

Learning From the Past: The Way Out of South Sudan's Crisis

Merging lessons learned from the Wunlit Conference of 1999, the Sudans' Comprehensive Peace Agreement of 2005–2011 and the Agreement on the Resolution of Conflict in South Sudan 2015–2018.

Mabior P. Mach

Independent Media Consultant Juba, South Sudan

Introduction:

On June 25, 2018 in Khartoum, President Salva Kiir and the leader of the major armed opposition, Dr. Riek Machar, signed an agreement declaring a ceasefire between their forces throughout the country and committing themselves to reaching another comprehensive agreement. This step follows disagreements during the second phase of a forum intended to ostensibly revitalize the Agreement on Resolution of Conflict in South Sudan (ARCSS). The regional bloc mediating the process, The Intergovernmental Authority on Development (IGAD), convened the recent meetings of the High-Level Revitalization Forum (HLRF) at the end of May 2018. However, despite the presence of church leaders, the parties failed to reach consensus on key issues and rejected a power-sharing proposal that IGAD eventually submitted. But on August 30, 2018 in Khartoum, Kiir and Machar initialed the revitalized agreement (R-ARCSS) and officially signed it in Addis Ababa on September 12, 2018, bloating the future unity government with several ministers and vice presidents. Rushing through a power-sharing agreement without resolving the root causes of the conflict is not only a meaningless political experimentation, but an unnecessary formalization of hypocrisy and the use of force to access political power. It deprives the voice of reason the power it deserves in shaping democracy. It rewards violence, incentivizes anarchy and, pathetically, cements the foundations for durable political instability and civil strife.

A moral, acceptable and just mechanism should understand the causes of the conflict, objectively identify the negative and positive actors, and set forth the basis for working with truth, discouraging hypocrisy, lies and deceit.

This paper, therefore, builds on lessons learned from the Wunlit Peace Conference of 1999 (WPC), the 2005 Comprehensive Peace Agreement (CPA) that ended the war in Sudan and led to independence of South Sudan in 2011, and the 2015 ARCSS that was to be resuscitated through the IGAD-led HLRF, to outline the key elements that in the author's view would constitute a working solution to the conflict in South Sudan and safeguard democracy in the long term.

Overviews of the Peace Agreements:

Wunlit Peace Conference (WPC), February–March 1999:

In 1991, a brutal split shook the then-rebel movement, the Sudan People's Liberation Movement/Army (SPLM/A).¹ Another division occurred within the SPLM/A in 2013, this time constituting South Sudan's ruling party/national army, resulting in widespread violence, population displacement and killings.² The 1991 split took place when Dr. Riek Machar and Dr. Lam Akol, who were senior commanders in the SPLA, announced the ouster of their chairman and commander in chief, Dr. John Garang, accusing him of human rights abuses and dictatorial behavior. Soon, fighting in areas that resisted Dr. Riek's supposed new leadership quickly took on ethnic undertones, leading to the infamous Bor Massacre, in which thousands of civilians were brutally killed in the Dinka Bor area, the hometown of Dr. Garang.

Dr. Riek's group eventually disintegrated, with Dr. Lam forming his own faction. In 1996, after Dr. Garang's faction had retained and even won more support, Dr. Riek fled to Khartoum, where he signed the Khartoum Peace Agreement (KPA) in 1997. Although the KPA elevated Dr. Riek to the position of assistant president and promised self-determination for southern Sudanese, it remained unimplemented. Meanwhile, violent confrontations between the Nuer and the Dinka persisted. In 1998, to end the continued civilian deaths, the Sudan Council of Churches held a reconciliation conference for community chiefs from both Nuer and Dinka on the West Bank of the River Nile.³ This led to the WPC in Tonj, in the Bahr al-Ghazal region. Participants agreed to avoid attacks on each other and use dialogue to resolve disputes as opposed to mobilizing armed soldiers from one's

ethnic group.

