), and Disarmament, Demobilisation and Reintegration (DDR) Commission. The other security mechanism, the Ceasefire Transitional Security Monitoring and Verification Mechanism (CTSAMVM) operates independently and reports directly to the Intergovernmental Authority on Development (IGAD) and RJMEC.
43. ***National Transitional Committee (NTC).***<sup>12</sup> As reported in the last quarter, the NPTC became a defunct organisation with the commencement of the Transitional Period. However, in order to ensure oversight, supervision and coordination of the security mechanisms, President Salva Kiir announced on 26<sup>th</sup> March 2020 the establishment of a new NTC with ministerial level representation and a Secretariat; this new body is responsible for coordinating the implementation of the security arrangements throughout the Transitional Period. The NTC has met three times since its inception and is slowly beginning to develop a strategic plan.
44. There have been a number of senior personality changes to the membership of the security mechanisms during this reporting period; in particular the announcement of a new Chief of Defence Forces and Chairperson of the JDB with Gen. Johnson Juma Okot replacing Gen. Gabriel Jok Riak in May 2020. It is hoped that with the formulation of the NTC and the changes in some of the security mechanisms that there will be improved coordination in terms of logistics planning, allocation of resources and implementation. During this period, the JDB, JMCC and JTSC have struggled to meet their

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<sup>11</sup> The mechanisms for security arrangements during both the Pre-Transitional period and the Transitional Period consist of a number of Commissions/Boards under the direction/coordination of the NPTC (now NTC) as follows: Joint Defence Board (JDB), Strategic Defence & Security Review Board (SDSRB); Joint Transitional Security Committee (JTSC), Joint Military Ceasefire Commission (JMCC); and in addition the National Disarmament, Demobilisation and Reintegration Commission (NDDRC).

<sup>12</sup> South Sudan Republican Order No 10/2020 of 26<sup>th</sup> March 2020.



responsibilities and tasks. It has been difficult to assess what the JMCC has been doing during this period, and whether it has provided any support and assistance to the cantonment sites or assisted the JDB in the NUF deployment plans.

45. In spite of limited funds and reduced availability of logistical transport assets, the JTSC has, however, made considerable efforts to plan and distribute food, essential resources and in-kind support to some of the training centres, in particular to the Equatorias and Bahr el Ghazal, although delivery to centres in Upper Nile also remain challenging. Both the JDB and the JTSC have relied heavily on UNMISS and CTSAMVM movement support, where possible.
46. At the time of this report, the NTC has indicated that it has been allocated additional RTGoNU funds for the provision and distribution of food to training centres, whilst the JTSC is moving approximately 200 tons of food by barge to Malakal. UNMISS is also attempting to arrange air transport support for JTSC to deliver essential supplies to Malakal prior to the arrival of the larger shipment.<sup>13</sup>
47. ***The Ceasefire Transitional Security Arrangement Monitoring and Verification Mechanism (CTSAMVM)***. It has been another busy period for CTSAMVM with a change-over of the Chairperson, continued rotations of international observers/monitoring officers and with the unprecedented challenges caused by the COVID-19 pandemic. In spite of reduced staff capacity and limited funding, CTSAMVM has remained operational throughout the period and demonstrated its resolve and flexibility in a difficult and unpredictable environment, with Sector HQs and MVTs reporting on the security situation and the status of the TSAs, including the training centres and the cantonment sites. At times, CTSAMVM has been the only ‘eyes and ears’ on the ground when UNMISS and other organisations have been restricted in conducting their field missions in view of movement restriction and a lack of force protection measures.
48. CTSAMVM’s priorities for this quarter have been: i) monitoring the security situation and reporting violations to the R-ARCSS; ii) monitoring the protection of civilians (PoCs) and conducting investigations where necessary; and iii) monitoring the security status of the training centres and the cantonment sites. In addition, and whenever possible in the current climate, CTSAMVM has provided air support to IGAD, RJMEC, the security mechanisms and the international community and partners to conduct periodical field trips to the regions, including visits to the training centres and the cantonment sites.
49. ***The Strategic Defence and Security Review Board (SDSRB)***. Since the last quarter, the SDSRB has continued its work and research in developing a security policy framework, formulating a revised defence policy and providing an analysis of operational capabilities of the national army and other security forces. However, progress on the much needed draft defence and security review has remained disappointingly slow. As mentioned in the previous quarter, ministerial commitments of the Chairperson (Hon. Angelina Teny–Minister of Defence) and Co-Chairs, the Hon. Malek Ruben (Deputy Minister of Defence) and the Hon. Denay Chagor, Minister of Higher Education, in the RTGoNU, has meant that the Board has failed to gain the necessary impetus and traction in implementing its plan.

