

July 2018 | PB No. 55

## Spotlight on Africa | The South Sudan Conflict – 2018 Khartoum Peace Agreement

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On 27 June 2018, South Sudan's main belligerents inked a peace deal that aims to set the country on a path to normalcy from its over half decade of conflict. The deal was reached at the backdrop of a two-day talks between President Salva Kiir and 'rebel leader', Riek Machar, former Vice President of South Sudan. The Khartoum talks were mediated by President Omar al-Bashir of Sudan and President Yoweri Museveni of Uganda on behalf of the Inter-Governmental Authority on Development (IGAD)<sup>2</sup>. The announcement of the deal came both as a surprise and relief – surprise because only a week prior to this deal, the warring parties had stalemated a peace pact intended to resurrect an earlier peace deal signed in 2015. In fact the leading figures, both Kiir and Machar had summarily not only rejected that deal but also the notion of even working together, the deal came as a relief in certain quarters cognizance of the 30 June deadline set by the UN Security Council after which sanctions on South Sudan would be renewed.

Both Kiir and Machar made commitments to respect the consensus reached and forge lasting peace in South Sudan. "I am committed and respect all the documents that have been signed and will

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<sup>2</sup> The Intergovernmental Authority on Development (IGAD) in Eastern Africa consists of Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda. IGAD was created in 1996 to take over from the Intergovernmental Authority on Drought and Development (IGADD) which was founded in 1986 to mitigate the effects of the recurring severe droughts and other natural disasters that resulted in widespread famine, ecological degradation and economic hardship in the region. Cognizance of new and evolving political and socio-economic issues, the assembly of Heads of State and Government, meeting in Addis Ababa in April 1995, resolved to revitalize IGADD and expand areas of cooperation among Member States. The new and revitalized IGAD was launched during the 5th Summit of IGAD Assembly of Heads of State and Government held on 25-26 November 1996 in Djibouti. The Summit agreed on the decision to promote regional cooperation in three priority areas of food security and environmental protection, economic cooperation, regional integration and social development peace and security. (IGAD, 2018, see <https://igad.int/about-us/what-we-do>)

abide by all the agreements that will follow”, said Kiir while Machar proffered that the agreement would make the people of South Sudan “happy soon”.

Before this paper scrutinizes the peace declaration it is prudent to re-visit the root causes of the South Sudan conflict and how the seven-year old country came to being briefly as it puts into perspective the multi-layered contours of the conflict. In so doing the early beginnings of the new country, the rift at the helm of its affairs, the damage the conflict has caused thus far including attempts made at resolving it would be touched upon before an examination of the new deal with its attendant challenges alongside a dash of possible alternatives going forward.

### **Early beginnings**

The Republic of South Sudan (RSS), is the fifty-fourth state in Africa and the 193<sup>rd</sup> member of the United Nations (UN). The country formally came into existence as we know now owing to sovereign power ascribed to it by the Sudanese government. The creation of South Sudan was as a result of incessant revolts among the black Christian and Animist Sudanese in the south who were pressured into a political union with the majority Arabs from the north in the then Sudan (Amusan 2014). Essentially, the social and political grievances in the Christian and Animist South which stemmed in part from cultural differences and led to the outbreak of the earlier Sudanese Civil Wars now persists internally in South Sudan. The current states of the Republic of South Sudan are: Northern Bahr el Ghazal, Western Bahr el Ghazal, Warrap, Lakes, Western Equatorial, Central Equatorial, Eastern Equatorial, Unity, Upper Nile, and Joglei.

### **The rift at the helm of power within the new Republic of South Sudan**

From the onset of South Sudan’s founding in 2011, tribalism has proven to be catastrophic. President Salva Kiir Mayardit who comes from the Dinka tribe originally assumed power with Riek Machar who comes from the “less prominent” Nuer tribe as his Vice President. Irrespective of what seemed to be a middle ground power-sharing approach, rebellion and instability on the part of the Nuer tribe arose in the late 2013 after Kiir chose to dismiss his ministers including Machar in alleged malfeasance and coup d’état. Consequently in December 2013, barely 32 months into the existence of South Sudan, a skirmish broke out between factions of the Dinka and Nuer tribes that resulted in the Sudan People’s Liberation Movement (SPLM) – a political party in South Sudan that divides between and Nuer blocs.

