



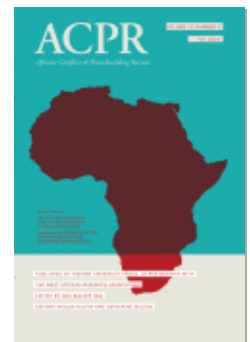
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A CRITICAL ASSESSMENT OF REPARATIONS FOR VICTIMS OF HUMAN RIGHTS VIOLATIONS IN DARFUR VIS-À-VIS INTERNATIONAL STANDARDS

Francesca Capone and Tommaso Totaro¹

ABSTRACT: *One of the peculiarities of the October 2020 Juba Peace Agreement (JPA) is the attention devoted to victims of human rights violations carried out during the decades of armed conflict in Darfur. After setting the scene and introducing chapter 4 of the Darfur Track of the JPA, this article critically examines its alignment with and incorporation of international and regional standards on victims' rights, in particular the right to reparation. To this end, this article focuses on the definition of victims, the forms of reparations, and the inclusiveness of the measures envisaged vis-à-vis relevant international benchmarks. Finally, the analysis provides an overview of the mechanisms, in particular the Compensation and Implementation Fund, created to implement reparations in Darfur.*

KEYWORDS: *Juba Peace Agreement, reparations, victims, Compensation and Implementation Fund*

INTRODUCTION

Since the first major outburst of conflict in 2003, different observers have reported and denounced several violations of human rights in Darfur. The International Commission of Inquiry on Darfur (ICID), pursuant to the UN Security Council (UNSC) Resolution 1564 of September 18, 2004, affirmed that violations of international human rights law (IHRL) and international humanitarian law (IHL) occurred, such as the perpetration by government forces and militias of “indiscriminate attacks, including the killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement, throughout Darfur” (ICID 2005, 3). Moreover, due to their widespread and systematic nature, the commission concluded that those acts amounted to international crimes, specifically crimes against humanity. Against this backdrop, the ICID proposed the establishment of an International Compensation Commission to provide reparations to the victims of international crimes committed by state organs, in particular those who were victims of rape (ICID 2005, para. 601). Since then, little has been done to redress violations. On the contrary, more human rights abuses have been reported. For instance, in 2018, the Report of the Independent Expert on the situation of human rights in Sudan highlighted that the root causes of the conflict were yet to be addressed, and the state of emergency in place since 1997 hindered the full enjoyment of fundamental human rights across the region (HRC 2018, 5). Furthermore, land occupation and violence targeting displaced persons continued, with sexual, gender-based, and conflict-related sexual violence (CRSV) being particularly severe at the hand of armed men, militias, military forces, and police (HRC 2018, 8–9). In 2021, the level of violence in the region increased, leading to widespread episodes of gender-based violence and growing numbers of displaced persons (Dabanga 2021b; 2021c; Norwegian Refugee Council 2021).

Yet, the country has never really addressed the issue of reparations for the victims of said violations. In the Doha Peace Agreement of 2011, “the right to an adequate, effective and prompt remedy and/or reparations for violations of IHRL and international humanitarian law” (art. 55) was considered one of the bases for justice and reconciliation. Moreover, the right “to financial compensation for the harm and losses [victims of conflict] have incurred as a result of the conflict” (art. 43) was envisaged. However, there have been few measures put in place, mainly due to the failure to apprehend and prosecute members of security forces, the absence of appointed international observers, the

issuing of an amnesty for war criminals, and especially the lack of funding (International Crisis Group 2014, 7–8).

In Sudan, the dearth of adequate reparations for more than fifteen years must be seen within the broader context of the absence of a comprehensive process of transitional justice (see Ndiloseh in this special issue). It is possible to argue that the lack of adequate reparative mechanisms is one of the reasons for the never-ending conflict situation, and it might easily amount to one of the circumstances that led to the 2021 coup. The link between the dire situation in Sudan, particularly in Darfur, and the necessity for justice and respect for human rights has been neglected by the literature after the normalization of the situation with the 2006 and 2011 peace agreements.