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<sup>13</sup> As at this report, UNMISS transport support has still to materialise.

50. The SDSRB is still lacking the necessary technical expertise to develop a coherent and concise draft government White Paper and unfortunately, the UNMISS funded SME/Advisor contract has not continued during this period. RJMEC continues to assist the Board where possible, and at the time of this report, the SDSRB Chairperson has indicated that a first draft paper should be published in early July 2020.
51. ***Disarmament, Demobilization and Re-integration (DDR) Commission.*** During this reporting period, the DDR has struggled to implement its plan with the deployment of field coordination officers at the training centres and in establishing regional DDR offices co-located with regional authorities. The delay on agreeing to responsibility sharing at the state and local government levels, and in particular the selection of State Governors; as well as the COVID-19 pandemic movement restrictions, have exacerbated the situation. Furthermore, plans for the identification and development of future DDR transitional sites have been delayed.
52. However, with support from UNMISS, UNDP and RJMEC, the draft documents on: i) DDR Strategy & Plans; ii) revised DDR Strategic Plan and Framework; iii) Reinsertion Framework; iv) Reintegration Framework; and v) Public Information and Communications Strategy have now been finalised for approval by the RTGoNU. The UNDP funded SME/Advisor 3-month contract ended on 31<sup>st</sup> March 2020, and a recent UNDP led 'Peace and Community Cohesion Project (PaCC) initiative to provide for further advisory/consultancy support to the DDR Commission is currently ongoing with a draft concept note and terms of reference now complete.

### **Chapter III – Humanitarian Assistance and Reconstruction**

53. The humanitarian situation in South Sudan has worsened in the recent past, with the escalating level of intercommunal violence and the continued violence in the Equatorias. According to a UNHRD report<sup>14</sup>, although the overall number of civilian casualties attributed to fighting between the parties to the conflict has declined since the signing of the R-ARCSS in September 2018, intercommunal violence surged, becoming the leading cause of death, distress, continued human rights abuses and SGBV.
54. Incidents of intercommunal violence increased in number and intensity with a worrying influx of weapons, particularly in Jonglei, Warrap and Lakes States followed by reprisal attacks. According to an UNMISS Press release of 9<sup>th</sup> June 2020<sup>15</sup>, January to May 2020 were the most violent months with 415 incidents recorded, up from 129 during the same period in 2018. Intercommunal violence has led to forced displacement of communities, death of humanitarian workers and impeded access to communities in need.
55. On 16<sup>th</sup> May, three humanitarian workers were killed in Uror, Jonglei State during intercommunal violence. This has brought the total number of humanitarian workers killed to 4 in 2020 and those killed since December 2013 to 119. The continued insecurity has resulted in the relocation of NGOs and UN Agency staff to Juba from Gumuruk. Of the 41 humanitarian staff slated for relocation, 27 were airlifted to Juba

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<sup>14</sup>[https://www.ohchr.org/Documents/Countries/SS/Quarterly\\_brief\\_on\\_violence\\_affecting\\_civilians.pdf](https://www.ohchr.org/Documents/Countries/SS/Quarterly_brief_on_violence_affecting_civilians.pdf), Quarterly brief, published in June 2020

<sup>15</sup> <https://unmiss.unmissions.org/escalating-intercommunal-conflict-could-unravel-peace-agreement>  
Press release by Communications & Public Information Section, UNMISS.

on the 19<sup>th</sup> June 2020. This further limited the humanitarian footprint and the rendering of essential and lifesaving services to communities in need.