### **Impact of the conflict so far**

The conflict has displaced around four million people – two and half million citizens have fled the country while over a million others (mostly members of minority ethnic groups have been internally displaced with a chunk of them sheltering in camps administered by the UN (UN OCHA, 2018). The conflict has also ruined the country’s agriculture with catastrophic consequences on the country’s economy with 7 million people in need in sectors such as food security, health, education,

water and sanitation etc. The conflict has also led to the death of over 10000 people with several others injured or unaccounted for (Deng, 2018).

### **Attempts at resolving the conflict**

Since the commencement of the conflict at least eight peace deals have been signed with the most prominent being the August 2015 peace deal signed in Juba. However, none have been able to resolve the conflict and foster a lasting solution. The 2015 peace deal required among other things that; the capital of South Sudan, Juba be demilitarized, that the government and rebel forces shared autonomy over South Sudan's oil fields. The deal also gave a pathway that would allow Machar to return to government as Vice President. The 2015 deal was imposed as a peace solution by the United Nations prompted Kiir to render his displeasure; he detested the fact that a pathway was given to Machar to get him back in government. While the deal appeared to be a common ground approach, it failed as the two leaders refused to work together. Essentially, it was argued that any future deal should be borne through direct negotiations between the two leaders which is what the 2018 Khartoum peace deal has sought to do.

### **The 27 June Khartoum Peace Deal**

The current peace deal is based on a five point declaration and factors in elements of an earlier deal including a unilateral ceasefire:

- i. A permanent ceasefire is hereby declared throughout the Republic of South Sudan and shall enter into force within seventy two (72) hours of signing of Declaration of Agreement. The permanent ceasefire shall be based on the Cessation of Hostilities Agreement (CoHA) signed on December 21, 2017. Within seventy two hours of signing this Declaration of Agreement the parties shall agree on all the ceasefire arrangements including disengagement, separation of forces in close proximity, withdrawal of allied troops, opening of humanitarian corridors and release of prisoners of war and political detainees. All relevant provisions of the Agreement on Resolution of Conflict in South Sudan (ARCSS) shall apply unless it is agreed otherwise. The parties shall agree on self-monitoring mechanism. Furthermore, IGAD and African Union member states are kindly invited to deploy the necessary forces to supervise the agreed permanent ceasefire.
- ii. The security arrangements that shall be adopted shall aim at building national army, police and other security organs of an all-inclusive character that shall be free from tribalism and ethnic affiliations. Policies shall also be agreed upon for the disarmament of civilians all over the country.
- iii. An agreement on the "Revised Bridging Proposal" shall be concluded as soon as possible and before closing the current Khartoum Round of Talks. After concluding the agreement on the "Revised Bridging Proposal" a pre-transitional period of 120 days shall commence to be followed by a Transitional period of thirty six (36) months. Sharing of power during the transitional period shall be in accordance with the formula that shall be agreed in the "Revised Bridging Proposal. During the transitional period the country shall be prepared for national elections that shall be conducted as agreed in the revitalization ARCSS. It is agreed that the election shall be opened for all political parties and shall be free and fair.

iv. Efforts for improving the infrastructure and basic service in the Republic of South Sudan, particularly in the sectors most connected with the livelihood of citizens, shall be intensified. The parties appeal to the international community to help in this regard.

v. The security of the oil field in the unity states (block 1,2 and 4) and tharjiath (block 5A) is the responsibility of all South Sudan citizens. If need be, the government of South Sudan while undertaking its security duties shall work in the regard in collaboration and coordination with the government of Sudan. The government of South Sudan in collaboration with the government of Sudan shall immediately rehabilitate the oil fields identified above, and others as would be agreed upon for the resumption and the restoration of the previous levels of oil production. All the outstanding issues related to the oil sector, particularly on the cost of the oil field rehabilitation, shall be technically assessed and economically valued by the relevant authorities of South Sudan and Sudan respectively. Each party is entitled to seek support of an impartial technical third party for independently verifying of the assessment but without causing delay in the joint operations. Such data/information shall provide guidance for any political decision that may be undertaken by the leaders of the sisterly countries. The government of South Sudan is committed to use the petroleum proceeds to improve the livelihood of South Sudanese and to alleviate poverty and suffering (Radio Tamazuj, 2018).

### **What the deal excluded and its attendant challenges**

The deal steered clear of any mention of power-sharing, the very provision that had brought previous peace talks to a halt. Instead it outlines a three year transitional period after which there would be national elections. The complexity with this arrangement is which leader is going to be in charge of the transitional period. It is difficult to see a unilateral agreement for Kiir to carry on as president.

