

Negotiating an End to the Current Civil War in South Sudan

What Lessons Can Sudan's Comprehensive Peace Agreement Offer?

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Abstract

When the world's newest state, the Republic of South Sudan, suddenly plunged into a violent civil war in 2013, the East African regional trade block, the Intergovernmental Authority on Development (IGAD), rapidly responded to mediate a settlement and arrest the situation which threatened the viability of the young State as well as the security and stability of the whole region. However, the mediation process had all the hallmarks of Sudan's Comprehensive Peace Agreement that had ended the North-South war in the former Sudan and facilitated the secession of South Sudan. This raised questions over what lessons from the CPA might be useful in producing a more just, durable and sustainable peace, and how to avoid the pitfalls which nearly killed the CPA. This paper is a review of the Addis Ababa-based, IGAD-led peace process. It focuses on highlighting risks which may stand in the way of an inclusive settlement, including the competition for power, the question of ethnic divides that have fuelled violence, the multiplicity of armed non-state actors; how to include them in a settlement without creating a gargantuan military that could bankrupt the country and remilitarise the situation. The paper concludes that careful security arrangements, power-sharing in a government of national unity, a commitment to a national constitution, institutional reforms and a programme of national cohesion, reconciliation and justice for all, are the central pillars of a settlement, without which any peace agreement would be a mere postponement of conflict.

About the Publication

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List of Acronyms

| | |
|---------------|--|
| CPA | Comprehensive Peace Agreement |
| GoSS | Government of South Sudan |
| IGAD | Intergovernmental Authority on Development |
| SPLM | Sudan People’s Liberation Movement |
| SPLM/A | Sudan People’s Liberation Movement/Army |
| SSPDF | South Sudan People Defence Force |

1 Introduction

It has nearly become a tradition in Africa that when a conflict erupts, it is often followed by a scramble by regional and international powers to immediately find a peace broker, someone or some group, preferably a regional organisation, that could mediate between the warring sides and get them to reach a new political settlement through a comprehensive and inclusive peace agreement that tries to resolve the conflict and its drivers. Yet, some of the mediated processes have been grossly protracted at best, or the peace they have produced has collapsed within a brief period of time at worst, as many of them often lack a good grasp of history, culture, politics, and familiarity with the burden that war leaves behind in the country they want to help. Many of these mediation processes have been largely driven by trial and error techniques, primarily because the organisations put in charge of mediation often fail to realise that “mediation is a craft and that life experiences alone however rich that might be, are not enough” (Tieku 2011). The limited success achieved by these mediation processes has been linked to the coherence and crafting of an ill-informed mediation team. Their failures have been related to the lack of understanding of the drivers of conflict and what draws so many people into them in the first place. The failure of mediation processes is also often linked to the unwillingness of the primary contenders to include the multiple layers of society that characterise African civil wars, leaving many stakeholders out and making them become spoilers down the road.

The accords that have resulted from these negotiation endeavours, from the Democratic Republic of Congo’s experience, to Burundi’s peace process, to Sudan’s on-going wars in Darfur and its new southern border, to Somalia’s quest for stability, to the conflict in the Central African Republic, have invariably focused on reconciling the politico-military elites through power-sharing arrangements between the main parties, usually downplaying the multi-layered nature of the conflict which calls for a multi-stakeholder approach to its settlement.

Despite the recognition that competition for power may trigger conflicts, struggle for power alone does not explain why these conflicts spread so quickly, why they draw in so many young fighters, why they persist for so long and why political violence continues even after peace agreements have been signed. It is very common that peace agreements reached in this manner collapse soon after they are signed and countries return to war, whether over disagreements between the same contenders or because new groups emerge in protest of exclusion from the deals. What exactly accounts for this trend? Part of the explanation could be found in the manner with which these conflicts were settled. There is pressure to end the conflict on terms that merely serve the political interest of the main parties and the exclusion or downplaying of the grievances of the rest of a country’s population, often in hope that these would be addressed once the leaders have reached a compromise. The concerns of the former are often confined to political gains that each party wishes to achieve on the back of the negotiations, while the concerns of the latter are more related to long term stability, how to repair the communal relations fractured by prolonged conflicts, how to restore coexistence, reform security, increase prosperity and how to translate the peace agreements into tangible programmes of everyday welfare. For the politicians, peace simply means no more war but for the actual combatants and the ordinary citizens, peace equals human security, which of course includes an end to violence, but more importantly justice for the victims, rehabilitation of combatants, safety of property, service provision, law and order, and good relations between communities, and between state and society.

When South Sudan’s ongoing conflict started in December 2013, splitting the ruling Sudan People’s Liberation Movement (SPLM) into more factions than had already existed, and pitting the Government of President Salva Kiir Mayardit against the rebels led by the former Vice President, Riek Machar Teny, the immediate reaction from different corners of the world was to call for dialogue, cessation of hostilities and a negotiated settlement to end the violence. The East African regional organisation, the Intergovernmental Authority on Development (IGAD), was almost instantly put up as the most fitting group to mediate a negotiated settlement and end the ghastly and shocking violence that had engulfed the country. Heads of state from IGAD member countries descended on Juba, South Sudan’s capital, on numerous occasions, to assert an immediate role for the regional grouping in the search

for an end to this conflict. Many donor countries, and bilateral and multilateral agencies put their diplomatic and financial weight behind the IGAD efforts to bring about a speedy cessation of hostilities pact between the two main parties to the conflict. The warring parties, political parties, vast numbers of South Sudanese citizens, and civil society groups, all rallied behind IGAD as the mediator with a long history of peace deals under its belt. After all, it was IGAD that had successfully negotiated the end to the North-South war in the old Sudan, which was then Africa's longest-running civil war, through an agreement that became known as the Comprehensive Peace Agreement (CPA), which had paved the way to South Sudan's secession referendum in 2011.

