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Summary

The parties to the conflict in South Sudan signed a Revitalized Agreement on the Resolution of the Conflict in South Sudan. Conflict management Scholars and practitioners have distilled features of a peace settlement that are likely to increase its prospect of durability. Using these features, this paper interrogates the revitalized peace settlement to determine if: the process that led to it was neutral and fair, it was crafted and owned by the parties, it reasonably addressed the political, economic and socio-cultural issues that gave rise to the conflict, it provided for power-sharing during and immediately after the transition, if it was balanced, its provisions are specific or precise, it provided for credible and viable security arrangements, it provided for third party guarantees, the parties to the agreement are cohesive, it increased or diminished the chances of spoilers and if it fostered the spirit of reconciliation. Having established that the Agreement significantly lacks these good features; the paper argues that the Agreement is structurally and substantially flawed and will at best lead to a lull or relatively short respite and at worst lead to another flare-up of devastating conflict∎

The Revitalized South Sudan Peace Agreement: A Peace Agreement or a Peace 'Aggrievement'?

"The mediators have never asked why we are fighting in South Sudan so that we tell them," Gov. Bakosoro.[1]

In December 2013 South Sudan's perennial, cyclical and interlocking armed conflict resumed. This time, a number of unaddressed structural challenges and grievances triggered the war. There are primarily three factors responsible for the flare-up of the conflict. First, the failed transition from the region known as Southern Sudan to a capable and effective Statehood. Second, the wilful failure by political, military and community leaders to address primordial community to community grievances and grudges as well as discuss and agree on a framework for co-existence among the different nations and nationalities that lay claim to South Sudan as a homeland. Third, a post-independence politics that is characterized by a zero-sum competition for absolute power among highly fractionalized community leaders who harbor extreme distrust towards each other. In a bid to conquer, manipulate and use community differences and grievances as political tool, these ethnic entrepreneurs who are tugged and pushed by a region interested and heavily invested in these violence entrepreneurs see and seek only politics of difference as sustaining their grip on power.

In August 2015, the Government of South Sudan (GoSS) and the main rebel group at the time the Sudan Peoples' Liberation Army – In Opposition (SPLA/M-IO) inked the Agreement on the Resolution of the Conflict in South Sudan (ARCSS). The ARCSS' goal was to "restore peace, security and stability in the country."[2]

To achieve this aim, the ARCSS shared political positions between the warring parties; [3] promised institutional and structural reforms, [4] improved security and economic management; [5] and committed the parties to a national program of healing, reconciliation and justice for past injustices.[6]

In July 2016, the ARCSS collapsed returning the parties and country to a more brutal and hopelessly complex civil war. Several reasons were given to explain why the ARCSS collapsed

so fast. The explanation was that it did not address the root causes of the war. In addition, that it excluded many aggrieved parties and subordinated grievances of communities who were not at the forefront of fighting. Furthermore, the introduction of power sharing mainly between certain communities and their leaders agitated other communities to undermine such an agreement. Of course the fact that the leaders of GoSS and SPLA-IO were unable and unwilling to work together and cooperate for the good of the country created a 'credible commitment' deficit and eventually led to the failure of the ARCSS to end the war and put the country on a path to durable peace.

In June 2017, the leaders of the Intergovernmental Authority on Development (IGAD), the regional organization that midwifed the ARCSS and comprising of Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan, and Uganda agreed to convene The High Level Revitalization Forum (HLRF) to revive the collapsed ARCSS. The HLRF was mandated to undertake concrete measures intended to restore: permanent ceasefire, full implementation of the ARCSS, and to develop revised and realistic timelines and implementation schedules towards democratic elections at the end of the Transitional Period.[7]

In September 2018, the parties to the ARCSS including other new armed and unarmed parties signed a Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS). The R-ARCSS is structurally and substantively similar to the ARCSS. It is based on political positions sharing,[8] it promises fundamental and radical structural and institutional reforms including security sector reform,[9] transformation and reconstruction, governance and economic reforms as well as justice and accountability.[10]

This paper makes the argument that like ARCSS, the R-ARCSS is only 'scraps of paper' that will suffer the same fate as the ARCSS. It is argued that the R-ARCSS suffers from a flawed understanding of the context and nature of the conflicts, the identities and identification of the parties leading to wrong prescriptions of solutions. The conflict in South Sudan is intractable. The conflict is fought by parties who approach each other with deep-rooted mistrust and animosity. These parties are facilitated by a mobilized ethnic constituencies. In addition to these complexities, there are the extraordinarily influential and deeply entangled regional patrons who wear two hats – that of mediators and meddlers.

It is further argued that a conflicted mediation further complicated the search for peaceful and political solutions to the conflict. In addition to the flawed characteristics of the mediation, the approach was defective. For instance, rather than approaching the conflicts with the discipline of a marathon runner, the Mediation opted for the fast pace of a sprinter. To achieve fast results, the mediation, deployed a heavy-handed 'power-based and deadline diplomacy.' it berated, threatened parties and resorted to coercion and threats of sanctions to achieve its goals. Inadvertently, the sooner the parties realized that the mediation was unfair and unfree manner, many of the parties opted to see and treat the mediation simply as public relations show put up to avoid the impression of being labeled as anti-peace.

Therefore, many of the parties, to temporarily disguise their malevolent intentions, signed a largely unworkable agreement since reaching an agreement had become more important than peace itself. Based on a relatively sound benefit-harm analysis, some of the parties are confident R-ARCSS could be ignored, disrupted, undermined, hindered, or delayed without credible consequences, after signing it.

To make this argument, the first part of the paper sketches the nature of the conflict, as understood by the parties; the second part outlines, analysis the features of the R-ARCSS against some of the common features of durable peace agreements and the final part outlines the core elements of a settlement required in South Sudan for sustainable peace.

"The R-ARCSS is structurally and substantively similar to the ARCSS"

"The Provocateur" is a Quarterly publication of the:

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2. THE CONTEXT OF PEACE MAKING

"The looted resources and oppressive force were then used to divide and rule those communities excluded from directly sharing from the loots."

The history of the people of the geographical entity called South Sudan today is that of a seamless transfer from one master to the other in a brutal transaction of fidelity for betrayal.[11] It has been a relationship between subjugators, brokers and the subjugated, between colonial masters and their subjects, between the Arab feudal lords and their unruly servants and now between a clique of ethnic feudal chiefs and their subjects. After centuries of subjugation, subordination and exclusion, the peoples of South Sudan reclined to their smallest closets – families, clans, tribes and regions for solace, safety and solidarity. One of the implications of this forced ethnic 'cantonment' is that at no point was South Sudan one cohesive a nation, a 'State' or a nation-'State' not before 2011 and certainly not after. Therefore, the first context of peacemaking efforts in South Sudan is the absence of a de facto 'State'.

2.1 Failed transition to Statehood as a context of peace making in South Sudan

According to the Commission for Africa "one thing underlies all the difficulties caused by the interactions of Africa's history over the past 40 years. It is the weakness of governance and the absence of an effective State."[12] In South Sudan it is the absence of a 'State' that accounts the most for all the wars. Even though scholars and policy makers appreciate 'State'

crisis in South Sudan as one of the root causes of conflict, the challenges are usually characterized as that of failed or fragile 'State'. South Sudan is not a failed 'State'. It is a geographical region south of the Sudan that failed to become a 'State'. In the absence of a 'State', a criminal cartel accidentally took the rein of the Region and 'improvised'[13] an artificial 'State' whose defining characteristic is the continuous need to improvise. The 'State' is artificial in the sense that it is not embedded in society, in the history and culture of the people and improvised because it has a form without a function. It may look like a modern 'State' but it does not (indeed, cannot) perform like one.

The failure to craft a 'State' that has the legal and infrastructural power, institutional capacity and political will to carry out core 'State' functions like preserving its borders, protecting against external threats, maintaining internal order, and enforcing policy, building infrastructure and providing services such as water and sanitation, education and health had two debilitating implications for 'State', peace and nation building in South Sudan.

Firstly, a cartel with criminal intent, organized and seized the 'State' vacuum for extractive and coercive purposes.[14] The improvised 'State' became predatory - practicing systematic privatization and exploitation

of public positions and resources for personal, family and clan's benefit thereby occasioning a monumental authority failures, service failures and legitimacy failures.[15] The looted resources and oppressive force were then used to divide and rule those communities excluded from directly sharing from the loots. Inevitably, the 'State' became an object of competition between communities rather than an agent in the service of society. The improvised 'State' as the only source of income made engaging in politics the most productive economic engagement. The competition to capture the 'State' as a tool for self-enrichment inevitably turned violent.

Secondly, in the ensued zero-sum competition for control of the improvised 'State' as a tool for primitive extraction, the cartel who captured the improvised 'State' turned it into an exclusivist 'State' and a tool for repression, subordination, inequality and discrimination. In the process, the improvised 'State' became genocidal, despotic and destructive. 'State' power became a vehicle for the oppression and abuse of a population. The security sector and the economy all became political tools into a zero-sum political environment, "where the highest priority of each group is to prevent the accumulation of power by its adversaries in order to guard against that power's potential abuse" against itself.[16]

As a result of prolonged competition over the control of the improvised 'State', the improvised 'State's monopoly over the means of violence ebbed away thereby creating an environment for multiple actors with claim to legitimate use of violence. Over the years, as the conflicts over the control of the improvised 'State' escalated and entrenched, the improvised 'State' was consumed creating new structures and relations over which even the criminal cartel lost control. This is because, in a conflict of a nature as is taking place in South Sudan, the longer such a conflict continues:

> the more it assumes the character of an institution, with its own distinctive set of relationships, entailing the emergence of armed groups, regionalization of national territories and identities, private networks of support, ungovernable flows of people and aid across borders, opaque decision-making and dominance by a small elite, and erosion and loss of trust in 'State' institutions.[17]

In a territory in which there is no 'State', wherein citizens feel a sense of a permanent exclusion from those who claim to govern them, a peace process must first and foremost be a deliberative and meticulous exercise in Statecraft.

2.2 A thriving culture of impunity as a context of peace making in South Sudan

One of the causes and continued consequences of a failed transition to Statehood is that South Sudan is no more than a mere geographical expression inhabited largely by communities of strangers seemingly webbed into a coercive, competitive and sometimes cooperative co-existence by historical circumstances. This country of strangers has had its fair share of contestations,

conflicts, cooperation and collaboration over the years. For example in the fight against Arab domination, different communities cooperated and collaborated to secure a homeland.

But predominantly, the interactions between communities have been anything but contentious and conflictual. These included contestations over geography, over interpretations of history, over access to resources and over identities. One of the outcomes of these conflicts is that violence as a tool of communication became cultural and culture became very violent, entrenching persistent, vicious cycle of and pervasive inter and intra communities conflicts over the years. So, over the treacherous history of 'serial confrontation' between and among the peoples and nationalities who have inhabited South Sudan, communities and community leaders have terribly hurt each other and the cumulative hurts ignored for far too long by those who could have done something about it.

The monopoly of the improvised and artificial 'State' a criminal cartel vested and legitimated by these communities conflicts meant that the 'State' played a pivotal role as a potent tool for violence in the hands of those communities who have captured the 'State' against the rest. The predominance of some ethnicities in the structures and institutions of the 'State' blurred the lines between the government and community to community primordial violence. One thing is clear, the communities excluded and subjugated by the 'State' understand the violence perpetrated by the 'State' as a delegated license and authority given by communities dominating 'State' structures and institutions to fight the rest until the other tribes are either expulsed to neighboring countries, surrender claims to equal citizenship or exterminated.

The relationship between these communities with imperial tendencies and the 'State' is symbiotic. On one hand, the privileged communities feel comfortable with and emboldened by the 'State' fighting for and on their behalf. On the other, sensing an opportunity to tap into and effectively use the politics of fear and 'discourse of differences' – 'they' against 'us', the 'State' using coercion, distributional

"the longer such a conflict continuous, the more it assumes the character of an institution"

"if not in love, at least without again resorting to mass violence."

deprivation and distributional inequalities in power and access to resources to fuel and further these ethnic polarizations, to render inter –community boundaries intractable and to further weaken the foundation of cross-ethnic appeals by political elites, primarily, to ensure 'State' survival. In this war of 'they' against 'us', fear is the greatest group-mobilization tool. So, while it may be true that the reoccurring civil wars in South Sudan are occasioned by struggles for political, economic and social powers; the scale and intensity of the violence that has accompanied these wars are caused by factors at the micro-level- personal, local and communal.

Unfortunately, violence has serious consequences. Violence begets violence. These consequences in South Sudan include atrocities of unimaginable proportions.[18] Hundreds of thousands of people have been killed, many more subjected to degrading and denigrating atrocities forced out of their communities. Children have spent their entire childhood witnessing deaths, destruction and despair, families and friendship torn apart simply due to the ethnic considerations. These crimes and atrocities have not been addressed meaningfully and victims as well as perpetrators given justice. Rather than building bridges between communities, policy

have resorted to revenge and other self-help tactics to address past impunities, defend its existential aspirations and improve community sense of physical, economic, and political security through the use of force.

