

Prospects and Challenges of Peacemaking

The Case of the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan

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The state of South Sudan has long been predicted to face challenges in its uncertain transition from a state of protracted civil war to statehood and nation building. It is the world's youngest nation and one of the poorest members of the United Nations. The Comprehensive Peace Agreement (CPA), signed in January 2005, partly concluded several decades of one of the longest civil conflicts in Africa between the Sudanese people. The CPA implementation culminated in a historic referendum that led to the declaration of an independent state of South Sudan on 9 July 2011.

In February 2009, the Wunlit Conference gave expression to the role of traditional authorities in national confidence and trust building related to post-conflict South Sudan. However, the deep and unresolved ethnocentric and power disputes amongst the top political leadership of the Sudan People Liberation Movement/Army (SPLM/SPLA), and especially between President Kiir and the opposition leader, Riek Machar, continued to bedevil any opportunities for a sustainable peace agreement and peacemaking after the outbreak of deadly violence on 15 December 2013. The Intergovernmental Authority on Development (IGAD) heads of states convened an extraordinary summit in January 2014 to stop the escalation in the crisis of political leadership. By August 2015, an Agreement on the Resolution of the Conflict in South Sudan (ARCSS) had been mediated and signed between the warring parties, paving way for the formation of the then-Transitional Government of National Unity (TGoNU). However, just a few months before its implementation, the ARCSS collapsed due to violent clashes between the forces of the president and his former vice president on 9 July 2016. IGAD intervened further, managing to broker another cessation of hostilities agreement and initiate the revitalization of ARCSS in Addis Ababa in March 2017.

On 12 September 12, 2018, in Addis Ababa, the government of South Sudan under President Salva Kiir, various armed and unarmed opposition groups, and other parties, including the SPLM/A-IO led by Dr. Riek Machar, signed a peace deal – the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) aimed at ending the civil war. The R-ARCSS was mediated by IGAD and facilitated by the Government of Sudan. The R-ARCSS provides for the establishment of a Revitalized Transitional Government of National Unity (RTGoNU) whose term of office shall be 36 months, commencing eight months after signing of the R-ARCSS (as of September 12) or on completion of redeployment of “necessary unified forces.” The Agreement provides that Kiir shall continue as president of South Sudan, with Dr. Machar assuming the position of the first vice president. According to the R-ARCSS, the RTGoNU shall be comprised of five parties:

1. The Incumbent TGoNU, comprising of: the former GRSS; the former SPLM/A-IO (led by Gen. Taban Deng Gai); and the Other Political Parties in TGoNU and represented, as such, at the HLRF;
2. The SPLM/A-IO (led by Dr. Riek Machar);
3. The Former Detainees (FDs);
4. Other Political Parties (OPP) outside of the Incumbent TGoNU including Alliance, Umbrella and political parties participating as such at the HLRF; and
5. The South Sudan Opposition Alliance (SSOA).

In addition to the president and the first vice president, the R-ARCSS provides that there shall be four other vice presidents in the Republic of South Sudan, who shall be nominated as follows:

1. Vice president to be nominated by incumbent TGoNU to oversee economic cluster;
2. Vice president to be nominated by SSOA to oversee services delivery cluster;
3. Vice president to be nominated by incumbent TGoNU to oversee infrastructure cluster; and
4. Vice president to be nominated by FDs, who shall be a woman, to oversee the gender and youth cluster.

The first vice president (i.e. Dr. Machar) shall oversee the governance cluster. According to the agreement, apart from the first vice president, there shall be no hierarchy among the vice presidents and the ranking provided for in the agreement is “for protocol purposes only.”

The R-ARCSS also provides details for the breakdown of the Council of Ministers and Deputy Ministers between the various parties and groupings, how the Transitional National Legislature (TNL) will be comprised, and how the Transitional National Legislative Assembly (TNLA) and Council of States shall be composed.

With regard to the Council of States, the 2015 ARCSS was signed on the basis of 10 states that existed per the South Sudan Transitional Constitution. However, the government later increased the number of states to 28 and later 32, a move the opposition called illegal and a violation of the Constitution and the ARCSS. The R-ARCSS now provides that, within two weeks of the signing of the R-ARCSS, the IGAD Executive Secretariat shall appoint an Independent Boundaries Commission (IBC): “The function of the IBC shall be

to consider the number of States of the Republic of South Sudan, their boundaries, the composition and restructuring of the Council of States and to make recommendations on the same,” states the agreement, with the IBC to complete its work within 90 days. Should the IBC fail to report, it will be transformed into a Referendum Commission on Number and Boundaries of States (RCNBS).