However, the WPC notably adopted a “let's unite against Khartoum” approach that fell short of delivering justice for victims. Dr. Riek reluctantly supported the WPC agreement in the hope that it would generate more pressure on Khartoum to fully implement the KPA.⁴ The WPC, therefore, effectively managed to halt the violence but did not heal the wounds, with the result that any subsequent misunderstanding could easily tear apart the relative calm and re-open old wounds. In addition, the conference had no mechanism for ensuring long term mutual harmony.

A moral, acceptable and just mechanism should ... set forth the basis for working with truth, discouraging hypocrisy, lies and deceit.

The CPA 2005–2011:

After the WPC, the SPLM/A started reuniting. In 2002, Dr. Riek left Khartoum and returned to the fold; in 2003, Dr. Lam, who took his own path to Khartoum in September 1997, also rejoined the SPLM/A. In 2005, the CPA was signed, ending the longest war in Africa and paving the way for independence of South Sudan on July 9, 2011, after a referendum six months earlier. Fundamentally, the CPA was crafted around a “one-country, two-systems” approach, with the aim of transforming Sudan from a prospective Arab monolithic hegemony into a secular New Sudan of equality, justice and prosperity for all.⁵ It addressed contentious issues such as the separation of religion from the state, the exploitation of resources in southern Sudan and the neglect of the region's development, the dispute over the Abyei region, the identity of the people of the Blue Nile and Southern Kordofan, and self-determination for the people of southern Sudan.

In order to make all parties vital stakeholders in ending the war and transforming Sudan, the CPA guaranteed reasonable participation of all political forces in the country. The CPA, however, was too idealistic in ignoring the differences amongst the southern Sudanese, given that it was attempting to first address the national decay. Thus, it failed to resolve historical injustices. The success of the CPA also hinged on an unwritten rule of two states and two systems under one federal government. There were two armies because the southern Sudanese felt they needed to retain a force to defend the

1 Additional information is available on Global Security website, under an article titled ‘South Sudan – Tribal War’, available on <https://www.globalsecurity.org/military/world/war/south-sudan-1991.htm>

2 A UN report details the incidents of killing. See the link: <https://reliefweb.int/sites/reliefweb.int/files/resources/UNMISS%20Conflict%20in%20South%20Sudan%20-%20A%20Human%20Rights%20Report.pdf>

3 Further information is provided by the Human Rights Watch, in an article titled ‘The Wunlit Nuer-Dinka reconciliation process’, available on <https://www.hrw.org/reports/2003/sudan1103/13.htm>

4 For more information, see <https://www.hrw.org/reports/2003/sudan1103/13.htm>

5 A copy of the CPA is available on <http://www.icnl.org/research/library/files/Sudan/SummaryCPA.pdf>

deal against violations, after a lengthy record by Khartoum of renegeing on and dishonoring agreements. However, the provision on Joint Integrated Units (JIUs) created reassurance and affirmed the belief that Sudanese were, indeed, still one people who could resolve their differences, thus maintaining a level of hope for unity.

ARCSS, August 2015–October 2018:

There is no consensus about the gunfire that erupted in Juba on December 15, 2013, and plunged South Sudan into war even before the new country had celebrated its third Independence Day. Some believe Dr. Riek had attempted a military coup after failing to secure his interests at the ruling party conference on December 14, 2013.⁶ That conference was held five months after Dr. Riek was sacked from his position of vice president, a seat he had occupied since 2005. Dr. Riek, along with a range of ministers and senior party officials who had lost their jobs, reacted with threats to national security, incitement of the armed forces, and with an angry bid to oust their boss⁷. But others believe that President Kiir enacted a drama to allow him to purge political dissent.⁸ A group of ¹¹ senior SPLM members and former ministers were arrested and charged for allegedly taking part in the “coup,” but the trial abruptly ended in early 2014 after pressure from diplomats and regional leaders.⁹ This group became known as the Former Political Detainees (FDs).