The cumulative effects of these community wars over ethnic status, treatment and rights is the desire by many communities for the right to self-government. This is seen as a means to ensure political, economic, cultural, emotional and physical distance between and among communities and as a mechanism for self-preservation. In such a context, peacemaking must serious consider segmented and territorial autonomy as mechanisms to ensure national survival, restore confidence and foster a culture of peaceful co-existence.

2.3 Competition for absolute power struggle as a context of peace making in South Sudan

It has been asserted that the "essence of civil war, regardless of substantive goals, is a contest for power / over who rules, who gets to define policies for their group or goals, and above all, the very rules over who rules".[19] Nowhere is this so true like in South Sudan. In South Sudan, politics is a pendulum between group existential extinction and survival. The difference between survival and extinction depends on absolute control of the extractive, repressive and coercive ''State'' machinery. As alluded to earlier, in such political context, politics is an embodiment of, emboldened and driven by the deep-rooted inter-communities hatred as well as the inter-communal zero sum game. Only one community must exercise absolute political and economic powers and creatively use or abuse such access to political power and to resources to artificially craft a sense of national cohesion. Thus, next to self-enrichment, the main priorities for political leaders are to please and placate their communities using public resources and privileges. And in turns, the community provides blind support to these leaders, show blind eyes or condone and launder atrocities committed by their community leaders as these leaders aspire to climb higher the political ladder of the country.

One of the consequences of politics as a zero-sum game between community leaders is that politics has become a project in the search for and accumulation of absolute political, economic and military power by one community and the subjugation, marginalization and if possible extermination of the other community. The politics of 'either or' means that South Sudan political elites

have no bare minimum core common political project and a common purpose on which they could work together – "if not in love, at least without again resorting to mass violence."[20] Inevitably, therefore, relationship between and among political elites lacked basis for 'moderation, accommodation, [and] cooperation'[21] and naturally cultivated a politics of violent contestations and confrontations.

Nowhere is this epitomized more than in the relationship between President Salva Kiir and his archenemy Dr. Riek Machar, the former Vice President of South Sudan and the First Vice President under the ARCSS. Many analysts have reached the conclusion that the two cannot live together in power and consequently they must leave power together. One of the reasons why the political relationship between this duo has broken down irretrievably is because they do not perceive each other as political opponents with different political vision but fatal enemies. It would appear that President Kiir sees Dr. Machar as someone whose bush life and political career is predicated on the absolute conviction that he will one day be President of South Sudan; a position the President considers to be his for life or that of his nominee.[22] While, Dr. Machar is perceived not to entertain any respect for Kiir but pure disdain, someone he sees as the most underserving occupant of the highest office in the land. Thus, any political settlement that is designed to allow these two community leaders to cooperate and collaborative in the management of public affairs is a Tom and Jerry play destined to fail.

The symbiotic relationship between these community leaders and their communities means that when President Kiir sees and treat Dr. Machar as an existential threat to his power and view of what South Sudan ought to be, the community of the President shares in such a feeling and vice versa and stand ready to invest blood and treasure in the defense of their community and its leader. Disarming, dismantling, marginalizing and hopefully outmaneuvering the political architecture of each other either through a militarily means or through a disguised political settlement is the only political game in town between these two community leaders.

2.4 A predatory region as a context of peacemaking in South Sudan

The struggle for liberation in South Sudan was a collective effort of the people of South Sudan, some countries in the region and the international community. This protracted struggle created bonds of friendship across South Sudanese boarders as well as expectations of return on investment by some countries in the region. Some of these relationships and expectations have turned predatory. Political leaders in South Sudan relied on relationships with counterparts across the borders to loot and conceal the loots, to fight proxy wars with political opponents, to trade diplomatic favors in the international arena in exchange for access to illicit mining of the abundant natural resources in South Sudan. So, while the war in South Sudan might have burdened countries in the region, individual leaders in these

countries have continued to profit from this transactional politics nourished by the ongoing war.[24]

This unneighborily behaviors of neighboring countries is complicated further by the fact that these countries appointed themselves as mediators of a conflict that the durable end could result into significant loss for personal and national gains for some of them.[25] The conflicting and competitive nature of regional interests in the conflict in South Sudan means that aligning these regional interests with the interest of durable peace in South Sudan has been an uphill task. First because, each of these countries will not accept peace proposals that do not promote and protect its version of national interests and that do not include its protégé in power in South Sudan even if the inclusion of such protégé is irreconcilable with the interest of durable peace in the country. Second, the benefit-harm calculations of some of

"Sudan has shown demonstrable interests in destabilizing South Sudan"

the countries in the region may not favor a sustainable peace in South Sudan now.

In addition to countries that took the side of South Sudan in the wars of liberation, there is the Sudan which suffered the greatest loss in human and material terms from the separation of South Sudan. Over the years, the Sudan has shown demonstrable interests in destabilizing South Sudan.[26] For instance, if the Sudan was not one of the main instigators of the December 2013 conflict, then it was definitely one of the main beneficiaries. Immediately after the December 2013 Juba massacre and the ensued ethnic fratricidal civil war, pro-National Congress Party (NCP) South Sudanese politicians ascended into power and the influence of NCP sympathizers around the President heightened significantly.[27] Simultaneously, a number of SPLA ideologues who were at the forefront of the liberation wars against the Sudan were systematically excluded, marginalized or prosecuted thereby planting a fatal wage between former comrades in trenches.

In addition to infiltrating the inner circles of power in South Sudan, the Sudan proactively supported armed opposition against the regime in Juba. The

Sudan has its own militias it arms, feeds and accommodates in the Sudan who it could use to either work with or against any of the parties in the conflict between the Regime and the principal armed opposition – the SPLA-IO.[28] Eating with two hands, the Regime in the Sudan is able to play the parties against each other by fueling or reducing fuel to the war as and when it deem fit to extract concession and commitments from the parties at will. So, while the political elites might still oversee the war between the elites for power and access to resources, they lost control on how and when to bring the war to an end. The Sudan held that prestigious position within both the Regime in Juba and many of the armed oppositions.

However, while the neighboring countries could control the wars between and among the elites, there was a bigger war between and among the communities deeply rooted in genuine grievances and historical injustices that was not easily manipulated by regional interests. These unaddressed injustices have continued to serve as a manufacturer of a disgruntled citizenry willing and able to resist oppression. One of the results of this dichotomy between the wars for power among elites and inter-communal wars caused by genuine grievances is that while elites could be compromised and corrupted in their greedy for power, these communities' grievances produce new leaders willing and able to continue the search for justice and durable peace. Therefore, placating few elites, in the name of a peace agreement that fails to speak to these grievances, has no significant impact on the will of most citizens to stand up for what they consider to be their right.

Having briefly examined the context of peace making, the various efforts to make peace in South Sudan will now be briefly assessed.

3. THE ROAD TO THE REVITALISED AGREEMENT IN SOUTH SUDAN

Two years after independence in 2011, South Sudan descended into a brutal civil war. A political division and contestation for power within the ruling Party the Sudan Peoples' Liberation Movement (SPLM) quickly turned into a civil war that took on ethnic dimensions.[29] On that day, South Sudanese soldiers of Dinka ethnicity, under the general command of President Salva Kiir as the Commander in Chief, went on a house to house rampage shooting, hacking and decapitating thousands of defenseless men, women and children, mainly, of Nuer ethnicity[30.] Many who tried to escape were herded together into grass-thatched-houses which were then set alight; [31] others were handcuffed and thrown into the river Nile. A rebel movement under the leadership of former Vice President Dr. Riek Machar reacted by mowing down thousands of innocent people from the Dinka extraction, decapitating and then cannibalizing the bodies

of those killed, amputating the limbs and raping children and women with all kinds of objects.

A combustible context of unhealthy ethnic rivalries, absence of effective peaceful transition of power within the ruling party, a blurred line between the ruling party and the army and the absence of politically neutral, professional, efficient, fair and transparent 'State' institutions capable of protecting and providing for citizens all combined to make another outbreak of war inevitable. Government and community institutions that should have mitigated the fallout of these political and human tragedies were and remain extremely politicalized and ethicized, oversight of these institutions is weak to non-existent and they are starved of resources and infiltrated by competing security apparatuses.

In July and August 2015, an Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS) was signed, with reservations, by the warring parties (SPLM-IG and SPLM-IO), by the G10 (Group of Former Detainees) and Alliance of Political Parties (23 South Sudanese political entities). Civil society organizations and the international community serve as guarantors.

ARCISS was a compromise. It called for a power-sharing arrangement and reforms leading to a national constitution making process. It also called for mechanisms to deal with crimes committed during the war and preparations for democratic elections at the end of a 36 months transition. The parties to the Agreement were never satisfied with its power sharing and security components, and implementation got off to a slow start because of disagreements over timing and conflicting interpretations of what needed to be done.[32] The ARCSS quickly fell apart and war resumed. To stop the war and return the parties to the implementation of ARCSS, IGAD convened a high level forum to revitalize the Agreement.

3.1 The High-Level Revitalization Forum on the Resolution of the Conflict in South Sudan

Following the collapse of the ARCSS, the Joint Monitoring and Evaluation Commission (JMEC) an oversight mechanism established by the ACRSS, in 2017 recommended that IGAD should convene a High-Level Revitalization Forum (HLRF) for the parties to discuss concrete measures to restore: permanent ceasefire; full implementation of the ARCSS, and to develop revised and realistic timelines and implementation schedules towards democratic elections at the end of the Transitional Period. In addition to the parties to the ACRSS, IGAD added additional parties that were either excluded from the

ARCSS or estranged by it. The HLRF ended in the signing of a Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS) in September 2018.

The HLRF was a contentious, contradictory and conflated (mediation, negotiation and technical review) process. The first challenge with the HLRF was that it meant different things to different parties. To the Government of South Sudan (GoSS), the HLRF was a technical exercise aimed at making time lines realistic.[33] The SPLM-IO largely shared this understanding that HLRF was not a renegotiation of ARCSS but an effort to improve its implementation.[34] The 'estranged groups' – political groups that were not originally parties to the ACRSS took the view that the ARCSS collapsed because it was so structurally and substantially defective that anything sort of a significant review was unacceptable and unworkable.[35] The Civil Society Forum on the Peace Process interpreted the mandate of the HLRF to include significant revision too.[36]

On its part, IGAD as the convener of the HLRF, oscillated between the two interpretations of the mandate of the HLRF. In fact, IGAD gave parties the impression that the content and direction of the HLRF were open for discussion. This impression was further cemented during the Pre-Forum Consultation that was organized by IGAD. According to IGAD, the Pre-Forum Consultation was organized to elicit:

 positions on the Revitalization Forum; issues and proposals for consideration; enforcement mechanisms; cessation of hostilities; participation at the Forum as well as suggestions on realistic

timelines for implementation of the revitalized ARCSS.[37]

Both the recommendations of the IGAD Special Envoy for South Sudan presented to the Council of Ministers' Meeting in Cote D'Ivoire and the Declaration of Principles (DoP) prepared and presented by IGAD for the Parties to sign and to guide the engagement at the HLRF envisaged a HLRF that was more than technical review. However, when GoSS objected to the tabling and adoption of the Pre-Consultation Report as well as refused to sign the DoP on the ground that these documents provided for a renegotiation of the ARCSS which was beyond the mandate of the HLRF; IGAD agreed with the GoSS and dropped the Pre-Consultation Report and made signing the DoP voluntary.[38]

These conflicting interpretations and expectations about the remit of the mandate of the HLRF informed the positions and expectations of the parties. Rather than first facilitating a common understanding and expectation by the parties, IGAD proceeded to convene the HLRF in an atmosphere of confusion about what it is. This did not only breed discontent with the parties but also had implications for IGAD's approach to the conduct of the Forum. If the HLRF was a technical review, then IGAD's role should have been that of facilitation and if it was a significant review or renegotiation, then IGAD would play the role of a mediator. IGAD appeared to play both roles without any discernable reason.

3.2 Parties and positions during the High-Level Revitalization Forum

For the purpose of this piece, I will classify the parties who participated into the HLRF into three: the parties to the ARCSS; the estranged groups and the civil society organizations. The positions will be discussed, briefly, to ascertain why the parties thought the ARCSS collapsed, their interpretation of the political, economic and social triggers of the conflict, their proposed solutions and expectations from the HLRF.

3.2.1 The parties to the Agreement on the Resolution of the Conflict in South Sudan

The GoSS, the SPLM-IO and the Former Detainees (FDs) were the parties to the ARCSS that are discussed here. The position of the Political Alliance which was the other party to the ARCSS could not be accessed for discussion.

