The Paradox of Peace in Sudan and South Sudan

Why the Political Settlements Failed to Endure

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Abstract

This paper emphasises the contradiction that has emerged in Sudan and South Sudan since the two regions signed a Comprehensive Peace Agreement (CPA) in 2005, ending their two decade long civil war. The CPA was a compromise between the risk of violent state disintegration on the one hand – should the war continue any longer, and allowing for a peaceful split on the other, should the two sides fail to agree on equitable terms for continued unity. In either case, the hope was for an end to violence through a mediated political settlement. Unfortunately, the settlement neither saved the unity of the country nor produced peace. Instead, the country broke into two and violence continued both between the two Sudans and within them. This paper argues that the continuation of violence within each country and the threat of return to inter-state war are a result of the failure of the political settlement reached through the CPA. This is due to the win-lose attitude held by the parties going into the negotiations, with the South's Sudan People's Liberation Movement (SPLM) set to achieve all its political demands without conceding anything and Sudan's ruling National Congress Party (NCP) aiming to frustrated the SPLM's demands without losing anything. They are also born of the inclusivity project that was to undergird the whole accord. It was the variety of stakeholders excluded from both the negotiations and the implementation of the Agreement that intrinsically "spoiled" the Agreement.

About the Publication

About the Author

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List of Acronyms

CPA   Comprehensive Peace Agreement

IGAD   Inter-Governmental Authority on Development

NCP   National Congress Party

SPLM   Sudan People's Liberation Movement

SPLM/A   Sudan People's Liberation Movement/Army

SPLM-N   Sudan People's Liberation Movement - North

1 Introduction

Though the political settlement, which broke up Sudan in 2011, was hinged on the idea that it is better to have two viable states living side-by-side and having stability inside each one of them rather than a single country torn apart by war, the reality is that the two Sudan's continue to face constant threats of a return to war between them. They have been experiencing increased violence within their territories, contrary to what the mediators and negotiators of the 2005 Comprehensive Peace Agreement (CPA) had envisioned for what was Africa's largest country. The many skirmishes on the border areas and increased ethnic or regional rebellions in each of the two States have since become the most obvious indictments of the CPA, which ended the protracted north-south war in 2005.[1] It was this accord that had paved the way for the independence of South Sudan in 2011 and was expected to be the panacea for the rest of the conflict within the rump state, the Republic of Sudan. The Agreement was dubbed "comprehensive" as it had been envisioned (and needed) to be an inclusive process, in terms of both the multitudes of issues connected to the root causes of the conflict and the variety of actors that had their stakes pinned to the new negotiated political settlement. Mediators, regional advisors and most of the political forces in Sudan had argued that it was no longer possible to address all of Sudan's protracted political crises, economic injustices and the periphery-centre clashes through the piecemeal approach that the successive governments in Khartoum had practiced for decades – such an approach had only meant relapse into violence, agreement after agreement.

By the time of the CPA in 2005, Sudan was a country wrecked by 50 years of war. The Second Sudanese Civil War had been raging since 1983, in pursuit of a variety of incompatible goals between the North and the South, with the former trying to keep the unity of the country at all cost and the latter trying to either push through major reforms or exit the union. This wrangling had caused the death of over three million people, mostly in the south of the country.[2] These wars had wasted national resources, with the latest round costing an estimated one million US dollars per day for twenty years, depriving the majority of the population of any social services, destroying much of the little infrastructure that existed in the South, internally displacing and sending over 4.5 million civilians, and above all, creating more rifts between communities than any other time in the country's history, since the end of the slave trade.[3] Issues related to marginalisation of the peripheries, state violence, religious and racial biases that relegated a large part of the citizenry to a position of second class citizenship, all of which had sparked multiple regional rebellions against Khartoum, were all rooted in the failure of the Sudanese state to become a nation that encompasses all of its citizens.

Pacifying such a country required a single process where all stakeholders could hammer out the solutions once and for all – as argued by the stakeholders, mediators and peace experts (ICG 2006). To make such an inclusive peace process sustainable, all the various actors beyond the main warring parties, such as traditionally marginalised communities, political parties and all regions of the country, needed to be included. Their substantive grievances also needed to be addressed, i.e. disagreements over power-sharing, equitable distribution of national resources, the question of citizenship as the basis for entitlement to basic rights, commitment to the rehabilitation of war-affected regions, issues of justice and a strong unifying constitution.[4] A variety of Sudanese actors had demanded two important elements as the basis for the settlement of the long conflict, namely, a collectively agreed agenda and the

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[1] The outbreak of a civil war within South Sudan in December 2013 has become a more difficult development to fathom in view of what the CPA had attempted to accomplish. This paper does not deal with this new war, as there is a second paper in this series that focuses on that (Madut Jok 2015b).

[2] Any attempt to provide figures of death and displacement and any other types of statistics of the Sudan's war is a minefield, as no accurate quantification has ever been done. Two million dead is the figure that most agencies have often referenced, but no one really knows what the numbers are and everyone uses different ways to estimate the death toll. My own estimates, based on the 1980 census, the current population estimates and the estimated birth rates and household size, put the number roughly near 3 million.

