

Position Paper on South Sudan National Dialogue and its Discontent



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Abstract

In the past, National Dialogues provided a rare entry-point to organize and conduct political dialogues to address humanitarian concerns. The brief points to atrocities by the government and an overwhelming national and international consensus that no national dialogue can take place under the patronage of President Salva Kiir and his regime given his track record and direct involvement in spreading the on-going civil war, ethnic cleansing and genocide.

An analysis of the strengths and weaknesses of the proposed dialogue uncovers opportunities to undermine the dialogue. A national dialogue under President Kiir is more likely to fail because what the president offers does not incorporate the principles of inclusion, transparency and public participation, a far-reaching agenda, a credible convener, appropriate and definite rules of procedure, and an implementation plan.

It cites the long tradition and experience of national dialogues from the 1950's and the vital lessons they offer. Importantly dialogues require trust and a shared understanding of what constitutes "national dialogue" and a commitment by all concerned to the success of the Dialogue starting with choosing a credible convener; putting in place confidence-building measures; inclusion of all key stakeholders pre-consultation phase and implementation phase. But today, what is imperative is, a clearly defined political settlement that brings peace and security must first be delivered to build trust to create the necessary political space to discuss the emotive issues of human rights abuses and governance.

Furthermore, the brief proposes a dialogue on the economy to examine the realistic policy options that a transitional Government can adopt within the available fiscal space. It draws attention to several recommendations.

Executive Summary

In the past, National Dialogues provided a rare entry-point to organize and conduct political dialogues to address humanitarian concerns. Dialogues were designed to build confidence between the belligerents and with the local population. However, to the dismay of many, the regime in South Sudan is deliberately creating the humanitarian crisis. President Salva Kiir's government is accused of orchestrating war crimes

and ethnic cleansing in the country's three-year civil war. Now he wants to preside over a national dialogue that he and his tribal supporters will manage.

Reflecting on past political dialogues from independence in 1956 to 2010, a new National Dialogue must consider the deep wounds inflicted by decades of conflict; it should be designed to

address the root causes of the failures of leadership and governance as well as addressing the post-independence failures and other foreseen challenges. For example:

- Underlying causes of conflict;
- Lack of trust;
- Address issues of inclusivity
- Tackle the interests of the communities; and
- The fate of the current political leadership.

The brief argues that President Kiir's version of National Dialogue is no longer defensible. Referring to the broad and growing consensus among South Sudanese and the international community who have concluded that a national dialogue, the way everybody understands it, is not tenable under President Salva Kiir. One day The President calls for dialogue and a national day of prayers and the next day his militia are killing priests and pillaging villages.

Speaking in Yei town to commemorate the 100th anniversary of the town's Episcopal church on the 7th of February 2017, President Kiir proclaimed, the goal of ending the conflict in South Sudan would commence in March 2017. In March, his government continued its attacks on priests and brutally murdered Reverend Simon Kwaje, one of at least thirty nine priests targeted and killed by the government.

A national dialogue is likely to mean different things to different people since different constituencies will have different perceptions of the national dialogue. Hence, there must be clarity over the purpose, the process, and the outcome including representations in the national dialogue and perusing security-sector reform. The brief offers a definition that focuses on political transitions to help guide the transformation of the political crises and post-war transition to peace. Also critical to the success of the national dialogue are the inclusivity mechanisms used to shape the results of political transitions. The IGAD Non-Paper on Inclusive Political Processes has outlined some essential mechanisms.

Strengths and weaknesses of a National Dialogue: A South Sudanese National Dialogue could change the prevailing political culture. Starting by replacing it with a widely supported political transition process that will implement wider and well thought through reforms and constitutional changes. A common

weakness is that those in power can turn it into tools for elite manipulation and consolidation of power. President Salva Kiir Mayardit has called for Dialogue to resolve political conflict within the SPLM. This National Dialogue sought by President Salva Kiir, and the way he and his JCE are going about it is destined to become the latest victim of the regime's political ideology. Indeed the brief outlines many examples revealing that all signs point to an ill-intentioned attempt to retain power.

An inclusive national dialogue: efforts to bring peace to the country in the future must consider the historical events that have moulded the conduct of South Sudanese political leaders and to recognize the emerging political aspirations of the victims to avoid repeating the experiences of the SPLM and its policies. Such a process requires a complete preparatory phase. An exhaustive and inclusive preparation to propose a roadmap that is acceptable to all stakeholders is necessary instead of prematurely embarking on the dialogue. The priorities include securing and establishing:

- Peace and justice;
- Security and Stability;
- Democracy and governance (Federation or Confederation);
- Equality and Prosperity;
- Civil Service and Meritocracy
- Regime change;
- The transitional government.

Rehabilitation and resettlement: are crucial to inclusive dialogue. Over 3 million South Sudanese fled their homes, with some 2 million internally displaced and over 1 million living as refugees in neighboring countries. So far about 3.6 million people received humanitarian assistance in 2016 while over 5 million people still require urgent assistance in 2016.

The Credibility and Independence of the Convenor: must define a pre-consultation phase, the dialogue phase, implementation, and post-dialogue plans that will be implemented by a neutral caretaker government. The convenors must have the trust of inclusive committees tasked to build consensus around core issues during the preparation phase. The credibility of the convener and the political space are critical.

Reforming the Security-Sector: The regime has no intention to build a national professional army to protect the sovereignty and territorial integrity of the new country. Plans to improve the military and security services must focus explicitly on providing solid security guarantees for the population. Unless populations have confidence in the peace process and see a meaningful improvement in their safety and access to services, they are less likely to support the process.

Instituting Confidence Building Measures: Issues of transitional justice must be addressed either before or in parallel with the dialogue. A national dialogue must not be a ploy to derail justice for crimes being committed since December 2013. Nor should it shield those bearing criminal responsibility for the atrocities. A minimum measure is installing the Hybrid Court which represents the most viable option for ensuring accountability for crimes committed during the conflict, as well as for deterring further abuses.