3.2.1.2 Government of South Sudan

The approach of the Government of South Sudan(GoSS) to the HLRF was informed by its understanding of the conflict in South Sudan as a struggle for political positions, motivated by personal acrimony, and thus, adopted a minimalist interpretation of the objectives and mandate of the HLRF.[39] The GoSS considered those who took up arms against it or peacefully opposing its policies as people who want to "grab power"[40] and the cause of war as resulting from the "failure of power war in December 2013, and again July 2016."[41] It, therefore, considered a discussion of the grievances of its opponents as of "no value to indulge and waste time."[42]

For the GoSS, the main power grabber was Dr. Riek Machar and the only way to solve this struggle for power, sustainably, was to get rid of him from the politics of the interim period at least. Consequently, any attempt to bring Dr. Machar to "his position as the First Vice President of the Republic… is a recipe for instability of South Sudan."[43] According to the GoSS, it was Dr. Machar that was responsible for the collapse of ARCSS. First because, since he was sworn in "as the First Vice President Kiir in April 2016, the TGoNU Cabinet never resolved on any matter related to the ARCSS implementation.[44] Second, and this was "because Dr. Riek was contemptuous of the President and so he simply refused to cooperate with him."[45] To avoid serving under the President, Dr. Machar decided to "essentially [run] a parallel government."[46]

The GoSS casted, any discussion of root causes by its opponents as a demand "for complete re-negotiation and overhaul of the entire ARCSS".[47] As far as the GoSS was concerned, the HLRF is "not a renegotiation of the ARCSS".[48] In fact, as far as the GoSS was concerned, in addition to Dr. Machar as the reason for the challenged implementation of the ARCSS, the only other factor that impeded implementation of the ACRSS was "due to lack of funding."[49]

As far as the GoSS was concerned, at the point at which the HLRF was convened, "the implementation of the ARCSS [was] in progress, contrary to the conclusion of some stakeholders [that] "the ARCSS failed."[50] Therefore, "the intention of the HLRF" according to the GoSS was "to re-energize and re-activate the ARCSS implementation and therefore its current status of implementation shall constitute the basis."[51]

The proposed solution of the GoSS was maintaining status quo. But in the spirit of accommodation, the GoSS was ready to share some political positions with the opposition forces. But in such a sharing, the GoSS considered "any suggestion for further expansion of the government impractical and constitutes a renegotiation of the ARCSS;" and that "Increasing the number of the members of Parliament from 332 to 400 under the ARCSS has pushed the building to its maximum limit."[52]

As the discussions progressed, the GoSS made further concrete proposals on some of the contentious issues as follows: on 'State' restructuring, the GoSS maintained the 32 'State's and any challenge to this should be decided through a referendum or national dialogue as part of a permanent constitution making; on interim governance arrangement, the GoSS proposed that "the governance of South Sudan is not the subject of Revitalization, but rather the Permanent Constitutional Making Process, which is part of the ARCSS implementation."[53] On reform, the GoSS opined that progress has been made and the remaining challenges relate to lack of capacity and not political will. On security sector transformation, the position of the GoSS was that this was already on going and there was no need for overhaul.

3.2.1.2 The position of and approaches of the SPM-IO to the High-Level Revitalization Forum

The SPLM-IO approach to and position on the HLRF was, like GoSS, minimalist, maintenance oriented but unlike GoSS, based on power rather than political position sharing. The SPLM-IO like GoSS maintained the position that the HLRF was not a renegotiation of the ARCSS but an exercise to improve implementation by addressing concentration of powers in the hands of the President.[54] The SPLM-IO distinguished between political positions sharing which could be achieved through expansion of government positions but which will still not result into power sharing or inclusivity in decision making.[55]

Largely, like GoSS, the SPLM-IO maintained that the ARCSS was not dead, it was the process of implementation that was challenging.[56] In addition, that

the ARCSS was a good enough document and basis for jumpstarting South Sudan, for undertaking the required reforms and for ensuring durable peace. The main obstacles to meaningful implementation of ARCSS was the power imbalance between it and GoSS and lack of political will. Thus, the preponderance of the proposals made by the SPLM-IO during the HLRF were meant to address these two challenges. The proposals aimed to rebalance power through equitable power sharing principles, enhance the powers of the 1st Vice President as a possible check on the powers of the President, strengthen oversight and improve physical security for SPLM-IO leadership and personnel.

However, the SPLM-IO did depart from its minimalist and maintenance based approach to the HLRF. Unlike the GoSS, the SPLM-IO proposed a federal system of governance during the transitional period.[57] Since, the ARCSS was predicated on a decentralized system of Government as provided for in the Transitional Constitution, 2011; it is difficult not to see the SPLM-IO's demand for federalism during the transitional period as a request for some of forms of renegotiation, at least partly, of the ARCSS. So, the SPLM-IO was selective with when to argue that the ARCSS was a technical exercise and when to argue for a renegotiation.

3.2.1.3 The approach to and position of the South Sudan Opposition Alliance on the High-Level Revitalization Forum

Unlike the two minimalists – GoSS and SPLM-IO, the South Sudan Opposition (SSOA) Alliance's approach to the HLRF was maximalist. To SSOA, its point of departure was that "ARCSS was fundamentally flawed,"[58] because it was mainly a "conflict management rather than the conflict resolution and transformation" mechanism; that "put the political survival of individuals above national survival." As a result, ARCSS was mainly preoccupied with "realignment of balance of power within the different mutations of the SPLM/A."[59] Therefore, any attempt at "replication or adaptation of the ARCSS [without] addressing these flaws is a futile exercise, as the result of the revitalized ARCSS will be the same as that of the collapsed one."[60]

SSOA's position was, therefore, that "ARCSS should be significantly reviewed, revised and amended…"[61] and that the revision should ensure that the new Agreement:

> Addresses the root causes of the conflict, which includes ethnic hegemony, the use of the security sector to intervene in political discourse, to intimidate, to protect and promote ethnic domination and centralization of authority, political and economic powers.[62]

Concretely, SSOA presented a ten point proposition to address the root causes of the conflict as it sees it and ensure durable peace in South Sudan. The proposals centered on executive-level regional based coalition predicated on consensus decision making and rotation of the office of the President among the three regions of South Sudan (Bahr El Ghazal, Equatoria and Upper Nile Regions), legislative proportionality, minority veto powers, security sector overhaul and reconstruction based on equitable representation, segmented autonomy and territorial decentralization.[63] These proposals preferred the retention of 10 'State's, technocratic or a hybrid system of governance, adopting federalism during the interim period, Presidential Council and security sector construction.

3.2.1.4 The approach to and position of civil society organizations on the High Level Revitalization Forum

The approach to and position of South Sudan Civil Society Forum (SSCSF) were not consistent and coherent throughout the different phases of the HLRF. Even though the SSCSF did adopt broad principles to provide guidance to its position, in the main these principles were mainly on paper.[64] It appeared more as if the SSCSF's positions and approaches were pushed and pulled depending on the positions of the other parties and a sense of pragmatism.[65]

While on one hand, the SSCSF insisted that "If the revised ARCSS replicates governance models that have already proved incapable of resolving the crisis, such as the single-minded focus on power sharing that we see in Chapter I of the ARCSS, it will not succeed in stabilizing the situation in South Sudan;"[66] on the other, it made proposals that suggested preferences for a power sharing model akin to the one in Chapter I of the ARCSS.[67]

Specifically, the SSCSF made submissions that preferred a hybrid of presidential and parliamentary system of governance, a lean and competent presidency and parliament, competency criteria for selection of members of the Government, vetting procedures and sunset clause that ensures that those who participates in the government in a transitional period willingly forfeit the rights to be part of the elective positions in the government immediately preceding the transition. In addition, the SSCSF made submissions on civil service reforms and on the number of 'State's.

4. THE REVITALIZED AGREEMENT ON THE RESOLUTION OF THE CONFLICT IN SOUTH SUDAN

Although each party had a different interpretation of what the HLRF was convened to do, it led to a signing of a Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS). In this section, R-ARCSS will be evaluated in terms of process, content and the relationship between the agreed solution and the problem intended to be solved. Eleven features of what constitutes a good viable and potentially successful agreement will be used as yardstick to analye and evaluate the prospects of the durability of R-ARCSS.[68]

In this regard, the R-ARCSS will be assessed to determine if: the process that led to it was neutral and fair, it was crafted and owned by the parties, it reasonably addressed the political, economic and socio-cultural issues that gave rise to the conflict, it provided for power-sharing during and immediately after the transition, if it was balanced, its provisions are specific or precise, it provided for credible and viable security arrangements, it provided for third party guarantees, the parties to the agreement are cohesive, it increased or diminished the chances of spoilers and if it fostered the spirit of reconciliation.

4.1 The IGAD mediation of the 2016 conflict in the Republic of South Sudan

In July 2016, a dog fight erupted in Juba, the capital city of South Sudan between the GoSS and the SPLM-IO the main parties to the ARCSS. Dr. Machar, the then 1st Vice President fled Juba and was replaced by Gen. Taban Deng Gai who was SPLM-IO's Chief Negotiator. After violence flared-up again and war resumed, IGAD, JMEC and the parties all had different interpretation of the status of the ARCSS - the ARCSS 'collapsed', was 'clinically dead' or 'was still being implemented.' So, in addition to the confusion about the remits of the HLRF, there was a confusion about the status of the ARCSS that was meant to be revitalized. Nevertheless, IGAD went ahead and convened the HLRF as a conflict management mechanism.

Normally, the success or failure of a conflict management process, primarily, rest at the door step of the parties to a conflict. However, a neutral and independent mediation could either help or hinder efforts of the parties to peacefully resolve conflicts. Therefore, a free and fair mediation is crucially vital to the ability and willingness of parties to resolve their differences without resorting to physical violence.[69] Such mediation must have clear mandate and role. In addition, the mediation must interpret the causes of the conflict so broadly to include all aggrieved parties and grievances. Furthermore, the mediation must use non-coercive strategies to foster concession between and among the parties.

These features of a mediation, the characteristics of a conflict, the nature of the relationship between and within the parties, and the regional and international contexts of a conflict are to varying degrees interrelated, interconnected and interdependent factors in a conflict management effort. For instance, if a mediation approach is predominantly backward looking i.e. driven, primarily, by the relative military powers of the parties or forward looking i.e. driven by the desire for justice, or if a mediator is conflicted or heavy-handed, or if the level of intensity, of hostility, of deep mistrust and animosity that characterize a conflict are ethnically entrenched, or if the parties are pervasively fractionalized, could all impact the outcome of a peace process.

As a result, the mediator's goal in a complex conflict such as the one in South Sudan should to be to secure a non-zero-sum outcome. To do so, a mediator's efforts must result into a meaningful give and take between and among the parties to a mediated conflict. Thus, at the end of a mediation effort, "the expected value of the outcome to each side, and hence the total value of the outcome, must be positive, or there would be no incentive to engage in negotiations or to accept the outcome."[70] In other words:

> The more the items at stake can be divided into goods valued more by one party than they cost to the other and goods valued more by the other party than they cost to the first, the greater the chances of successful outcome.[71]

Seen against these features of successful mediation, IGAD's approaches to mediating the conflict in South Sudan have been incoherent, inconsistent, sometimes inconsiderate, biased and heavy-handed.[72] It is an open secret that as a mediator, IGAD was deeply conflicted, because sometimes some of its Member 'State's served as mediators and sometimes as meddlers. When the HLRF was convened, IGAD appointed a Special Envoy to spearhead its mediation. Half way into the process, IGAD appointed three facilitators as part of the HLRF.[73] Towards the end of the process, IGAD decided to change the mediation approach from a multilateral one to a multi-bilateral mediation between some of its members and the parties to the conflict.[74]

In terms of approach, SSOA a coalition of 9 parties termed IGAD's approach as "Peace at all Cost"[75] and accused the mediator of "extreme intimidation and arm-twisting coercing SSOA members to sign" an agreement.[76] In addition, the parties accused the security personnel of one of the key members of IGAD that was leading the mediation of "interference and intimidation.[77] The GOSS accused the Mediation of moving away from "mediation and become a dictator."[78] The Civil Society organizations warned

against the dangers of coercing parties into a signing an agreement they do not intent to honor.[79]

The Mediation maybe credited with two positive things though. First is the urgency with which it approached the management of the conflict in South Sudan. Finding an immediate solution was surely a noble aim by the Mediation. The desire to stop the carnage and suffering, to provide access to humanitarian assistance and to start reconstruction cannot be faulted. However, to willfully do so in a manner that appears to underestimate the complexity of the conflict, or overestimate the leverage of a conflicted and delegitimize neighborhood while ignoring the psychopolitical dynamics of violence that have accompanied the ongoing brutal civil war in South Sudan is to aid and abet durable conflicts in South Sudan.