However, what's clear is that the gunfire stemmed from a clash among the Presidential Guards, known as Tiger, between those allied to President Kiir and those allied to Dr. Riek Machar.¹⁰ Some SPLA generals from different units

6 Dr. John Akech of the University of Juba provides more information on this, in the article: South Sudan: Making Sense of December the 15th, Start of War – Part 1 and 2, available on <http://www.sudantribune.com/spip.php?article55339>; <http://johnakecsouthsudan.blogspot.dk/2014/01/>

7 More information is available on <http://www.sudantribune.com/spip.php?article49087>

8 For further information, see <https://www.csis.org/analysis/coup-south-sudan>

9 Radio Tamazuj provides more information about the court process in the news story available on <https://radiotamazuj.org/en/news/article/kiir-regrets-sparing-lives-of-machar-pagan-group>

10 Report of AU Commission of Inquiry on South Sudan provides detailed findings and analyses in relation to what happened on Dec 15, 2013, and its aftermath.

switched sides and Dr. Riek quickly mobilized a force (SPLA-In Opposition, known as the IO) with which he wanted to seize power. Despite mediation efforts by IGAD, the conflict spread, with reports of soldiers on both sides raping and killing women, targeting civilians based on their ethnicity, and inflicting other forms of gruesome abuses and violations.¹¹ Thousands were killed, and millions displaced from their homes.¹²

In August 2015, the three factions of the SPLM (SPLM - In Government under President Kiir, SPLM-IO and FDs) along with other political parties, signed the Agreement on the Resolution of the Conflict in South Sudan (ARCSS). From the beginning, the ARCSS was deeply flawed and destined to collapse as it was not a negotiated political settlement¹³ but rather a wishful agreement imposed by the mediators and the international community.¹⁴

... it was not a negotiated political settlement but rather a wishful agreement imposed by the mediators and the international community.

It lacked a sense of ownership amongst the parties. President Kiir was clearly not pleased with it and issued a list of reservations¹⁵ after signing the accord in Juba on August 26, 2015, several days after Dr. Riek and the

FDs signed it in Addis Ababa.

In addition, the provision of Hybrid Court to try suspects of abuses and violations during the conflict created no motivation for fully implementing the agreement¹⁶ since all sides

Read the report on https://reliefweb.int/sites/reliefweb.int/files/resources/aucss_final_report.pdf

11 Human Rights Watch compiled a report on the abuses and violations, available on <https://www.hrw.org/news/2014/08/08/south-sudan-massacres-unlawful-killings-pillage>

12 Reuters reported on the death toll. See <https://www.reuters.com/article/us-southsudan-unrest-un/u-n-official-says-at-least-50000-dead-in-south-sudan-war-idUSKCN0W503Q>

13 It was not negotiated as President Salva Kiir felt he was forced to sign. See more on <https://www.nation.co.ke/news/africa/We-signed-peace-deal-under-duress--Kiir-claims/1066-2311816-mlecgu/index.html>

14 Africa Confidential reported on the excessive pressure from the international community. https://www.africa-confidential.com/article-preview/id/5198/A_deal_under_duress

15 The full list of the reservations is available on <https://paanelwel2011.files.wordpress.com/2015/08/president-kiirs-reservation-to-the-igad-peace-agreement.pdf>

16 Kiir and Machar testified about how the court is a threat to the agreement. The testimony was published by The New York Times. See <https://www.nytimes.com/2016/06/08/opinion/south-sudan-needs-truth-not-trials.html>

were accused. Instead, it sucked away any basis for mutual trust and motivated rivalry among the parties in the hope that justice would be seen through the victor's perspectives. The ARCSS should have drawn from the successes of the WPC, which gave warlords on both sides assurances that they were not working for their own peril. To ensure accountability in the long term, the Hybrid Court should have been the preserve of an elected, sober government that was not driven by bitterness or the urge for vengeance. Peace and justice go together, but none should be allowed to impede the other, as long as there is a way for achieving both in the medium and long term. While the WPC conference totally ignored the resolution of injustices, its success in the short term could be used to secure peace. In the medium and long term, an elected, sober government would have the mandate of resolving historical injustices.

