

A Post IGAD Peace Process: options and supporting interventions

A People's Proposal for South Sudan Peace Process

Abstract

The immediate reaction to the IGAD and Khartoum mediated Entebbe agreement was that it revealed severe structural defects that might very likely instigate the demise of the proposed governance arrangements. This observation turned out to be true. The power-sharing formula is the same 2015 Agreement which aims to retain the status quo July 2016 ante.

The central question on the system of governance is not well understood. It is not about the number of states; instead, it is about the devolution of political and fiscal powers to sub-national levels, it is also a question about segmented autonomy.¹ The proposal is silent on these vital questions. As the IGAD, Kampala, Khartoum proposal does not raise the vital questions to address, it is therefore destined to fail.

Since there are no simple 1-2-3 steps to peace, there are necessary conditions to facilitate sustainable peace. This brief articulates a Post IGAD Peace Process and presents two options and supporting interventions to pursue. We sincerely hope it is a worthy contribution to the national debate and search for a practical framework in support and pursuit of sustainable peace in South Sudan.



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1. Context

Despite five months of consultations before the talks, the IGAD and its mediators failed to bridge the rift between the warring parties. IGADs latest revised bridging proposal of 17th June 2018 confirms its paramount objective to retain President Kiir's Leadership and regime; rather than understand the dynamics and causes of the violence and its long list of failed intervention throughout the mediation process. It is presenting the same proposal again and again but with different theatrics and capital cities as a backdrop.

The economic and national security interests of IGAD countries (Uganda, Kenya, Ethiopia and Sudan), reaffirms IGADs entrenched support for the incumbent administration in Juba. Many of the incumbent leaders have, time and again, undermined every effort to bring about genuine peace to the country; and an instinct to resort to violent behaviour to retain power. IGADs interests are manifested in its lack of vision for a genuinely peaceful South Sudanese state and the welfare of its millions of suffering people.

Its revised peace proposals and bridging document lack the measures necessary for developing a polity and governance matrix, able to confront and reverse the country's legacy of injustice and partisanship, and its replacement with a sense of inclusiveness and fairness in the operationalisation of the South Sudanese Nation-State.

IGADs attempts to maintain the status quo, including its last-gasp attempt for a face-to-face agreement between the TGoNU President, Salva Kiir, and former Vice President, Dr Riek

There are now only two objectives: Kiir must go and; South Sudan must be made safe for all so that everyone can return home safely.

Machar Teny, and facilitated by the most unlikely mediators has beyond all doubt, shown it must now relinquish the mediation of the peace talks.

It is time to address the causes (social, cultural, economic and political underdevelopment) and drivers of the civil war and assign the right people and capacities to implement it.....

Comparable to Maslow's maxim, IGADs only tool to bring about peace is a hammer; and that is why all of South Sudan's problems, look like nails.⁶

Now that South Sudan Opposition Alliance (SSOA) and other parties have categorically rejected IGADs latest mediated Entebbe Proposal on Governance, it is time to address the causes (social, cultural, economic and political underdevelopment) and drivers of the civil war and assign the right people and capacities to implement it rather than continue to dwell on sharing the public resources of a failed state, through short-sighted formulas of power-sharing.

There is now an opportunity for a fresh start towards lasting peace. Addressing security arrangements with the interest of the South Sudanese people in mind and judicial intervention, using an array of tools to create a conducive environment for a lean and a competent new interim government and administration. One that respects and can strengthen institutions and sustain long-lasting peace for the people.

There are now only two objectives to embark on such a quest: Kiir must go just like Desalegn left for the greater good of Ethiopia; Mugabe left for the greater good of Zimbabwe; Zuma left for the greater good of South Africa; Kiir MUST LEAVE for the greater good of South Sudan and; South Sudan must be made safe for all so that everyone can return home safely. Not least for an interim government led by technocrats that guarantee the sovereignty of the country has

ownership and direct responsibility for implementing the plans for reconstruction and implements sound macroeconomic policies that are essential for long-term peace and stability.

Underdeveloped and immersed in systemic and structural problems, the determinants to crafting the transition, its interim governance, and Key Performance Indicators, are the ability of its leaders and targeted international support to:

1. Restore law and order;
2. Re-establish structures and systems of governance;
3. Repatriate, resettle, rehabilitate refugees and IDPs to their villages and towns;
4. Build institutions needed to ensure the functioning of a market economy;
5. Restore mutually beneficial relations with its neighbouring countries.