The agreement also provides for IGAD to appoint a Technical Boundary Committee (TBC) to define and demarcate the tribal areas of South Sudan as they stood on 1 January 1956 and the tribal areas in dispute in the country. The IBC and RCNBS are to take full account of the report of the TBC, which will form the basis for their decision and formulation of the question for the referendum. It is stated in the agreement that in the event that any tribe claims that the TBC report is violated, that tribe is entitled to resort within a maximum of two years of the alleged violation to arbitration and bring its case against the RTGoNU or any subsequent government of South Sudan before the Permanent Court of Arbitration at The Hague.

The text of the agreement reveals that R-ARCSS shall establish a transitional constitutional court and also provides for reforms of the judiciary, including but not be limited to the review of the Judiciary Act during the Transition; and the establishment of an ad hoc Judicial Reform Committee (JRC) to study and make recommendations to the RTGoNU for consideration.

Is the Peace Agreement and Peacemaking in South Sudan Sustainable?

According to Jean Arnault,¹ Center of International Studies, Princeton University, a good agreement will result in a durable peace, while a bad agreement will result in delays, setback, or even the collapse of the peace agreement implementation process. This article will shed light on the challenges and opportunities of both governance and security arrangements, and their role in enabling a sustainable peace agreement and peacemaking in South Sudan, and particularly the recently signed revitalization peace agreement. It is important to note that the major cause of the crises was the fall-out within the SPLM/A top leadership, and the consequent divide between the South Sudanese major ethnic groups (the Dinka and

¹ Jean Arnault, (2001), Lesson for Mediation, Center of International Studies, Princeton University

the Nuer) along ethnic lines, combined with the heightened mistrust and incoherent working relationship at the top of the SPLM/A. Many South Sudanese think that the unfortunate demise of Dr. John Garang De Mabior (the movement's leader since 1983) in a plane crash in June 2005 created the leadership vacuum and the subsequent confusion in the organization's vision.

Attention regionally and internationally has shifted to the implementation of the signed R-ARCSS between the government and armed and unarmed opposition groups. Its implementation is important because it will end the past two years of resumed violence after the collapse of the ARCSS signed in Addis Ababa, Ethiopia, in August 2015. However, the unresolved post-conflict issues limit the chances for a durable peace agreement. These issues include, for example, weak institutional capacities (corrupt practices across different government levels and the misuse of authority), problems regarding viable political space, ethnically based politics, intertribal communal conflicts along borderlines regarding cattle grazing pastures, possession of illegal arms by civil populations and a lack of socioeconomic development.

For South Sudan's progress on the path to state and nation building to meet the benchmarks set by UNMISS and to emerge from its fragile post-conflict position, considerable work will be needed. The CPA and other subsequent peace agreements such as R-ARCSS have barely begun to foster the required security, peace and stability. In March 2018, at an extraordinary meeting of the IGAD heads of states in Addis Ababa, Ethiopia, the South Sudanese parties were encouraged to cooperate in IGAD's efforts to revitalize the 26 August 2015 peace agreement. A ceasefire agreement was signed by the parties, but its implementation remained shaky with several reports of continued violations, with the United Nations observer group continuing to raise concerns over attacks on civilian populations by the forces of the warring parties. Overcoming these challenges requires serious measures from the regional and the international community alike, in addition to those from the South Sudanese parties.

The governance power-sharing deal signed on 5 August 2018 (a subset of the R-ARCSS) is believed to be flawed, including by the TROIKA countries (Norway, the USA and the UK) involved in helping South Sudan to emerge from the

decades of conflicts. The leadership fallout within the SPLM has opened up issues surrounding weakened leadership resulting in malfeasance, self-interest and disregard for citizen priorities. Fortunately, Salva Kiir and Riek Machar have yielded to regional and international community pressure to reconcile their differences and have both agreed to work together. Similarly, the alliances of opposition inside and outside South Sudan, despite their dissatisfaction, have joined in signing the R-ARCSS. Efforts to help the South Sudanese leaders to reconcile and amend their working relationship remain problematic despite the humanitarian crisis and grave human right violations. IGAD and other members of the international community continue to exert pressure on the parties to ensure that the R-ARCSS is fully implemented and refugees and internally displaced persons (IDPs) return back to their homes.