A dialogue on the economy: the economic cost of President Kiir's intransigence is estimated at between US\$22.3 billion and \$28 billion if the conflict continues for another 1 to 4 years. The social and economic loss is even greater when the conflict's effects are measured over 20 years to allow for flow-on effects, the damage to the country is between \$122 billion and \$158 billion. A dialogue on the economy is necessary to re-establish the notion that managing the economy is a process aimed at improving livelihoods and social equity while creating value and achieving sustainable development. The contest over resources has been a major factor in igniting conflicts and must be reversed to achieve sustained peace. A dialogue on resource management and economic crimes is one step to rescuing the pillaged economy and lessening widespread hardship.

ARCSS lessons learned: experiences learned from ARCSS provide perspectives beyond the national dialogue. It is possible that a national dialogue will not take place under the current political environment. And if the guarantors and implementers of the peace agreement - the Intergovernmental Authority on Development (IGAD) and the Joint Monitoring and Evaluation Commission (JMEC) respectively - continue to support the status quo and the peace deal. The "broader" international community a rejuvenated

armed opposition could impose a democratic and people-centric approach. It could become the only way forward to setting the stage and creating an environment that is conducive to address the root causes of conflict. Either way, it too must focus on more than just a national dialogue.

At least 39 church leaders have been killed across South Sudan between December 2013 and March 2017.

Building peace with the help of a national dialogue requires TRUST and a shared understanding of what constitutes "national dialogue" as the need to bridge communities, share perspectives and discover new ideas and ways to usher in a collective future. The brief sets out some recommendations to help build trust including:

- Create a credible environment in which dialogue can take place
- Stop all military offensives and facilitate lifesaving assistance to end the suffering and severe food shortages inflicted upon millions across South Sudan.
- The international community should implement the UNCC resolution 2304 (2016)
- Assist the interim process with "support to political processes, including electoral processes,
- Set up and operationalize the Stolen Assets Recovery Initiative (STAR)
- The African Union (AU) Commission should urgently establish the Hybrid Court for South Sudan (HCSS).
- Peace mediators to stop pursuing the power-sharing formula. Instead, support a caretaker government tasked with dismantling political cleavages and restoring stability.

1. INTRODUCTION

It is a known fact that South Sudanese have had several experiences with both internally and externally initiated national dialogue exercises and peace agreements from the time, the former United Republic of Sudan attained its independence in 1956 to 2010. All in the context of trying to put an end to the protracted conflict that pitted the northern part of the country against its less developed southern region. Some of the internally driven national dialogue processes from 1956 to 1989 included the 1965 Round-table conference between northern and southern political forces following the overthrow of General Ibrahim Abboud's Military dictatorship in 1964.

The 1972 Addis Ababa Agreement signed between the Government of Sudan and the Anya Nya Liberation Movement granting the south of the country an autonomous status. Among the externally driven peace processes between 1989-2011 were the 1989 Forum on the Management of Crisis in Sudan, a workshop that brought together the then newly installed Islamic regime that came to power through a bloodless military coup, SPLM/A, and some northern political representatives. Other externally initiated political dialogues were the 1993 Abuja Peace talks convened in Nigeria between the Government of Sudan and SPLM/A.

The 1994 Intergovernmental Authority on Development (IGAD) Peace Talks on the Sudan Conflict. IGAD-led mediation between Sudan Government and SPLM/A, and the 1997 Khartoum Peace Agreement between Riek Machar's SPLM breakaway faction and the Sudan Government to mention, but a few.

All those political dialogues which ended with various degrees of success in bringing together the northern and southern politicians in the past were shaped by a combination of favourable national conditions and drivers on the one hand, and some degree of interventions from the international partners. Furthermore, one can argue that also the political environment by then seemed less polarized. [1] Sadly now, the regional and the international actors, all seem to lack the appetite with which they

pursued those past national dialogue processes (Idem).

Looking back at all these National Dialogues' and the deep wounds inflicted by decades of conflict; the lack of accountability for the continuing and countless acts of violence committed during the country's long civil war. Any national dialogue should be designed to address the root causes of all the chronic failures of leadership and governance as well as addressing the post-independence failures and any other new challenges. For example:

- **The Lack of Trust:** There is now a total breakdown of trust between all the various belligerent groups, and this means that all parties to the conflict continue to negotiate in bad faith, mostly buying time in the belief that a decisive victory is achievable through military confrontations in the battlefields.
- **Root Causes of Conflict:** It must be understood that, regardless of the intentions, an attempt at gaining concessions without addressing the underlying causes of conflict is tantamount to laying the foundations for the next even bigger conflict.
- **Inclusivity:** The silent majority in whose name a divisive ethnic agenda is being pursued must be present at the negotiating table. They must be part of the peace process, and this must as well include the victims of the conflict, refugees and the internally displaced.
- **The interest of the Communities:** during any attempts for peaceful resolution of the conflicts, the priority must be placed on the realization of peaceful co-existence between communities and not the personal and short-term interests of the elite.
- **The fate of the current political leadership:** The sponsors of any peaceful settlement to the conflicts (AU, UN, etc.), should sincerely plan a face-saving exit strategy for the leaders who did not commit human rights atrocities or embezzle public funds.

1.2 What Kind of National Dialogue?

A national dialogue is likely to mean different things to different people. Since perceived differently, the goals of the national dialogue will as well to varying

degrees differ from person to person. For some, engaging in a national dialogue may be a way to maintain the status quo. To others, it may represent an opportunity to overhaul the existing political dispensation and system of governance. Hence, it is for all these reasons that there must be clarity over the outcome, the transitional process, and the various representations in the national dialogue and the perusing security-sector reform. Papiagianni [2] offers a definition that focuses on political transitions:

For it to yield the desired outcome, the National dialogue should be looked at as negotiating mechanisms intended to expand participation in political developments (emphases added) beyond the political and military elites. The real ambition of the process should be to move away from elite-level deal making, achievable only by allowing diverse interests to influence the transitional negotiations. At the same time, it is also worth stressing that, national dialogues are not purely democratic processes: their participants are not chosen through direct one-man-one-vote elections but are either appointed or selected by caucus-type constituencies that are smaller than the total population of voting age.