IGAD, for one, should know better that deep-rooted and intractable conflicts like the ones in South Sudan do not lend themselves to quick or easy solutions. In fact, quick and short term fixes only further entrench the conflicts. This is because "conflicts are more likely to persist when only their symptoms are addressed;"[80] since "the original causes of a civil war will still operate when a peacebuilding intervention is on the ground to provoke its renewal."[81]

The second is its efforts to try and use the different leverages of its member 'State's to bring about solution to the conflict in South Sudan. While nominating the Sudan as one of the leads (the other one being Kenya) of the multi-bilateral mediation process could have been a good idea since the common history of the two countries could have provided "the basis for the use of referent, informational and legitimate sources of power and influence"; [82] and this could have served "to establish a degree of familiarity, rapport, understanding, trust and acceptability"[83] of the Sudan as a mediator. However, the acrimonious history between the Sudan and South Sudan and the role the Sudan played over the years to undermine every effort at nation and 'State' building in South Sudan significantly undermined the legitimacy, leverage and authority of the Sudan as a credible, neutral and independent mediator.

4.2 Did the parties craft the Revitalized Agreement?

Successful mediation is the one that fosters genuine negotiation and honest dialogue between the parties. Scholars differentiate between mediation as "a process of conflict management, related to, but distinct from the parties' own negotiations."[84] Mediation, therefore, is meant to assist negotiation that enables the parties to resolve the conflict with their own efforts. The mediator stands in fiduciary relationship in relationship to the parties and must command the trust of the

parties in a manner that ensures that the parties' "common trust in the mediator offsets their mutual distrust and raises their confidence in negotiations."[85]

Negotiation is an art of collaborative problem solving that meant to fairly accommodate the fears, concerns and needs of the different parties engaged in a joint search for acceptable solutions. The role of the mediation is, therefore, to help the parties that are hostile and bitter rivals to listen to each other, to each other's unique experience and explanation of the conflict and to "to enable conflicting parties to reach agreements they find satisfactory and are willing to implement."[86] Since civil wars are primarily domestic, the solution to such conflicts must be local and locally owned by the parties.

The HLRF started, relatively, on a good note. The Office of the IGAD Special Envoy on South Sudan commenced the HLRF by convening a meeting of thought leaders in South Sudan who were not overly political. This meeting was meant to help the Office of the Special Envoy to map out the issues from fair and impartial sources. In addition, the Special Envoy convened a Pre-Forum consultation with key political actors to further identify and validate contentious issues that required negotiation between the parties. A pre-consultation report was produced outlining the root causes of the conflict and preferred solutions. Furthermore, IGAD appointed three seasoned facilitators to moderate the negotiation. From time to time, IGAD organized what it called Intense Interlinked Consultation between and among the parties to narrow gaps and on at least one occasion brought in religious leaders to help foster a spirit of dialogue and of give and take.

Thus, despite IGAD's lack of a clear mediation strategy and vision, there was demonstrable efforts from IGAD to allow the parties drive the negotiation process as IGAD limited its roles to that of facilitating such a negotiation. During this phase of the HLRF some progress was made. However, several contentious issues remained unresolved. To help the parties narrow gaps between them, IGAD facilitated a face to face meeting between President Kiir and Dr. Machar (who IGAD had, in an unprecedented move by a mediator, placed under house arrest in South Africa) thereby signaling its intention to secure ownership of whatever settlement is reached by the top leadership of the parties.

However, IGAD made a number of disastrous mistakes. Firstly, when IGAD disowned and discarded the Pre-Consultation Report and worse still at the request of the GoSS. To worsen an already bad situation, IGAD made voluntary the signing of a Declaration of Principles designed to provide a normative basis and guidance for the parties and the HLRF, again at the request of GoSS.

Secondly, perhaps, the HLRF would still have stumbled forward with some respect and legitimacy left had it not been the intervention of the Sudan to forcefully take over the HLRF and use it principally as a tool for self-serving and the abdication of responsibility by IGAD to steer the HLRF back to the rights course.

The word 'forcefully' is used because, the Sudan had no mandate to do carry out a full-blown mediation. The 32nd Extra-ordinary Summit of IGAD Assembly of Heads of 'State' and Government on South Sudan mandated "President Omar Hassan Al-Bashir to facilitate a second round of face–to-face discussion between President Salva Kiir Mayardit and Dr Riek Machar Teny within two weeks to build on the Addis Ababa face-to-face talks to:

> a.discuss and resolve the outstanding issues on governance and security arrangements including measures proposed in the revised Bridging Proposal of the IGAD Council of Ministers; and,

> b.discuss measures to be taken to rehabilitate the South Sudanese economy through bilateral cooperation (emphases added) between the Republic of South Sudan and the Republic of Sudan."[87]

During the same Summit, President Uhuru Kenyatta was also mandated to hold the 3rd face to face meeting between President Salva Kiir Mayardit and Dr Riek Machar Teny.[88] There are few things to note in passing. Firstly, this decision appears to have reduced the search for solutions to two individuals and parties in a process that started with 10 parties. Secondly, the decision seems to have replaced the multilateral nature of the mediation with a bilateral mechanism and it might be argued further that it replaced a disguised self-interest-driven-mediation with an overt self-interest-driven-mediation ("rehabilitate the South Sudanese economy through bilateral cooperation"[89]) and in the process placed political consideration over technical soundness of the mediation approach. Thirdly, it is interesting to note that even before knowing the outcome of the 2nd face to face meeting, a 3rd one was scheduled. Finally, the mandate given by the Summit was "to facilitate a second round of face–to-face discussion between President Salva Kiir Mayardit and Dr Riek Machar Teny."

Instead of organizing a "second round of face–to-face discussion between President Salva Kiir Mayardit and Dr Riek Machar Teny", the Government of the Sudan organized its own mediation led by the Ministries of Defense and National Security. In addition to the fact that the Sudanese leaders have direct personal, professional, or financial interest in the outcome of the dispute, the government agencies that were saddled with the responsibility of mediation are not subject matter experts in all the contentious issues that were handed over by IGAD nor equipped to do mediation.

The venues chosen for the mediation were not only intimidating, but also the words, manner and body language of the mediating agencies as well as the process management by the Sudan reflected a heavy-handed mediation approach.

In addition, the Sudan mediation's tactics harmed the cohesion of the parties in a way that could possibly worsen the prospect of resolving the dispute in the future in the likely event of further intensification of the ongoing war. The parties were not only compelled to talk but also mandated to reach a resolution in Khartoum.[90] The parties felt that they lost their abilities to make their own decisions about how best to resolve the conflict. The Mediation literally imposed solutions, deadlines and outcomes on the parties sometimes using dishonest tactics.[91] Under such circumstances, many of the parties might have simply gone through the motions put in place by the Mediation just to avoid the impression that they are opposed to peace.

Instead of calling out one of its Member 'State's for acting ultra-vires, IGAD opted to rewrite its Communique, retrospectively, to accommodate this illegality: according to IGAD:

> The IGAD leaders hailed the progress achieved by H.E. President Al Bashir on the issues referred to him by the IGAD Summit of the 32nd Extra-Ordinary Assembly of IGAD Heads of 'State' and Government held on 21 June 2018 in Addis Ababa, Ethiopia that requested President Al Bashir to facilitate a second round of face-to-face talks between President Salva Kiir Mayardit and Dr Riek Machar, including other South Sudanese parties and representatives of Civil Society, Faith Based leaders, Youth, Women and Business Communities to resolve the outstanding issues.[92]

Since according to one of the lead participants in the talks "the mediators have never asked why we are fighting in South Sudan so that we tell them;"[93] and given that SSOA the largest opposition block believed that proposals that were made which eventually found their way into the final agreement "failed to address the root causes and core issues that brought the country to its knees;"[94] and that such solutions were "imposed by a say of Sudan's and Uganda's economic interests in oil and markets";[95] it is reasonable to conclude that the R-ARCSS was not crafted by many of the parties that participated in the HLRF nor do many of the parties to it genuinely own it.

4.3 Did the Revitalized Agreement on the Resolution of the Conflict in South Sudan address the root causes of the conflict?

There is nothing as a useless or useful war. It is all about which side of the stream one is standing. It is about the motivation and the expected end of wars. For some, "war was to be waged only as a matter of necessity, and then only to the end of establishing peace;"[96] while for others, "the sole and only just cause for waging war is when harm has been inflicted."[97]

Collective political, economic or social harm – perceived or real are some of the causes of war. This is not an advocacy for wars because the author believes that war is not the only or even the most useful means of addressing harm. In fact, "war is a surprisingly ineffective means of settling disputes. In only nine [out of 48] wars have the issues over which the war was fought been settled unilaterally by a clear victor…" Nevertheless, "when the parties turn to war to settle their issues, there are only two outcomes that are possible: "political issues might be settled unilaterally by force (de facto settlement) or through an explicit agreement (de jure)."[99]

De facto settlement is usually a mere lull between conflicts. Conflicts that were settled by force were almost certain to flare-up again as the defeat "often represents little more than a lull in the conflict."[100] In many cases a party to a conflict simply "avoid annihilation on the battlefield by blending into the civilian population and awaiting that time in the future when they can muster sufficient strength to revive the conflict"[101] or purporting to sign a rendition agreement to allow it time to reorganize. But conflict settled through a fair agreement that settles the political, economic or social issue over which the war was fought, tend to end conflicts on a self-sustaining basis.[102] So, how one war ends could be a good predictor of whether a post conflict country will likely relapse back to conflict or not. According to scholars, to better understand why countries "that experience one civil war are so much more likely to experience another, it is important to analyze not only how a war started but also how it ended."[103]

This is not a one off-finding. In fact, there is substantial body of word that:

> the stability of the postwar peace is fundamentally linked to how the initial civil war ended and the attributes of the post-conflict environment … a previous civil war can increase the risks of future violence in a 'State' to the extent that it preserves or worsens many of the old grievances and helps create new ones."[104]

The chances of reoccurrence of a war is even higher if an agreement "does not directly address the political issues in dispute or the settlement decides these issues at the expense of the weaker side."[105]

One of the key criticisms against the R-ARCSS is that it "fails to address the root causes of the conflicts."[106] There are a number of challenges with this assertion of course. First, parties do not agree as to what exactly constitutes the 'root causes' of their war. Thus, the very fact of contestations of the root causes itself provokes and prolongs a war and, therefore, becomes a cause of further war. Second, wars are transformative and their root causes dynamic such that durable peace is not attained only by addressing what caused the war in the first place but also by addressing the reality created by that war. The aim here is not to diminish or demean parties' perception of why they are fighting. It is important to distill these perceptions and find ways of addressing them if a mediator is interested in durable peace. This is a mere caution against overstating this criticism.

According to the Pre- Forum Consultation of IGAD, the parties to the conflict in South Sudan identified three broad categories of the root causes of the war: illegitimate, exclusive and oppressive 'State'.[107] While South Sudanese fought for a 'State' they could call homeland, at no point did the various nations and nationalities that occupied that geographical area discuss and agree about the nature of such a 'State' and remits of its powers. These various nations and nationalities have not consented to a surrender of their sovereignties and autonomies to constitute a legitimate center called the 'State'. The Referendum on self-determination by South Sudan was a divorce notice from the Sudan and only an engagement proposal among South Sudanese. In the absence of a consensual relationship, communities' cooperation, in many cases, has been extracted, managed and maintained coercively. Thus, a majority of South Sudanese have experienced the 'State' mainly as a repressive force.

In South Sudan, the crisis of an absent 'State' is experienced differently by different communities. For the privileged few, they have exclusive access to the protection and benefit of the 'State' and its resources. For the majority, access to 'State' protection and benefits is transactional – given in exchange for capitulation to do the bidding of the privileged few. Security and law enforcement institutions work for few against the rest. To the few, the 'State' is giving the rights and privileges of citizenry while to the majority, it is taking away rights and privileges that should ensure equal, empowered and active citizenry. Thus, while few feel bona fide citizens, the rest are made to feel associated citizens – citizens who are permitted to access the protection and benefit of a 'State' by virtue of their association with bona fide citizens.

The only way to address a crisis of the absence of a 'State' is to craft one. That is why the opponents of the GoSS approached the HLRF with a state crafting

mindset. The opponents wanted to return from the HLRF with a at least the foundation of a new 'State' that is inclusive, that operates on new rules of the game, that its political and fiscal powers are decentralized, wherein the constituting units form a legitimate centre. There were two lines of thoughts by the opponents of GoSS: radically restructure institutions of the 'State' and secondly to transform the nature of the relation between 'State's and citizens. To entrench the rule of law, the opponents wanted to reconstruct and transform the security sector in the service of the nation - obedient, professional, apolitical and non-deliberative and subordinate to the constitutional authorities.

Unfortunately, the R-ARCSS is predicated on the assumption of an existing 'State' that only requires stabilization, modernization and enhancement of capacity to carry its functions. The emphasis of the R-ARCSS, therefore, is on using the law to reconfigure and modify institutions and assign positions in these institutions. As a result, the R-ARCSS is preoccupied with, for instance, the "radical reforms and transformation of the public financial management system";[108] aims to "design and implement security sector reforms and security sector transformation, to include the restructuring and reconstitution of institutions";[109] with how to "devolve more powers and resources to the 'State' and local government levels"; and with " a federal and democratic system of governance that reflects the character of South Sudan and ensures unity in diversity be enacted during a permanent constitution making."[110] This approach of the R-ARCSS is to treat the symptoms and opportunistic infections. A repressive and predatory 'State', a tribalistic, politicized and unprofessional security sector, a rule by ruin, monopoly and manipulation of power by an individual or the centre etc. are all symptoms. The disease is an absent 'State' as the unique legitimate body and source of authority in South Sudan.