[3] See Operation Life-line Sudan (OLS), the humanitarian operation that provided relief throughout the country between 1991 and 2005. The United Nations Mission in Sudan has also published background papers on these estimates. See http://www.un.org/en/peacekeeping/missions/past/unmis/background.shtml

[4] See *The Black Book: Imbalance of Power and Wealth in the Sudan*. This book was published anonymously in 2002 but it was later revealed that the writers had strong ties to the Justice and Equality Movement, a rebel group active in the conflict in Darfur.

representation of all stakeholders at the negotiating table. These were seen as the fundamental prerequisites of any deal and a necessity for the different actors to subscribe to and commit themselves to its sustainability. This was the approach that gave this accord such a presumptuous name: the Comprehensive Peace Agreement.

Although the settlement process had initially proposed to be inclusive of all the political forces, it nevertheless needed to be confined to the top elite if it were to stand a chance of convincing the primary contenders to put down their weapons. In other words, including everyone in the process would have ensured the greatest buy-in from all the actors, but an inclusive peace process is difficult to achieve. When it was finally signed in 2005, the CPA represented a major compromise between the two principal warring parties, the ruling National Congress Party (NCP) and the then southern-based Sudan People's Liberation Movement/Army (SPLM/A), however, the world still rejoiced and a sense of euphoria engulfed most parts of what was Sudan before the split. There was much to celebrate: the Agreement ended Africa's longest running war and arguably the deadliest conflict since World War II.[5] It also offered South Sudan the right to self-determination, the single most important political demand the region had made since colonial times. Furthermore, the Agreement held the promise of success: the world community (the United States, the European Union, United Kingdom, Norway, South Africa, the East African regional bloc Inter-Governmental Agency on Development (IGAD), and the United Nations) had made commitments to ensure the implementation of the Agreement, especially the part on peaceful break up.

Ten years on, the CPA has proven to have been a mere break from the War but not an end to conflict and violence in Sudan – neither in the north nor in the south (Young 2012). Despite the breakthrough of the Agreement, suspicion among many stakeholders considered that it was not inclusive enough or that the main contenders were still going to get lost in an internal competition for power and resources at the expense of translating the CPA into stability and the reduction of violence. The South Sudanese became fixated on conducting a successful referendum for unity or separation, to the point where they disregarded nearly everything else that was related to the full implementation of the CPA and failed to counter Khartoum's action to thwart the process of reform within the North. War, political violence, displacement and destruction continued unabated, even though the most highly expected dividend of the CPA was the reduction of violence and provision of security.

Although the break-up of the country was seen as the ultimate solution to the north-south crisis, this political dispensation alone was not enough to end the war. As the rump state, the Republic of Sudan remains torn apart by multiple wars, it is safe to say that the CPA has been a massive failure: it has triggered new wars within the geographical north before the split, the western region of Darfur – which exploded into violence on the eve of the CPA – and the border regions South Kordofan (Nuba Mountains) and Southern Blue Nile, which plunged into intensified war with Khartoum in the wake of South Sudan's independence, while the Eastern territories continue to simmer on. Violence also raged within South Sudan, mainly militia wars against the government in Juba, ethnic-based violence or cattle rustling, all of which caused massive destruction and death. Sudan's example is a serious indictment against the presumption that negotiated peace agreements are the only way to end wars. The CPA was a victim of the way it was negotiated, starting with the intention of an inclusive settlement and ending with an elite pact that not only raised many expectations in terms of stakeholder inclusion and representation it was unable to fulfil, but also demonstrated that without true commitment and binding implementation mechanisms, agreement provisions were nothing but words.

This paper describes why and how the CPA, highly praised from all corners of the globe, fell short of accomplishing the most significant responsibility the Sudanese primary actors in the conflict had taken on. The paper first presents the theoretical context for negotiated political settlements, what negotiation and peace experts have argued as the reasons why such settlements succeed or fail, and how the Sudanese experience contributes to the discussion that is taking place around the concept of 'political settlements'. In the second part, this paper outlines the negotiation parties and their representation capacity, the dynamic and development of the peace process – with a focus on issues of inclusion and participation, the weaknesses of the CPA and its perceptions among the population.

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[5] In terms of death toll, Sudan would later be surpassed by Congo, which has now experienced, by far, the highest death toll.

The third and final part analyses the challenges of implementing the CPA and the eventual relapse into violent conflict in both countries.[6]

In terms of methodology, this paper engages with the conflict resolution literature from around Africa, with an eye to applying these theoretical debates to the case of Sudan's CPA. The paper is also based on various interviews conducted over the past decade (in the context of various research projects) with Sudanese who have been involved in the peace processes and in subsequent governments that were set up since 2005. Many ordinary citizens from both Sudan and South Sudan were also interviewed about their reading, reaction and perceptions of how the peace agreement had or had not met some of their expectations. Areas of perceived success and areas of failure of the CPA were explored in informal interviews with civil society activists, members of political parties and with the international community represented in the two countries, whether in the form of humanitarian agencies or diplomatic missions.

2   Contextualising the Sudanese Peace Process

2.1   Africa's multi-layered conflicts

One of the most ubiquitous characteristics of civil wars in Africa is that they are often multi-layered, with smaller conflicts happening within larger conflicts. In almost every African country that has suffered from a prolonged civil war since its independence, the experience has been that many groups opposed to governments splinter into factions. Likewise, within some of the most undemocratic national governments, disagreements have often created rifts between regime 'diehards' whose interests are served better by the prevailing system and those pushing for reforms. Some of these conflicts, whether within national governments or between factions of the opposition, have taken on ethnic, regional, religious and even racial divisions, sometimes escalating into ethnic wars and losing sight of the national issues that had initially drawn them into war in the first place (Jok and Hutchinson 1999). This splintering has often had severe consequences for the resolution of the conflict, three of which are worth highlighting here.