A South Sudanese National Dialogue should aim to achieve the following

1. To transform the deep political crises and post-war transition to peace;
2. Restructure and strengthen the state, taking it from the current system where political power is concentrated in the executive branch of government, empowering both the legislature and the judiciary and not forgetting a free media;
3. Rescue the pillaged economy and lessening widespread hardship [3].

The dialogue should lay down options to promote a genuine and inclusive national dialogue to address the root causes of South Sudan's crisis. Without much emphasis, only a national dialogue that identifies the central impediments to a meaningful national political process will serve the socio-economic interests, and address the political and security risks that currently threatens the very existence of South Sudan as a country.

If done properly, it can broaden the central debate regarding South Sudan's trajectory beyond the circle of the elite decision makers. Unfortunately, it can also be misused and manipulated by leaders to consolidate their power [4]. However, given all the too known belligerence of the leaders and the general lack of a conducive political space, the next possibility is quite probable, making the very idea of a hasty national dialogue more of a sideshow than a project for a genuine search for peace. It is, therefore, a critical first step to implementing other confidence-building measures that will go all the way to demonstrate the willingness of all parties to find a lasting peace including through a national dialogue.

Critical to successful national dialogue processes are the inclusivity mechanisms used to shape the results of political transitions. National dialogue processes must find the equilibrium on the extent of inclusivity, the powers and mandate accorded to facilitators, observers, and stakeholders. The entire process requires extensive preparation. This preparatory phase is in itself a highly political and contentious process. There must be clarity about the role of the national dialogue on the transitional processes and how it relates to the current institutional and governance structures. For example, the National Security Service, Military Intelligence, Presidential Guards, Police, Prisons,

Building peace with the help of a national dialogue requires trust and a shared understanding of what constitutes "national dialogue"

Wildlife Forces, Civil Defence, the Judiciary and the Central Bank all headed by individuals from the President's Dinka tribe and in many cases, are also his close relatives. No wonder that, these institutions have effectively become policy instruments for the Jieng (Dinka) Council of Elders (JCEs) - Dinka nationalism and must be reformed [5]. The agenda of the dialogue must be realistic, well sequenced, starting with picking up the low hanging fruits and confidence building measures. Decisions must be widely and efficiently communicated. Some of the issues to be addresses and agreed to include the

design of the dialogue and the methodology to select participants and ensuring that women and other marginalized voices are well represented.

1.3 Strengths of National Dialogue

A core tenet of National Dialogues is its promise to bring together a wide range of stakeholders to resolve conflicts and to abide by a new status quo. Among other things, such dialogues should as well provide the war-affected population the opportunity to voice their grievances and concerns which are all crucial to peace building, as was seen in the Popular Consultations in the Blue Nile (Sudan), although this was ultimately not carried through (El-Battahani 2014). South Sudan has many of those concerns to address including ethnic factors and leadership personalities combined with a weak patrimonial state, a wartime mentality that ignores peaceful mechanisms for political contestation and transition. All these issues must be carefully considered when designing a national dialogue.

A South Sudanese National Dialogue could change the prevailing political culture. Starting by replacing it with a widely supported political transition process that will implement wider and well thought through reforms and constitutional changes. It will also broaden the discussion of reforming the Judiciary, as well as resource and economic management, and the 'transformation agenda' for selected sectors, and introduce the essential characteristics of a Federal constitution and a confederation system of governance.

1.4 Weaknesses of National Dialogue

National dialogues are not free of inherent flaws. One such weak point is that those in power can abuse them by turning them into tools for elite manipulation and consolidation of power. One needs only just to consider past developments to explain the crisis of governance and SPLM leadership that will continue to manifest itself in the future if not properly addressed today.

The attitude and behavior of those in power were found to be the single most important factor influencing the chances of National Dialogues to reach and implement agreements (IPTI 2017) [6].

President Salva Kiir and the JCE could use the national dialogue to replace the core elements of the August 2015 agreement on the Resolution of the

Conflict in the Republic of South Sudan (ARCISS) signed between the government and the SPLM/A-IO. On the other hand, the government and rebels may want to use the national dialogue as another space to continue the ARCISS negotiation, which will make it harder to address issues that are important to the public and exclude them.

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In what is clearly President Salva Kiir's concept of National Dialogue, it was notable for its exclusion of the armed opposition, the absence of a neutral venue and the President appointing himself as the patron of the dialogue. The committee he assigned to guide the process contains a substantial number of his closest cronies. Although church leaders were to lead the committee, the fact that it is stacked with powerful individuals and institutions that subscribe to the president's policies, all these have robbed the so-called national dialogue of a much-needed confidence in the process [7].

National Dialogues are usually intended to serve as a means of redefining the relationship between the state, political actors and the general society through the negotiation of a new social contract. The government – anti-change – often initiates National Dialogues with the aim of regaining legitimacy by controlling the negotiating process and outcomes. Pro-change forces, on the other hand, envisage National Dialogues as an opportunity for redefining the future of the state (IPTI 2017). National dialogue can have far reaching consequences and must not be led by the political class. Any agreement reached under such an arrangement ends focusing more on power sharing and seldom addresses the root causes of the conflict. It is by all means tantamount to sowing the seeds for yet the next conflict.

1.5 Principles of an Inclusive Political Processes

IGAD draws on international best practices to outline the kind of inclusive political process to bring peace to the Republic of South Sudan. In its note, IGAD recognizes the fact that there is no one-size-fits-all model and that many issues must be determined in consultation with the people of South Sudan. These criterion by necessity involves an effective, inclusive political process or national dialogue for that matter.

Non-Paper on South Sudan and Inclusive Political Processes

8 Fundamental Principles

1. A conducive environment is contingent on improved security.
2. Safety and freedom of expression of participants are paramount.
3. An inclusive political process must be impartially led.
4. A new inclusive political process must support (not replace) the Peace Agreement.
5. An inclusive political process with representation from the main conflict parties, and beyond.
6. Location matters.
7. Clarity of rules and preparation is important.
8. The broader public must be kept informed and be able to feed in throughout the process.

Read more in Annex on Page 16; Non-Paper on South Sudan and Inclusive Political Processes.