Therefore, even though the R-ARCSS might have diagnosed and prescribed solutions to the symptoms of the crisis of an absent 'State', it has failed to at least acknowledge and put in place a genuine process to address the root cause of wars in South Sudan.

4.4 Power or positions sharing?

The R-ARCSS' mainstay is the sharing of political positions among the different parties to the conflict and interest groups. The parties are assigned percentages of positions at the national, state and local levels as well as within the executive and the legislature. The parties had opposing views on the best way to govern the transitional period. SSOA and SSCSF were initially opposed to sharing of positions among elites that will

not address the root causes of the conflict. The SSOA and SSCSF advocated for a government of technocrats or at the bare minimum a hybrid administration of technicians and politicians.[111] However, GoSS, SPLM – IO and IGAD preferred the sharing of roles and responsibilities. Like with most of the solutions provided for in the R-ARCSS it was the will and preference of GoSS that prevailed.

The jury is still out on the contribution or lack thereof of power sharing to the durability of peace agreements. There are case studies that support the notion that power sharing strategies such as "governments of national unity, proportional representation, and territorial autonomy, offer the promise of political participation, some degree of self-determination, and sovereignty" offer prospect for durability of a peace agreement.[112] The main reasoning behind this is that "if all parties are able to participate in government, the fighting should stop."[113] But there are other case studies that warn that power sharing strategies that involve giving some ministerial positions to rebel leaders may, unintendedly, prolong fighting by encouraging fractionalization of insurgent groups as individual members seek to gain politically. It cultivates "violent entrepreneurs."[114]

In addition, some have questioned the efficacy of power sharing in an absence of supporting environmental factors in each country. The concern with power sharing in countries emerging from relational or identity wars is that "after an intense conflict, typically there is no culture of accommodation ...to sustain power sharing and facilitate consolidation of peace and democracy."[115]

Care should be taken, however, not to lump power sharing with political position sharing. While power sharing manifests, mainly, through allocations of political positions, it could also be done through institutional arrangements, geographical demarcation or a combination of all these options. A very useful framework to better appreciate the significance of this distinction is that of power-sharing arrangements (PSA) – allocating certain percentages of political positions in the executive and legislature to the opposition groups and power-sharing institutions (PSI) such as proportional representation, segmented autonomy, federalism.[116] PSI are ''those rules that ... allocate decision-making rights, including access to 'State' resources, among collectivities competing for power."[117] PSI, therefore, focuses on depersonalization of powers, decentralization of powers, proportional or equitable distribution of powers at all levels and minority veto rights. Therefore, PSI in addition to addressing elites' greed for power addresses communal grievances too. PSA that does not carry with it really political power and reasonable access to 'State'

resources is very likely going to impact negatively on the durability of a peace agreement.

This distinction is important in cases where political positions could be shared without necessarily transferring tangible political powers that should ordinarily accompany that role to the leaders of insurgency that are awarded these new roles. In an improvised 'State' like South Sudan, the entire mechanism of governance is made in the image of and control by the criminal cartel that has taken it hostage. These cartels could move real power and resources away from ministries not under their control as a result of political positions sharing with an opponent or use informal power relationship sustaining the cabal to undermine the political figure heads appointed by other parties. Thus, position sharing is done in such a way that what is actually given away does not threaten the power base of the giver and does not create mutual vulnerability for both.

Rather than sharing positions, a power-sharing arrangement distributes political, territorial (decentralization and segmented autonomy), military, and economic powers and controls during and immediately after the transition period. In a power sharing arrangement, the parties to a conflict exercise real powers. The parties are, usually, granted quotas and veto powers. They serve on a joint command structure and given a quota of senior military posts. They are, usually, given a percentage of wealth sharing and rents and some forms of control of 'State' owned enterprises.

This distinction is important when analyzing the demands of the parties and the implications of these demands during the HLRF. For instance, while the opposition groups were demanding for PSI; the GoSS pressed for PSA.

The R-ARCSS bears the hallmark of a PSA. Even within this framework the GoSS commands sufficient majority in the Parliament which it could use to pass laws and policies detrimental to the cause of peace or simply to delay or derail the radical reforms anticipated in the R-ARCSS if it so wishes.[118] While the R-ARCSS attempts to provide for some form of minority veto powers within the executive,[119] these minority veto powers are undermined either by an absence of such veto powers in the Parliament or by vaguely worded power sharing mandates such as "spirit of collegial collaboration;"[120] " power exercised in consultation",[121] "mutual understanding"[122] or continuous consultation within the Presidency."[123] In addition to these structural limitations in built in the PSA under the R-ARCSS, position sharing takes places only at the ministerial and deputy ministerial levels. The undersecretaries,

director generals and other members of a ministry are nominated or appointed by GoSS.

Furthermore, the fact that R-ARCSS expects the transitional arrangements to end in a change of 'bullets to ballots' but still fails to guarantee any form of power sharing post-election is problematic. Even in the best of conflict contexts, the fear of losing position during an impeding election may serve as a strong incentive to use the transitional period to outmaneuver the other parties in a transition and thus significantly engender the durability of a settlement.

It is reasonable to believe that, considering the dominance of GoSS militarily on the ground and politically in the Region and the weakness and fragmentation of the opposing forces, the reason why the GoSS even agreed to a PSA might be a calculation that once a power-sharing government has been established, ether:

> a.international attention and pressure for peace talks will recede, opening the door for renewed efforts to marginalize opponents and/or

> b.they will be able to out-maneuver rivals within the new coalition to consolidate control over key resources and institutions.[124]

In sum, power-sharing arrangements provided for in the R-ARCSS may easily be instrumentalized by the dominant peace partner –the GoSS as a means toward domination and control rather than reconciliation and cooperation.

4.5 Is the Revitalized Agreement on the Resolution of the Conflict in South Sudan a balanced Agreement?

According to research the extent to which a settlement "balance[s]… conflicting claims"[125] is a crucial contributing factor to its durability. Agreements are said to be balanced "in the sense that they do not overly favor one party more than the other."[126] The risk poised to the durability of a peace agreement by unbalanced settlement includes that "the party that is being put into a disadvantaged position may choose to return to war rather than honor an agreement that is not in their favor;"[127] since to continue to honor such an agreement "will leave this actor less secure in the future, giving it an incentive to reinitiate the fight now rather than wait as it loses relative power."[128]

There are some indicators that could be used to determine to some extent, if a peace settlement is balanced. These markers could include for examples, the movement of parties on core issues, the credibility and fairness of fear reducing and cost increasing provisions in and agreement, the degree of power

parity between 'State' and opposition and how equitably resources and burdens are distributed between the portfolios led by the different parties. Movement of the parties will be the focus of the 'evaluation' here while the rest will be implied in the analysis. Firstly, because, the extent and the mechanics of the movements of parties from their initial positions to that of convergence are important even if initial positions could simply be tactical or negotiating positions with fallback position that could either be close to principled stand or far from those. Secondly, because there is no negotiation without "some movement [taking] place from the parties' initial positions."[129] Finally, because, 'power is present' with a party who "shifts another from its initial positions and toward the positions of the first party, because the first party has caused the second to move."[130]

The contentious governance and security issues during the last stages of the HLRF include: federalism, number of states, power sharing, government of technocrats or lean government, reintegration or unification of forces, security sector reform or reconstruction of security sector, security of Juba and major towns, demilitarization of civilian centres, and cantonment. The positions of the parties on these contentious issues will be used as markers to indicate initial and convergence positions of the parties: GoSS, IO and SSOA. The position and proposals of the CSOs in the main merely shadowed or enhanced that of the parties and protected civil society engagement in the post agreement period in the different structures and will not be discussed separately.

4.5.1 The position of the GoSS

The GoSS proposed that federalism should be left to the permanent constitution making process. On the question of the number of states, the GoSS proposed the retention of 32 states. As to form of government during the transitional period, GoSS preferred power sharing model of governance. In terms of the security sector, GoSS proposed integration of forces, security sector reform, and keeping of government forces in their barracks.[131] The R-ARCSS deferred the question of federalism to a permanent constitution making process, it retains the number of states at 32 pending further processes. The R-ARCSS adopted power sharing. In the security sector, the R-ARCSS provides for a cocktail of SSR, security sector transformation, keeping forces in barracks as well as demilitarization and cantonment.

4.5.2 The position of the SPLM-IO

The SPLM-IO stood by "the structure, functions, and powers as spelt out by the ARCSS."[132] In addition SPLM-IO proposed "a lean government." On federalism, it proposed that "federalism should not be postponed to

the future exercises, but that it "must be instituted at the commencement of the transitional period." On the number of states, it supported the retention of 10 states. On security sector, the SPLM-IO proposed de-militarization of Juba and other towns, unification and cantonment of forces.[133] The R-ARCSS retained, to some extent, the form and function of the governance under ARCSS, the IO did not secure lean government, it failed to secure federalism in the transitional period, its proposition in favor of 10 states did not stand. On security, the R-ARCSS provides for a cocktail of SSR, security sector transformation, keeping forces in barracks as well as demilitarization and cantonment, therefore, meet some of the demands of the SPLM-IO in this regard.

4.5.3 The position of the SSOA

On federalism, the SSOA proposed the adoption of federalism during the transition period. On the number of states, the SSOA proposed the retention of 10 states. In addition, the SSOA demanded the exclusion of Salva Kiir and Dr. Riek Machar from the participating in governance in the transition period, and the adoption of a "LEAN technocratic or hybrid government." On security sector, the SSOA proposed a "complete overhaul of the security sector and building new security sector institutions reflective of national diversity and character."[134] Other than within the security sector cocktail, none of the proposals made by SSOA found their ways into the R-ARCSS.

Therefore, from a movement perspective, the SPLM-IO and SSOA made most of the movements while GoSS' position appeared to be the default position against which other positions were modified or adjusted. This is not just an assumption, according to SSOA, it approached the Mediation to inquire why its proposals were not reflected. The Mediation answered that the reason why it could not reflect the proposals made by SSOA was that it consulted with GoSS but "Juba has rejected to have our concerns taken on board and as such there was nothing we could do."[135]

Thus, in real terms, GoSS has not just retained its control of the improvised 'State' machinery but went home a winner having secured almost all of its demands on the table in addition to almost assured military victory on the ground. R-ARCSS enables GoSS to retain or increase its political or military influence throughout the lifespan of the transition. If it so wishes, it could use its political, military and economic advantages to coerce, bribe, divide and weaken the other parties and continue to govern in the transition period as if there was no agreement.

Unfortunately, it is more likely that the other opposition parties will increasingly see the R-ARCSS as a disguised strategy for their marginalization, assimilation and

domination and thus feel increasingly vulnerable. Some hardliners within the opposition parties who have signed on to the R-ARCSS could manipulate such fears of physical, economic, and political insecurity to their own advantage or use it as opportunity to rearm and regroup and defect from the settlement rather than honor an agreement that places them at a disadvantage.

4.6 Specificity of the provisions of the Revitalized agreement on the Resolution of the Conflict in South Sudan

Parties to peace agreements are bitter foes who are at war partly because they have no trust and faith in each other's willingness and ability to commit and to follow through on the political, military, economic and social issues that triggered war between them. The least that an agreement that purports to regulate interaction between these parties can do is to be specific and if flexible, to be precise as to how and when such flexibility takes effect. It is believed that "specific agreements reduce uncertainty about what constitutes compliance;"[136] and the more exact "the terms of an agreement are spelled out explicitly, the less possibility there is for misunderstandings by the parties themselves or by international actors reacting to perceived violations."[137] Therefore, the parameters of any agreement must be sufficiently clear and precise.

Conversely though, "while ambiguous language in a peace agreement can be problematic, so, too, can inflexible and overly restrictive provisions, thus suggesting that the key is to word agreements in specific, yet somewhat flexible terms."[138] Therefore, the terms of a settlement should be clear enough to avoid "one or both sides can too easily procrastinate or evade their responsibilities"[139] and flexible enough to anticipate or deter new challenges to the political order that has been created and avoid the terms of settlement itself becoming an obstacles to meaningful implementation.

The drafters of the R-ARCSS learnt from the challenges of imprecise provisions of the ARCSS. For instance article 6.4 of the ARCSS that was a problematic provision when Gen. Taban Deng Gai replaced Dr. Riek Machar as the First Vice President has been rendered more precise. In the R-ARCSS, instead of providing that in the event of the position of the 1st Vice president falling vacant ", the replacement shall be nominated by the top leadership body;"[140] now reads "the replacement shall be nominated by the top leadership…as at the signing of this Agreement."[141] However, this improvement brings its own challenge. The assumption that the leadership "as at the signing of this agreement" shall be the same leadership throughout the transitional period is problematic. The

rate of fractionalization in South Sudan begs the question if there is a fracture in the top leadership as at the time of signing, which part of that fractured leadership is referred to here?