However, some general assumptions can be applied also to the Sudanese context, for example, it is well known that a human rights-based and strictly legal approach cannot satisfactorily explain all the factors leading to a conflict (Evans 2009; Thoms and Ron 2007). Similarly, transitional justice and peacebuilding need to be understood in the broadest and most holistic way possible (Parlevliet 2017). Furthermore, it is also well-established that there cannot be any long-lasting peace without a certain degree of accountability (Spears and Wight 2015; Nagy 2008, 276).

In relation to the Sudanese case, notable efforts have been devoted to analyzing specific topics, such as women's rights and their role in the peace process (Corcoran 2008; Schneider 2007), the relevance of the local traditional justice system (Kritz and Wilson 2010), and the mutual repercussions between the international criminal system and transitional law (Lipscomb 2006). However, it is impossible not to report the lack of sufficient analysis on the long-lasting victimization of the Sudanese population and its ramifications. It would be beyond the scope of the present article to further discuss how the scant attention paid to reparations and victims' rights at large has impacted and shaped the current Sudanese situation, but from a quick overview of the existing literature it is safe to affirm that additional study on the subject would be much welcomed. Thus, rather than aiming to fill a gap in the current scholarship, this article aims to trigger critical reflection on how the Juba Peace Agreement (JPA) deals with the issue of reparations and why this represents, at least potentially, a turning point for Sudan.

Within the transitional justice toolbox, reparations occupy a unique position in shaping a post-conflict transition or path toward democracy due to their "potential direct impact on victims" (de Greiff 2008, 2). Taking adequate measures in terms of reparations, therefore, can contribute to stabilizing the Darfur area and addressing some drivers of

conflict by consolidating the social fabric, offering closure to the victims, and resolving unsettled disputes. Although the doctrine was not unanimously accepted in the past (Tomuschat 2005), nowadays the general debate on the existence of an individual right to reparation recognizes that victims are entitled to claim reparations before judicial and non-judicial settings (Capone 2017, 70). The international recognition of victims' right to reparation led to the adoption in 2005 of the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Gross Violations of Human Rights Law and Serious Violations of International Humanitarian Law (UNBPG). This soft law instrument sets and crystallizes international human rights standards, as increasingly affirmed in the case law of international and regional judicial bodies as well as in the views expressed by UN treaty bodies. It follows that the UNBPG are considered as a benchmark for measuring state practice in relation to victims' rights, as well as by the African Court on Human and Peoples' Rights, as clearly stated in the court's comparative study on the law and practice of reparations (African Court 2019, vii) and reflected in its jurisprudence.²

In trying to adhere to the international and regional framework on reparations, the JPA has enshrined a section devoted to victims' redress, i.e., chapter 4 of title 2 called "Compensation and Reparation Protocol" and related to the "Darfur Agreement" (hereinafter "chapter 4"). After introducing chapter 4 on the rights of victims in Darfur, the present work aims to assess whether and to what extent the agreement matches and incorporates the standards established at the international and regional level. To this end, the article focuses on a number of particularly relevant aspects, e.g., the definition of victims, the forms of reparations, and the inclusiveness of the measures envisaged. Finally, the analysis will provide an overview of the mechanisms created to implement reparations in Darfur. In particular, it shall be emphasized from the outset that the Compensation and Reparations Fund lacks an adequate implementation mechanism. This, unfortunately, represents a common trait of most reparation programs and a mistake from which governments and donors alike have failed to learn any lesson yet (de Greiff 2008).

AN OVERVIEW OF THE JPA PROVISIONS ON REPARATIONS

Chapter 4 of the Darfur Track of the JPA is divided into three headings: general principles; rights related to compensation, restitution, and reparations; and Compensation and Reparations Fund.³ The chapter affirms the "right to have unimpeded access to effective justice and

redress mechanisms,” such as “remedy or reparation for damages arising from the conflict in Darfur and for violations of international human rights law and international humanitarian law” (art. 1). Partially recalling the most common phrasing of the international standard set by the UNBPG, the right to reparation, to which “individuals or communities in Darfur” (art. 3) are entitled, must be “adequate, effective, and prompt” (art. 1). Furthermore, the chapter lists the forms of reparations that can be provided to the victims, namely “compensation, restitution, rehabilitation, and/or satisfaction, and commemoration” (art. 2).