Negotiations got underway in the Ethiopian capital Addis Ababa soon after the new conflict started. The process has since been reminiscent of the long and torturous negotiations that had eventually produced the CPA in the old Sudan. Now with conflict still raging in the rump state, the Republic of Sudan, and the widespread violence in South Sudan, many people recognise that part of the root causes to the ongoing violence in the two countries is found in the failures of the CPA. In a previous paper about the CPA, I outlined how it was negotiated, what compromises were made to achieve it, how it was implemented and why it did not really end violence in both countries (Jok 2015). The question now is, are the current mediators going to keep the experiences and lessons of the CPA process in mind to inform the new process for South Sudan?

The goal of this paper is to appraise South Sudan's peace process as currently conducted by IGAD; to probe what the mediators and negotiating parties think this process would be able to offer in terms of the future sustainability of the political settlement which may accrue. How much of the history of violence, of peace-making, of ethnic relations, of political groupings and the genesis of the war will IGAD encourage the warring parties to navigate and incorporate into their deliberations? South Sudanese non-state actors who have been attending or monitoring the IGAD-led process and numerous citizens of various political persuasions and social strata were interviewed at length over the summer of 2014, in order to generate a picture of how ordinary South Sudanese situate the Ethiopia-based peace talks vis-à-vis their own political and war experiences; how they imagine a political agreement, potentially achieved under pressure from the international community, as being able to bring them peace that touches their lives positively, with the main concern here being the durability of the next political settlement.

The paper also examines whether the recent relapse into violence can be seen as a result of a rehashing of the violent episodes in South Sudan's liberation history. The twenty-year period from 1991 to 2011 is significant here because it is the period during which various groups of power contenders began to break away from the Sudan People's Liberation Army (SPLA), the liberation army that is credited for liberating the country and has now become the nation's defence force. The period also covers the subsequent factionalisation and militia formation that have continued on and off throughout the North-South peace negotiations, all the way up to the point the country became independent. This is an important period to understand in order to get to the bottom of why the various settlements did not end violence, independence and the political transitions all notwithstanding. A particular emphasis will be placed on issues around inclusion, representation and participation, given that the success of any peace accord and its sustainability are often linked, at least in theory, to the terms of the representation of all important actors at the negotiations and how much weight is given to their unique grievances on the negotiation agenda.

The paper concludes that the current negotiation in Addis Ababa, Ethiopia, even when/if it reaches a compromise and end to conflict, will not return peace to South Sudan if there is nothing in the Agreement that gives the whole country, including the various communities affected by conflict, a chance to face the history of violence head-on, to engage in dialogue about the communal conflicts that have wrecked ethnic relations and about the relationship between the State and its citizens.

The paper is based on review of online discussions, monitoring of social media, interviews with political leaders, soldiers, civil servants and other South Sudanese from a cross section of the population, and on two focus group discussions conducted in the capital Juba and in the town of Wau, in August 2014.

2 Lessons from the 2005 Comprehensive Peace Agreement

To explore the ongoing crisis that started in December 2013, this paper takes the CPA as the starting point and window into South Sudan's peace efforts, to probe more generally the persistent insecurity and volatile political climate since the 2005 accord. It will attempt to analyse why the country has never meaningfully managed to end violence despite the CPA's facilitation of the formal ending to the North-South war and the independence of South Sudan. The paper also probes why rebellions and the creation of new militias have continued to proliferate and why the country had so quickly begun to face the threat of another protracted civil war just over two years into independence. Could these challenges be attributed to the weaknesses of the negotiations and the resulting CPA, or rather to the failure of the political class to implement the accord and put their country in order once independent? In particular, South Sudanese had expected the country's leadership to come through on issues of security sector reform, justice and accountability, democratic space, and the provision of public goods and services, the non-accrual of which is blamed for the current mayhem.

2.1 Security sector – how (not) to deal with militias

A key issue of the CPA, which is central to the lack of subsequent peace and stability in South Sudan is the fate of the armed groups that had fought against the SPLA during the liberation war, as well as that of northern rebels that had fought against Khartoum. The status of both groups was addressed through a provision that required them to join either the SPLA or the Sudan Armed Forces, all without a clear mechanism through which they were going to be absorbed into the respective armies of South Sudan and Sudan – and without granting any power whatsoever to negotiate the terms of their absorption or to militarily assert themselves anew. So when South Sudan voted for independence in 2011, its Government was given the prerogative to decide upon the fates of these so-called 'other armed groups', and embarked on a new three-way strategy.