However, the R-ARCSS introduces its own ambiguities. Few illustrative examples are picked here. In attempting to capture the nature and scope of the interaction within the Presidency related to the discharge of the different mandated powers, the R-ARCSS provides for "continuous consultation within the Presidency";[142] "power exercised in consultation";[143] "spirit of collegial collaboration";[144] and in "consultation and agreement."[145] What amounts to a continuous consultation on a matter that requires execution within specified timeframe? While the President is required to appoint the Governor of the Central bank "in consultation and agreement", the appointment of constitutional and judicial office holders including state governors should be done "in consultation" with the Vice Presidents. It is possible that the parties might have decided to elevate the threshold for the appointment of the Governor of the Central bank above that of other constitutional post holders. Could there not be an interpretation problem if all the President is required to do is consult but not to secure the agreement of these other parties for the appointment of state Governors? Since lawyers are not witches or wizards, it is always difficult to discern how the "spirit of collegial collaboration"[146] looks like. How does 'collegial' look between sworn enemies?

4.7 Credible security arrangements

In the context of an armed conflict, the litmus test of the durability of a peace agreement is the ability to stop a war on a self-sustaining basis. The credibility and viability of security arrangements agreed to by the parties are crucial factors. Once the security arrangements collapse, it is almost certain that the peace agreement itself collapses. After a peace agreement, parties have three main concerns:

> a.that one's opponent may gain control of the coercive apparatus of the new State,

> b.that one's opponent may gain an advantage in the allocation of political power within the new State, and,

> c.that one's opponent may gain an economic advantage within the new State.[147]

Usually, a security arrangement as a part of a peace settlement aims, among other things, to ensure stability, security, trust and discourage noncompliance or defection from an agreement. Security is a function of the physical infrastructure and security capabilities while stability "can only result from legitimate political

processes and the creation of an inclusive order where the citizens become stakeholders in the system."[148] The goal usually is to put in place a security environment that not only ensure stability post conflict but is capable of "credibly threatening harm and credibly promising benefits."[149] This "harm-benefit" aspect of securing peace agreements is meant to increase the cost of noncompliance while enhancing the benefit of good behavior by the parties.

Trust deficit between and among the parties as to whether ''their former enemies hold a preference for peace over war",[150] is usually one of the main factors that dismantle peace settlements. Given the history of violence between parties in conflict, it is difficult for disputants to accept that their opponent is genuine about moving beyond conflict and upholding the terms of an agreement. Some studies suggest that "when warring parties commit to shared security forces composed of members from both sides, or to decentralization and greater regional autonomy, they successfully dampen the vulnerabilities associated with demobilizing from war;"[151] and this in turn reduces trust deficit. In addition, some confidence building measures "that regulate and increase the transparency of military activities prone to produce friction among adversaries"[152] do help induce more trust. These measures "include advance notification of troop rotations or of military exercises and joint inspection of military facilities."[153]

The R-ARCSS provides for fairly comprehensive security arrangement. It provides for a permanent ceasefire, disengagement, separation and withdrawal of forces, declaration of disposition of forces down to battalion level, establish forces concentration areas, demilitarization of civilian areas, cantonment of all forces, unification of forces, DDR and SSR processes and the opening of humanitarian corridors. According to R-ARCSS most of these activities should be completed within 8 months and a unified, trained, professional and disciplined security forces deployed throughout the country. The R-ARCSS provides for strict deadlines for when each of these activities should be completed within these 8 months period.

However, there are problems with the security provisions of the R-ARCSS, the good intention of the parties notwithstanding. The security arrangements are at best extremely ambitious and at worse not credible, viable and implementable within the pre-transitional period or even the transitional period in a context such as that of South Sudan. Cantoning thousands of forces that are simply killing and raping machines that belong to armed groups with extremely challenged command and control, over a country almost the size of Kenya and Uganda combined with serious infrastructural challenges in 8 months, is unrealistic. Secondly, the cost

of cantoning such a massive force, providing feeding and all necessary logistics as well as training, let alone unifying and deploying these forces across the country in 8 months for a country with a collapsed economy, heavily indebted and an agreement that is not enjoying full international support, is prohibitive.

There is another challenge. There are still armed groups who are not part of the R-ARCSS' Permanent Ceasefire with credible capacity to carry out violent campaign. Asking a government or another armed group to disarm and canton when there is credible threat of attack from other rebel groups is not feasible. Therefore, any of the parties to the R-ARCSS could use the existence of other armed groups to abscond from its responsibilities under this security arrangements and in the process trigger similar response from other parties thereby heightening a trust deficit.

There is another challenge. Other than unification of forces, the R-ARCSS does not adequately provide for power sharing ratio or a basis for such proportional distribution of positions within the new unified forces which could then provide legal basis for further work to be done in a workshop. With an agreement that is already experiencing a credible implementation commitment challenge, the politics of sharing top level positions within the security could be problematic. The strategic nature of some of the senior level positions in the security sector could trigger struggles for grab or the GoSS to shift real security powers and influence away from agencies not under its control. These struggles could trigger an unravelling of the security settlements.

4.8 Third party guarantee

According to scholars and conflict management practitioners, "the willingness and ability of a third party to forcefully enforce the peace will lead parties to sign agreements and, subsequently, ensure stable settlements." The understanding is that third parties could:

> provide assurance, resources, expertise, and experience in support of the implementation of peace agreements as well as performing specific tasks such as overseeing and monitoring cease-fires, weapons stockpiles, prisoner releases, and the return of refugees.[155]

In addition, "third parties can reduce the belligerents' incentives to break the agreement by increasing the chances that a violation will be detected and by increasing the exacted costs of any violation."[156] It is further argued that "in sum, securing the peace demands (perhaps paradoxically) making sticks as credible as carrots, and then balancing them on a case-by-case basis..."[157] because in an environment of in-

depth trust deficit, "only third-party security guarantees will give the [parties] necessary feeling of security to fulfill their commitments under the peace settlement."[158]

Unlike the ARCSS that enjoyed broad based international support, the R-ARCSS is guaranteed by the Sudan and Uganda. There is a link between parties support for an agreement and international support for that agreement.[159] The fact that the key members of the international community did not meaningfully participate in the final stages of the negotiations of the R-ARCSS, the large number of parties who have refused to sign the R-ARCSS and the assessment by Troika – US, UK and Norway that the R-ARCSS is not realistic, viable nor implementable will have a negative implications for the safeguarding of the implementation of the R-ARCSS.[160] Even if the Sudan and Uganda are willing to guarantee the R-ARCSS, these two countries lack the legitimacy, authority and capabilities to enforce if need be by force the implementation of the R-ARCSS. Thus, in the absence of a credible third party guarantees, the parties may have to make contingency plans in case the other party defects away from the agreement.

4.9 Parties' cohesiveness

IGAD as part of the its preparation for the Pre-Forum Consultation identified several of parties that it thought had influence on the conflict in South Sudan. Even though the criteria for identification and selection of the parties are not clear and have been contested by the GoSS, at least, IGAD picked the following parties for the HLRF: GoSS, SPLA-IO, Former Detainees (FDs), National Salvation Front (NAS), Federal Democratic Party (FDP), National Democratic Movement (NDM), People's Democratic Movement (PDM), South Sudan National Movement for Change (SSNMC), South Sudan patriotic Movement (SSPM), South Sudan Liberation Movement (SSLM), South Sudan United Movement (SSUM) and the Alliance of Political Parties. As the Mediation progressed FDP; NAS; NDM; PDM; FDs; SSNMC; SSPM; SSLM and SSUM coalesced into the South Sudan Opposition Alliance (SSOA). Thus, finally, the HLRF had five political parties: GoSS, SPLM-IO, FDs, SSOA and Other Political parties (OPP).

It is not very clear why and how IGAD recognized these parties as having significant impact on the conflict given that a number of these groups are family based, consist of few individuals or do not have any structured and institutionalized presence anywhere. Some others were militia leaders who were either living in Khartoum or sustained by the Sudan Government and had no meaningful presence in South Sudan while others were formed by professionals in diaspora with combined membership in single digits whose only contribution were properly in the forms of a press release from time

to time. The coming together of some of these very small groups into a coalition –SSOA at least transformed the block into a strong negotiating block.

After the Mediation was taken over by the Sudan a number of these parties fractured. NAS fractured into three splinter groups. PDM which had fractured into two groups splintered further constituting three groups. SSMNC fractured into two and also did SSUM and finally SSOA fractured into two factions. While the fractured groups blamed the heavy-handed approach of the mediation, bribery by and a divide and rule tactics of the Mediation for the splintering, it was also obvious that lack of credible structures or poor institutionalization within these groups as well as prospects of peace dividends played significant role in the fracturing process.

Even though the GoSS and the SPLM-IO are yet to experience fractures, these entities are Janus organizations too. There are fault lines between hardliners and moderates in these groups and between those who believe that there is no bad peace and others who think that R-ARCSS has handed over the sovereignty and territorial integrity of South Sudan to its closest enemies and therefore, consider efforts to undermine the R-ARCSS as a nationalistic and patriotic duty. How these faultiness will manifest going forward is not clear yet.

Group cohesion is an important element for the durability of a peace agreement. Splinter groups pose a genuine threat to peace. Lack of cohesion within the parties will heighten a credible commitment problem since the ability of the parties to carry forward their commitments will be affected. This is mainly because even if "the leadership of one of the parties negotiates in good faith, it may not be able to control all of its military forces, civilians, or other groups operating in its territory and these groups, if opposed to the cease-fire agreement, can easily upset it."[161]

Splintering also will make it far easier for others to compromise the positions of members within these parties through corrupting inducements which in turn could generate intra and inter group resentments which could further undermine commitment to the implementation of R-ARCSS. It was partly discontent and splintering within the SPLM-IO that contributed to the July 2016 dog fight in Juba, South Sudan that precipitated the collapse of the ARCSS. There are indications that R-ARCSS might trigger more splintering and which could greatly contribute to its demise.

4.10 Spoilers

Scholars and practitioners of conflict management and resolution broadly identify spoiling as a major contributor to the collapse of many peace treaties.[162]

So, the existence of credible, willing and able spoilers should be a clear indicator of possible serious challenges to a peace agreement. Spoilers have been defined as 'leaders and parties who believe that peace emerging from negotiations threatens their power, worldview, and interests, and use violence to undermine attempts to achieve it.'[163] Spoiling, therefore, refers to any action undertaken by any one or any group with an intention to "disrupt, undermine, hinder, or delay" a peace process or its proper implementation.

These spoilers could be hardliners in government who are opposed to rewarding rebellion or who stand to lose from an agreement or members of a rebel group who see the R-ARCSS as a betrayal of a cause or a sellout or it could the supporters or members of a group who are convinced that an agreement is not worth the sacrifice made. The source or what scholars call the 'locus of the spoiler problem' of the feeling to spoil is important. This is because "If the impetus for spoiler behavior comes from the leader, then parties can alter type if their leadership changes … if the spoiler behavior is emanating from the followers, the leader will have fewer behavioral options and the group may be less likely to change its type."[164]

The existence of a cause that an agreement ignores and of spoils - valuable natural resources that could be illicitly traded easily and that are profitable during war times that could be exploited and neighboring State(s) that are hostile to the agreement make the intention and actions of spoilers potent. Therefore, "the greater the presence of spoils, and the strength and coherence of spoilers, the fewer the chances of achieving a peace agreement, and fewer still are the chances of that agreement lasting."[165]

The existence of a credible cause is important as a mobilizing factor for spoilers. Because:

> If resort to force is to have moral warrant, it must proceed from a just cause; it must be authorized by a legitimate authority; it must be motivated by a right intention; and it must pass four prudential tests: that it be expected to produce a preponderance of good over evil; that it have a reasonable chance of success; that it be a last resort; and that its expected outcome be to establish peace.[166]

In comparison to the ARCSS, the R-ARCSS is the most criticized and disowned agreement. Armed groups, non-armed political groups, civil society organizations, conflict resolution practitioners, academia and key members of the international community have resoundingly criticized the R-ARCSS. Some of the parties consider the R-ARCSS as "a much weaker and flawed agreement compared to ARCSS 2015;"[167] and accused it

of failing to address the causes of the war, rewards impunity, and prioritizes the interests of its Guarantors over that of the people of South Sudan. According to one of the analysts, through the R-ARCSS:

> South Sudan is on its way to becoming an informal protectorate of Sudan and Uganda. By formally acknowledging them as 'guarantors,' the agreement recognises their strategic role in determining the future of South Sudan: Ugandan troops are physically present to support Kiir's faction, and Sudan provides critical support to opposition groups, including those led by Machar.[168]

The Troika (US, UK and Norway) – the major donors to South Sudan said that "the arrangements agreed to date are not realistic or sustainable."[169] In addition since the peace process moved to the Sudan, Kenya and Ethiopia have more less taken back seat and maybe a wait and see attitude to the settlement.