These processes would benefit from greater involvement of South Sudanese experts and diaspora communities that are currently excluded from the process. There has been an over-reliance on international, and a top-down approach to peace and programmes run by expatriates that are far removed from addressing the fundamental causes of South Sudan's conflict. Local experts who may be more inclined to build a locally focused, development and sustainable-oriented society are being excluded in favour of malleable leaders. The ruling SPLM party and its many variations are primarily managed through military and tribal principles with little or no mechanism to promote fundamental checks and balances and embrace real democratic principles.

It is incumbent on the opposition alliance to reverse the current non-transparent trusteeship status of the country and give in to any ongoing processes that will further erode South Sudan's sovereignty and economic independence.

2. The parties to the negotiation

A tripartite system comprises three groups:

1. *The Opposition*

Includes all the parties that agree with the principle that "all of those responsible for the violence, and all members of the South Sudan cabinet dissolved in July 2013, are barred from participation in the executive of the new interim government".

2. *The Transitional Government of National Unity (TGoNU)*

All participants in the current TGoNU and the previous TGoNU that was dissolved in July 2016 should be barred from participation the new interim government and Executive.

If vetted, members of the TGoNU and individuals that are under sanctions or indicted by any courts for human rights atrocities, corruption and any other grave misconduct must not participate in the peace negotiations process.

3. *The lead mediator(s)*

The one body with prudent political credibility to take charge after IGAD's failed mediation process is the African Union. This is based on the AU's continental mandate, its all-African composition, and on the record of its High-Level Implementation Panel for Sudan and South Sudan. The African Union High-Level Ad Hoc Committee for South Sudan which consists of the Heads of State and Government of Algeria, Chad, Nigeria, Rwanda and South Africa must now take the lead in elaborating elaboration a roadmap to guide the process.

They should be joined by professional international mediators and interlocutors selected and appointed by the AU and supported by the UN, and the TROIKA and EU should be enrolled.

The African Union must **act now** to avoid new ethnic conflicts from emerging in South Sudan;

stirring old ones that could potentially turn into more massive regional disputes.

3. Mediators and conflict of interest

All members of the negotiation team should declare that they are free of conflicts of interest, and sign a confidentiality clause that commits them to vetting procedures of due diligence. Members of the negotiation team, including independent advisors, are to notify the lead negotiators if any conflicts of interest arise before any negotiations, or during the negotiations. If this happens, a decision must be made as to whether the member should remain, as part of the negotiation team or should leave.

4. The Remaining Options

Until new leaders emerge that to put their people and interest first, those in the region who are mindful of their national interest will continue to exploit our weaknesses be it Sudan, Ethiopia, Uganda or Kenya!. It is therefore incumbent on the opposition alliance to reverse the current unofficial and non-transparent trusteeship status of the country and not to give in to any ongoing processes that will further erode South Sudan's sovereignty and economic independence.

The SPLM and its feeling of entitlement, has failed to deliver the 'peace dividend' that all South Sudanese fought, died, voted, and hoped to obtain. The consequence is, the country is now an unofficial and non-transparent IGAD-led trusteeship. The IGAD members and the international community, decide on all key policy aspects and deliverables, including basic services; humanitarian assistance and; security and the rule of law. The neighbours of Uganda and Kenya undermine many of the efforts of peace-making in South Sudan; and they provide "diplomatic services" which make available their financial systems, that continue to support South Sudan's Political and Military elites, which then undermines international sanctions and directives.

4.1 Option I:

Given South Sudan's extreme degree of state failure, a temporary interim "Hybrid Technocrats' and vetted Politicians'" administration, is the single remaining path to protect and restore the country's sovereignty'. The African Union should present this and other variations of this option as the "best alternative to a negotiated agreement" (BATNA), with its necessary supporting measures to include humanitarian, security and economic means.

The variations could include the following:

- (i) An African Union-backed interim Hybrid Government of South Sudan led by technocrats and vetted politicians that have fulfilled the eligibility criteria;
- (ii) An African Union and United Nations-backed interim Hybrid Government of South Sudan led by technocrats and vetted politicians that have met the eligibility criteria;
- (iii) An African Union Trusteeship of South Sudan;
- (iv) A United Nations-backed African Union Trusteeship of South Sudan.