Firstly, states often take advantage of divisions within opposition armies, using them to gain their military upper hand and fight the war through proxies, and to escape their responsibility for welfare and the delivery of services to areas affected by war on the pretext that development cannot be done in warzones. National resources are therefore often concentrated in augmenting a regime's hold on power by financing its small support base in a capital city and in its army.

Secondly, such conflicts leave behind lasting legacies that live on long after the main war is over. Strained ethnic relations, gender-based violence, failed justice systems, destruction of service infrastructure, undisciplined military staff and the proliferation of small arms are only but some of the consequences of such wars, which often go on for years after the main conflict has been settled. These lower-layer conflicts often make it extremely hard to find a peaceful national political settlement as they intensify the dilemma for the mediators as well as the parties: to try to address them, all at the risk of not getting all the concerned warring parties around the table, or to simply sweep them under the rug in order to get a quick settlement at the risk of producing one which might fail.

Thirdly, the multiplicity of factions makes it extremely difficult for the conflict to be mediated or resolved. Multiple actors hardly ever agree on a unified negotiating platform, even when they all agree on fighting the same government. The more factions there are, the harder it is to set an agenda, let alone agree on a peace agreement. The arguments over the process of negotiation itself, beginning with a compromise on the mediators and the venue of the

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[6] As noted earlier, the post-2013 conflict in South Sudan and attempts to resolve it are discussed more thoroughly in the second paper published by the same author as part of this series (see Madut Jok 2015b).

talks, to formulating the agenda and agreeing on the composition of delegations and issues of inclusion, can themselves become causes of violent confrontations within the opposition (Zartman and Rubin 2002).

Such has been the environment in which many African wars have been mediated, often resulting in a combination of hope and disastrous disappointment. The ongoing conflicts in the Democratic Republic of the Congo, past wars in Liberia, Sierra Leone, Angola, Uganda, and even the liberation wars during colonial times all exhibited these characteristics (Reno 1999). However, nowhere has this situation been more evident than in what used to be Sudan.

2.2   Scholarly debates on inclusivity within negotiations

Academics have sought to identify relevant approaches adapted to the context of such complex multi-layered conflicts. In recent years, broad-based peace talks that include the root causes and the grievances that had sparked the conflicts in the first place, and that involve more than just the primary power contenders, have garnered a lot of attention from conflict resolution and peace-building analysts (Bekoe 2008). For example, both Chandra Sriram (2008) and John Young (2012) vehemently argue that focusing on issues of power-sharing and wealth distribution simply reduces the whole peace process to a question of dividing anticipated peace dividends between the primary contenders, ignoring the root causes, failing to create mechanisms for the repair of social relations that were wrecked by war and merely patching over the mistakes the warring parties had made. When left without instruments to address them, these grievances have the potential to intensify during peace times due to the high expectations that are often raised by a peace deal. Experiences from many countries affected by war suggest that these are the main factors behind why such countries often return to war shortly after peace accords. Not only do the excluded groups become immediate spoilers, but a superficial invitation to the table without genuine inclusion of their demands will also cause them to have superficial commitment to peace.

The proponents of an all-inclusive negotiation, especially on the question of representation of various social and political strata, have seen the issue of inclusivity as the cornerstone of durable peace, as more citizens would more strongly subscribe to the deal that emerges from such a process (Young 2012; Savir et al. 2008). However, other conflict researchers and practitioners argue that the mere presence of representative actors at the table, without concrete tabling of their grievances, defeats the purpose (Bekoe 2008; Suhrke and Berdal 2012). Both proponents have a point: a peace process that brings both the actors and the issues to the negotiation table might have a better chance, at least in theory, of producing a settlement that all parties can subscribe to. The key demand in either case is that a peace agreement must not simply be about silencing the guns, putting politicians and military generals in public office or distribution of wealth. Instead, a new settlement of this kind has to address the fundamental issues of conflict, the injustices of the wartime, accountability for certain crimes and representation of all voices of citizens' groups.

However, both of these camps also agree on the dilemma that is often created by the demand for representation of all groups versus the focus on the warring parties only. The dilemma is that attempts to represent every sector of society, including the tabling of all their grievances, is likely to threaten the warring parties and the primary power contenders, that any mechanisms of justice, accountability and recompense that could be built into an agreement might come to haunt them in the post-war period. They might fear that it could commit them to responsibilities they would otherwise want to avoid, and they might therefore choose to stay away from the peace process. However, failure to recognise the crimes committed during the war, not just in terms of direct war-related violence, but also economic exclusion, failure to reconcile the communities affected, lack of justice for victims and poor restructuring of institutions of governance, is the surest way for a country to return to war eventually, since aggrieved people will become disappointed with the peace agreement. In short, on the one hand, a peace process that seeks to resolve everything is a very difficult endeavour, and on the other hand, a process which only focuses on people with guns will not produce durable peace.