One approach focused on trying to persuade these groups to peacefully join the SPLA and for their leaders to be given ranks in the Army or cabinet positions. Many responded positively, joining the nation's Army and reaping significant financial rewards. The most significant of these groups was the South Sudan People Defence Force (SSPDF) which had been stationed in Unity State, sponsored by the Government in Khartoum and led by Paulino Matip Nhial, who had been one of the most formidable anti-SPLA militia leaders since the beginning of the liberation war in the early 1980s. On that occasion, the policy of appeasement worked and the episode could be closed quickly, to the relief of everyone – the SSPDF had been a source of worry about the future of South Sudan following the CPA. Many others, including seven different militia groups, were offered compensation and jobs. They were lured back into the national defence by the offer of high ranks and big benefits, by appealing to them about the need to rally behind South Sudan's independence and join ranks to ensure the sovereignty of South Sudan, since Khartoum was still suspected of sabotaging and undermining the new State. The Government of South Sudan (GoSS), especially the President himself, was committed to the "big tent" approach, offering amnesties, financial rewards and absorption into the armed forces to all the groups who were willing to put down their weapons and join the Government.

This was a peace buying approach, prioritising compromise over state monopoly on the use of force to reign in on armed non-state actors. After all, these actors had been party to the conflict, excluded from the peace negotiation with Khartoum and were expected to be accommodated in the final political settlement, or they would become major spoilers. This approach was commended and praised by many citizens and peace advisors who wanted the chapter of military rivalries to close once and for all, now that the country was working towards its independence and consolidation of its sovereign existence. However, this policy backfired in so many ways. It contributed to the creation of a monstrous and unwieldy army, too undisciplined to maintain a coherent chain of command, and unwilling and incapable of reform. It also produced an army that not only lacked professionalism

but also a shared institutional cultural ethos that all of its members could subscribe to. The result was that, in the name of buying peace through absorptions, the country's military became the source of the very insecurity it was intended to keep at bay, and finally, the institution largely consisted of members of one ethnic group, the Nuer, (the nation's second largest group), for up to 60 percent of the force. This essentially gave any disgruntled politician from this ethnic group the sense that they have the capacity for a government takeover using this overly tribal army. Having such an army has now raised flags about the use of amnesties in order to buy peace versus the State asserting itself and defeating non-state actors that threaten the welfare of other citizens. There is now a growing question, especially in view of the ongoing peace talks, whether there should be a system of ethnic quotas for the Army, or whether a new national defence force ought to be created on the basis of strict qualifying criteria. This discussion has now proven to be one of the most daunting issues in the current peace process, one that might either require a separate arrangement within the resulting political settlement or be deferred to the next constitutional review.

The second approach was to militarily engage the militias that held out, with the Government of South Sudan waging war against these groups – and rather ghastly military confrontations ensued. The consequences of this approach were extremely stark for the civilian population residing in the areas where these groups were active: fighting stalled all reconstruction programmes and the provision of basic services. After long and devastating conflicts, these too had to be approached with offers of amnesty and were invited to join the Government in exchange for public office, absorption into the military and financial compensations for their leaders. The Government of President Salva Kiir, being a consensus government, aimed at regional and ethnic equity, with public sector jobs being created at all the three levels of government: national, state and county, as a way to buy stability. This has been accomplished at the expense of development programmes and backfired in a number of other ways. It has meant that the country spends over 70% of national budget on army and civil service salaries, money that could be used to create development projects that would employ the large youthful population who are now without jobs and therefore a threat to the country's security. This approach created a vicious cycle of enlarging the military and civil service as a way to buy stability but ending up with no funds to set up development projects that could employ the youth.

The structure of state power is also central to the conflict dynamics in the country, as the decentralised system of government assumes three levels of authority and decision-making, but gives the executive branch of government the exclusive power to appoint and dismiss these structures. The national Government also maintains tight and exclusive control over the financial resources. States and counties have to pander to the President in order to receive their funding. This is also the power dynamic that allows the President, with or without the approval of Parliament, to fire elected officials, to invite militia leaders into government and to either declare amnesties or military confrontations. The question of the separation of powers, which the CPA had spelled out and the transitional constitution upholds, has not worked to ensure that the three branches of government, legislative, executive and judiciary, are able to watch each other. The failure of South Sudan to uphold this basic ethos, the fact that the three branches of government should collide, not collude, is a big part of the ongoing conflict – and one that is central to the peace process.

The third approach was to address a security sector reform issue that was also ignored in the peace deal. This concerned armed civilians who were using weapons that were left over from the wars of liberation. These weapons were now being used for cattle rustling, settlement of ethnic disputes and for self-protection against opposing tribes. This wreaked havoc across the country, placing authorities in one of the most daunting security dilemmas. On the one hand, the Government felt obligated to use force to disarm the civilians and prevent the mayhem that was caused by their use of weapons, though doing so risked them being seen as engaging in confrontations with entire ethnic groups, a kind of state-tribe war that could have far reaching consequences for the stability of the country. On the other hand, it could have attempted disarmament by persuasion, at the risk of being seen as weak and unable to use state power to monopolise the use of force like any other state. What transpired is rampant insecurity and the continued subjection of rural lives and livelihoods to the ravages of violence. Insecurity in rural

areas and growing urban crime became the biggest sources of disappointment that citizens have expressed toward the CPA and subsequent political transformations. The issue of civilian disarmament, on the few occasions that the State has tried to conduct it, became a source of abuse and citizen anger towards the State, mainly because of the poor manner in which it was done. For example, the disarmament of contending regions or ethnic groups needed to be concurrent. If this is done one group at a time, as was the case in many instances, the community that was the first to disarm were slaughtered overnight by the group that was to be disarmed the next day (Thomas 2015). As the current search for political settlement proceeds, this aspect of security needs to be prioritised, especially by enabling communities to voice their preferred approach to be included in the settlement.