The BATNA is to be implemented by a regionally diverse team of South Sudanese technocrats and politicians, with executive functions to run the country for a transitional period under the auspices of the AU.

Because various attempts to agree on a transition have been hijacked by the political and financial interests of the leaders of South Sudan's neighbours, and they have 'failed', an international (military) intervention is needed to secure the country and to protect its civilians and their property.

The expiring TGoNU should be replaced with a hybrid administration of South Sudanese, supported by the AU and the International Community. This transitional arrangement will reconcile, heal, foster accountability, restore order, hand it a constitution and afford a conducive environment to organise elections with guaranteed credibility'.

When the parties fail to agree via IGAD's current matrices, the AU, the UN, the TROIKA, and the EU, can commence the implementation of an African Union trusteeship process, that is assisted in its execution by a vetted and credible three-person interim Presidential leadership drawn from the region of Greater Equatoria, Greater Upper Nile and Greater Bahr el Ghazal. A transitional council of ministers led by technocrats and vetted politicians within the executive would implement the interim agenda.

This represents what will happen regarding authority and mandate when the TGoNU and the Opposition groups fail to agree by a specified deadline laid out by the AU - i.e. 1st August 2018. In the absence of an agreement, the default is that the AU/UN/TROIKA/EU, and the country's technocrats and vetted politicians, will implement the best alternative option for governance, security, and the rule of law.

4.2 Option II:

A neutral interim government without President Salva Kiir: A negotiated agreement for a transitional government headed by an impartial individual with no ambitions for political office in the subsequent National elections. With this option, the opposition groups would submit their technocrat candidates for the interim President and cabinet positions. These candidates would review the prospects for governance, economic empowerment, and the opportunities and limitations for the implementation of the chapters of 2015 ARCISS - all underpinned by comprehensive and immediate coordination and implementation of humanitarian assistance efforts.

To quote the former Minister Office of the President:

"As all the signatories of the 2018 Khartoum Agreement are ready to surrender the sovereignty of our country to one of the most fragile countries in the world, are we not better-off to accept a hybrid of national technocratic government consisting of untainted technocrats selected by citizens of the former three regions rather than through the failed elites power-sharing

arrangements that reward those with guns and with political oversight by ceremonial and rotational political leadership and transitional parliament with members selected by the citizens of the three former regions of SS and to outsource regional and international expertise in sectors such as security, oil, banking and even judiciary where we have great trust deficit." Dr Luka Biong Deng:

5. Supporting interventions

5.1 The Hybrid court of South Sudan

Ending impunity: The African Union Peace and Security Council (AUPSC), should establish the long anticipated and much-needed Hybrid Court, to put on trial the perpetrators of the crimes committed during the 2013 Conflict. Holding accountable those individuals responsible for war crimes and human-rights violations is an indispensable part of combating the prevailing culture of impunity, and fostering durable peace and stability in South Sudan.

5.2 Expediting Asset Recovery

Ending corruption: With the assistance of the World Bank Stolen Assets Recovery Initiative (STAR), effectively investigate and undertake the recovery of misappropriated funds and assets from high-ranking officials accused of, or found to have engaged in, widespread corruption. It is also critical that South Sudanese reflect on how it came to be that their public funds were misappropriated, and comprehend the failure to develop and implement an effective national anti-corruption strategy.

5.3 Ensure Transparent Resource Management

Enhancing governance: Political power and access to the country's primary source of revenue - the oil precedes - are important causes of South Sudan's conflict. It is essential to implement the proposal to outsource operational control of South Sudan's oil revenues to a Trusted Neutral Party (Not any of the IGAD countries) during the Interim Government period, to guarantee transparency

and ensure the credibility of any negotiated agreement.

Unfortunately and to the surprise of many observers, the Khartoum agreement hands the very resources that has fueled the conflict and massacre of innocent civilians, crippled any prospects for democracy and good governance will now be handed over to the two regimes in Juba and Khartoum outside the peace process and the jurisdictions of IGADS High-Level Revitalization Forum.