3 Negotiating the Sudan CPA: Inclusion, Participation and Representation

The negotiation process was an arduous, expensive and frustrating process for the mediators, and more so for the Sudanese people. It began with the Declaration of Principles in 1988 in Koka Dam, Ethiopia, but before it was finally concluded in Naivasha, Kenya and officially signed in Nairobi on 9 January, 2005, it had seen many a negotiation venue: from Abuja, Nigeria, to Machakos, Kenya. It was a product of many unrelenting efforts including diplomatic and financial support, pressure and threats, by regional organisations such as the United Nations, the Inter-Governmental Agency on Development (IGAD) and the African Union, as well as foreign governments such as the United States, United Kingdom and Norway.

All of these entities may have done great things for the deal to be reached, however, the Agreement ultimately came about as a result of Sudanese leaders agreeing that they had reached the end of the road with the war and that it was the best time to end that violent journey. All involved were aware that this process was not just about ending the violence, but also one that would try to smooth over the country's tormented history, rebuild the country's unity on a new foundation and forge a stronger sense of social cohesion between its diverse ethnic, regional, religious and racial groupings.

3.1 The CPA negotiation parties

The CPA was directly mediated by Lazarus Sumbeiywo, an envoy from the East African regional block IGAD and supported diplomatically and financially by United States, United Kingdom and Norway, collectively known as the Troika or friends of IGAD. The mediators, especially the Troika, used any number of factors to press the parties to commit to an inclusive process. However, the peace brokers were confronted by a clear dilemma. There was no question that it was the biggest civil war enemies, the SPLM and the NCP, who had to be encouraged to sit at the table. Indeed, by insisting on an inclusive process and writing accountability for war crimes into the peace agreement, the mediator risked deterring the main warring parties from the negotiating table, as these main warring parties would not have agreed to a process that could hold them responsible for their wartime actions.

On the Khartoum government side, there were leaders from the Islamist ruling NCP, including President Omer Hassan al-Bashir, his deputy Ali Osman Taha, his Minister of Defence Abdel Rahim Muhamed Hussein, Chief of National Intelligence and Security Services Salah Gosh, and a succession of their negotiators in the CPA, all of whom made sure that the settlement did not challenge their hold on power. The compromises they made were only confined to giving South Sudanese some concession, though very little by way of compromises regarding political change towards a more participatory system in the North.

On the southern side were the SPLA leaders, including the movement's Chairman, John Garang, his deputy Salva Kiir Maryar, Deng Alor, Pagan Amum, Ann Itto and a long list of negotiators, many of whom were field officers within the SPLA. Their main focus had morphed from demand for reforms and democratic overhaul of the Sudanese state, which had been the philosophy of the SPLM, to four specific areas of compromise, namely, self-determination for the South, power-sharing, wealth-sharing and security arrangements, especially the status of forces during the interim period. Despite the recognition by these two sides that there are other forces that must have a say in the peace process, it became increasingly evident throughout the negotiating period that only these powerful parties, NCP and SPLM, and their leaders, would have the last say and would eventually be in charge of implementing the Agreement. Indeed, they did, but they only did so in ways that ensured their entrenchment in power and control of resources.

Outside these two main parties, there were many actors on both sides that were independent of the main parties and were calling for inclusion in the process. On the southern side there were so-called "other armed groups",

especially the various militias that had fought against the SPLA within South Sudan at the behest of the Khartoum government. These groups were in agreement with the SPLM on the question of self-determination but were vying for a share of power and resources within what was to become an autonomous or independent South Sudan. On the northern side there were multitudes of political and military actors outside and opposed to the Government, who were also demanding representation, especially sectarian political parties such as the Umma Party, the Democratic Unionist Party, the Sudan Communist Party and a number of parties from Sudan's peripheries: Darfur in the west and the Bejja in the east. The northern Sudanese actors had fought for regime change and now with the ruling NCP being the top negotiator, regime change was no longer a viable option. Getting concessions in power-sharing became their only possible gain from the peace talks; they were also interested in and pushing for democratic reforms through a secular constitution, elections and civil liberties.

Meanwhile, the rest of the Sudanese people who were affected by the violence, genocide and destruction of assets, especially in the peripheries of Darfur, Red Sea Hills, South Kordofan and Blue Nile, all of whom were represented by armed groups, civil society or smaller political parties, were more invested in ensuring that the peace process contains mechanisms for accountability, justice and reconstruction projects. Their concerns were more substantive than the question of a mere seat at the negotiating table.

The negotiations depended on the executive powers that the negotiating teams were granted by the top leadership of the contending groups. The representatives that were sent to the talks were selected on the basis of what the top leadership preconceived as the level of seriousness to talk peace in good faith by the opposing group. The negotiating groups had also often assumed to talk on behalf of the entire constituency each side claimed to represent. The SPLM delegation spoke on behalf of the South Sudanese and of the marginalised parts of the North that had expressed their support to the SPLM, such as the Nuba Mountains and Southern Blue Nile, while the NCP claimed to represent the masses in the North, including those that were opposed to its rule. This presumption of representing people that were not asked, gave each side the power to exclude other potential forces on account that their opinions and grievances were catered for and that they thus did not need to be represented at the peace talks. This meant that what became known as concessions for a particular group may have just been assumed by a party which represented them without their consent.