56. In addition to intercommunal violence, the humanitarian footprint continued to be hampered by travel protocols instituted by the High-Level Task Force for COVID-19, attacks on humanitarian compounds and workers and road insecurity and ambushes in Central, Western and Eastern Equatoria.
57. During this quarter, cases of denial of access for CTSAMVM verification and UNMISS protection teams were reported bringing the total access denial cases reported by CTSAMVM between January and May to nineteen (19). The food security situation remains grim with more than 7 million people acutely food insecure. Given the high levels of malnutrition, it is projected that millions may face famine. The situation has been exacerbated by flooding causing displacement, destruction of property and homes and increased the risk of waterborne diseases.
58. According to WFP<sup>16</sup>, the impact of the COVID-19 pandemic has resulted in food commodity price hikes, translating into an early onset on the hunger period and creating an additional urban caseload of about 1.6 million people needing food assistance. During this quarter, despite the COVID-19 border restrictions, refugee and IDP returns continued, but at a much reduced pace compared to earlier this year. In the month of May, UNHCR and partners verified returns of 4,693 South Sudanese refugees from neighbouring countries<sup>17</sup>.
59. Highest returns were recorded from Ethiopia, a total of 1,534 individuals, mainly from the Gambella region and Sudan with 1,482 individuals. This brings the cumulative number of South Sudanese returnees between October 2018, and May 2020 to over 168,800 and the overall total since November 2017 to 289, 650. Returns continue to be limited by the lack of optimal conditions for dignified return, among which are social services and security at the points of final return.

### **Progress made against specific articles of the R-ARCSS**

60. *Article 3.1.2.1* of the R-ARCSS calls for the RTGoNU to: ‘immediately institute programmes for relief, protection, repatriation, resettlement, reintegration and rehabilitation of IDPs and returnees in coordination with the UN and other relief and humanitarian agencies.’ The Ministry of Humanitarian Affairs and Disaster Management (MHADM) launched the ‘First 100 days and Beyond Action Plan’ aimed at addressing the most pressing humanitarian needs and reducing disaster risks beyond the formation of RTGoNU.
61. Key planned strategic outcomes include improved protection of the most vulnerable displaced and host communities exposed to humanitarian crisis and disaster risks; and the establishment of a legal and policy framework to facilitate conditions for voluntary, safe and dignified returns, relocation and resettlement of displaced populations. The

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<sup>16</sup> COVID-19: Potential impact on South Sudan. A WFP analysis of Cereal markets and food security implications of the pandemic. Vulnerability Analysis and Mapping Unit, May 2020.

<sup>17</sup> Spontaneous Refugee returns to South Sudan monthly update, with data as of 31st May 2020. <https://data2.unhcr.org/en/documents/details/77073>.

Ministry also plans to launch the long awaited National Plan on Return, Relocation and Reintegration of Displaced Persons.

62. South Sudan's 2020 Humanitarian Response Plan COVID-19 Addendum was launched on the 16<sup>th</sup> June. The funding appeal to the tune of US \$ 390 million, is aimed at supporting the COVID-19 response and address emerging humanitarian needs. This brings the overall humanitarian appeal for 2020 to US \$ 1.9 billion, aimed at assisting 7.4 million people; up from the US \$ 5.6 million planned before the outbreak, by the end of the year.
63. The funding aims to support provision of emergency food assistance, livelihood and livestock support, ensure quality learning for out-of-school children, providing logistical capacity to enhance humanitarian access and address protection issues particularly for vulnerable women and girls that are anticipated to multiply, exposing them to GBV and other human rights violations.
64. Required to be completed one month after the institution of the RTGoNU, the establishment of a Special Reconstruction Fund (SRF) and its Board (BSRF) (*Article 3.2*) is already overdue. So far, a concept note for the establishment of the SRF Board has been developed and presented to the RTGoNU as guidance for its formation. RJMEC is still awaiting feedback on the nominations of members, chairperson and vice-chairperson of the board.

## **Chapter IV – Resource Economic and Financial Management**

### **Report on the Economy**

65. According to the IMF, Real GDP growth in South Sudan is projected to increase by 4.9% in the year to the end of December 2020 (as against 7.9% projected in October 2019). The reduction in projected growth is mainly due to the impact of the COVID-19 pandemic including job losses, lower income, and a consequent reduction in purchasing power. At the same time, food prices increased well over the seasonal high because of stockpiling by households, in anticipation of stricter containment measures, and induced border restrictions for regional trade.
66. The strongest economic impact of the COVID-19 pandemic on South Sudan's economy has come through the sharp decline in world oil prices. The resulting strong deterioration in export earnings from oil has weakened the country's external position and led to a loss of international foreign reserves, and a widening of the current account deficit. In addition, it has contributed to a large decline in the country's revenues thus adversely impacting budgetary operations.
67. Based on the expected long-term decline in revenues the government has embarked on diversifying its sources of revenue, and has commenced negotiations with investors for gold mining operations in Jonglei and Eastern Equatoria states. In addition, it has started to scale up investments in Gum Arabic, geared towards the export market.