2. THE REGIME'S LEGACY OF FAILED DIALOGUES

The call for National Dialogue by President Salva Kiir Mayardit would not be the first time the regime hijacks and misrepresents a popular demand of the people to engage in a genuine search for peace and reconciliation. Each time such a need arises in the past, it was instead used by the regime to weaken the opposition and consolidate power. A solid example here is President Salva Kiir Mayardit and his government's failure to reunite the three factions of the SPLM through a much smaller SPLM reunification dialogue held in January 2015 in Arusha, Tanzania. After making concessions [8], the regime did everything within its reach and derailed the implementation of the outcome of the dialogue

brokered by Chama Cha Mapinduzi (CCM) of Tanzania and the African National Congress (ANC) of South Africa. Given that experience, this same regime must not be allowed to once again take the people of South Sudan for yet another ride in search of the so-called peaceful settlement to the conflict, when its real intentions of using the war to hold to power are clear for all to see.

Under the current failure of leadership, coupled with the total breakdown of the political system, and a collapse of the institutions of governance, a hijacked security apparatus, splintered civil society and general perception of institutionalized discrimination based on ethnicity, indeed makes an honest conversation amongst South Sudanese less likely. The government's call for a National Dialogue, if genuine, could potentially be helpful. However, so far, all signs point to an ill-intentioned attempt to retain power. This National Dialogue called for by President Salva Kiir, and the way he and his JCE are going about it is destined to become the latest victim of the regime's political ideology [9].

2.2 Kiir's Version of National Dialogue No Longer Defensible

The broader consensus among South Sudanese and the international community has increasingly concluded that a national dialogue, the way everybody understands it, is not tenable under President Salva Kiir.

In the recent past, the need to address humanitarian concerns did provide a rare entry-point to organize and conduct political dialogues to build confidence between the belligerents and with the local population [10] However, to everyone's dismay, President Kiir has said one thing and done the opposite almost simultaneously.

The United Nations Commission on Human Rights (UNCHR) has time and again blamed the Sudan People's Liberation Army (SPLA) and President Salva Kiir, for organizing the "scorched earth" campaign and accused it of carrying out "population engineering" through forced relocation of ethnic minorities [11].

The new UN Secretary-General Antonio Guterres has already voiced concerns over the government of South Sudan's adamant refusal to express any

meaningful position on the plight of 100,000 of its citizens who are enduring famine, with 7.5 million in need of humanitarian assistance and thousands more fleeing due to insecurity [12].

Many now believe that President Salva Kiir and the JCE will not agree to anything that will result in the dismantling of the regime, especially given their security and safety concerns. A few expect the government to engage in a meaningful dialogue and reform process, while simultaneously focusing on their self-preservation.

2.3 Killing Priests and Losing Public Buy-in

Putting aside the dilemmas of National Dialogue processes and any regards to its effectiveness, representation, legitimacy, power balances and ownership, the key stakeholders must at the minimum be seen to support the dialogue. But this is increasingly not the case. One day the President calls for dialogue and a national day of prayers and the next day his militia kills priests and pillages villages.

Many more people have come to realize the potential destructive outcome of the government's high-risk brinkmanship. Speaking in Yei town to commemorate the 100th anniversary of the town's Episcopal church on the 7th of February 2017, President Kiir proclaimed, the goal of ending the conflict in South Sudan would commence in March 2017 [13].

In March, his government continued its attacks on priests [14] and brutally murdered Reverend Simon Kwaje, the Episcopal priest of the Emmanuel Cathedral in Yei. The Archdeacon of the Episcopal Church in Yei, Margret Jamba, said,

"If we want the dialogue, reconciliation, and forgiveness to yield fruits, then let the bad things like the continuous killings of innocent civilians stop [15]."

Another Episcopal Priest, Pastor Tatawa Wilson (48) was killed at Kundi village in Mundri East County, Mid-West region of Equatoria. "Government forces control the area where Pastor Wilson was killed," said Pastor Felix Zara Kurai. At least 39 priests and have been killed across South Sudan between December 2013 and March 2017, according to investigations carried out by Radio Tamazuj [16].

In a letter dated March 1st, 2017, Bishop Paride Taban, the retired Bishop of the Catholic Diocese of Torit whom the President appointed co-chair of the

National Dialogue steering committee, s turned down the appointment. In his resignation letter to President Salva Kiir, in which he expressed unwillingness to take up the position of the chairperson of the National Dialogue committee.

A local political commentator describes, "What we have is not a search for peace or a resolution of violence through dialogue... It's a national dialogue among friends who will not say or do anything to challenge the regime position or the status quo." [17]

Unabated by the international outcry, the government intensified its campaign of "population engineering" based on ethnicity. 2,000 mostly Dinka people were transported to Upper Nile to replace the inhabitants of Wau Shilluk town who were driven away earlier by government forces [18].

In a statement, UNMISS confirmed the incidents in Wau Shilluk town and said it had no information about some 20,000 mainly Shilluk people displaced

"If we want the dialogue, reconciliation, and forgiveness to yield fruits, then let the killings of innocent civilians stop" Margret Jamba

by the fighting [19]. The government demanded that Aid workers feed the new Dinka arrivals. The Shilluk King, Kwongo Dak Padiet accused the government of carrying out what he termed as "ethnic cleansing against his people" in Wau Shilluk and its surrounded areas.

In another development, the Human Rights Watch came out deploring the continued operations in the Equatoria and Western Bahr el Ghazal, where soldiers target and killed dozens of civilians and committed a range of abuses, including enforced disappearances, arbitrary detentions in poor conditions, beating and torture of detainees, and sexual violence.

"It is simply not credible for the Parties to the Agreement to preach peace with one hand and simultaneously wage war around the country with the other," says the Chairman of JMEC who earlier

promised to support the government with the National Dialogue.

The Executive Director of the Sudd Institute Prof. Jok Madut Jok said that these human rights violations and abuses perpetrated by government soldiers against civilians in Upper Nile and Equatoria leading to mass resignations of top military officials from the SPLA army is causing instability and a massive displacement of civilians in both Upper Nile and Equatoria.

The new and emerging constellation of political and military powers in South Sudan has the makings of a game changer. Already, the National Salvation Front/Army (NAS), under the leadership of Lt. Gen Thomas Cirillo Swaka is showing little room for a negotiated compromise. It accuses the government

ensure "unbiased and efficient communication and inclusive dialogue between the people in the affected communities.