Crucial elements, which represent the first step to claim reparations, are victims’ access to justice and the existence of an adequate judicial framework. Victims’ redress is possible only if there are effective measures in terms of investigation, prosecution, and enforcement and also a certain level of participation of the victims in the investigative processes (Shelton 2015, 18). Within chapter 4, several provisions detail the actions to be taken to guarantee victims’ access to justice and their participation in the judicial proceedings. Besides a general provision to reform the justice system in order to “restore its professionalism, independence, and prestige” (title 1, art. 11), chapter 3 of title 2 deals also with reconciliation and transitional justice. The capacity of the judicial system and the reconciliation mechanisms are an essential part of the peace process, and they are necessary preconditions for the success of the Compensation and Reparation Fund envisaged in chapter 4.

The Definition of Victim

The UNBPG clarify in art. 8 that victims of gross violations of IHRL and serious violations of IHL are persons who suffered both physical or mental harm or an economic loss, individually or collectively, as a result of acts or omissions that constitute a gross violation of IHRL or a serious breach of IHL. Moreover, there can be both direct and indirect victims, the latter term referring to family members or dependents of those who suffered immediate harm. A similar standard has also been recognized at the regional level by the African Court in its limited jurisprudence (African Court 2019, viii). Moreover, the African Court has adopted almost identical wording in the guidance on reparations to applicants intending to file cases before the court (African Court 2020). This approach is different from the one adopted in chapter 4 of the JPA. According to art. 10.1 of JPA, victims are individuals or groups “affected by the conflict in Darfur,” and the article presents a list that includes rape survivors, mentally and psychologically injured persons, and “those who lost their property or whose basic rights were violated.” There is also

specific mention of the immediate family of the persons who suffered harm and non-combatants who suffered any damage or harm assisting persons in distress of preventing abuse.

It is pretty clear that the current definition is very broad and can potentially cover the whole Darfur population. As a matter of fact, chapter 4 does not provide a significant link between the reparation and gross violation of IHRL and serious violation of IHL. Therefore, it seems to fail to adequately consider one of the most severe tensions when providing reparation as a means of transitional justice, namely the balance between the vast number of persons involved and the limited capacity to provide reparations (van Boven 2009, 34–35). However, it is also possible to argue that the JPA aims at setting a framework that is context-specific, seeing reparations not as a stand-alone effort, but rather as a tassel of the whole peace process. Moreover, it is worth stressing that the most crucial aspect of the reparations process is represented by its actual implementation, which can contribute to overcoming some practical challenges, including the limited resources available, by focusing more on collective redress rather than on individual reparations.

Narrowing down the very broad focus of its own definition of victims and recognizing the harm suffered by specific groups, chapter 4 singles out some categories of victims affected by gross violations of human rights in paragraphs 10.2–10.6. In addition to “male and female survivors of rape,” the provisions focus on parentless, unaccompanied, and separated children. These categories have been explicitly mentioned due to the victims’ vulnerability and need of special protection measures, particularly within the Darfur context. The reference to rape is crucial in Darfur because of the systematic use of rape as a means of control and terror during the conflict (Hagan, Raymond-Richmond, and Parker 2005, 531; ICID 2005, para. 333–38), the endless occurrence of sexual violence, and the lack of an effective protection framework (OSRSG-SVC n.d.). With regard to children, it is well known that children can suffer particularly in situations of armed conflict both from direct effects—for instance, in the case of widespread and systematic attack against civilians or the recruitment of child soldiers—and indirect effects, such as psychological impacts, separation from families and displacement, and worsening of education and empowerment possibilities.

The Envisaged Forms of Reparations: Beyond Compensation?