2.2 Failure to promote reconciliation and nation-building

The CPA, despite being applauded for ending the prolonged North-South conflict in the old Sudan, was unable to promote peace and reconciliation between the border communities whose relations had been shattered by state-backed violence. One of the provisions of the accord was to engage northerners and southerners in programmes of reconciliation in order to recreate and promote national unity within a united Sudan. This, however, did not see the light of day as the two sides became overwhelmed by a host of other CPA issues, such as South Sudan's oil passage, border security, nationality, contest over a number of border zones and the built up mistrust, all ending with the split of the country over these issues and to South Sudan's secession. The idea of 'giving unity a chance' fell by the way side. The CPA provisions on reconciliation were ignored or given far less than their due weight. The result was that the Agreement fell short of its main commitment: to rebuild trust between communities and rescue the territorial unity of the country. Sudan, Africa's largest country, became two countries.

Within South Sudan, the break up and creation of multiple factions of the Sudan People's Liberation Army/Movement (SPLA/M), the movement that championed South Sudan's liberation effort, had wreaked havoc for many years in terms of ethnic relations. The result of this was extreme violence by the South Sudanese, against one another, albeit they were conscious of their collective front against the North. During the liberation, many of these south-on-south violent episodes were often swept under the carpet in order to keep everyone's eyes on the cause of liberation, and in the hope that some of those atrocities would be revisited and dealt with once the collective goal was achieved. Some good examples of the burden of the liberation history that continued to haunt independent South Sudan were the confrontations between the SPLA and the Mandari in 1987, the Dedinga in 1998 and the Fertit throughout the 1980s. These were conflicts engendered by SPLA suspicion that these groups were not supportive of the southern cause and were unhappy with the heavy-handed ways in which the SPLA had tried to recruit them into the liberation effort. One of the outcomes of these episodes was the perception among some of these ethnic groups, at least among some of their leaders, that the SPLA was a Jieng/Dinka occupation army in the guise of a liberator.

The State, once having achieved liberation, needed to revisit these issues with an eye to better understanding of that history as a foundation for reconciliation among people, to live in peace and harmony with one another (Sudd Institute 2012). After all, South Sudan's leaders are quick to remind citizens that they had gone to war in order to liberate themselves. "So they liberated us for what reason, in order for them to kill us or let us starve or die of disease?", was how one unhappy citizen put the question to challenge the mantra of "we liberated this country," commonly heard from the SPLA veterans who rule the country. It has quickly become all too evident that independence alone was not going to be the panacea for the massive burden left behind by the decades-long wars of liberation, at least not as fast as people needed it and expected it to be.

With the CPA granting South Sudan an age-long demand: self-determination, it was now possible to see that the new country not only needed an inclusive programme that drew into the Agreement all the factions that fought against one another under the weight of the liberation war, but also a robust programme of nation-building soon after the CPA was signed with the North. The need for such a south-south dialogue became even more paramount

following the country's independence, as some of the most important challenges to its viability included disunity along sectarian/ethnic lines, the lack of collective belonging to the nation, memories of unsettled past ethnic conflicts, the unchecked impunity of the war days and lack of justice and accountability for crimes committed in the name of liberation (Khadiagala 2014).

The negotiators and mediators of the current round of peace talks need to be reminded about the importance of committing the warring parties to a nation-building project, otherwise, without programmes of reconciliation, programmes that build symbols of nationhood and imbue citizens with a sense of collective belonging to the nation, any political settlement that emerges might be just another short break from war that could end any day (Jok 2011). Programmes of social cohesion, citizenship in the nation, engagement of youth and civil service reform are also steps that could be built into a political settlement, or at least into the implementation of it. The absence of the programmes of nation building leaves citizens with very little to tie them to the political entity they refer to as their country, and instead of citizenship in the nation, many people, especially in the remote rural areas, will remain more loyal to their ethnic group or region than to the country.

One of the issues that was very clearly highlighted in the CPA was the need for all to agree that specific programmes would be built into the deal to mitigate the upheavals of the war, to help society restore any of its conflict mitigation values and to build a justice system that encourages people to seek legal avenues to restitution, instead of revenge. Also built-in, were efforts by the State to ensure respect and protection for citizens' basic rights, including the right to living a decent life, equality before the law and the right to be free of abuse by both State authorities and by other citizens. The post-war societies were also looking forward to an environment in which they might be able to offload the tragic past of death and destruction, through a kind of reconciliation effort, security sector reform, and a justice system that puts an end to such violence and impunity that characterised the wartime country. However, to date, SPLA's own wartime abuses against civilians remain a sore wound which nobody wants to touch and the atrocities that the Sudan Government had inflicted upon many communities remain at the margins of post-war programmes of reconciliation and reconstruction.

Following the CPA, programmes of reconciliation were announced by the then GoSS and institutions were set up for this purpose, including a cabinet level "National Peace and Reconciliation Commission" and a number of other agencies with mandates to investigate past conflicts, creating an environment for different communities to seek justice and recompense, and help the whole nation come to terms with the burden of over five decades of violence. Unfortunately, this too was not sufficiently followed through, not between the SPLA and the civilians, nor between opposed ethnic and regional communities.