The report by the Commission on Human Rights describes the situation to the Human Rights Council in March 2017 "South Sudanese civilians have been deliberately and systematically targeted because of their ethnicity by government and government-aligned forces, for killing, abduction, unlawful detention, deprivation of liberty, rape and sexual violence, the burning of their villages, and looting. On the ground, this translates into bound corpses left on roadsides, hunger where once there was plenty, and thousands of children ripped from their mothers - some forced to carry guns and kill - yet another lost generation. The principle of distinction is not observed; citizens are treated like enemy combatants because of their perceived political allegiance to the other side, calculated by ethnicity." (CHR 2017)

2.5 Shifting International Reactions to the Call for Dialogue

The initial positive reactions to the South Sudan national dialogue by neutral observers and supporters of the regime have swiftly turned into profound concern.

United Nations and African Union officials emphasize that the Government's proposed national dialogue should not be a reason to avoid implementing the accountability mechanisms of the Peace Agreement - and must be conducted by independent and credible figures and involve everyone, including all armed opposition groups [22].

The Secretary General of South Sudan's Communist Party, Mr. Joseph Modesto, declaring his party's position, said, "We will not participate in the dialogue because the government is controlling the discussion and it is part of the ongoing suffering of our people."

The African Union High Representative for South Sudan, his Excellency Alpha Oumar Konare has endorsed these views saying a "neutral leader should lead the national dialogue" and was unequivocal that all armed and opposition groups, including those loyal to Riek Machar, should be part of the process (Idem).

All developments point to one conclusion; a Kiir national dialogue is not tenable nor will it yield the results that the communities expect.

"of creating a highly selfish class that ensures its continued existence for the singular purpose of illicitly amassing personal and family wealth and imposing tribal hegemony on the country" [20].

The one way forward according to NAS is to engage all citizens in an inclusive national dialogue and that President Kiir should not be the patron of the proposed national dialogue and better still he should resign to ensure the neutrality of the process.

2.4 The Growing Cost of President Kiir's Intransigence

An estimation of the economic and financial costs of President Salva Kiir Mayardit ongoing conflict and intransigence lies between US\$22.3 billion and \$28 billion if the conflict continues for another 1 to 4 years. The social and economic loss is even greater when the conflict's effects are measured over 20 years to allow for flow-on effects, the damage to the country is between \$122 billion and \$158 billion [21]. By that time, the crude oil under South Sudanese soil would have been depleted or auctioned as 'futures' to the lowest bidders. There is a need for a leader other than President Salva Kiir Mayardit, to

The Secretary-General of the UN, Mr. Antonio Guterres said President Kiir's intention to hold a national dialogue are not convincing in the context of ongoing hostilities, the absence of consultation with the principal stakeholders, the systematic curtailment of fundamental political freedoms, and restrictions on humanitarian access.

The United Nations believes the on-going violence in the country will undermine the National Dialogue. The government should instead concentrate on creating a meaningful dialogue that includes the opposition, as well as a path to justice [23].

These developments point to one conclusion; a Kiir national dialogue is not tenable nor will it yield the results that the South Sudanese communities expect. And supporting it is to be disingenuous

3. AN INCLUSIVE NATIONAL DIALOGUE

Any efforts to bring peace to the country in the future must consider and be informed by the historical events that have moulded the conduct of South Sudanese political leaders and to recognize the emerging political aspirations of the victims to avoid repeating the experiences of the SPLM and its policies. This crisis can be traced back to the political failures of the SPLM/SPLA as the political-military force (Adwok Nyaba 2016). The characteristics of the monetized and militarized tribalism that was a hallmark of the SPLA was reproduced by Kiir and the JCE after the CPA and displayed in an exaggerated form [24]

3.1 A Comprehensive Preparatory Phase

It is imperative, to begin with, exhaustive and inclusive preparations to propose a roadmap that is acceptable to all stakeholders instead of to prematurely embarking on dialogue. While a broad reform agenda might appear necessary to solve a crisis, it could run into political and constitutional difficulties with existing institutions. On the other hand, a narrow agenda and participation might prove unable to solve the crisis. This phase should address three key questions [25]:

- what is the agenda or mandate,
- who attends, and
- how will decisions be reached and brought into law.

The question about the precise goal(s) that the National Dialogue must achieve must be addressed

“The government should instead concentrate on creating a meaningful dialogue that includes the opposition, as well as a path to justice” UN.

during the preparatory phase, and all stakeholders must take note.

The AU and the United Nations could establish an independent national dialogue committee to nominate religious leaders to work along professional facilitators to work under the auspices of either the African Union or a lead country that can provide security guarantees. A core group should be tasked with nominating, organizing and sensitizing participants for the dialogues. Either the chairperson or co-chairperson of all committees must be a woman.

A successful National Dialogue must prioritize inclusive participation in the preparation as well as the real process. Juba Centric approach on the part of the international community (JMEC-UNMISS-

- ✓ National Dialogues have been used as an instrument to resolve political crises and pave the way for political transitions and sustainable peace.
- ✓ While most National Dialogues reached an agreement, only half of these agreements were implemented.
- ✓ When National Dialogues resulted in sustainable transitions, there was a favorable consensus among power-holders, in addition to international support and public buy-in.
- ✓ However, National Dialogues have often been instrumentalized by power-holders to gain or reclaim political legitimacy, which has severely limited their potential for transformative change.
- ✓ Procedures for preparing, conducting, and implementing National Dialogues, in particularly those about the selection and decision-making rules, play a decisive role in whether processes are perceived as representative and legitimate.

Source: IPTI Briefing Note: What Makes or Breaks National Dialogues? April 2017.

some members of IGAD) will jeopardize such inclusiveness.

An inclusive and balanced representation that takes into account the new political pluralism (including spoilers) to mitigate potential problems to move forward.

3.2 The Principles of The National Dialogue

Determine what the primary aim of the ND will be. Priorities include:

- Peace and justice;
- Security and Stability;
- Democracy and governance (federation or confederation);
- Equality and Prosperity;
- Civil Service and Meritocracy
- Regime change;
- Transitional government.