The UNBPG envisage different forms of reparation, which are included in Principle IX: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Each one of these categories is detailed

in the UNBPG. Similar to what has been seen for the definition of victims, it is possible to affirm that the UNBPG standard on the forms of reparations is recognized also at the regional level and endorsed by the African Court in its case law (African Court 2019, 46–75; Capone 2020, 8).

Looking at the JPA, the forms of reparation set in chapter 4, art. 2 include “compensation, restitution, rehabilitation, and/or satisfaction, and commemoration.” The forms of reparation identified in the UNBPG are not fully transposed in the JPA, as, for example, there is no mention of guarantees of non-repetition, which serve the purpose of ensuring that systematic violations are eradicated through, for example, changes in the legislative framework of a given country. The Compensations and Reparations Fund, which is the body tasked with implementing reparations, is in charge of awarding the following types of redress measures: monetary compensation, medical and psychological rehabilitation, legal assistance and social services, creation of ad hoc places of memorialization and commemoration, and a general reference to “any other traditional form of compensation” (title 2, ch. 4, art. 12.9). It is not possible yet to compare in detail the international standard set out by the UNBPG and the reparations provided by chapter 4 because the agreement gives few details on the different forms of redress envisaged, indicating that the general goal of the reparations is to acknowledge the suffering and pain of the victims and also to restore their “dignity, security, and stability” (art. 4). Nonetheless, it is possible to make some preliminary observations.

First, chapter 4 places a strong emphasis on compensation, which is even mentioned in its title. According to the UNBPG, compensation should be regarded as one of the possible forms of reparations, without any hierarchy among the different types of redress (art. 20). Chapter 4 envisages compensation for a very broad range of situations, encouraging it for almost every damage, from personal to property and environmental. This approach seems to favor compensation over other possible redress measures, which could be deemed more adequate and effective by the victims themselves.

A second question that acquires particular importance is the restitution of land, which is one of the historical drivers of conflict in Darfur and compounded by the mass displacement after the conflict. During the armed conflict, lands were reallocated, and displaced persons who try to resettle into their Hawakeer (traditional land) may find them occupied, opening new disputes and violence about land rights and property (Olsson 2010). However, chapter 4 does not limit the provision of restitution or compensation—options that are not mutually

exclusive (art. 11.5)—to those who have been deprived of their land. It also includes access to water, cases of degradation of natural resources, and properties looted, damaged, or seized during the conflict (arts. 11.4 and 11.7–11.9).

Finally, only one form of reparation referred to in the agreement is entirely distinct from the international standard: traditional reparations. The JPA does not provide any further detail on how to implement them. Despite the lack of additional clarifications within the document, usually the traditional mechanisms in Darfur encompass the Native Administration and the connected dispute settlement mechanisms (see Antoniazzi in this special issue). This type of governance—locally born and institutionalized during the colonial period—traditionally deals with protecting an individual's life and property, even though it has been weakened and marginalized over the years (Abdul-Jalil, Mohamed, and Yousuf 2007, 40). The term "Native Administration" as such does not appear in the JPA, whereas it is possible to find several references to "local communities" (see Madibbo and Hassan in this special issue).

The Inclusiveness of the Redress Strategy: Specific Vulnerabilities and Needs

The JPA provides a very interesting case study when it comes to the inclusion of victims that are regarded as particularly vulnerable. This section focuses on the extent to which the JPA's approach is in line with the existing international legal standards. The Darfur Agreement, as discussed above, has adopted a very broad definition of victim, while at the same time singling out individuals and groups (both male and female) who suffered from rape, and children (divided into three main sub-categories: parentless, unaccompanied, and separated).