## Progress made against specific articles of the R-ARCSS

68. The Minister of Finance and Planning through an executive order created a Public Financial Management (PFM) Oversight Committee, to address the reforms stipulated in *Article 4.1.7* of the R-ARCSS. Though the oversight role of this committee to a great extent mirrors that of the Economic and Financial Management Authority (EFMA) contained in *Article 4.16*, it does so only to the extent of PFM but does not extend to petroleum sector and broader sectors of the economy.
69. The Committee has proposed in its draft work plan to prioritise the development of a PFM strategy, which is meant to guide the implementation of the PFM laws, the implementation of critical provisions of the Agreement, capacity development, review of the National Development Strategy that ends in 2021, and the Enterprise Development Funds<sup>18</sup> contained in *Article 4.15* of the R-ARCSS.
70. In 2015 South Sudan endorsed the Comprehensive Africa Agriculture Development Programme (CAADP)<sup>19</sup>. So far, its implementation has been challenged by low public spending as allocation to food security as a percentage of the total budget, has been on a steady decline. The sector has therefore depended mainly on donor support. In a recent Webinar on the 'Assessment of the Agriculture Sector Performance against the CAADP in the context of the COVID-19 Pandemic'; RJMEC drew the attention of the meeting to *Article 4.8.4* of the R-ARCSS, and the need for the RTGoNU to initiate policies, strategies and programmes for the management and development of Agriculture, which is geared towards sustainable development.

## Chapter V – Transitional Justice Accountability Reconciliation and Healing

71. Consistent with *Articles 5.1.4 and 5.1.5* of the R-ARCSS, the RTGoNU is expected to receive support from the UN, AU and the African Commission on Human and People's Rights (ACHPR) in furtherance of implementation of Chapter V of the R-ARCSS. Regrettably, no such support has reportedly been received. The support to be delivered revolves around design, implementation and facilitation of the work of Chapter V Mechanisms during the Transitional Period. They are the Commission on Truth, Reconciliation and Healing (CTRH), the Hybrid Court for South Sudan (HCSS) and the Compensation and Reparation Authority (CRA).
72. The mandates, jurisdictions, memberships and funding of the three mechanisms will be clearly defined by legislation. This should be initiated through an open and transparent process, where public participation is encouraged to help improve their content and legitimacy. These legislations have yet to be initiated by the RTGoNU during this reporting period. The Ministry of Justice and Constitutional Affairs is mandated under *Article 5.2.1.3* of the R-ARCSS to collaborate with other stakeholders and civil society

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<sup>18</sup> RJMEC engaged the youth in regards to the Youth Enterprise Development Fund through a brainstorming session that included other civil society groups. The engagement focused on sharing experiences and debating policy issues and understanding how the Fund would be operationalised in South Sudan.

<sup>19</sup> This is Africa's policy framework for transforming the agriculture sector and achieving broad-based economic growth, poverty reduction, and food and nutrition security. It was officially ratified by African Union (AU) heads of state and government in the 2003 Maputo Declaration on Agriculture and Food Security with two main targets: achieving a 6 per cent annual agricultural growth rate at the national level and allocating 10 per cent of national budgets to the agriculture sector.

in the conduct of public consultations in order to inform the design of the CTRH legislation. These consultations were also not undertaken during this reporting period.

73. The RTGoNU and the Africa Union Commission (AUC) have yet to agree to the terms towards the establishment of the HCSS, consistent with *Article 5.3.1.2* of the R-ARCSS. These terms involve guidelines on the location of the HCSS, infrastructure, funding mechanisms, enforcement mechanisms, applicable jurisprudence, number and composition of judges, privileges and immunities of court personnel etc.