6.4 House of Nationalities led National Dialogue

Sustaining the peace: An indigenous, all-inclusive, national peace process is indispensable to permanent peace and stability in South Sudan. The House of Nationalities (HoN) addresses the lack of ethnic and social representativeness that has been missing from the national and international fora where existing proposals are coined. The HoN's dialogue can be an effective mechanism for lasting change, but only if it held in a safe environment that allows for the participation of a wide array of political and civil society actors, encompassing a range of views. These support initiatives are critical for any prospect of rebuilding the National social fabric, improving the lives of all of the people of South Sudan, and bringing stability to the three Greater regions of the Country.

6. A precondition to lasting peace and constitutional reform

The Repatriation, Relief, Resettlement, Rehabilitation, and Reconstruction (5Rs) are a critical program in the post-conflict South Sudan. First and foremost, specific constitutional activities will not take place without successful implementation of the 5Rs. The country demands a new National census, and this will only be partial and distorted, if the IDPs and the refugees, do not return to their original homes. Contingent on the census is the demarcation of constituencies and the carrying

out of elections. Central to the success of implementing the 5Rs, is the attitude and capacities of the government and the local authorities, as well as the commitment on the part of the donor community, to provide additional assistance.

7. The Red-lines

Given their already public geopolitical and economic interests, it is not acceptable that the neighbouring IGAD countries of Sudan and Uganda get involved "again" in the domestic security matters of South Sudan.

None of the IGAD countries should be involved in the security sector reforms and in training South Sudan's Army during the transition period.

The Khartoum agreement, therefore, poses a long-term national security threat to the sovereignty of South Sudan's to have the Armies of the IGAD countries, some of whom have killed, murdered and kidnapped innocent South Sudanese to protect a failed government in Juba. It would be astonishingly naive!

All security arrangements must all be under the auspices of the AU, the UN, and TROIKA. Not IGAD.

8. Conclusion:

After 5 years of expressions of grave concern and urging the need for all parties to the conflict to end the war and to assume full responsibilities to create the requisite conditions for peace and giving multiple stern warnings to the perpetrators of the war, South Sudan's women associations ask how many more African lives must be lost before African leaders and institutions and the international community take decisive action to put the ordinary citizens of South Sudan first instead of the interests of some individuals in the capitals of South Sudan's neighbouring countries.

9. Annexe

9.1 Principles and lessons

Box 1: Principles of the negotiations

Principles of the negotiations

The following principles should be considered:

- a) Negotiations should be carried out in a fair and equitable manner, and in compliance with international norms.
- b) The mediation team do not, seek or accept gifts or benefits from any other party associated with the negotiations.
- c) All parties to the negotiations must provide adequate written notice of the issues to be negotiated. The period of notice must depend on the complexity of the issues on the agenda.
- d) All parties should avoid negotiating on items that would effectively alter the basis, or substantially amend the terms and conditions, of the agreed framework and elements of the agenda.
- e) Minutes of the negotiations should be taken, and copies provided to all parties to ensure that they are an accurate reflection of the negotiation outcomes.

All outcomes of the negotiations, as well as any associated working papers or documents, are to be treated as confidential.

Box 2: Lessons from assisting South Sudan

Lessons from assisting South Sudan

Lessons learned from the experience of international organisations, bilateral donors, and others in assisting South Sudan:

- a) Coordinate assistance efforts from the outset with the opposition parties, to facilitate the assessment and prioritisation of needs; and participation of local experts and counterparts.
- b) Early adoption of easily enforceable legal and regulatory framework to reduce uncertainty. The framework must be simple but sufficiently comprehensive to minimise the scope for discretion in its applicability.
- c) Clear lines of authority, responsibilities, and obligations within and between decision-making and consultative bodies, to expedite the implementation of policies.
- d) Establishment of critical institutions must receive paramount priority, and these must be allocated sufficient funds to ensure adequate and competent staffing and the formation of local managerial capacity.

A basic macroeconomic framework to facilitate sound decision-making. The market and public policy objectives should efficiently guide resource allocation in the economy; and to that management, payment and banking facilities, with due regard to efficiency and competition, a necessary and sustainable fiscal framework must be adopted and enforced at the outset.

Endnotes

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About UPDM

The United People's Democratic Movement (UPDM) is a popular grassroots Movement formed by concerned South Sudanese in the country and the Diaspora; in response to the political crisis and fast deteriorating economic, humanitarian and security situation in the Republic of South Sudan, amid heightened ethnic polarisation and devastating conflict in the country, encouraged and abated primarily by President Salva Kiir's divisive Government policy, incompetent, oppressive and corrupt leadership.