Before diving into these two specified groups of victims, it is worth reflecting on the notion of "vulnerability" and how this has been understood so far in the literature and in relevant instruments. An interesting aspect that emerges from the JPA is that the reference to vulnerability does not appear in chapter 4 of the agreement, so it is never explicitly expressed when talking about victims who are entitled to reparations. Instead, it comes out in other parts of the document, for example in chapter 5 (title 2), which deals with internally displaced persons (IDPs) and refugees. Under international human rights law, the term "vulnerability" is not defined in any legal document, mainly due to its multifaceted and never-static character. Yet, the concept is increasingly referred to in human rights discourse (Flegar and Iedema 2019, 2), and it is possible to affirm that vulnerability is traditionally viewed as a negative

state that, by engaging notions of affinity, concerns the international community (O'Donnell 2019, 575). To use Ippolito's (2020, 10) words, "[a] person's risk of suffering harm—her vulnerability—is the incremental outcome of a set of distinct but related risks, namely: the risk of being exposed to a threat, the risk of a threat materializing, and the risk of lacking the means to deal with a threat." Although vulnerability has not been expressly used as a "distribution" criterion for the purposes of chapter 4 of the JPA, it is still possible to claim that it prompted placing particular emphasis on victims of rape and children.

In relation to victims of rape, which, as specified in the text of the agreement itself, include both male and female, a number of critical observations can be made. First, the declared equivalence between male and female betrays the widely proclaimed application of the "principle of positive discrimination," which permeates the whole text of the JPA (title 2, ch. 1, art. 28.1).⁴ The Committee on the Elimination of Discrimination against Women (CEDAW Committee), the body that monitors the implementation of the Convention on the Elimination of Discrimination against Women (CEDAW), which Sudan was very close to finally accessing in April 2021,⁵ has authoritatively expressed its views on the principle. In its general recommendation no. 25, the CEDAW Committee explained that the term "positive discrimination" is another word to refer to the "temporary special measures" included in art. 4.1 of the CEDAW, which aim to accelerate the equal participation of women in the political, economic, social, cultural, civil, or any other field. According to the committee, the application of these measures does not represent an exception to the norm of non-discrimination, but it is part of a necessary strategy by state parties toward the achievement of de facto or substantive equality of women with men in the enjoyment of their human rights and fundamental freedoms.⁶

As a means to ensure equality in the enjoyment of human rights, which also include the right to a remedy and reparation (Shelton 2015), the resort to special measures to facilitate women's access to the various forms of redress envisaged in the agreement would have represented a significant step forward. Instead, and contrary to the approach recommended by the UN Secretary-General in his Guidance Note on Reparations for Conflict-Related Sexual Violence (2014) and unanimously advocated for by the experts in the field (Ní Aoláin, O'Rourke, and Swaine 2015; Rubio-Marin 2006; Rubio-Marin and Estrada-Tanck 2020),⁷ the JPA has blatantly failed to incorporate measures to address gendered harm and its consequences.

A further, and interlinked, consideration stems from the reference in the JPA only to "rape," thus excluding all other forms of CRSV

that encompass forced pregnancy, forced sterilization, forced abortion, forced prostitution, trafficking, sexual enslavement, and forced nudity (Ní Aoláin, O'Rourke, and Swaine 2015, 98). Although, undoubtedly, men and boys are also victims of CRSV, a number of empirical studies show that women and girls are the primary targets for such violence (also in non-conflict settings) and that “a generic gender-focused approach can operate to obscure the range and consistency of harms experienced by women” (Ní Aoláin, O'Rourke, and Swaine 2015, 104–8).

With regard to child victims, the other category singled out in the JPA, the agreement places emphasis only on parentless (or orphan) children, unaccompanied children, and separated children. The document clearly relies on the UN lexicon (Inter-agency Working Group on Unaccompanied and Separated Children 2013, 15),⁸ as later endorsed and referred to by governments, lawmakers, and practitioners. However, the choice to focus only on one group of children, essentially those who have lost their support systems, is at odds with the UN approach on children and armed conflicts. That approach, starting with the adoption of the first report on the impact of armed conflict on children (Machel 1996), has always been characterized by the recognition of a wide array of situations, factors, and violations that disproportionately affect the well-being of children in the context of war.⁹ Ignoring the causes of victimization and focusing solely on one of the possible consequences of said victimization offers a limited account of the harm suffered by the children caught in the middle of the conflict that occurred in Sudan. In 2020 alone, the UN Secretary-General Annual Report on Children and Armed Conflict (2021a, 22–23) documented and verified 292 grave violations of international law against 274 children (143 boys, 131 girls). The violations suffered encompass killing and maiming, recruitment and use as child soldiers, rape and other forms of sexual violence, attacks on schools and hospitals, and abduction. Regardless of whether the children have been left to fend for themselves or can rely on the support of a family member or a legal guardian, each and every one of them, according to the current human rights standards (Capone 2017), should be entitled to adequate, prompt, and effective reparations.