## **Chapter VI – Parameters of the Permanent Constitution**

74. In terms of judicial reforms, the R-ARCSS provides for four key tasks during the Transitional period namely: (a) establishment of an *Ad-Hoc* Judicial Reforms Committee to study and make recommendations on judicial reforms; (b) reconstitution of the Judicial Service Commission (JSC); (c) judicial reforms, including review of the Judiciary Act and capacity building to the Judiciary; and (d) establishment of the Constitutional Court by law. There is as yet no significant progress to report on the implementation of the above tasks.
75. With respect to the Permanent Constitution-making process envisaged under Chapter VI of the R-ARCSS, the RTGoNU has, in concurrence with the RJMEC Monitoring and Evaluation Matrix<sup>20</sup> identified eleven (11) key tasks as critical for implementation during the Transitional Period. These include: RTGoNU to initiate and oversee a permanent constitutional-making process during the Transitional Period, and to budget adequate funding; and RJMEC to identify and engage renowned institutes to facilitate and moderate the permanent constitution-making process workshop and to convene a workshop for the Parties to agree on the details of conducting the permanent constitution-making process.
76. Other tasks relate to preparation of draft legislation based on the outcome of the workshop, and its enactment to guide the permanent constitution-making process; reconstitution of the National Constitutional Review Commission (NCRC) and appointment of a preparatory sub-committee for the convening of the National Constitutional Conference (NCC); RTGoNU and NCRC to seek assistance from regional and international experts to support the constitutional making process; completion of the permanent constitutional making processes within 24 months into the Transitional Period; adoption of the draft Constitutional Text by the NCC and presentation to the TNLA; and transformation of the TNLA into Constituent Assembly to adopt the permanent constitution.
77. In terms of the specific RJMEC mandated convening of a workshop for the Parties to agree on the details of conducting the permanent constitution-making process (*Article 6.7* of the R-ARCSS), significant progress has been made in this direction. The RJMEC has already identified the Max Planck Foundation for International Peace and the Rule of Law, a renowned German institution, to facilitate the workshop. Both RJMEC and the Max Planck Foundation are working closely in preparation for the convening and

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<sup>20</sup> The entire RJMEC Monitoring and Evaluation Matrix can be found in the First Quarter Report No. 006/20 at <https://jmecsouthsudan.org/index.php/reports/rjmec-quarterly-reports>.

facilitation of this workshop.<sup>21</sup> The RJMEC is also engaging with other local, regional and international partners like South Sudan Law Society, International Institute of Democracy and Electoral Assistance (IDEA), UNMISS, UNDP, IGAD, etc. interested and with vast experiences in constitution-making process to brainstorm and support the constitution-making process generally.

78. The RJMEC has concluded a comprehensive comparative study on constitution-making experiences in other post-conflict and transitional contexts within and beyond the region, for purposes of drawing possible lessons for South Sudan, as it embarks on this journey.<sup>22</sup> The study was conducted by an independent consultant, Dr Busingye Kabumba of Makerere University, Kampala together with the RJMEC advisors. The recently published study analysed constitution-making processes adopted in twenty-one (21) jurisdictions from around the world – Africa (13 countries), Asia (5), South America (1) and Europe (2).
79. The case studies were carefully selected, taking into account the extent to which their contexts resonated with that of South Sudan. In addition, the Max Planck Foundation is compiling a complimentary report analysing past South Sudanese experiences with constitution-making. The RJMEC comparative constitution-making processes report, has since been presented to, and discussed with, a small expert's group of regional and international constitutional practitioners from International IDEA, UNMISS, IGAD, and EU, and will soon be publicly launched, and thereafter disseminated to all the Parties, other South Sudanese Stakeholders, and partners.

## **Chapter VII. The Reconstituted Joint Monitoring and Evaluation Commission**

80. During the reporting period, the RJMEC was unable to meet on a regular basis, because of the constraints placed on large group meetings, as a consequence of the COVID-19 pandemic. This notwithstanding, the Interim Chairperson maintained a steady and consistent engagement with various stakeholders in efforts to expedite the pace of implementation of the R-ARCSS. Furthermore, the leadership provided briefings to the IGAD Council of Ministers, conducted separate consultations with the Parties to the Agreement, the Regional and international guarantors and diplomatic community, and held meetings with H.E Dr Riek Machar Teny, First Vice President, and the four Vice Presidents of the Republic of South Sudan.
81. The 71<sup>st</sup> Extraordinary Session of the IGAD Council of Ministers was held via video conference and included a presentation on the status of implementation of the R-ARCSS by the RJMEC interim Chairperson. The interim Chairperson carefully laid out the impediments to implementation, by detailing the several violations of the R-ARCSS, and the Parties unwillingness to compromise on the responsibility sharing at the State and local government levels. The Interim Chairperson also detailed a series of recommendations to the Council to be considered in addressing the situation. These recommendations were largely adopted by the Council and formed the basis of very clear instructions given to the Parties to remedy the situation through its communique.