With regards to the ceasefire agreement, it was only a reiteration of the existing Cessation of Hostilities Agreement (CoHA) which faulted within hours upon its first signing in December 2017. Lo and behold, a similar fate has befallen this 2018 ceasefire provision; within hours of the signing of the deal rebels and government forces blamed each other for violating the ceasefire component of the deal. Both rebel and government forces launched a “heavy joint attack in Mboro in the early hours of 28 June 2018 in Wau County in the northwest of South Sudan. An event which has prompted Lam Paul Gabriel, rebels spokesperson to call on the UN peacekeeping mission and ceasefire monitors to investigate, arguing that they reserve the right to self defense.

“The parties also agreed on a self-monitoring mechanism” per the dictates of the new deal, a provision which is an outright digression from external and independent monitoring usually employed in peace deals to oblige warring parties to stick to terms and agreements and hold violators accountable.

It is also quite intriguing that the respective leaders would agree to such an incomprehensive deal, however, their consent could be construed comparatively to imminent UN sanctions. Intrinsicly, agreeing to this deal meant that the country met the 30 June deadline of the UN, thereby avoiding

sanctions. It must however important be pointed out that at the time of writing the UN had renewed its arms embargo<sup>3</sup> sanctions on the country.

The deal also projects the notion of an all inclusive national army which is laudable, however, its practicality in the context of South Sudan is highly suspicious given that what entails national varies between Kiir and Machar, for instance, Kiir's former Chief of Staff Paul Malong earlier proposed the total disbandment of the existing army to reform it based on ethnic and community representation. Also, this is a distinct departure from the 2015 peace agreement where it was proposed that two armies be formed with two commands during the transitional period. This suggestion unequivocally depicts the deep seated level of mistrust within the country.

Hence, to further add the disarmament of civilians immediately complicates the peace deal entirely. Undoubtedly the high level of small arms proliferation in South Sudan is a major hindrance – in fact it dates back to then Sudan<sup>4</sup>, for instance, the US alone provided successive Khartoum governments with close to US\$1 billion in arms in the late 1970s and 1980s. “Then Sudan” and the Horn of Africa subsequently became less relevant to departing super powers in the early 1990s, going to this, Sudan was allowed to wither in arms-bloated poverty – a scenario which has trickled to present day South Sudan. With ethnic groups suspicious of one another a lot of peace and community trust building is needed. Some of the ethnic groups and many civilians alike find these weapons as their only insurance and means of security. No wonder previous attempts at disarmament have triggered massive resistance, rebellion and increased conflict.

An equally vital and sensitive area in the deal is to do with security for the “immediate rehabilitation of oilfields” which offers a role for the Sudanese government. Actually this provision by default paves the way for outright involvement of Sudanese security forces or their proxies in South Sudan and its oil fields, a deeply worrying scenario as some have argued that this has been the main reason Sudan and Omar al-Bashir have been heavily involved in the peace deal. However, once the two parties have agreed to the peace deal declaration alternatives that could assist the deal to succeed are what ought to be pursued.

### **Alternatives going forward**

From the foregoing, an independent and neutral body is not only clearly needed but is part of accepted instruments to check meaningful progress on peace deals in an environment of such little trust and a demonstrable poor track record of compliance. It would be a massive first step to arresting the issue of impartiality and the commencement of early steps of trust building. To this

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<sup>3</sup> The Security Council on 13 July narrowly passed a vote targeted at halting the flow of weapons to armed groups in South Sudan. The resolution was adopted by a vote of 9 in favor with none against it. There were however 6 abstentions. The resolution will remain effective until 31 May 2016, see <https://news.un.org/en/story/2018/07/1014622>.

<sup>4</sup> Due to Sudan's strategic location, borders Egypt, Eritrea, Ethiopia, Kenya, Uganda, Congo, Central African Republic, and Libya, it became a prominent target of revolving-door superpower intervention and massive arms transfers throughout the Cold war.

effect the role of IGAD should be buttressed by the African Union's Peace and Security arm so they could as independent observers in ensuring compliance.

Additionally, amidst the enthusiasm in part to the notion that at the barest minimum a deal has been signed, one of the scenarios that should be girded against is the hazard of a peace deal that becomes some elite pact that fails to address holistically the structural problems and complexities that lie at the root of this conflict. The conflict has permeated and fragmented South Sudan into several groups, hence restricting it as a dispute between Kiir and Machar perpetuates not only a hollow myth but the very same issues that ignited the conflict in the first instance.