THE IMPLEMENTATION MECHANISMS

As is well known, the current situation in Sudan keeps deteriorating in the aftermath of the coup that dissolved the transitional government, which, of course, has also impacted the implementation of the JPA. Recent reports have shed light on intercommunal violence, attacks against civilians, and human rights violations, including CRSV, being

committed in Darfur and in the rest of the country (UNSG 2021b). Moreover, after seizing power, Sudan's military leadership is facing increasing isolation at home and abroad, as it tries to tighten its grip in the face of protest movements and Western states that had invested in a democratic transition (Lewis 2021).

In addition to the dramatic consequences that Sudan is confronting from a social and diplomatic perspective, it is worth stressing that the coup has also taken a massive toll on the country's scarce financial resources. When the agreement was signed, many experts who commented on the JPA and its future implementation anticipated that in order to achieve the goals set in the document, Sudan "would need sustained and generous support from regional and international partners" (Ostapchuk 2021). Unfortunately, in response to the coup the World Bank suspended its aid to the country, the African Union (AU) suspended Sudan from the bloc over the "unconstitutional" seizure of power, and the US has frozen \$700 million in aid (Soy 2021). The country's instability, coupled with the lack of financial resources and the prospect of not getting any help from the international community, are going to represent major challenges for any attempt to move forward with the implementation of the JPA.

In order to secure reparations to the victims, the signatories of the JPA had foreseen the design of a complex set of mechanisms and bodies, but due to the situation outlined above they have not yet been established. Besides the creation of the main implementing body, the Compensation and Reparations Fund in Darfur (CRFD or "the fund"), the JPA also called for the setting up of the Darfur Peace Support and Sustainable Development Fund, tasked with providing resources to the CRFD. Furthermore, the document states that the fund shall cooperate and coordinate with other commissions, especially the Commission for the Return of IDPs and Refugees, the Development and Reconstruction Commission, the Lands and Hawakeer Commission, the Truth and Reconciliation Committee, the Special Court for Darfur Crimes, and the mechanisms of traditional justice (title 2, ch. 4, art. 12.15). According to chapter 4, the parties shall agree on the "organizational and functional structure of the Compensations and Reparations Fund" within the framework set by the document (art. 12.2), and the internal "regulations, rules, procedures, and decision-making methods" are set by the fund itself (art. 12.3). The chapter provides indications on how the fund will work, such as women's representation in "at least 40 percent of the functional structure of the Fund" (art. 12.4). This is a pledge enshrined in title 1 of the JPA (art. 1.20), which applies transversally to all the envisioned bodies, but, according to several civil society

organizations, the deposed transitional government was never going to live up to it (Dabanga 2021a). Moreover, the procedures adopted by the fund shall be “simple, accessible, transparent, enforceable, free of charge,” should take into consideration specific vulnerabilities (ch. 4, art. 12.6), and shall be made public within one year from the signing of the JPA (arts. 12.7 and 12.10).

With regard to the creation of an impartial overseeing mechanism to guarantee the correct functioning of the fund, the JPA is silent, generally affirming that “regular revision shall be undertaken to ensure the optimal use and distribution of funds allocated to compensate victims, in accordance with the financial procedures applicable in such cases, including the principles of equality of gender and age,” and adding that “all necessary measures to maintain the independence and integrity of the Compensation and Reparations Fund shall be taken” (title 2, ch. 4, arts. 12.16 and 12.17). Clearly, this represents a crucial aspect for the implementation of any reparations program, regardless of the specific context and forms that redress measures will take. Yet, Sudan’s loose approach toward the issue of enforcement and oversight is not unusual; on the contrary it fits within a wider and, unfortunately, well established trend (Capone 2017; Dixon, Moffett, and Rudling 2019; Evans 2012, 129–44).