Other pertinent questions include who participates in the ND and whom they represent? Outcomes that are commonly shared should be prioritized as these could predetermine participants and how they should be selected. Committees need to be the right size to facilitate decision-making.

Key findings of National Dialogues research project which involved a comparative analysis of 17 cases of National Dialogues held between 1990 and 2014.

The sponsors of the national dialogue and organizers need to set specific outcomes and benchmarks, along with guarantees of how and what they will do to ensure these outcomes are met.

There must be no red lines. No topic can be taken off the table, and this includes the question of personal accountability or confederalism or even opting out of the Country that is South Sudan to seek a new national identity if any region so wishes. All participants must CLEARLY understand the distinction between a dialogue and negotiation.

3.3 Rehabilitation and resettlement: key to inclusive dialogue

Since the outbreak of fighting in 2013, about 3 million South Sudanese have fled their homes, with some 2 million internally displaced and over 1 million living as refugees in neighbouring countries. So far about 3.6 million people received humanitarian

assistance in 2016 while over 5 million people still require urgent assistance in 2016. With the president having vowed to take the war to Equatoria, after destroying the whole of the Greater Upper Nile region and Western Bahr El Ghazal state, over 85 % of the country's population of 10 million would soon need foreign assistance.

These citizens must acquire the means to allow them to return voluntarily, in safety and with dignity, to their homes or places of habitual residence. The refugees have some of the most harrowing experiences and stories that must be heard during a national dialogue. No dialogue can take place when most of the population is facing starvation and do not feel safe to return to their homes and rebuild their lives.

3.4 The Credibility and Independence of the Convener

Ensuring peace and security is a daunting challenge

The convener must NOT in any way or form be linked to the regime, nor sympathize with the government or the opposition.

that must begin with a dedication to impartiality and an unwavering conviction to bring justice to all the people of South Sudan and not reward the perpetrators of crimes and abuses. National Dialogues according to a survey by IPTI, are almost always facilitated by a neutral party to the negotiations (IPTI 2017). The convener must NOT in any way or form be linked to the regime, nor sympathize with the government or the opposition. The institutions nominated by President Salva Kiir Mayardit do not meet these criteria and therefore are not eligible to assume the critical role of convener of the national dialogue. These two institutions, the Sudd Institute and the Ebony Centre, are not ethically, or intellectually representative of the diversity of South Sudanese opinion [26]. The key staff members of these institutions support the regime. Others are members the Jieng Council of Elders (JCE) or have actively promoted the JCE ideology and "unpopular" decrees that were designed to derail the peace process.

The convenor must define a pre-consultation phase, the dialogue phase, implementation, and post-dialogue plans that will be implemented by a neutral caretaker government. The convenors must have the trust of inclusive committees tasked to build consensus around core issues during the preparation phase. The credibility of the convenor and the political space are critical.

International and regional groups could provide organizational support and technical assistance such as understanding of legal language. Religious institutions can help actors in building coalitions and forging common positions. Local NGO's and communities can be enabled to articulate better their interests and views and how these can find their way into provisions in the final agreement.

The People's Democratic Movement (UPDM) has gone on record expressing its concern about the increasing impartiality of JMEC as a credible broker of peace. UPDM believes that attempts by JMEC to find a quick fix to peace despite the intransigence of the regime are making JMEC and its Chairman be increasingly perceived as being part of the problem rather than the solution in the country's quest for peace. The regime cannot be the one to steer a national dialogue when its private army is the main culprit of the war, carrying out targeted killings of innocent civilians and children, raping women and girls, destroying communities and private property all over the country.

3.5 Reforming the Security-Sector

Failed security sector reform and the current widespread insecurity in the rural areas are a consequence of deliberate policy by the government. The President has no intention to build a national professional army to protect the sovereignty and territorial integrity of the new country. Armed with a tribal ideology and unwillingness to face the challenges of the 21st century, President Salva Kiir is a liability to peace and human development. His only means to hang to power is to continue escalating the crisis.

Plans to reform the military and security services must focus explicitly on providing solid security guarantees for the population. Unless populations have confidence in the peace process and see a meaningful improvement in their safety and access

to services, they are less likely to support the process [...].

3.6 Instituting Confidence Building Measures

Issues of transitional justice must be addressed either before or in parallel with the dialogue.

A national dialogue must not be a ploy to derail justice for crimes being committed since December 2013. Nor should it shield those bearing criminal responsibility for the atrocities. The minimum measures to install beforehand are:

1. The Hybrid Court must be set up. It represents the most viable option for ensuring accountability for crimes committed during the conflict, as well as for deterring further abuses [27].
2. Expedite efforts for the deployment of the 4000-regional protection force to stabilize the security situation and the cantonment of all militias of the warring forces as called for by the resolution to move the peace process [...].
3. Negotiate an honourable exit for President Salva Kiir as one of the possible ways out of the current political stalemate [28].

Further measures for confidence building, as an instrument for or in exchange for peace, is to ease tensions and conflicts between communities, and are necessary for sustainable peace, stability, and development. For example, during the Kenyan post-election crisis in 2008, the seven-point agenda for peace, truth, and justice of the Concerned Citizens for Peace helped to build trust and confidence between and among political players to enhance the capacity for dialogue and constructive engagement." Such confidence-building measures would include immediate steps to halt the violence and the following:

- (a) All leaders embrace and preach the peaceful coexistence of all communities and refrain from irresponsible and provocative statements.
- (b) Mobilize local community, religious, political, business and civil society leaders to hold joint meetings to promote peace and tranquillity and stand up for justice and fairness.
- (c) Demobilize all illegal armed groups and disband all militias.

- (d) Restore fundamental rights and civil liberties by upholding the freedom of expression, press freedom and the right to peaceful assembly.
- (e) Enforce law and order to protect life and property.
- (f) All citizens and internally displaced persons must be assisted to return safely back to their homes.
- (g) All farmers affected by the crisis should be assisted and encouraged to resume their farming activities safely.
- (h) Hate and threatening messages or any other broadcasts of that nature must cease forthwith.
- (i) All criminal activities, particularly those of a violent nature, should be prosecuted forthwith.