Again granted that the conflict which is over half a decade has not be resolved brings to the fore the relative weakness of conventional diplomatic approaches that attempt to tackle peace issues exclusively through political leaders and sometimes the military (Mekenkamp, Tongeren and De Veen, 1999). This is where it can never be gainsaid in pursuing an all inclusive peace building endeavor which involves not only the diverse ethnic groups in South Sudan but also leaders of the few civil societies, churches and NGOs who have stood the test of time in catering for the needs of the victims of the conflict. This approach does not only ensure holistic representation at the negotiations table but reflects to an extent representation of the very people who are aware of the grievances of victims of the conflict.

Another twist leveled at the two leaders which could not be ignored in pursuit of compromise is allegations of war crimes. Kiir's army and Machar's rebel forces have both been accused of war crimes some of which may take the form of crimes against humanity according to a UN report<sup>5</sup>.

Already, South Sudan's opposition has labeled as illegal attempts to expand the tenure of President Salva Kiir by three years<sup>6</sup> which is coincidentally the time span proposed for a potential transitional period. Commenting on the issue, Lam Paul Gabriel, opposition spokesperson argued that the proposal was "definitely illegal" and "anti-peace" as the two sides pursue peace negotiations.

Cognizance of the fact that the opposition group would contest any attempt to extend Kiir's time in office it becomes interesting as to who would be at the helm of office if the decision is not approved in parliament. While a power-sharing agreement earlier which failed to succeed could be a re-visited option it is highly unlikely that it could be pursued again this time due to the distrust between the

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<sup>5</sup> The report additionally documents what commission member Andrew Clapham indicated as "a clear pattern of ethnic persecution, for the most part by government forces who should be pursued for crimes against humanity. The investigators say their findings were based on 230 witness statements and nearly 60,000 documents (VOA, 2018).

<sup>6</sup> The South Sudanese presidency on July 2018 proposed a bill to parliament to amend the constitution and extend the tenure of President Salva Kiir, his deputies and governors. The South Sudanese parliament intends to vote it into law this month, July, 2018. Legislator Atem Garang claimed the said extension proposal is certain to succeed as Kiir's ruling party holds majority seats in parliament.

two leaders. A council arrangement in the manner of the Libyan Presidency Council<sup>7</sup> could instead be pursued no matter how flawed. For instance, a team of five persons with one as chairperson could act in the interim or during the proposed transitional period.

With Kiir's term coming to an end, warring parties having violated various cessation of hostility agreements since the 2015 peace deal and over 20 armed factions having emerged, the African Union Peace and Security organ must also step in immediately as a matter of urgency.

Amidst all these a chunk of the embers that have stoked the South Sudanese conflict emanates from its constitution that was hurriedly passed by the National Assembly and backed by the regional legislature to achieve political independence on 9 July, 2011. Per the provisions of the constitution, the president who is a Dinka, has the power to hire and fire any governor and dissolve the parliament at will (Nyange 2011). It could be argued that Kiir might have based the summary dismissal of his then Vice President and other officials for the alleged attempted coup and malfeasance on this. The problem though is that the constitution is not only a hindrance to a true democracy but could easily trigger dissension in South Sudan.

A constitution for south Sudan as a federal state should accommodate checks and balances between the provincial and national governments. In this manner, the responsibility of the provincial legislature should include the right to pass a vote of no confidence against the governor and not the responsibility of the president to summarily dismiss a governor. The way the constitution operates presently demonstrates the notion that any province that is not controlled by the ruling party at the center tends to exist only by the will of the president – that is, as the president wills – a deeply appalling provision for the constitution of a new country (Amusan, 2014).

The constitution should thus be modified to make room for a well-defined separation of powers between the three arms of government. For a nascent democracy as South Sudan, the independence of its judiciary would be one of its hallmarks the safeguard of its institutions. South Sudan therefore does not need an a constitutional overhaul but a constitutional amendment to address parts like these which counteracts the smooth operation of the country.

Also, in acknowledgement of the diverse ethnic groups in South Sudan until such a time when and where the democracy has really matured, key political appointments in sectors such as defense, foreign affairs, internal affairs, public affairs, education should reflect the various ethnic groups in terms of fairness, region, gender and equality in the country. In conclusion, with conventional tactics of peace deals having failed thus far, a bold new diplomatic approach in the form of a transitional/presidential council recognized by the United Nations with support from the African

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<sup>7</sup> The Libyan Presidency Council is a body formed under the terms of the Libyan Political Agreement signed on 17 December 2015. The Council carries out functions of head of state and is backed by the United Nations Security Council. It is made up of a Chairperson and eight other members.

Union has a fairer chance of not only succeeding by fostering inclusivity thereby promoting lasting peace until democratic elections are organized.

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