Granted, the ARCSS provided for Joint Police Units. But by entrenching the existence of different military forces with separate commands in one country without a uniting formula (such as the JIU through the CPA), the ARCSS ensured both sides drifted apart even when there was no political reason for doing so. The crafters tried to make the ARCSS into the CPA – but it was not. The ARCSS unnecessarily rewarded aimless fragmentation and visionless divisionism. One example was the allocation of the speaker position to Ekuatoria as if the people of Ekuatoria were not among the parties represented.

Further, ARCSS implementation started with a violation. Dr. Riek insisted on coming with more angry soldiers and superior weapons¹⁷ than was specified under the agreement¹⁸ – and this was accepted. Thus, the agreement brought the battlefield, once again, to Juba without putting in place the basics for restoring mutual trust. The result was stirred tensions between the guards of President Kiir and Dr. Riek at Gudelle suburb in Juba on July 7, 2016.¹⁹ A meeting at the Presidential Palace to resolve this impasse resulted in more deadly gunfire on July 8, 2016.²⁰ Soldiers fought while the

president, the first vice president and other senior government officials were in the meeting room. The leaders were safe, and President Kiir and Vice President Wani Igga protected Dr. Riek and ensured he was taken to his base in the Jebel Kujur suburb in the west of Juba.²¹ President Kiir called Dr. Riek for another meeting the next day, but Dr. Riek declined. Further fighting ensued. Dr. Riek eventually fled Juba and was pursued by government soldiers²² until he was picked up by UN forces after crossing into the Democratic Republic of Congo.²³ Although the IO in Juba nominated Taban Deng Gai to replace Dr. Riek, this incident created disunity amongst the IO and affected the credibility of the Transitional Government of National Unity.

Another reason for the failure of ARCSS is the lack of financial support. The body that was entrusted with monitoring the implementation – the Joint Monitoring and Evaluation Commission (JMEC) – was underfunded, making it difficult to see through reforms such as the relocation of military forces at least 20 kilometers outside Juba, the training of the police force and other reforms of key institutions.²⁴ Yet the government, after years of staggering corruption and conflict that resulted in high inflation, was banking on the support of the guarantors.

The High-Level Revitalization Forum (HLRF):

Having seen the major shortfalls of the Agreement on the Resolution of the Conflict in South Sudan (ARCSS), it would be expected that a follow-up initiative, such as the High-level Revitalization Forum (HLRF), would be more reasonable and relevant in terms of addressing the crux of the matter. However, the HLRF stinks of bad faith in its approach to seeking a new agreement only when the old one was expiring. If it was grounded in serious concern to end deaths and suffering in South Sudan, it should have been held soon after July 2016 to resolve issues surrounding the fighting.

Shockingly, the international community appeared to have

17 This was reported by Eye Radio. See <http://www.eyeradio.org/machar-enter-juba-with-laser-guided-missiles/>

18 The specific number of soldiers that should have accompanied Dr. Riek Machar is stated in a report on this link <http://jmeccsouthsudan.org/index.php/arcss-2015/full-agreement/60-outcome-of-the-meeting-on-planning-implementation-of-the-agreement-number-of-forces-november-3-2015/file>

19 For more information, visit <https://www.bbc.com/news/world-africa-36763076>

20 Further information is on <https://www.nation.co.ke/news/africa/Gunfire-erupts-in-South-Sudan-capital/1066-3286630-15ntcbp/index.html>

21 Further information is available on <https://www.youtube.com/watch?v=hO-QEyFk-4do>

22 News report by Radio Tamazuj provides further details. Visit <https://radiotamazuj.org/en/news/article/south-sudan-peace-monitors-urge-kiir-to-stop-pursuing-machar>