As stated earlier, many of the solutions attempted by the governments to reign in on violence have backfired. War-affected regions of the country, especially Jonglei, Lakes, Unity, Upper Nile and Warrap states, remained wrecked by violence, even as the country was supposedly in peace. This history does not offer the war-affected communities in South Sudan much confidence that there is a link between a peace agreement reached by politicians at the top and the necessary reconciliation that must happen at communal level, closer to the lives of everyday people. Many people now argue that the impact of these failed programmes together with the lack of reconciliation and justice for past crimes, are directly linked to the plunge of the young country into conflict since December 2013, as well as the spread of violence to many parts of the country.

With this in mind, why should citizens be expected to believe that another elite-focused peace agreement reached in a foreign country, under pressure from the world community, will yield peace in ordinary peoples' lives this time around? If the Addis Ababa-based ongoing process stops with the signing of an agreement and the return of the country to the old status quo, without the consideration of stakeholders' voices, reflection on the root causes of the conflict, a study of the drivers of violence in the country and accountability for the treacherous behaviour of the politico-military elite during the course of this war, is it possible to consider the outcome of the IGAD-led peace process to be a credible political settlement? The lessons of the CPA do not offer confidence that this round of settlement will be better.

2.3 Contestation over the distribution of wealth and power

The political settlement that the CPA brought to South Sudan has produced a different kind of contest over the State by various political entities, a contest that has posed serious threats to the stability of the country since the beginning of the implementation of the settlement accord. Some of the groups that had been included in the peace process and were subsequently involved in the SPLM-led Government had initially joined this process in the hope that they would get a share of the peace dividends, such as public offices and development projects for their constituencies. However, they started to complain soon after the start of the implementation of the accord: they quickly realised that the huge revenues emanating from oil production had increased the value of the State and that those controlling the state apparatus stood to gain a great deal. Some of them began to complain about corruption and nepotism in the distribution of government jobs, contracts and development programmes.

On the surface, these complaints were about the need for the equitable distribution of peace dividends along ethnic or regional lines, however, in essence, they were about direct financial and power gains for the concerned individuals or groups of people. Complaints became widespread. For example, the Dinka, the nation's largest ethnic group and from which the President hailed, had dominated everything. They had excluded others from the more lucrative and strategic positions in Government, the Army and other better-funded institutions responsible for national security. Political parties that had either broken away from the SPLM during the liberation war following the 1991 split or were never directly involved in the liberation efforts, also began to complain that the SPLM was deliberately narrowing the political and economic space against them, leaving parties in opposition with no hope of ever winning public office or a share of the revenues. Similar complaints about the shrinking political space were also made by civil society, media groups and by some SPLM members who had been recently co-opted from other parties and felt marginalised within the party after having joined. This was in the hope of increasing their chances of a share of the pie. The political climate increasingly intensified with the shrinking of the economy following independence and by the ensuing row between Juba and Khartoum over the sharing of oil revenues and other mechanics of separation.¹ Equally intense complaints were also raised by coalitions of citizens over issues of claims of corruption by government officials, a practice that is said to be rampant and one that has denied the gains of independence to the largest section of the citizenry. This climate revealed that even the most water-tight political settlements can have shortfalls which no negotiation can fully safeguard against. Here, people who had been fully involved in the peace process increasingly came to the realisation that the settlement that was signed in their name was, in fact, unfavourable to them.

3 The Current Crisis and Why There is Still no Agreement

The ongoing conflict was triggered by a disagreement within the presidential guard unit of the country's security forces, though it has been building up for a while and is rooted in complaints by some members of the political elite who had been part of the CPA settlement process, either as SPLM members or had re-joined the SPLM after the 1991 splits, and subsequently held key positions in the post-war Government since 2005. Their unhappiness was linked to the fact that they felt (even though they held public office), that the positions they were given were superficial and did not amount to decision-making powers, control of resources and meaningful influence in the Army, the country's biggest institution with the highest government expenditure. One of the most significant figures among this group of SPLM leaders who felt marginalised in their own party was the Vice President, Riek Machar Teny, who had been the leader of the 1991 split and had re-joined the SPLM in 2002, just in time for the north-south Peace Agreement. He became second in the hierarchy of the political party, which also placed him second in the hierarchy of the Executive, and yet he was unsatisfied on account that he did not possess powers that would enable him to make major decisions in the country. He was therefore unhappy with the direction the country

¹ These mechanics of separation have been discussed at length in another paper in this series (Jok 2015).

was moving in. It was this attitude that drove him to a rather belligerent insubordination to the President of the country and Chairman of the ruling party, a fact that relieved him of his duties as Vice President and Deputy Chairman of the SPLM. He, along with a number of other senior ministers, was removed from office in a major reshuffle in July 2013. There were also two elected state Governors who were unconstitutionally fired by the President and the Secretary General of the SPLM, who was removed from his post. Together, they automatically set up an opposition front against the President, setting the country on a path of confrontation which culminated in the eruption of a violent conflict that is now threatening the viability of the entire state of South Sudan.