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<sup>21</sup> The R-ARCSS called for the holding of the workshop four months after the start of the Transitional Period. However, the timing has been negatively impacted by the onset of the Covid-19 pandemic and tentative plans are being made for its staging later this year, as the situation warrants.

<sup>22</sup> Post Conflict Constitution Making Processes: Lessons and Best Practices for South Sudan.

82. The RJMEC leadership held consultative meetings with the First Vice President Dr Riek Machar as part of its effort to encourage progress on the outstanding issues in the Agreement. Separate meetings were also held with the four Vice Presidents on matters relating to the implementation of the R-ARCSS. In particular, they were requested at the time to assist the Parties in reaching agreement on the responsibility sharing formula. The members of the Presidency were also urged by the RJMEC leadership to use their good offices to promote wider acceptance of the R-ARCSS. Importantly, they were encouraged to work collaboratively with their various clusters to identify key tasks within the Agreement and to devise measures for their implementation.<sup>23</sup>
83. During the month of June, the RJMEC leadership met RTGoNU cabinet ministers, including the Minister of Foreign Affairs and International Cooperation and the Minister of Agriculture and Food Security. Issues relating to the tasks to be undertaken by the RTGoNU during the Transitional Period were discussed. Consultations were also held with the Minister of Defence, Hon. Angelina Teny and the chairman of the JDB, General Johnson J. Okot. The discussions focused on the outstanding security arrangements, intercommunal violence and ongoing security challenges. In particular, ways in which to move forward the process of redeploying the Necessary Unified Forces. Addressing the challenges facing the cantonment sites and training centres was also discussed.

### **III. Observations and Recommendations**

84. The RJMEC leadership has identified inter-communal violence as a major risk factor, at this time, to the successful implementation of the R-ARCSS. The persistent violence has resulted in scores of death and thousands of civilians have fled their homes seeking security elsewhere. In that regard, it welcomes the recent announcement of the formation of a Committee to investigate the violence, which is headed by Dr Wani Igga, Vice President. The Committee is tasked with: (i) coordinating with government and humanitarian agencies to provide relief; (ii) meet with community elders of Jonglei state and Pibor; (iii) identify root causes of communal fighting; and (iv) organize a peace conference of stakeholders. The Committee has 21 days to issue a report to the president on its findings.
85. Beyond the work of the Committee, RJMEC encourages the Parties to the Agreement, to step up their own efforts at bringing peace to the troubled communities. In the last quarter Report, the RJMEC Interim Chairperson warned about the security vacuum that was created due to the delayed resolution of responsibility sharing at the state level, particularly as it relates to the appointment of Governors. In that regard, the recent progress made in moving closer to a resolution in responsibility sharing is a very welcomed development.
86. It is, however, important that all the Agreement Parties are fully on board with the compromises being made in the spirit of collegiality, and continued collaboration in the implementation of the R-ARCSS. Changes made to *Article 1.16.1* of the R-ARCSS on responsibility sharing, amounts to an amendment to its provision, and requires that the

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<sup>23</sup> Each of the members of the Presidency are responsible for a specific cluster of ministries. First Vice President Dr. Riak Machar, 12 ministries within the Governance Cluster; Vice President Wani Igga, 11 ministries within the Economic Cluster; Vice President Taban Deng Gai, 5 ministries within the Service Cluster, Vice President Abdelbagi Hussein Akol, 3 ministries within the Infrastructure Cluster; and Vice President Rebecca Nyandeng De'Mabior, 4 ministries within the Gender and Youth Cluster.



Parties follow the procedure laid down in *Article 8.4* of the R-ARCSS.<sup>24</sup> Also, RJMEC continues to call on all the Agreement Parties to adhere to *Article 1.4.4* of the R-ARCSS on the 35% women's representation in their future nominations.