According to Kate A. Knopf, stabilizing a nascent state such as South Sudan would require transforming extractive or predatory political and economic norms into inclusive, accountable institutions to manage political contests nonviolently and provide a good environment for sustained economic growth.² Trust-building is the bedrock upon which the desired working relationships in an organization are built among political leaders to attain their vision and mission. The role of traditional authorities, such as shown through the Wunlit Conference that operated at a grassroots level, are helpful in building trust and confidence amongst the neighboring communities. However, the authority that they can exercise in such a role largely depends on the prevalence of security and the political will amongst the main rival parties at the national level. The Wunlit Conference was able to achieve some success because of the implementation of

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the CPA. For example, today the three neighboring communities of Greater Lakes (Rumbek), Warap and Western Upper Nile have been able to maintain community peace with the exception of a recent flare up of military engagement due to the SPLM/A

political power rivalry. Similarly, the national dialogue established by the government can function only if a peace agreement has been reached by the parties and implemented. Other civic society organizations can foster programs of peacebuilding to assist in building a sustained peace.

² Kate A. Knopf, Consultant, Africa Center for Strategic Studies, Washington DC.

Governance and security arrangements are fundamental to any peace agreement and its implementation. Drawing on experiences in other post-conflict states, three critical tasks are important for building the momentum for peace: ensuring public safety and security, strengthening the capacity of the government, and creating peace dividends. The failure of most post-conflict peace agreements, including in South Sudan, are mainly the result of flawed modalities for the implementation of the security arrangement.

The current R-ARCSS agreement between the South Sudanese parties faces challenges related to the provision of public safety and security assurances. The implementation of the security arrangement is viewed by many as an exact replica of the past failed security deal that allowed for a recurrence of violence. The public are unsure whether the proposed role for regional forces and the proposed joint integrated forces of the warring parties will provide the necessary security and public safety during the pre-transitional arrangement or thereafter.

Ashraf Ghani, the president of Afghanistan, says that people in failing states know that it is the dysfunctional state that stands between them and a better life. He argues for decisive, legitimate governments that have a strong social contract with their own citizens and the international community.³ This has been recognized for a considerable time: To take one example, all representatives of fragile states at the High-Level Forum on Aid Effectiveness in Accra, Ghana, September 2008, acknowledged the importance of legitimate government.

Provision of just and equitable employment opportunities to the diverse communities of South Sudan, and the provision of basic services such as clean drinking water, health services, education and food security, amongst others, in a transparent and accountable manner are important peace dividends for poverty-ridden communities to recover from the state of abject poverty created by years of relentless violence in the

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country. Often times, such unprecedented and complex conflict situations are fraught with the problems of conflict definition, rules of engagement and strategies. All of these are separate but connected: Often seen

on a peace process continuum, they require different strategies to bring about holistic stability and transformational solutions. Importantly, it is primarily the South Sudanese parties who must use this opportunity to build confidence, trust and reconciliation amongst themselves to achieve a durable peace. They should focus on creating a conducive environment for ensuring public safety and security, and thereby fairly disburse peace dividends amongst the population to restore hope and tranquility.

The Khartoum-facilitated R-ARCSS revitalization no doubt carries over some unresolved issues into its implementation, yet many consider it a miraculous opportunity after years of IGAD mediation. Some of the described shortcomings would require a separate set of follow-up strategies between the guarantors (IGAD, TROIKA and the UN) and the parties. Primarily, the issues of executive and legislative power, the security and safety of opposition leaders and supporters, federalism, the thirty-two states, counties and states boundaries must all be addressed. It is a known fact that most agreements fail because of lack of balance in executive and legislative power-sharing between the parties, the current R-ARCSS is a case in point and is a replica of the collapsed peace agreement brokered by IGAD and signed on August 2015.

The revitalization of the ARCSS is not free from this dilemma, especially as no one is yet sure whether the agreement will be implemented in its current form, give the technical limitations that it faces.

The IGAD Council of Ministers continues to facilitate the final steps but there are doubts about the agreement comprehensiveness and whether it will herald the needed transformation considering the plethora of irregularities that colored the process. However imperfect it is, there is hope though as the government of Sudan, the lead mediator, expressed willingness to commit its resources at all levels to ensure the implementation of the agreement. During the 5 August 2018 signing ceremony in Khartoum, Omar Hassan Al Bashir, the current president of Sudan stated that the security and the economy of South Sudan and Sudan are interdependent: "It

³ Ashraf Ghani, Afghan president, statement at Aid Effectiveness Conference, Accra, Ghana, 2004

is incumbent upon us, the Sudanese, to help our brothers from South Sudan to have durable peace through comprehensive implementation of this agreement”.⁴ It is hoped that some of the shortcomings of the agreement implementation will be addressed, creating an opportunity for the people of South Sudan to have peace, and bringing to an end the violent conflict with its accompanying mass internal displacement.

About the Author

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⁴ Omar Ahmed El Bashir, president of the Republic of Sudan, (25th August 2018), Signing Ceremony of the South Sudanese Opposition Groups of the Governance and Security Arrangement Agreement, Republican Palace, Khartoum, Sudan.