23 BBC reported on how Dr. Riek went to DR Congo. Visit <http://www.bbc.com/news/world-africa-37116862>

24 Eye Radio reported about the shortage of funds to implement reforms. Visit <http://www.eyeradio.org/peace-partners-failed-provide-funds/>

accepted Taban Deng Gai's elevation to the position of first vice president²⁵ without an idea about what happens in the long term.²⁶ Indisputably, Taban and Kiir seem to enjoy a better working relationship and there is currently no war on the battlefields in South Sudan. The problem now is about going beyond the politics of war and opportunism and the rhetoric of peace into "lasting peace." Long, endless transitional periods for elites to share power and grumble over it cannot chart the way forward. This approach rather promotes the attitude of "we better lose it all" among politicians, giving no room for compromise in the people's interest.

The Way Out:

The current conflict in South Sudan is elitist, caused by a struggle for power and the resulting control over resources. Its resolution should, therefore, emphasize the use of peaceful means to access or retain power. Rushing to power sharing deals as quick-fix solutions, without addressing the root causes of the conflict and the underlying issues, rewards selfish "warlordism" and entrenches violence as the means of getting power.

As long as they are rivals over power, there is no convincing evidence they will not sing the rhetoric of reform publicly and, in the dark, continue entrenching what promotes their selfish interests.

In spite of its flaws, the HLRF (and its product R-ARCSS) can however be used to address political power wrangles in the short term. HLRF should, therefore, be redirected. Firstly, the HLRF should recognize that the current problem in South Sudan is no longer about war, but rather about moving beyond the politics of war and the rhetoric of peace into

lasting peace. Secondly, the Hybrid Court should be scrapped. Thirdly, the rhetoric about reforms should be ended, except those centered on political and media freedom, because the elites who established the current system and clashed over jobs all have interests to advance through corruption even in the civil service and independent institutions. As long as they are rivals over power, there is no convincing evidence they will not sing the rhetoric of reform publicly and, in the dark, continue entrenching what promotes their selfish interests.²⁷

The HLRF's subsequent phases, or any other peace initiatives, should focus only on power sharing over a short transitional period, so that all parties become stakeholders in guaranteeing reliable security, the return of civilians to their homes, and, more importantly, securing the space for political and media freedom. This will secure a peaceful and stable environment for general elections at the end of the transitional period. Since fighters are drawn from the communities, the National Dialogue process should be fused into the HLRF (and R-ARCSS) to resolve the conflict at the community level. By doing so, warlords will not be able to easily mobilize community youths against the other for their selfish interests, since there will be fewer conflicts to take advantage of at the grassroots level. By returning power back to the people, the elites will retain or be able to access power through votes instead of resorting to guns to kill the same people they should have protected. With no easy way to mobilize

²⁵ After Machar's ouster, the US proposed he should be blacklisted by the UN. More information available on <https://www.reuters.com/article/us-southsudan-security-un-idUSKBN13D238>

²⁶ In a report, the chairman of the body monitoring the peace agreement in South Sudan spoke about the despair among key members of the international community in relation to the way forward. The report is available on <https://radiotamazuj.org/uploads/media/58efad0fa6842.pdf>

²⁷ John Prendergast, quoted by Time, spoke about the interests of the leaders that overcome the national interest. Visit <http://time.com/4303056/south-sudan-riek-machar-civil-war/>

youths to violently retain or access power, and with no threats of humiliation through the hybrid court, even warlords will be willing to compete against the other in elections. This is the only path to democracy and lasting peace in South Sudan.

About the Author

Mabior P. Mach is an independent media consultant in Juba, South Sudan, and the author of the *Broken Promise: The Legacy of War and Hypocrisy* (2017, iUniverse). He has written extensively on Sudan and South Sudan over the past decade, and, as a journalist, won several media awards. By asking the question 'Where is the War?', Mr. Mabior is privately researching South Sudan's ailments that don't easily meet the eye.