Communities must internalize the merits for democratic transformation, such as the freedom of association, freedom to form political parties and freedom of expression and the role of government in addressing poverty and marginalization as well as the power of culture and identity to unite rather than divide communities.

4. MAKING PEACE DIVIDENDS PAY

The contest over resources has been a major factor in igniting conflicts and must be reversed to achieve sustained peace. Past peace processes have not positively addressed management of resources and delivery of services, which have been factors of grievances driving the conflicts in Sudan and now South Sudan [29]. A national dialogue on resource management and economic crimes is one step to rescuing the pillaged economy and lessening widespread hardship.

Widespread corruption and financial mismanagement are being deliberately aimed at defrauding the people of South Sudan. President Salva Kiir Mayardit and his top officials have looted public coffers leaving behind a litany of saga's worth billions of dollars and an economy literally on its knees. Inflation is close to 1000 percent - the South Sudanese pound losing value by the day, a situation made worse by months of unpaid salaries. Most working South Sudanese are now poorer than they were before the CPA agreement was signed over ten years ago. Widespread insecurity, political and economic disruption and poverty continue to undermine human relationships and social values.

4.1 A National Dialogue on the Economy

A dialogue on the economy is necessary to examine the realistic options open to the transitional Government within the available fiscal space. The dialogue must re-establish the notion that managing the economy is considered a process aimed at improving livelihoods and social equity while creating value. It is a means to achieve sustainable development. For the long term, Fiscal Federalism should be discussed alongside the governance options of federation and confederation to propose a framework for managing resources enhancing fiscal policy through transparency and accountability.

This is a necessary component of the dialogue. Endowed with a budget of over \$20 billion the regime has failed over the past 15 years to provide essential services to the people of South Sudan, to build a single road or a bridge over the Nile,

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complete an airport terminal building in 10 years, build infrastructure for energy and agriculture.

The regime's naive and short-sighted economic policies mean people are paying an incredibly high price today and long into the future as the government is selling off the future of its children by auctioning off oil stocks still in the ground to finance the war and his plans to subdue Equatoria. The country's budget deficit in 2016/17 is projected to top \$ 1.1bn, instead of building peace, President Salva Kiir Mayardit talks peace while diverting public funds from essential services to finance the regime's war efforts and the repressive national security apparatus now accounts for over half of the 2016/17 national budget. South Sudan's spending on security could increase by a further \$2.2 billion from 2015 were the conflict to last another five years. Meanwhile, the regime and its handpicked members of parliament approved the budget that outsourced education, health, and infrastructure to donors.

4.2 Recovering stolen assets

Funds and property from high-ranking officials that are accused of, or found to have engaged in widespread corruption must be seized and repatriated back to the people. These officials must face prosecution rather than engage in a national dialogue. UPDM will support a comprehensive anti-corruption program that includes reform of the public services, the reviving strengthening of the anti-corruption agency, and, more importantly, a legal and a diplomatic campaign directed at identifying and recovering corruptly acquired assets held in the region and internationally.

6. THE LESSONS LEARNED FROM ARCSS

An internationally brokered political settlement has all through been seen as the ideal way to bring about an end to the human misery in South Sudan since the war first broke out in December 2013. However, because the UN and the Troika countries didn't have much leverage either on the IGAD Member States nor the warring parties to the conflict, compromised their position as impartial brokers. The peace partners are not capable of holding the parties to account and to put in place measures for the implementation of the signed peace agreement.

Now that former Vice President Riek Machar Teny has been sidelined by Kiir and IGAD, it is evident beyond any reasonable doubt that President Salva Kiir Mayardit does not have the interest of the

First and foremost, peace must be delivered to build trust and bring back some semblance of hope.

suffering masses at heart and none of them see beyond the immediate urge for power.

Any path to return South Sudan to peace and stability must first work out a way of isolating both men from any future peaceful settlement. Both men have formidable military forces capable of resisting any attempts at excluding the duo. However, if their troops refuse to distance themselves from their principles, then the international community should be ready to intervene militarily under the banner of

rescuing the 5 million or so civilians who are now on the verge of imminent death from both the famine and war and to avert genocide. An entirely South-Sudanese led peace process is far from possible given the attitude of the incumbent regime.

5. PERSPECTIVES BEYOND THE NATIONAL DIALOGUE

It is possible that a national dialogue will not take place under the current political environment. And if the guarantors and implementers of the peace agreement - the Intergovernmental Authority on Development (IGAD) and the Joint Monitoring and Evaluation Commission (JMEC) respectively - continue to support the status quo and the peace deal [30]. The "broader" international community a rejuvenated armed opposition could impose a democratic and people-centric approach. It could become the only way forward to setting the stage and creating an environment that is conducive to address the root causes of conflict. Either way, it too must focus on more than just a national dialogue.

7. CONCLUSION

A national dialogue is likely to succeed when it incorporates the principles of inclusion, transparency and public participation, a far-reaching agenda, a credible convener, appropriate and definite rules of procedure, and an implementation plan.

Peace must be restored now. Prolonging the conflict in which civilians are directly targeted and failure to address the humanitarian and security needs of the local population could create an environment where the community, and youth, in camps and marginalized war-affected regions adopt a more radical and divisive sentiment.

Building peace with the help of a national dialogue requires TRUST and a shared understanding of what constitutes "national dialogue" as the need to bridge communities, share perspectives and discover new ideas and ways to usher in a collective future.

The regime has focused on destroying any dissent with the sole aim of remaining in power and continuing ruling the country under a totalitarian tribal hegemony of the Dinka. The only process the current regime in Juba to maintain that power is

through a National Dialogue under the patronage of the incumbent government of Salva Kiir Mayardit as it guarantees two crucial things.

- 1) The regime and its leadership and architects stay in power whatever the outcome of the so-called dialogue produces
- 2) An indefinite delay in any talks about the Hybrid Courts that came in the August 2015 Peace Agreement or any other recourse to transitional justice or accountability.

The overwhelming consensus is that no national dialogue can take place under the patronage of President Salva Kiir and his regime given his track record and his direct involvement in spreading the on-going civil war, ethnic cleansing and genocide. President Kiir has failed to acknowledge the humanity of other's not least of the young men (the Mathiang Anyor) who have died to protect him and his regime.