87. RJMEC continues to appeal strongly to all the parties involved in hostilities in the Equatorias to cease with immediate effect and to pursue peace, consistent with the Cessation of Hostilities Agreement (CoHA) signed in Addis Ababa in 2017 and the Rome Declaration of January 2020. The fighting in this area has destabilised the Equatorias, a situation made worse by reports of rape and violence against women. More generally, reports of SGBV incidents, constitute serious violations of the R-ARCSS and CoHA in particular *Article 2.1.10.2* of the R-ARCSS and *Articles 3.2. (g) and 6(a)* of the CoHA.
88. The SSPDF and SPLM/A-IO leadership are urged to take appropriate actions against perpetrators, and ensure that justice is done. They are also encouraged to continue to educate their forces on the provisions of the R-ARCSS, and to implement their respective action plans on addressing conflict-related sexual violence.
89. During this relatively early stage of the Transitional Period, it was hoped that the progress with implementation of the critical Pre-Transitional tasks deferred to the Transitional Period, in particular, the Transitional Security Arrangements (TSAs), would have been completed to enable redeployment of the NUF, but this has not been the case. Notwithstanding the adverse effects and restrictions caused by the COVID-19 pandemic and the delays in fully establishing the RTGoNU, progress in completing the TSAs and outstanding Pre-Transitional security tasks has been slow.
90. The status of cantonment sites remains problematic, as they continue to be abandoned by personnel in search of food and life support. The JDB and JMCC still do not appear to have central oversight of the state and condition of the cantonment sites. It remains unclear as to how many of the sites remain operational, the numbers of personnel in the sites and the state of logistic support and operational needs. However, it is clear from recent CTSAMVM reports that more needs to be done regarding the delivery of essential logistic support, particularly food, medicines and shelter equipment to both training centres and cantonment sites, a severe lack of which is creating concern in terms of command and control, management and morale.
91. Very little progress has been made in the critically important task of the screening, training and redeployment of the NUF.<sup>25</sup> Moreover, the provision of logistic support essential to maintain the operationalisation of the cantonment sites and training centres remain woefully inadequate, and in particular food, medicines and shelter. This has contributed to the large numbers of personnel abandoning both cantonment sites and training centres.

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<sup>24</sup> "This Revitalised Agreement may be amended by the Parties , with at least two-thirds of the members of the Council of Ministers of the RTGoNU, and, at least two-thirds of the voting members of the Revitalised Joint Monitoring and Evaluation Commission consenting to the amendment, followed by ratification by the TNL, according to the constitutional amendment procedures set out in the TCRSS, 2011 (as amended)."

<sup>25</sup> The 47 000 personnel in the training centres represent just over half of the 83,000 planned for the NUF and the 35,000 currently in cantonment sites and barracks are waiting for instructions to move to training centres for Phase 2 of the unification training.

92. The situation has been eased by the fact that a significant number of these individuals are cantoned in sites close to their own people, who continue to support them. However, cantonment sites and training centres cannot sustain the continued neglect by the RTGoNU. It is important that they remain operational in order to provide some support to those not selected for the NUF training, or failing to complete the training, and those who have elected to join the DDR process. This is crucially relevant at a time when the DDR Commission is not yet operational.
93. Concerning the implementation of Chapter V as it relates to Transitional Justice issues, RJMEC urges the RTGoNU to initiate engagement with the UN, AU and ACPHR with a view to identifying areas of support and collaboration; initiate legislation for the establishment of the CTRH, HCSS, and the CRA; initiate discussion with the AUC on terms towards the establishment of the HCSS; and establish modalities and processes to enable public consultations that inform the design of the CTRH legislation. This should be done by the Ministry of Justice and Constitutional Affairs in collaboration with other stakeholders and civil society.

#### **IV. Conclusion**

94. The onset of the COVID-19 pandemic has slowed implementation of the R-ARCSS, but cannot be blamed for the non-implementation of some tasks that were expected to have been undertaken during the reporting period. The delayed process in resolving the responsibility sharing at the state and local government levels, only exacerbated the intercommunal violence and contributed to the worsening humanitarian situation. The Parties to the Agreement must be reminded of their obligation to faithfully undertake the implementation of the R-ARCSS. Going forward, that means moving quickly to complete the structures of the RTGoNU, including immediate reconstitution of the TNLA, completing the Transitional Security Arrangements, initiating key economic and political reforms, and initiating establishment of the Transitional Justice institutions.
95. RJMEC on its part shall continue to impartially monitor, evaluate and report as it carries out its oversight responsibilities with regards to the implementation of the R-ARCSS, and intervene whenever necessary. RJMEC will also continue providing regular reports and briefings to the RTGoNU, the TNLA, the Chairperson of the IGAD Council of Ministers, the Chairperson of the African Union Commission, the AU Peace and Security Council, and to the UN Secretary-General and the United Nations Security Council.

**END**