When the incident at the presidential guard took place, the Government accused most of these politicians of an attempted coup d'état, possibly under the leadership of the former Vice President Riek, a charge they vehemently denied. Many of these politicians were arrested but Riek fled from Juba the night after the incident and a massive episode of violence ensued. In the course of the next three days, massacres of civilians took place in Juba and the conflict began to take ethnic tones pitting the country's two biggest ethnic groups, the Dinka and the Nuer, against one another. Most of the victims of these massacres were ethnic Nuer, largely at the hands of Dinka soldiers and they were followed by an outbreak of revenge attacks in Jonglei, Upper Nile and Unity states that were predominantly carried out by Nuer against the Dinka. The whole situation morphed into a civil war with Riek Machar at the helm of what had quickly become a rebellion movement, which he named the SPLM/A in Opposition. The detainees, eleven in total, were eventually released through the intervention of IGAD heads of state and were allowed to leave the country. They currently live in Kenya as guests of President Uhuru Kenyatta. The disgruntled politicians who had lost their power five months earlier, however, did not join Riek's SPLM/A in Opposition as Riek had expected them to. Instead, they formed their own group that has since become known as "former political detainees" or the "Group of 11" but who call themselves SPLM Leaders. They argued that they did not join Riek Machar because of their opposition to the use of violence as a political tool and instead, offered to join the search for peace.

The IGAD-led process is financially and politically supported by the United States, United Kingdom and Norway, together known as the troika. It is also peripherally supported and monitored by other countries, including, China, Australia, the Netherlands, individual member states of IGAD and by organisations including the African Union, the European Union and the United Nations. Despite the pressure, threat of sanctions and suspension of aid from these members of the global community, and despite the dire humanitarian situation that the war has brought upon the people of South Sudan, the process which has been ongoing since January 2014 has not been able to persuade the leaders of the warring parties to reach a compromise. In fact, the process has ended in disagreement and has collapsed several times since the parties missed several crucial deadlines that the international community had imposed on them, including on 6 March 2015 and 17 August 2015. It was not until 26 August 2015, after a mounting pressure on President Kiir, that the parties have finally signed an IGAD-imposed and tenuous peace agreement called the 'Compromise Peace Agreement for the Resolution of Conflict in South Sudan'. It is now pending implementation, and likely to be thwarted by many areas of disagreement that the government sees as a challenge to state sovereignty. So what are the areas of disagreement that would prevent nationalist political leaders from saving their country and their people? What were the solutions suggested by the mediating team?

The first issue that caused the process to drag on for so long was the question of inclusivity demanded by civil society, political parties, faith-based groups, donor countries and human rights agencies from around the world, that the political settlement to stabilise the new State has to include all stakeholders. The mediators insisted that this peace agreement must avoid another CPA-like settlement, that it cannot just be another episode of a power-sharing arrangement and a return to the old status quo, and that if it is to be sustainable, it has to be genuinely comprehensive. The two primary contenders in this conflict, i.e., the Government of South Sudan under Kiir and SPLM in Opposition under Machar, were at first in disagreement over the issue of inclusivity, with the former opposed to it, saying that it would prolong the settlement, and the latter for it, arguing that it would focus the peace process on a total overhauling of the system of governance, dig up the root causes and set the country on the right

track once and for all. The Government was pressured and in the end agreed to inclusivity. Thus, the whole peace process became one involving seven groupings, including the two principal parties, political parties, civil society, faith-based groups, tribal chiefs and former political detainees, each with representatives to the talks. This became the biggest source of stalemate, especially as several groups called for strong provisions for accountability for the massacres that took place in the course of the conflict, and because the main warring parties were unwilling to commit themselves to a process that aimed to punish them for their actions. This has triggered a rethinking of the whole idea of inclusivity. If the primary goal is to reach a compromise between the leaders who are wielding power of the gun and to persuade them to lay down their weapons, is it possible to get them to commit to accountability as well, that which would actually come to punish them? This is where the process was stuck for a long time.

The mediators have also proposed to reach a settlement through the establishment of a transitional government of national unity in which the President and the former vice president would share power for a period of three years, after which elections would be held, excluding these principal leaders from running for office. This, too, has reached an impasse over the issue of how much executive power each man would have in this arrangement and revealed that the leaders are more committed to gaining political power and access to resources on the back of this process than they are at reaching a compromise.

Another stumbling block is the status of military forces that are now engaged in bitter and deadly confrontations, how to deal with what is estimated to be over 200,000 fighting men on both sides, whether to integrate them right away, disband some of them, or keep them separate for some time while working out the mechanism for establishing the national army out of these forces. Riek Machar and his group have suggested that there was no credible national defence force to begin with and that it is important to keep two forces until such time that integration is possible. However, President Kiir and his group read this as suggesting the establishment of two armies, which they are opposed to. A compromise has now been reached under duress but it will still need to work out these very important issues that the IGAD process has proposed, including the issue of cantoning the armies, demilitarising the capital Juba and creating a national army. Now that the IGAD mechanism has been resuscitated and been backed up with pressure from the United States, the implementation of this compromise agreement will need to keep in mind that security sector reform is one key area that makes or breaks an African political settlement. Done poorly, the country could plunge back into war but crafted well, the military could become one of the central institutions that prop a unified state, as the army could bring together more ethnic groups than any other institution and could be an engine of nation-building.

4 Prospects for Peace in South Sudan

The experience of the CPA summarised above, the fact that it was applauded for ending the top layer of Sudan's complex war but ended up disappointing so many communities for failing to address the multiple lower layers of violence, is part of the reason why so many communities and individual citizens in South Sudan have been sceptical about the ongoing peace talks in Ethiopia, over how the recently signed compromise agreement might bear fruits and what sort of peace it will bring. The IGAD-led peace process was faced with two concurrent realities. On the one hand, the multi-layered and multi-stakeholder nature of the conflict required that any attempt at a peaceful resolution must be comprehensive in representation of actors and in addressing their grievances and the root causes. On the other hand, the conflict has been and continues to be extremely violent, causing massive loss of life, and is one that is costly to the country economically, socially, diplomatically in terms of the country's image in the world, and in its ability to build a cohesive society, all of which required that a resolution was found quite urgently.