3.2   The negotiation process and dynamics

The speed of the long process initiated in 1988 which led to the signing of the CPA and its occasional slow down or threats of collapse were often influenced by the kind of actors sent to represent the main parties at various stages of the process. The power dynamics of the two main parties influenced the process. Disagreeing to points under discussion sometimes became a delaying strategy when they felt cornered. If the delegation was led by junior officials, the process was often adjourned for consultations with the higher leadership. It was not uncommon in the Sudanese peace processes for the talks to collapse at any stage, forcing the mediators to return to the drawing board. All throughout the stages of negotiation and despite ceasefire agreements, there was always brinkmanship on the eve of peace talks, when the parties tried to maximise their military gains in order to build maximum leverage at the negotiating table (Johnson 2011).

During the course of the negotiation, both principal parties, the NCP and the SPLM, had ensured that the Agreement was confined to the two of them, leaving the mediators in the usual bind that confronts peace-making in Africa: to be inclusive or not to be inclusive of all the country's stakeholders. To restrict the talks to the main parties at the exclusion of the other armed groups was to set up the Agreement to be spoiled down the road by the excluded groups. But to make the process comprehensive in terms of representing all the stakeholders, including the many armed groups that were not affiliated with either of the two main contenders, in hope of creating the maximum possible buy-in from the people of Sudan and thus making the Agreement more likely sustainable, was to create disincentives for the main warring parties to come to the table and commit to an agreement. The main parties,

especially Khartoum's NCP, feared that the more groups the Agreement had to accommodate the less power and resources to go around. A truly comprehensive deal would have restructured the system of government, committed Khartoum to expensive post-war rehabilitation projects and reduced the NCP's hold on the levers of power.

In an attempt to create middle ground between the above two extremes, the IGAD leaders, their special envoys and the leaders of the developed world who mediated or sponsored the CPA did not want to make it a choice between a quick fix agreement confined to the main parties at the risk of being destroyed by the excluded groups or a more inclusive process at the risk of deterring the two biggest groups away from the negotiating table. Instead, the mediators envisioned and crafted the Agreement as a sequential process, starting with silencing of the guns through security arrangements to ensure that the armies that had been foes for decades did not revert to conflict, to the creation of mechanisms for power-sharing and wealth-sharing, all of which would then be followed by projects of justice, accountability, reconciliation, the rebuilding of the regional and ethnic relations that were destroyed by decades of acrimony, not just between the Arab North and the African South but also within each side. Both the mediators and the negotiating parties talked a lot about post-conflict democratic reforms, reconstruction of the areas most affected and the rectification of everything that had divided the country for half a century, from religious, racial, social or geographical divisions.

The breakthrough for concluding the negotiations successfully was reached when the two leaders from the two principal warring parties, John Garang (SPLM) and Ali Osman Taha (NCP), were called in to push through the sticking points. With the two main parties having compromised on a number of issues and offered promises to bring about change for Sudan, other actors were reined in/convinced by the mediators and advisors to go along with the CPA, in the hope that the principal contenders would honour the letter and spirit of the Agreement, and uphold the concessions they promised to the smaller groups and to the ordinary Sudanese people who wanted security, stability, reform, justice, accountability, reconstruction and development.

The CPA was negotiated and signed on the premise that it would end the war, establish a six year interim period to allow for reconstruction and rebuilding of trust, after which the people of what was then southern Sudan would hold a referendum on unity or separation. Based on this premise, most South Sudanese actors rated the CPA as an inclusive process – their primary demand was the right to self-determination. It was the single issue around which the whole population rallied, and thanks to which the SPLM could unquestionably claim that it represented the largest constituency of South Sudan. Many people in northern Sudan also rated it inclusive on the basis that the SPLM under John Garang had promised to work for the unity of Sudan and thus, many northern Sudanese who sympathised with the SPLM had pinned their aspirations on the south-based rebel movement pushing Khartoum to enact major reforms throughout the country. On this account, many political forces in Sudan rated the CPA as an inclusive settlement, mainly on substantive issues, even though they were not represented at the negotiating table.

The idea during the negotiations was to, should separation become the eventuality, allow for the creation of two viable countries to live in peace and harmony with one another and within themselves. Key terms in this Agreement were inclusive constitutions, security arrangements, stability, respect for human rights, good governance, sharing of political power and wealth, and the rehabilitation and development of the war-affected territories. Above all, it was agreed that the two countries would, should they part ways, work for each other's stability and development and cooperate on all the key areas of the Agreement in order to ensure that separation becomes a solution to an intractable discord, rather than the creation of permanent barriers. Despite the long history of acrimony and violence and destruction caused by the discord between the two regions, this Agreement was aimed at underscoring the historical, geographical, social and cultural connections that could become the foundations of mutual cooperation and state viability.

The point to remember from this Agreement is that any agreement is as good as the level of commitment to its letter and spirit. The mere recognition of the existence of a problem is not enough to buy its sustainability. If words were all it took, the CPA would have solved the problems that had kept the Sudan fighting for so long. But when the implementation phase came, the provisions the main parties had agreed upon, the promises they had implied in

certain provisions for the excluded groups, the expected peace dividends and the desired reforms that the leaders had promised were swept aside in the expediency of power contest.