The widespread national and international discontentment with the R-ARCSS may fuel further the determination of those who are opposed to the settlement to dismantle it.

4.11 Reconciliation

War is a zero-sum undertaking. It is brutal political discourse between enemies bent on eliminating the other. It forces parties and communities to take side, to see and treat each other with deep mistrust and animosity, it festers a 'discourse of difference' that makes people to consider that they and the other communities cannot reconcile and the different positions of communities non-negotiable and fear that a settlement will entail unacceptable compromises. The war in South Sudan is not an exception. The war is brutal and nasty. Ethnocide has been its strategy and extermination of others and communities its goal. Whatever was left of the social fabric that make conversation between communities accommodating, is torn into pieces.

Therefore, reconciliation is the only rational survival strategy. This is because, "If the mediation process leads to reconciliation between the parties, then this creates a more stable base for implementation of a peace agreement, and in turn, the future success of that agreement."[170] Reconciliation is not possible when what turned ordinary people into killing machines are ignored or glossed over in a settlement intended for these same people to co-exist peacefully.

Rather than forging reconciliation, the R-ARCSS has pulled the country farther apart. Unfortunately in its current form, the R-ARCSS will bring neither peace nor reconciliation. Even though the R-ARCSS establishes a

National Reconciliation and Healing Commission, the failure of the R-ARCSS to address the basis of the war, to inaugurate reconciliatory steps by recognizing the pains of others and accommodating their demands undermines the intention.

5.0 CONCLUDING REFLECTIONS

This paper is an attempt to address two difficult issues: to assess if the R-ARCSS is a viable peace settlement and to predict based on this assessment whether the R-ARCSS will last. These are difficult undertakings because; first, an agreement is as good or as bad as are the parties to it. Ill-intentioned parties can ruin the best of agreements just as well-intentioned parties could transform the commitments in a bad agreement into durable peace. Second the durability of an agreement could be negatively or positively impacted by factors external to the agreement itself. Thirdly, the R-ARCSS is just two month old at the time of this writing and it is not in the power of any human being to know with certainty the tomorrow of an agreement.

But we know some peace agreements succeed while others fail. For instance, only 50 percent of all negotiated settlements survive past five years and the average peace lasted three-and-a-half years (forty-two months) before conflict resumed[171.] An agreement is said to be successful if: "first, whether the specific conflict was brought to an end through the efforts of a third party, and second, whether the conflict is terminated on a self-implementing basis that will allow that third party to withdraw from the process without fear of renewed war."[172]

In addition, there is significant scholarly and practitioners' work that could provide some guidance when undertaking such an assessment. For instance, One landmark study on the durability of peace agreements concluded that "good agreements" (that is, ones that are crafted by the parties, contain power-sharing provisions for winners and losers in the aftermath of elections, and have provisions for third-party mediation and renegotiation during the implementation phase), which have the sustained support of the international community, improve the prospects that an agreement will endure."[173] In addition, other studies suggest that when "warring parties commit to shared security forces composed of members from both sides, or to decentralization and greater regional autonomy, they successfully dampen the vulnerabilities associated with demobilizing from war."[174]

On these works and similar works, the HLRF and R-ARCSS was assessed. At the end of the HLRF there are two possible outcomes. The first outcome is that willing opposition groups will be assimilated into the existing improvised 'State' and governance system based on picking of reforms in the R-ARCSS. The hope that could sustain this outcome is that the holdup groups will be neutralized gradually. The second other option is an intensification of a deadly war.

Both the process and the outcome of the HLRF have been examined here and found wanting. It is unrealistic to accuse a mediation of failing to secure durable peace since it is unable to determine and control such an outcome. The characteristic of the Mediation and structural disconnect between the R-ARCSS and the challenges it is meant to solve are some of the reasons responsible for this finding.

However, it is reasonable to expect that a mediation should conduct the process of mediation in a competent and professional manner that respects consent and self-determination of the parties, ensures impartiality and inclusivity of parties and issues, fosters equality of parties, and avoids conflict of interests. The mediation by IGAD was anything else except these tested and trusted principles of mediation. By mismanaging the process, the mediation further complicated efforts to make the parties and the country closer and more willing to take risk and make compromises required to attain durable peace in South Sudan.

In addition, there are serious disconnect between R-ARCSS and the context of the conflicts and peacemaking in South Sudan. The starting point of any peacemaking efforts in South Sudan is that there is no 'State', government nor cohesive opposition parties capable and willing of implementing an agreement. Therefore, peacemaking must straddle and serve simultaneously as a foci of State craft. In addition, such an efforts must acknowledge and address inter and intra communities grievances as well as the struggle for power and control among the elites. In such an effort therefore, the issue at stake in ending the war in South Sudan should not be who wins, how to accommodate personalities or communities but what rules of the game could provide a legitimate basis for creating a legitimate Centre and for peaceful co-existence.

Constructing a new, legitimate and acceptable 'State' in South Sudan must be based on proportional representation of all the communities in government. It must ensure geographical, political, economic and social autonomy. Durable peace must recognize and grant minorities veto powers on vital issues that affect their wellbeing and finally, an honest process of addressing years of impunity by all against all must be undertaken∎

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End notes

1. Governor Joseph Bangasi Bakoso was the Leader of South Sudan National Movement for Change, a member of the South Sudan Opposition Alliance and represented his party during the talks. Now he leads a faction of the same party. http://new.radiotamazuj.org/en/news/article/bakosoro-blasts-mediators-over-governance-deal (accessed 12/11/2018).

2. See article 2.1.1 of the Agreement on the Resolution of the Conflict in South Sudan, 2015 (ARCSS).

3. See article 1.6, ARCSS.

4. See article 2.1.10 ARCSS.

5. See Chapter 2 and 4 of ARCSS.

6. See Chapter 5 of ARCSS.

7. https://igad.int/programs/115-south-sudan-office/1731-high-level-revitalization-forum-agreement-on-cessation-of-hostilities-protection-of-civilians-and-humanitarian-access-republic-of-south-sudan (accessed 12/11/2018)

8. See article 1.1.6 of the Revitalized Agreement on the Resolution of the Conflict in South Sudan, 2018 (R-ARCSS).

9. See article 1.2.7 & Chapters 2 of R-ARCSS.

10. See article Chapters 4 &5 of R-ARCSS.

11. See generally Ø Rolandsen & M Daly A History of South Sudan: From Slavery to Independence (2016) Cambridge: Cambridge University Press.

12. The Commission for Africa 'Our common interest: Report of the Commission for Africa' (2005) 24.

13. For a discussion of the concept of improvised state see generally chapter 2 of A Geffrey The Improvised State: Sovereignty, Performance and Agency in Dayton Bosnia (2012) New Jersey: Wiley-Blackwell.

14. Ø Rolandsen 'Another civil war in South Sudan: the failure of Guerrilla Government?' (2015) 9 Journal of East African Studies 163; for a broader argument on the link between absence of state or failed state and conflict see generally L Van de Goor & others Between development and destruction: An enquiry into the causes of conflict in post-colonial states (1996) London: Macmillan Press.

15. For more information on the link and extent of corruption, state capture and the conflicts in South Sudan see generally https://enoughproject.org/products/reports/south-sudan

16. P Martin 'Coming Together: Power-Sharing and the Durability of Negotiated Peace Settlements' (2013) 15 Civil Wars 332.

17. A Ghani & C Lockhart 'Writing the history of the future: Securing stability through peace Agreements' (2007) 1 Journal of Intervention and Statebuilding 275.

18. See the Report of the African Union Commission of Enquiry on South Sudan http://www.peaceau.org/uploads/auciss.final.report.pdf (accessed 12/11/2018) and the various reports of the United Nations Commission on Human Rights in South Sudan https://www.ohchr.org/en/hrbodies/hrc/cohsouthsudan/pages/index.aspx (accessed 12/11/2018).

19. S Woodward (2007) 'Do the Root Causes of Civil War Matter? On Using Knowledge to Improve Peacebuilding Interventions' (2007) 1 Journal of Intervention and Statebuilding 143.

20. R Licklider 'The consequences of negotiated settlements in civil wars, 1945-1993' (1995) 89 The American Political Science Review 681.

21. P Martin (2013) 'Coming together: Power-sharing and the durability of peace settlements' (2013) 15 Civil Wars 332

22. https://www.youtube.com/watch?v=uB0kf_liEQ4 (accessed on 12/11/2018).

23. See the following reports by the UN Panel of Experts on South Sudan https://www.un.org/sc/suborg/en/sanctions/2206/panel-of-experts/reports (accessed on 12/11/2018).

24. https://enoughproject.org/press-releases/investigative-alert-sentry-points-south-sudans-neighbors-role-devastating-conflict (accessed on 12/11/2018);

25. C Pinaud 'South Sudan: Civil war, predation and the making of a military aristocracy' (2014) 113 African Affairs 192.

26. https://www.capitalfm.co.ke/news/2017/11/kiir-accuses-sudan-source-weapons-south-sudan-war/ (accessed on 12/11/2018); http://www.smallarmssurveysudan.org/facts-figures/south-sudan.html (accessed on 12/11/2018).

27. D Johnson 'Briefing: The crisis in South Sudan' (2014) 113 African Affairs 300.

28. https://enoughproject.org/files/SouthSudanReport.pdf (accessed on 12/11/2018).

29. H Johnson South Sudan –the untold story: From independence to civil war (2016) location 3936 Kindle Version.

30. H Johnson, 2016, n 29 above.

31. https://www.hrw.org/news/2013/12/19/south-sudan-soldiers-target-ethnic-group-juba-fighting (accessed on 12/11/2018); https://www.theguardian.com/world/2013/dec/23/south-sudan-state-that-fell-apart-in-a-week (accessed on 12/11/2018).

32. https://www.youtube.com/watch?v=uB0kf_liEQ4 (accessed on 12/11/2018).

33. See The Transitional Government of National Unity (TGoNU) critique of the Pre-Forum Report on the conduct of the High-Level Revitalization Forum for the parties to the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS), IGAD Council of Ministers, Addis Ababa, Ethiopia, 17th December, 2017 (Critique).

34.

35. See article 4 of the Charter of the South Sudan Opposition Alliance on the common position of the parties.

36. See http://www.centrepeacejustice.org/wp-content/uploads/2017/10/CSO-OPTIONS-PAPER-ON-REVITALIZATIOIN.pdf (accessed on 12/11/2018).

37. See Office of the Special Envoy for South Sudan, Report of Pre-Forum Consultations on the High-Level Revitalization Forum Submitted to Chairperson, IGAD Council of Ministers (November 2017).

38. The author witnessed this first hand during the negotiation in Addis Ababa.

39. See paras 2.3 and 3.1 of the Critique, n 33 above.

40. See para 3.1 of the Critique, n 33 above.

41. See para 3.1 of the Critique, n 33 above.

42. See para 1.1. of TGoNU Statement issued during the 61st Extra-Ordinary Session of the IGAD Council of Ministers, to 'Evaluate and Track the developments made regarding the implementation of the CoHA and assess the challenges observed in Phase-II of the High Level Revitalization Forum (HLRF), and most importantly design the way forward', 26th March, 2018, Addis Ababa, Ethiopia (TGoNU Statement).

43. See 3.2(i) of the Critique, n 33 above.

44. See 3.2(i) of the Critique, n 33 above.

45. See 3.2(i) of the Critique, n 33 above.

46. See 3.2(i) of the Critique, n 33 above.

47. See para 1 of TGoNU Statement n 42 above.

48. See para 2.3 of the Critique, n 33 above.

49. See para 1 of the Critique, n 33 above.

50. See para 1 of the Critique, n 33 above.

51. See para 2.5 of the Critique, n 33 above.

52. Para 3.2 (e) of the Critique, n 33 above.

53. Para 3.2 (c) of the Critique, n 33 above.

54. Summary of SPLM/A-IO Positions, May 11, 2018 and paras 1.1.5 and 1.1.6 of Respose to the IGAD proposal on governance and security May 23, 2018 (SPLM-IO Response).

55. See III (d) of SPLM-IO Response, n 54 above.

56. See para 1.1.1 of SPLM-IO Response, n 54 above.

57. See para 7.1 of SPLM-IO Response, n 54 above.

58. See article 4(2) of the Charter of the South Sudan Opposition Alliance, 2017 (the Charter).

60. See article 4(2) (a) of the Charter, n 58, above.

61. See articles 4(4) & 4(2) (d) of the Charter, n 58, above.

62. See article 4(5) of the Charter, n 58, above.

63. See article 4(5) (a) of the Charter, n 58, above.

64. Summary of consultations with South Sudan Opposition Alliance on HLRF Outstanding Issues 11-12 May 2018.

65. A good example is this para "However, recognizing the limited space for compromise among the parties, we would opt for the first Khartoum Proposal on Outstanding Issues of Responsibility Sharing that provides for a President, First Vice President and two Vice Presidents."