This is the dilemma that has bedevilled too many peace processes, especially in African conflicts. To aim for a quick end to violence, the temptation to reconcile the top layer of the conflict – the so-called primary stakeholders,

the men with guns – is all too ubiquitous. It comes at the risk of excluding the lower layers, the other stakeholders who do not wield a lot of power but are just as capable of being spoilers down the road. However, to seek an inclusive process, one that represents all stakeholders, most of the drivers of violence, the root causes of the conflict and mechanisms of restitution and post-conflict reconstruction, may risk collapse of the entire process, as primary contenders become unhappy and uneasy with any deal that aims to hold them accountable or aims to chip away at their hold on power.

In exploring these questions and in reviewing the peace process, many observers have attempted to alert the negotiating party delegations, the mediators and the civil society groups that are participating in the peace talks, to keep their eyes open for two possible scenarios: an elite-driven peace process that simply focuses on ending the violence, sharing power and restoring these elite to public office, or a peace agreement that sets a precedent by ending the violence and attaching to it a genuine post-war programme that makes peace durable into the future? It has been suggested by rights groups such as Amnesty International, Human Rights Watch and by United Nations human rights monitors, all of which see justice and accountability as indispensable to sustainable peace, that it does not have to be an-either-or situation. Instead, like the CPA, these two extremes can be bridged through sequencing of issues, such that the signing of an agreement is not viewed as an end in itself but instead as a means to greater ends. For example, by cessation of hostilities agreements that could stop the killing while a comprehensive settlement is being worked out, assuming that cessation of hostilities pacts can be respected by the parties to the conflict or monitored and enforced by external powers. This could reduce the pressure to produce a quick and possibly a less desirable agreement. The burden of the urgency of stopping the violence would be lifted and the mediators could take time to craft an inclusive political settlement, not just in terms of representation at the table but also in terms of substantive grievances, root causes, justice for war crimes and a commitment to programmes of reconstruction. An agreement worked out in a climate where civilians feel more secure would have more wiggle room to address most or all major issues that caused a war. But a peace process that is conducted while parties are shooting at each other and civilians continue to die is likely to be too rushed and to crumble in no time, as so many political settlements to civil wars in Africa demonstrate.² Unlucky for South Sudan, the compromise settlement recently signed under heavy international pressure has followed the latter approach, and its implementation will become a daunting task indeed, one that is likely to disappoint the victims of this conflict once again.

South Sudanese from various political persuasions and social strata, including non-state actors who have been attending or monitoring the IGAD-led peace process, academics, activists and researchers inside the country and diaspora, have been engaged in heated discussions about the violent direction the country has taken, the root causes of the current conflict, what keeps fuelling it, how this violence threatens the viability of the State and what the country will need in order to get back on the right track. Also at the centre of these debates are the dynamics of the war itself, its legitimacy, how it has damaged the chances of social cohesion, the capacity of IGAD to successfully mediate a settlement and assist in its implementation, and what mechanisms of reconciliation should be built into the political settlement in order to save the country from total ruin. The ongoing debates between South Sudanese, a lot of which also takes place through social media and online listservs, cover a range of questions that are really hard to answer, including the appraisal of the peace processes itself and the compromise agreement, whether IGAD's approach is a repeat of the CPA, what the mediators and negotiating parties think this process would be able to offer in terms of lasting peace, whether the final agreement will include a project of nation-building, one that is politically and financially committed to dialogue and reconciliation between the war-affected communities. Indeed, the question of what it will take to restore civility, ethnic coexistence and to create a sense of collective belonging to one nation is probably about the most daunting question, for the country cannot move forward without a conception of how to answer it. These discussions are a snapshot of how ordinary South Sudanese situate the Ethiopia-based talks vis-à-vis their own political and war experiences; how they imagine a

2 The Sudan's Darfur Peace Agreement, the Central African Republic process and Eastern Congo are but just a few cases in point.

political agreement, potentially achieved under pressure from the mediators, as bringing lasting peace for themselves.

The efforts to broker a peace deal and to end the violence have been frustratingly stop-and-go since January 2014. They have not yielded any hopeful results, nearly quashing the confidence that the whole world has put into IGAD. It seems that there is a popular perception that the leading factor at the heart of the prolongation of this process is the question of inclusivity versus focus on the primary contenders. Many people in South Sudan are just as flabbergasted that the war has continued as long as it has – they were shocked that it should have started at all. There is near consensus all across South Sudan that the longer the current conflict continues the more difficult it will be for any peace agreement to mend the rifts that the conflict has already created between communities, ethnically and politically. There has also been widespread disappointment among the citizens of the country, and the people of good will the world over, that South Sudanese leaders in the main warring parties and in other political forces have not exhibited genuine desire to reach a political settlement; and in how weak or compromised IGAD has become. For example, in a public address at the Atlantic Council, the United States Special Envoy to South Sudan, Donald Booth, had sobering remarks about this sense of disappointment, in light of the continued scale of violence despite the promises and euphoria represented in the independence of this young country. On the tragedy currently facing South Sudan, Booth blamed the conflict on the failure of leadership and the void in the political processes created by the leaders who failed to build on the common denominator that had united the South Sudanese in their long struggle for independence, in the determination to be free and their drive to build a prosperous nation (Booth 2014).