3.3   Excluded stakeholders

The CPA managed to end 50 years of violent conflicts between the North and South in what was the Republic of Sudan, but it has been heavily criticised for the fact that it was focused on reconciling the main warring parties, the government of Khartoum and the South-based SPLA, to the exclusion of all other armed groups. This exclusion is considered to be the main reason why violence has not ceased in either of the two countries. Of particular note were the various armed groups that had at one time or another during the liberation struggle turned their guns against the SPLA – the main liberation movement that is now credited for delivering independence, or joined hands with the Government of Sudan against the South. In conceiving the CPA, the mediators and the global activists who had pushed for political interventions in Sudan, especially human rights groups, foreign observers who studied Sudan's conflict and diplomatic representatives from concerned countries, had definitely worried about how to bring them into the process. However, they had to exclude them in the end, bowing to the wishes of the two main warring parties for a more exclusive agreement, as stated earlier in this paper. As a solution, the Agreement made specific provisions relevant to them in the final accord though without guarantees for their implementation. It was decided that all the militias that were unaffiliated to either side of the NCP-SPLM divide would be called "other armed groups", and were to be told to join one side or the other and be absorbed into that side's army. This totally ignored the grievances that had drawn them into the war in the first place and therefore, they became spoilers down the road, wreaking havoc on both sides of the border.

The inclusion of alternative/opposing political forces from the North, which the Government delegation presumed to represent in its entirety, was also highly difficult to ascertain. These groups were also physically excluded from the talks, though they received a mention in the final settlement and were to rely on the genuineness of the NCP Government to implement the provisions it agreed with: major reforms, political freedoms, constitution and elections.

The peace deal was also seen as exclusive to the fighting men, lacking the participation of women, youth, political parties and professional associations. That exclusion is not seen only in terms of the representation of such population groups but also in terms of the issues the Agreement eventually addressed. The comparative literature on peace negotiations, as listed earlier, suggests that merely inviting a representative of a group to the negotiating table, such as someone attending on behalf of women, for example, does not necessarily make the process inclusive if the women's war experiences have not been tabled as subjects that need to be built into the peace process in such a way that an agreement sets up mechanisms for the rectification of the war-related experiences that will continue to affect women and families in the implementation phase.

Comparing the demands that these multiple actors had made and the final Agreement, there is no question that the grievances and the demands of most actors were addressed, but there were no guarantees against either of the main parties reneging on the Agreement. Thus, the problem became one of enforcing compliance with the letter and spirit of the Agreement and the ability of the guarantors, IGAD, United Nations, African Union and the Troika, to hold the parties accountable. What then is the point of any inclusive peace process if only the principal parties are going to be left in charge of implementation, with no national watchdog or monitoring structures, and if the supervisory role of the external forces is going to be a mere exercise in symbolism? This was the crux of the problem with the CPA.

3.4   How the CPA was popularly perceived

As the accord began to be implemented, nearly every category of the population, from ethnic groups, to the country's various regions, to political persuasions and religious groupings, assessed the CPA from a single-issue perspective,

depending on the grievances that had drawn each of them into the war in one form or another. South Sudanese saw the CPA as a weak agreement but one that they could live with, primarily because it provided for a self-determination referendum for their region to be conducted after a six-year interim period. This was the single most important political demand that "Southerners" had pursued since colonial times, the cause of two civil wars spanning half a century. "This is what we had fought for all this time," remarked nearly every South Sudanese interviewed over the issue.

However, the dominant groups within northern Sudan, above all the ruling NCP, the various sectarian parties that had alternated in power for the better part of the country's 50 years of independence from Britain, and the Arab populations who had always economically and socially benefited from their control of the state apparatus, were all unhappy with the Agreement, one they saw as granting too many concessions to the often marginalised peripheries. They saw it as a compromise that might cost the country its unity (Schafer 2007). Some radicals in the North may have even wished for the country to try to stay on the military course in order to deny South Sudan the opportunity of a self-determination referendum.

The people of Darfur read it as continuation of the usual northern elite's piecemeal approach to solving Sudan's national problems of equity and human rights, one that was a far cry from ending violence in the whole country, especially their own region which had been grossly marginalised, and a site of horrific episodes of violence and violence-related famines since the early 1980s (Sullivan 2006). For them, an agreement that emphasised the north-south wrangling was likely to appease the South at the expense of the marginalisation of the North.

Residents of Southern Blue Nile, the Nuba Mountains and Abyei, whose regions administratively fell in the geographical north, also viewed the CPA as having sacrificed their demands in order to get an agreement that ended the war at their expense (Jok 2015a). Even within a single region such as South Sudan, the Agreement was not a solution to their devastating experiences with conflict, not by a long shot. From these varied perspectives, the Agreement, applauded as it was by both local leaders as well as the global community, was basically dead on arrival, except in the eyes of those in positions of power, who saw it singularly as a great feat of negotiation and compromise to end one of Africa's most destructive civil wars (Young 2012).

Overall, the main concerns of the civilians that live through prolonged civil wars are that of everyday security, accountability for war-time atrocities and recompense for loss of life and property. These and other immediate peace dividends were sacrificed in the interest of advancing political settlement between the main parties. The main critique labelled against the CPA was that that nothing was comprehensive about it, neither in substance nor in representation. It focused heavily on the main parties to the exclusion of the rest, with the consequence being that the excluded groups have been acting as spoilers ever since the main war ended and have threatened the viability, not just of the peace deal but of the entire newly independent country (ICG 2006). Hence, violence has continued to ravage rural communities in South Sudan, threatening the stability of the whole nation, during the supposed peace time. This has been one of the most daunting challenges facing the new republic and most definitely the reason why South Sudan has been at risk of falling apart since the relapse into violence in December 2013.