66. Guiding Principles for Governance in the Revitalized ARCSS South Sudan Civil Society Forum (SSCSF) February 2018.

67. N 66 above.

68. E Hoffman & J Bercovitch 'Examining structural components of peace agreements and their durability' (2011) 28 Conflict Resolution Quarterly 399 discuss 13 features of good agreements. 10 of these features have been adopted for the purpose of analyzing R-ARCSS.

69. Hoffman, n 68 above.

70. I Zartman Negotiation and conflict management: Essays on theory and practice (2008) 37, New York: Routledge

71. G Homans Social behavior (1961) 62 Harcourt: Brace and World.

72. See also https://dayan.org/content/tel-aviv-notes-igad-and-south-sudan-success-and-failure-mediation (accessed on 13/11/2018).

73. https://www.jmecsouthsudan.com/index.php/reports/jmec-quarterly-reports/77-jmec-quarterly-report-to-igad-on-the-status-of-implementation-of-the-arcss-from-december-1st-2017-march-31st-2018/file (accessed 13/11/2018).

74. https://reliefweb.int/report/south-sudan/communiqu-32nd-extra-ordinary-summit-igad-assembly-heads-state-and-government (accessed on 13/11/2018).

75. See Press Release, South Sudan Opposition Alliance, 4 August 2018 (on file with the author).

76. See n 75 above.

77. See n 75 above.

78. https://www.tesfanews.net/south-sudan-accuses-igad-chief-mediator-of-dictating-negotiations/ (accessed on 12/11/2018).

79. See the Press Release of "Non-Partisan South Sudanese Women Representatives to the IGAD-Led Peace Process, 9 July 2018 calling upon IGAd "to refrain from subjecting the parties to signing an agreement under duress." (On file with the author).

80. D Druckman & C Albin 'Distributive justice and the durability of peace agreements' (2011) 37 Review of International Studies 1137.

81. Druckman, n 80 above.

82. J Bercovitch & K DeRouen 'Managing ethnic civil wars: Assessing the determinants of successful mediation' (2005) 7 Civil Wars 98.

83. Bercovitch, n 82 above.

84. J Bercovitch 'Mediation success or failure: a search for the elusive criteria (2006) 7 Cardozo Journal of Conflict Resolution 290.

85. F Plank 'When peace leads to divorce: The splintering of rebel groups in powersharing agreements' (2017) 19 Civil Wars 176.

86. Plank, n 85 above.

87. See para.9 of Communiqué of the 32nd Extra-Ordinary Summit of IGAD Assembly of Heads of State and Government on South Sudan 21st June 2018, Addis Ababa, Ethiopia https://igad.int/attachments/article/1865/Final%20Communique%20of%20the%2032nd%20IGAD%20Summit.pdf (accessed on 13/11/2018), (Communique 32nd Summit).

88. See para. 11 of the Communique 32nd Summit, n 87 above.

89. See para.9 (d) of the of Communique 32nd Summit, n 87 above.

90. See Press Release, South Sudan Opposition Alliance, 4 August 2018 (on file with the author).

91. https://www.tesfanews.net/south-sudan-accuses-igad-chief-mediator-of-dictating-negotiations/ (accessed on 12/11/2018); see also http://www.sudantribune.com/spip.php?article65992 (accessed on 13/11/2018).

92. https://igad.int/programs/115-south-sudan-office/1911-communique-of-the-igad-extra-ordinary-summit-on-south-sudan (accessed on 13/11/2018).

93. Governor Joseph Bangasi Bakoso was the Leader of South Sudan National Movement for Change, a member of the South Sudan Opposition Alliance and represented his party during the talks. Now he leads a faction of the same party http://new.radiotamazuj.org/en/news/article/bakosoro-blasts-mediators-over-governance-deal (accessed 12/11/2018).

94. See the Press Release of the South Sudan Opposition Alliance, 16 July 2018; see also the Press Release of the South Sudan Opposition Alliance, 4 August 2018, according to SSOA "This agreement has failed to address the root cause and core issues fueling the crisis in South Sudan."

95. See the Press Release of the South Sudan Opposition Alliance, 13 September 2018. (This faction of SSOA refused to sign the R-ARCSS).

96. C Covell Kant and the Law of Peace (1998) 208, London: Macmillan.

97. Francisco de Vitoria on the law of war (1991) 303.

98. V Fortina Peace time: Ceasefire-agreements and the durability of peace agreement (2004) 207, Princeton: Princeton University Press.

99. See Fortina, n 98 above.

100. J Quinn & others 'Sustaining the peace: Determinants of civil war recurrence' (2007) 33 International Interactions 167

101. See Quinn, n 100 above.

102. See Quinn, n 100 above.

103. See Quinn, n 100 above.

104. See Quinn, n 100 above.

105. S Werner 'The precarious nature of peace: Resolving the issues, enforcing the settlement, and renegotiating the terms' (1999) 43 American Journal of Political Science 912.

106. See Press Release of the South Sudan Opposition Alliance, 4 August 2018.

107. See https://paanluelwel.com/2017/12/19/report-of-the-pre-forum-consultations-on-the-high-level-revitalization-forum/ (accessed on 13/11/2018).

108. See article 1.2.7 of the R-ARCSS.

109. See article 1.2.11 of the R-ARCSS.

110. See article 1.4.11 of the R-ARCSS.

111. See http://www.centrepeacejustice.org/wp-content/uploads/2017/10/CSO-OPTIONS-PAPER-ON-REVITALIZATIOIN.pdf (accessed on 12/11/2018) and See SSOA'S Response to the Revised Bridging Proposal Governance 16 June 2018 (on file with the author).

112. D Bekoe Implementing peace agreements: Lessons from Mozambique, Angola and Liberia (2008) 4, New York: Palgrave Macmillan.

113. See Bekoe, n 112 above.

114. D Tull & Mehler 'The hidden costs of power-Sharing: Reproducing insurgent violence in Africa' (2005) 104 African Affairs 375

115. D Rothchild, 'Africa's power-sharing institutions as a response to insecurity: Assurance without deterrence' in S Saideman & M Zahar (eds) Intra-state conflict, governments and security: Dilemmas of deterrence and assurance (2008) 43 Abingdon: Routledge.

116. This framework of analysis is adopted from P Pospieszna & G Schneider 'The illusion of 'peace through power-sharing': Constitutional choice in the shadow of civil war' (2013) 15 Civil Wars 44.

117. See Pospieszna, n 116 above.

118. See article 1.14.2.1 of R-ARCSS, GOSS is awarded 332 MPs out of 550 in the Parliament.

119. See article 1.10.12 of R-ARCSS that provides for at 6 members of the opposition for a quorum to be complete.

120. See article 1.9.6.1.1 of the R-ARCSS.

121. See article 1.9.2 of the R-ARCSS.

122. See article 1.9.2 of the R-ARCSS.

123. See article 1.9.1 of the R-ARCSS.

124. P Martin 'Coming together: Power-sharing and the durability of negotiated peace settlements' (2013) 15 Civil Wars 332.

125. D Druckman & C Albin 'Distributive justice and the durability of peace agreements' (2011) 37 Review of International Studies 1137

126. Hoffman "Power dynamics and spoiler management: Mediation and the creation of Durable Peace in Armed Conflicts." Unpublished doctoral dissertation, the University of Canterbury, Christchurch, New Zealand, 2009; 210.

127. See Hoffman, n 126 above.

128. A Reiter 'Does spoiling work? Assessing the impact of spoilers on civil war peace agreements' (2015) 17 Civil Wars 89.

129. I Zartman Negotiation and conflict management: Essays on theory and practice (2008) 36, New York: Routledge.

130. See Zartman, n 129 above, 43.

131. The Critique, n 33 above.

132. Respose to the IGAD Proposal on Governance and Security May 23, 2018.

133. Respose to the IGAD Proposal on Governance and Security May 23, 2018.

134. See Summary of consultations with South Sudan Opposition Alliance on HLRF Outstanding Issues, 11-12 May 2017.

135. See Joint Press Statement by SSOA and SPLM-FDs, 3August2018.

136. see Fortina, n 98 above.

137. See Fortina, n 98 above.

138. Hoffman & J Bercovitch, n 68 above.

139. Hoffman & J Bercovitch, n 68 above.

140. See article 6.4 of the ARCSS.

141. See article 1.6.5 of the R-ARCSS.

142. See article 1.9.1 of the R-ARCSS.

143. See article 1.9.2 of the R-ARCSS.

144. See article 1.9.6.1.1 of the R-ARCSS.

145. See article 4.2.3 of the R-ARCSS.

146. See article 1.9.6.1.1of the R-ARCSS.

147. C Hartzell 'Explaining the Stability of negotiated settlements to intrastate wars' (1999) 43 Journal of Conflict Resolution 3.

148. A Ghani & C Lockhart 'Writing the History of the Future: Securing Stability through Peace Agreements' (2007) 1 Journal of Intervention and Statebuilding 275.

149. Ivan Arreguín-Toft, 2007; cited in E Hoffman & J Bercovitch 'Examining structural components of peace agreements and their durability' (2011) 28 Conflict Resolution Quarterly 399.

150.C Hartzell & others 'Stabilizing the peace after civil war: An investigation of some key variables' (2001) 55 International Organizations 183.

151. P Martin 'Coming Together: Power-sharing and the durability of negotiated peace settlements' (2013) 15 Civil Wars 332.

152. See Fortina, n 98 above.

153. See Fortina, n 98 above.

154. B Walter 'The Critical Barrier to Civil War Settlement' (1997) 51 International Organization 335.

155. Hoffman & J Bercovitch, n 68 above.

156. S Mitchell & J Vasques Conflict, war and peace: An introduction to scientific research (2014) 326, CQ Press.

157. Ivan Arreguín-Toft, 2007; cited in E Hoffman & J Bercovitch 'Examining structural components of peace agreements and their durability' (2011) 28 Conflict Resolution Quarterly 399.

158. D Bekoe 'Mutual vulnerability and the implementation of peace agreements: Examples from Mozambique, Angola, and Liberia' (2005) 10 International Journal of Peace Studies 43

159. A Reiter (2015) 'Does Spoiling Work? Assessing the Impact of Spoilers on Civil War Peace Agreements' (2015) 17 Civil Wars 89.

160. https://www.state.gov/r/pa/prs/ps/2018/08/285077.htm (accessed on 13/11/2018).

161. V Fortina Peace time: Ceasefire-agreements and the durability of peace agreement (2004) 207, Princeton: Princeton University Press

162. D Bekoe 'Mutual vulnerability and the implementation of peace agreements: Examples from Mozambique, Angola, and Liberia' (2005) 10 International Journal of Peace Studies 43; A Reiter 'Does spoiling work? Assessing the impact of spoilers on civil war peace agreements' (2015) 17 Civil Wars 89; S Stedman 'Introduction' in S Stedman & others (eds.) Ending civil wars: The implementation of peace agreements (2002)5, Boulder, CO: Lynne Rienner Publishers; J Stedman, 'Peace processes and the challenges of violence' in J Darby & R Ginty (eds.) Contemporary peacemaking: Conflict, violence and peace processes (2003) 103 New York: Palgrave Macmillan.

163. J Stedman 'Spoiler problems in peace processes' (1997) 22 International Security 5.

164. J Shedd 'When Peace Agreements Create Spoilers: The Russo-Chechen Agreement of 1996' (2008) 10 Civil Wars 93

165. D Bekoe 'Mutual vulnerability and the implementation of peace agreements: Examples from Mozambique, Angola, and Liberia' (2005) 10 International Journal of Peace Studies 43

166. Thomas Aquinas cited in J Madhav & J Quinn 'Is the sum greater than the parts? The terms of civil war peace agreements and the commitment problem revisited' (2015) 4 Negotiation Journal

167. See SSNMC Public Statement, 21 September 2018.

168.https://www.theeastafrican.co.ke/news/ea/South-Sudan-deal-to-benefit-only-to-Uganda-Khartoum-/4552908-4783924-rm8jg7z/index.html (accessed on 13/11/2018).

169. https://www.state.gov/r/pa/prs/ps/2018/08/285077.htm (accessed on 13/11/2018).

170. Hoffman & J Bercovitch, n 68 above.

171. D Bekoe 'Mutual vulnerability and the implementation of peace agreements: Examples from Mozambique, Angola, and Liberia' (2005) 10 International Journal of Peace Studies 43

172. D Bekoe 'Mutual vulnerability and the implementation of peace agreements: Examples from Mozambique, Angola, and Liberia' (2005) 10 International Journal of Peace Studies 43.

173. F Hampson Nurturing Peace: Why Peace Settlements Succeed or Fail (1996) Washington, DC: United States Institute of Peace Press.

174. A Ghani & C Lockhart (2007) Writing the History of the Future: Securing Stability through Peace Agreements (2007) 1 Journal of Intervention and Statebuilding 275