CONCLUSION

This article examined and discussed how the JPA addresses victims’ rights, in particular their right to a remedy and reparation, and it provided a critical overview of the main issues at stake. The analysis carried out moves from the assumption that the dearth of adequate redress measures for more than 15 years has had a significant impact on the current situation in Darfur and more generally in Sudan. The lack of a comprehensive transitional justice process has always represented a driver to further conflicts and violence, ultimately culminating in the coup that occurred in October 2021 and the subsequent riots and protests.

By including a specific chapter focused on the rights of victims, the JPA certainly tried to overcome the impasse and contribute to rebuilding the country’s social fabric. Yet, the agreement departs in many aspects from the international human rights standards on the right to reparation, which have been elaborated and upheld at the international and regional level. As a framework, however, the JPA is a viable launching point, and the challenges highlighted here should be tackled subsequently during the implementation stage.

The present analysis has showed the extent of the difference, in some instances ascribable to the need to address Darfur's peculiarities, between the supranational framework and the approach envisaged by the JPA, focusing on three relevant aspects: the definition of victims, the identification of the forms of reparations, and the special attention devoted to particularly vulnerable categories of victims. Ultimately, the work discussed the lack of adequate implementation mechanisms to ensure the smooth functioning of the Compensation and Reparations Fund. This represents, unfortunately, a shortcoming common to most redress strategies and programs, which, in the case of Sudan, is further exacerbated by the dire situation that the country is facing.

NOTES

1. Francesca Capone authored the following sections: "The Inclusiveness of the Redress Strategy Set up by the JPA (and the Extent to which those Measures Take into Account Specific Vulnerabilities and Needs)," "A Glance at the Implementation Mechanisms," and "Conclusion." Tommaso Totaro authored the following sections: "Introduction: Setting The Scene, Aim and Structure of the Article," "An Overview of Chapter 4 of the JPA and the Compensation and Reparations Fund," "The Definition of Victims," and "The Envisaged Forms of Reparations: Beyond Compensation?"

2. *Zongo et al. v. Burkina Faso*, Application No 013/2011, Judgment on Reparations, 5 June 2015, para 47.

3. While chapter 4 deals specifically with the provisions for the Darfur area, there are also some articles in title 1 that provide a general framework under which to interpret the Darfur Track. In particular, art. 1.22 highlights the importance of accountability, reconciliation, and transitional justice and lists the means to reach justice. Another example is art. 17 (title 1) on "General Amnesty," which demands the government to return confiscated property seized during the war.

4. "The Parties agree to address the imbalance in the representation of the men and women of Darfur in the national civil service as defined by the committee referred to in the aforementioned paragraph by applying the standards of population proportionality and positive discrimination, while taking stock of the advantages and disadvantages of previous experiences and taking standards of qualification and competence into consideration" (JPA, title 2, ch. 1, art. 26.5).

5. Notably, the Sudanese government voted in favor of accessing the CEDAW on April 29, 2021, but made some controversial reservations, in particular the refusal to endorse the notion that women are equal with men at all political and social levels and have equal rights in marriage, divorce, and parenting. Ultimately, and in spite of those reservations, the accession process was

blocked by a *fatwa* (ruling) by the Fiqh (Muslim jurisprudence) Academy that falls under the Ministry of Religious Affairs and Endowments.

6. UN Committee on the Elimination of Discrimination against Women CEDAW, General recommendation no. 25, on art. 4.1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures, 2004, para. 18.

7. Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation, adopted by civil society organizations and women activists in 2007, underscoring certain violations with a disparate impact on women as well as the notion of gender-sensitive and transformative reparations.

8. Parentless children are defined as children both of whose parents are known to be dead. Unaccompanied children are children who have been separated from both parents and other relatives and are not being cared for by an adult. Separated children are those separated from both parents or from their previous legal or customary primary caregiver, but not necessarily from other relatives.

9. For more on the so-called UN architecture on children and armed conflicts, see <https://childrenandarmedconflict.un.org>.

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