4   South Sudan after Independence: Statebuilding Challenges and Persisting Insecurity

When South Sudan finally became independent in 2011, after many decades of destructive and deadly liberation wars, it was totally unsurprising that the people of this new country expressed happiness and held high expectations about several fundamental freedoms that the wars had deprived them of. The most highly expected outcome was an

end to the violence that had engulfed the territory during war. The violence of the wartime had been almost entirely attributed to the counter-insurgency activities of the Sudanese state, which did not distinguish between legitimate military targets and civilians and their property. It was therefore natural for the citizens of the new country to think that the removal of what had been seen as an occupation army and the installation of a national security sector was going to automatically result in peace and stability within South Sudan. The second most expected peace and independence dividend was food security, as food deficits, generalised hunger and malnutrition had been the most ubiquitous consequences of war, displacement, destruction; and had made for the most visibly heart-breaking experiences that most characterised the region in the 1980s and 1990s. At independence, the popular expectation was that the Government of the new state would quickly have a plan to alleviate both the terrible violence and insecurity of the war time, and the food deficits and hunger that was associated with it. At least the processes that ended the war and brought independence, especially the CPA, had promised this much to the people. The two experiences, violence and hunger, had severely weighed down on the conscience and psyche of the whole society and were said to have produced a collective sense of humiliation, where South Sudanese, a very resilient and enterprising and survival savvy people, had felt that they lost face when so many of them were reduced to a charity case, to become beneficiaries of the international community's largess.

The problem, however, is that separation has thrown up so many daunting challenges for both countries, all of which have manifested themselves in the form of continued political turmoil, rebellions, violent ethnic squabbles, inefficiency of the security apparatus, and have handicapped economic development and service delivery. It has now quickly become all too evident that splitting Sudan was not going to be the panacea for the massive burden left behind by the decades-long wars in South Sudan and in the peripheries of Sudan, such as in Darfur, Nuba Mountains and Southern Blue Nile, at least not as fast as people needed it and expected it to do so. This section analyses the reasons behind the inability of the CPA implementation process to provide the citizens of the two countries with either security or prosperity.

The Government of South Sudan set up a variety of institutions to deal with the provision of security but many of them were established from scratch and their ability to provide the expected services was as good as the political will and financial resources invested in them. The SPLA remained the country's national defence force, despite many challenges with regards to its professionalism, training, equipment and criteria of qualification for membership in the force. It was plagued by the difficult absorption of former militias, inflated ranks, ghost names, huge expenditures on salaries and the use of violence against civilians by members of the force. The Government also established the national police service, however, it too suffered problems of professionalism, as most of its members were also former rebel fighters from the SPLA, lacking basic knowledge of police work. Both these security forces became more a source of insecurity than a protection force for the population.

In terms of running the State, other institutions were set up, such as national ministries, cabinet level commissions (e.g. anti-corruption corruption, peace commission) and an audit chamber, to ensure transparent and accountable fiscal management. Of high importance was also the establishment of a justice system, which has proven most challenging in terms of reforms, as the country lacks judges, lawyers and paralegal staff. Above all, there was a great deal of expectation towards the constitutional review process to produce a permanent constitution that could ensure a bill of rights, access to justice and a clarification of the relationship between the customary and statutory laws.[7] So far, the country remains without a permanent constitution and is unlikely to get one anytime soon. This issue illustrates the failure of the CPA to usher in a culture of a participatory system of governance.

Another major source of challenge can be linked to the CPA's lack of clarity on how its provisions were going to be implemented. The result has been that the two parties (i.e. the Governments of North and South Sudan) have spent the last three years hovering on the brink of war with each other over accusations of bad faith in the implementation mechanisms and over the trading of accusations of dishonouring or outright deliberate reneging on agreed points. Many clauses in the Agreement, including the pillar points within it, remain a source of strain on the relationships

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[7] For more in the constitution making process, see Storaas, 2015.

between the two countries, only able to avoid an all-out war through sheer determination of South Sudan to resist provocation.

The most challenging of these agreed points include the demarcation of the new international border, oil production and export, contested territories on the border, the citizenship of populations stranded on one or the other side, whether there would be freedom of movement of people and goods across the border, and above all, the question of security, especially the support of one country to the anti-government rebel groups in the other.

The experience of Sudan's break-up through a negotiated settlement aimed at ending a protracted violent conflict is not necessarily unique but rare in the world, and both its long term success and failure will be an important reference point for the many other such conflicts in Africa and beyond. What is unique to Sudan's experience, as many analysts of the CPA have pointed out, is the historical relationship between the North and the South and how the historical trajectories of that relationship were bound to limit the success of any signed agreements between them (e.g. Young 2007). Most important in this case is the mistrust that was built up between the North and the South ever since the creation of the Sudanese state.