First and foremost, PEACE must be delivered to build TRUST and bring back some semblance of HOPE to the different segments of the population and to create the necessary political space that is conducive to discuss emotive issues of human rights abuses and governance. These are the conditions in which the country can start to chart a new course toward a broad-based and inclusive political process and economic development by implementing the following recommendations.

8. Policy Recommendations:

- Create a credible environment in which dialogue can take place to ensure full engagement of the majority, if not all, political actors and segments of the population with guarantees that decisions will be implemented for the major players to engage.
- Stop all military offensives and facilitate lifesaving assistance to end the suffering and severe food shortages inflicted upon millions across South Sudan [31].
- The international community should assist an inclusive transitional government in South Sudan to stabilize the security situation in the short term by implementing the UNCC resolution 2304 (2016) and in the medium and long term by implementing the necessary reforms in the security sector.
- Assist the interim process with "support to political processes, including electoral processes, promoting inclusive dialogue and reconciliation, and developing conflict management capacity at the national, state and county levels."
- Set up and operationalize the Stolen Assets Recovery Initiative (STAR) to investigate cases of fraud to (or "intending to") protect public property as well as combating administrative malpractices in state institutions.
- The African Union (AU) Commission should urgently establish the Hybrid Court for South Sudan (HCSS). The continued human rights violations and warnings about a looming genocide in Equatoria should add urgency to the international community and the African Union to form the Hybrid Court in South Sudan or the region to prosecute those bearing criminal responsibility for the atrocities. UPDM believes that an operational hybrid court will have a positive impact on the conduct of a national dialogue.
- The UN and AU to support and enable the committees to hold public hearings in State capitals and at other places as it shall deem necessary for the proper discharge of its mandate. The committees and courts may hold private hearings whenever it becomes necessary to inspire confidence in the people appearing before the Committee or to allay their fears of adversity or reprisals.
- Peace mediators should stop pursuing the power-sharing formula. Instead, a caretaker government must be tasked with the instant transformation of the social fabric of the country and to restore stability and dismantle political cleavages. Secondly, there is need to revive and diversify the economy and establish equitable economic opportunities and representation.

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The international community's support for an inclusive political process in South Sudan depends on these principles being keenly met. As such, this support would be sequential and contingent on initial triggers and a positive trajectory. It would regularly be reviewed as the situation on the ground evolves and unfolds.

8 Fundamental Principles

1. A conducive environment is contingent on improved security. All parties to the conflict must respect a cessation of hostilities. Moreover, all parties should ensure humanitarian access to all those who need it. Otherwise, equal participation of all parts of the population is not possible. As a first step, the Government of South Sudan should agree to the freezing of military action in certain areas as a confidence building measure.
2. Safety and freedom of expression of participants are paramount. Without this, it is impossible to create a conducive environment for an inclusive political process. Members of the opposition, human rights defenders and the media are particularly vulnerable under the prevailing circumstances. President Kiir in launching his National Dialogue must first demonstrate the political will to guarantee the safety of participants and be ready to hold to it. Any harassments, detentions, and intimidation of opponents, including human rights activists and media, are totally incompatible with a national dialogue intended to build a national consensus.
3. An inclusive political process must be impartially led. For it to leave up its name, this process must by necessity involve multiple levels. It must extend from a high-level political process at the national level to dialogues held at state and local levels, and make sure that the true focus is more on communities and local grievances. As a lead convenor will be vital at the national level to ensure coordination and to drive the process forward at key stages, that convenor can be an individual or an organization (s), national or international; but must be credible and able to secure the participation of a wide group of stakeholders.
4. A new inclusive political process must support (not replace) the Peace Agreement. It is for the South Sudanese people to define the specific mandate and goals of such a process. However, it would inevitably address issues of fundamental national concern embodied in ARCSS. As such, it is vital that the guarantors of ARCSS have a clearly defined and agreed role both during the process and in approving the recommendations that will emerge from the process. This would help to safeguard the Agreement and prevent its manipulation by any parties.
5. An inclusive political process by necessity must mean the inclusion into the process of both representation from the main conflict parties, and making sure that it goes beyond the duo to as well include the adequate representation of the wider South Sudanese society. Representatives must include a wider range of constituencies such as the political parties, affiliated and unaffiliated armed groups, refugees, IDPs, organized civil society, youth, women, business, religious, diaspora and tribal elders. Nonetheless, any of the groups mentioned here can be heavily politicized and even the best selection procedures can be manipulated by power-holders to ensure their control over the process. Correctly balancing who takes part in the process, and how much influence specific groups have, will have a major impact on its legitimacy and success. Legitimacy also rests on ensuring that participation means an impact on decision-making.
6. Location matters. With due respect for the need of this endeavour to be a South Sudanese-owned process and that as much of the process should take place inside South Sudan as possible, however, many of the South Sudanese opposition groups have already stated time and time again that, they would not risk their lives by returning to Juba under the current conditions. Shuttle diplomacy or better still choosing locations outside the country that are easily accessible to several participants will be necessary in the initial stages of the process to complement activity inside South Sudan.
7. Clarity of rules and preparation is important. The national dialogues will be a dynamic process that is set to evolve over the time. At the national level, the process could be more focused around the ARCSS with a smaller, but still a representative, set of stakeholders. Other local level processes may be longer-term and besides aiming to address more localized grievances, it will as well feed into the national level process. As such, it can be clearly seen that there is still a need for a preparatory process, to secure an agreement on the overall agenda, mandate and outcomes as well as rules, and procedures for dialogue and decision-making.
8. The broader public must be kept informed and be able to feed in throughout the process. It is not enough to have participants who represent key interest groups in discussions. There must also be mechanisms to allow the wider South Sudanese public to be involved in both the local and national level processes. Delegates can be mandated to hold consultations with the groups that they represent, and they must be provided with the necessary support for outreach purposes.

Source: IGAD Non-Paper on South Sudan and Inclusive Political Processes

Note: The non-paper sought to solicit the reaction of other parties to possible solutions, without necessarily committing IGAD to the points, process and various possibilities outlined in the paper.

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About UPDM

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

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