5 Conclusion

Interviews with a cross section of citizens, reviews of online discussions, and reviews of reports written by civil society activists and local and international NGOs, all suggest that the majority of South Sudanese view a potential peace agreement, including the recently signed one, with mixed views: on the one hand, whether an immediate end to violence through an exclusive focus on power-sharing between the elite is so crucial as to outweigh the risk of its future collapse; and on the other, whether a more deliberate and comprehensive process is worth the wait, knowing that it stands a better chance of enduring. One of the basic prerequisites of a durable peace is the return of ethnic coexistence and trust between communities. This requires a strong and committed reconciliation project, an endeavour that needs to be built into negotiations and prioritised in terms of implementation, complete with financial and political commitment at the highest level as well as a program for justice and restitution. There seems to be popular demand for reconciliation but serious disagreements on what reconciliation means, what it should look like and who should lead it.

The only way out of this violent episode is a sequential peace process, beginning with an enforceable cessation of hostilities and followed by a negotiated settlement, even if that settlement is between the elite, and an insistence by the mediators on a strong political and financial commitment from the parties to a programme of post-war reconstruction, institutional reform, especially a strong security sector reform, justice, accountability for war crimes, national dialogue, healing and reconciliation. In other words, while the political settlement itself may be an exclusive process that favours the elite, its implementation needs to include programmes that some people refer to as nation-building. Whatever political settlement the recently signed peace accord will amount to, its implementation will need to have a strong conception about how to root it in a constitution. If the peace agreement calls for a review of the current interim constitution or their merger, it would be extremely important to specify when and how to conduct a national dialogue and to repair fractured ethnic relations that were caused by prolonged wars which have fuelled more conflict over the years.

The set up and the structure of this dialogue, as well as the political and resource commitments to it, can only be meaningful and trustworthy if it is built into the overall implementation of the peace process. Otherwise, the random debate that is currently underway would continue to widen the divides and harden the positions, especially between the biggest ethnic groups that are now in loggerheads with each other, the Nuer and the Dinka. Furthermore, the country does not have to reinvent the wheel regarding reconciliation as peace-building, as the experiences that were attempted in both Sudan and South Sudan following the Comprehensive Peace Agreement (CPA) that ended the North-South war in 2005 are there to draw upon. Lessons of what works and what does not could be gleaned from the efforts that have been made over the past several years, including a decision about the role of the Government in these efforts. Since the State in itself is seen as party to the conflicts and many people are aggrieved by the actions of certain state actors such as the Army and other security forces, a meaningful reconciliation project needs to be supported by the Government but cannot be run by it. Even the selection of private parties to lead this effort needs careful scrutiny and reflection, as not all those who have been very vocal about the need for reconciliation, from faith-based organisations, civil society and other networks, for example, are unbiased or possess the appearance of impartiality.

Above all, the security regime that is put in place as part of a political settlement is by far the leading factor in terms of whether or not a political settlement survives. For example, when the North-South war in the old united Sudan ended, one of the immediately daunting questions was the fate of all the armed groups that were fighting independently or as proxies for one side or the other. The question was whether to disband them, absorb all of them into the armies of either side, or to keep them as separate forces for the time being. South Sudan on its own side decided that they should be absorbed in its national defence force, mainly as a way to buy peace and in the hope that once merged, there would be a programme of integration that promotes military professionalism or places the incompetent, the disabled or anyone among them who opts out, on a kind of pension system. However, this poses a huge dilemma which the current peace effort must try to tackle as a useful lesson. The dilemma is that to integrate all combatants would mean that the country may end up with a huge army of armed men and women who do not possess military discipline, creating an unwieldy institution that becomes a security liability and making the defence budget the biggest of all public institutions in a country where basic services are lacking. But to send these fighters home on mass is a recipe for the future outbreak of violence. This is the outcome of the peace agreement just signed that everyone needs to watch very carefully, to ensure that these processes are conducted in sequence, as a way to avoid the traps and dilemmas of the temptation to rush for a bad peace deal which returns the country to war versus the prolonged peace process that risks the loss of more human lives but produces a sustainable peace.

With the above security issues in mind, the issue to be particularly wary about with regards to the current compromise settlement, is the bitter blood between forces of the two main warring parties as they have committed unspeakable acts of violence against one another and against the civilian populations under each other's control. It would be unwise to assume that they can just be forced back together into the ranks of a unified army through the Peace Agreement and without a clear strategy and integration process. These combatants have to be properly reconciled, counselled and reintegrated into their communities. The structure of the national defence force of South Sudan would also have to consider issues of mistrust between the forces, especially their top commanders who have competed against one another for so long, the possibilities of trauma, their relations with the civilian population, military discipline, pensions and above all, the issue of professionalism and ethnic balance in the force. Overtime, the country will need to think through this issue of ethnic representation in the national Army, whether it should be based on proportional numbers or purely on meritocracy. Otherwise, failure to organise the Army on the basis that everyone can understand and a way that gives every citizen an equal chance to join, are always going to draw the country back to war. Politicians who fail to gain public office through civic democratic means will always be tempted to use force if they think that they have numerical ethnic advantage in the Army. But an army with basic ethos that is shared by members of the force or an ethnic numerical balance would be the antidote to the violent quest for power.

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