Developments on both sides of the north-south divide following the CPA have suggested that the peace deal has left a lot to be desired. On the side of the Republic of Sudan, there quickly emerged what became known as the 'New South' after South Sudan's break away. These were the three areas of Nuba Mountains, Southern Blue Nile and Abyei, that were politically and militarily allied with the South during the war but were geographically and administratively part of the North and thus left out of the Agreement. The CPA had only given them a vague provision that called for "popular consultation" on their status. When Khartoum demanded that the fighters who hailed from these three areas, and who had been part of the south-based SPLA, be disbanded or absorbed into the Sudan Armed Forces, some prominent parties to the CPA, such as Malik Agar Ayir from Blue Nile, Yasir Arman from Khartoum and Abdel Aziz Adam Al-Hilu from South Kordofan, refused to abide by the CPA, quickly renaming themselves the Sudan People's Liberation Movement Army, North (SPLM/A-N). Given that Khartoum wanted them to stay with the Agreement under its own terms and without guarantees of power-sharing or political reforms, this reaction was unsurprising. The result was that the Republic of Sudan plunged into its own new civil war with the three dissenting areas. The fighting has continued ever since; many attempts at reconciliation or peace deals have been made to no avail.[8]

The clearest manifestation of the challenges that faced the implementation of the CPA is the fact that the two primary contenders, the NCP in the north and SPLM in the south, continue to monopolise almost all the structures of power in the two countries, reducing the conflict to a rivalry between two political elite groups, even though the war had been a multi-layered affair and involved multiple actors. The promises that the primary stakeholders had made to share power with the smaller political parties, to incorporate the other armed groups, undertake drastic reforms, produce a constitution that meets with buy-in from all political forces, provide security for rural areas and poor urban centres, open up political space, allow media freedoms, make plans for elections and offer equitable development programmes, all of which were outlined in the final settlement, have all remained disappointingly absent in both countries. On the contrary, many actors in the Republic of Sudan have quickly come to realise that the NCP Government, by agreement to this settlement, got rid of the southern problem while simply buying time and posturing for a new assault on their rights, avoiding dialogue to hammer out the remaining areas of disagreement and cracking down on other armed groups and the populations under their control.

Combined with the new civil war with the three areas of the 'New South', the Republic of Sudan has continued to be embroiled in a destructive war, almost as if there had never been a peace agreement, a development which has drained the country's resources, widened the rift between populations of different regions and shattered the rural economy.

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[8] There have been many independent reports and analysis about these groups and their relationship with Khartoum, some by independent researchers and others by human rights groups or think tanks such as ICG or Small Arms Survey (2010, 2014).

5 Conclusion

This paper has tried to explain the historical context to the political settlement that ended and paved the way to Sudan's break-up. It has also navigated the long and arduous negotiating process, mediated by IGAD and has attempted to work out the dilemmas that face negotiated settlements, between the desire for a quick end to violence and a need for a more inclusive process that produces an agreement with the most buy-in possible so as to be more durable and sustainable. The paper reviewed the main parties to the peace process, their main grievances, how they were or were not addressed in the CPA, and the challenges of implementation, concluding that the two primary contenders, the Government of Sudan controlled by the NCP, and the south-based SPLM, which were able to exclude all the other major actors from both the representation at the negotiation venue and participation in the identification of substantive areas, have both ended up controlling most of the power and resources. It is this monopoly of power and resources that have become the threat to stability in both countries, as the excluded groups have unsurprisingly become unwilling to give up the fight. The monopoly of power has also meant that the two primary contenders could not be pressured to implement what they have agreed to, from reforms to equitable development programmes to the constitution, justice, accountability, and transparent elections. Even though the mid-term elections provided for in the CPA were held in 2010 and South Sudan's referendum in 2011, these exercises were controlled and manipulated to the point where they only consolidated and legitimised the power of the primary contenders, to the exclusion of the other political and social forces.

As civil wars and other types of political violence have become realities of everyday life all around the world, the search for their settlement has become a shared responsibility between the leaders of the countries that experience war, the mediators, global activists, and the citizens living in these troubled territories. This search for settlement has led to an intense debate on the three ingredients that peace analysts, conflict mitigation experts and peace-building specialists think are basic to any political settlement. The first ingredient is the importance of a broad-based process in which the voices of all stakeholders are represented. The second is the inclusion of the issues surrounding war and root causes onto the agenda of the peace talks. Third are the strategic programmes that look past agreements in order to create an environment and mechanism for institutional reforms that will create a strong security sector, reconciliation and healing, social cohesion and citizenship. The importance of these basic prerequisites for a political settlement is underscored by a dilemma that often confronts the mediators and the parties to the conflict, namely, a focus on the power contenders or armed groups in order to get a quick settlement so that violence can quickly cease, all at the risk of excluding other important voices from the settlement and facing big challenges ahead; or an attempt to include everyone in all the stages of negotiation in hope of producing a more durable settlement, but at the risk of a prolonged process that could push weary fighters away from the negotiating table.

What has been revealed in this exercise, applying a case study to an existing theoretical debate, is that all the three ingredients of a successful settlement applied elsewhere may have prevented the return to war in the Nuba Mountains and Southern Blue Nile, the continued war in Darfur and insecurity, violence, rebellions, risks of collapse and threats of a return to civil war, following the eruption of conflict in Juba, South Sudan, on 15 December 2013. If the CPA had been more inclusive, broad-based in coverage of grievances, and foresighted with regards to the most important post-war institutional development, reconciliation and healing, South Sudan would have avoided its current crisis and Sudan would have prioritised dialogue over military solutions to the ongoing wars at its peripheries.

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