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ENVISIONING A PEACEFUL, JUST AND PROSPEROUS SOUTH SUDAN

P.O.Box 34, Kololo Rd, Juba South Sudan. Tel: +211 (0) 921 766194  
Email: info@suddinstitute.org . Web: www.suddinstitute.org

## POLICY BRIEF

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### **South Sudan Peace Process The Challenge to the Implementation of the R-ARCSS**

*Abraham Awolich*

#### **Summary**

The question of whether the Revitalized Transitional Government of National Unity (RTGoNU) would be formed on the 12<sup>th</sup> of November 2019, as the parties have agreed, is most desired and this Policy Brief attempts to answer it. The analysis is based on prior literature, key informant interviews, and a public discussion involving the parties to the agreement. The analysis presents the following key findings:

- The global trend in ending intra-state conflicts or civil wars in the post-cold war period has largely been through negotiated settlements (Meehan, 2018).
- Power sharing arrangements have been critical in ending most civil wars in recent decades.
- Power sharing agreements tend to last when they elaborately tackle security dilemma of the warring parties (Hartzell C. , 1999).

The gathered evidence indicates the status of the implementation of the R-ARCSS as follows:

- 58% of the provisions related to the Pre-Transitional Period have been implemented.
- 71% of the provisions under Chapter I (RTGoNU) of the Agreement have been implemented, while only 51% of the provisions under Chapter II (Security Arrangements) have been implemented.
- All of the parties agree with the CTSAMVM reports that the Permanent Ceasefire is holding, despite occasional violations.
- The integration of the forces, the number of states and their boundaries, and the integration of the Agreement into the Constitution, are the key issues holding back the formation of the government.

In light of these findings, we draw the following conclusions:

- The RTGoNU may not be formed on the 12<sup>th</sup> of November 2019.
- If it is formed, the SPLM-IO may not be part of it.
- Nevertheless, there is a remote possibility that the parties could pull this off and address the outstanding issues, which could enable the formation of the government on time.

To save the Agreement from collapse, we recommend the following:

1. The government should use its power, including the power to borrow, to give all the money needed to the NPTC to speed up the training and deployment process of the unified force.

2. The SPLM-IO, particularly Dr. Riek Machar, should move to Juba to allow for sustained interactions with the President in order to speedily overcome the remaining issues.
3. The IGAD, through the Regional Protection Force, should provide provisional security to Dr. Machar while in Juba until the unified army is deployed, including the VIP protection force.
4. If the parties cannot adopt the recommendation of the IBC, they should defer the decision on the number of states and their boundaries to the constitutional-making stage, benefiting as well from the Resolutions of the National Dialogue.
5. The International Community, especially the Troika, African Union, UN Security Council, and the IGAD should support the parties to overcome the remaining hurdles to the formation of the RTGoNU by providing both material support and maximum pressure.

## 1. Introduction

There is a sense of urgency and anxiety among many citizens questioning whether the Revitalized Transitional Government of National Unity (RTGoNU) would be formed on the 12<sup>th</sup> of November 2019 as agreed by the parties. The Peace Agreement is encapsulated in the formation of the RTGoNU and so failure to form the government invokes fears of possible collapse of the deal. Prior actions and attitudes of the parties inform this growing fear. For example, the parties to the Revitalized Agreement on the Resolution of Conflict in South Sudan (R-ARCSS) were supposed to form a national unity government on the 12<sup>th</sup> of May 2019, but they failed and instead asked for an extension of the Pre-transitional Period from 8 months to 14 months. This extension was intended to address the fears of the armed opposition, SPLM-IO, which had cited lack of readiness to institute the unified force, lack of agreement on the number of states and internal borders, and other issues, including lack of funding<sup>1</sup>. The parties agreed to form the government on 12 November 2019, which is fast approaching. Forming the government is the essence of the Agreement and until the unity government is formed, it faces a serious threat of collapse. The question now is, what is likely to impede the formation of government and what is needed to resolve this? This question is what this Policy Brief seeks to answer.

Answering this question adequately requires looking at first the global literature on power-sharing agreements. The literature review helps us understand what factors influence such agreements, leading to either success or failure. This allows us to situate South Sudan's R-ARCSS in the global and continental contexts. The other objective of the literature review is to ground our own conclusions within the broader scholarship and make a contribution to the field.

We conducted some key informant interviews with actors directly involved in the process, some of whom are party to the Peace Agreement, to gauge their assessment of the situation. We did this both to bring the study up-to-date with the events surrounding the implementation mechanisms and processes and to answer the question of whether the RTGoNU would be formed on time. Insights from these interviews have enhanced our analysis. Similarly,

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<sup>1</sup> <https://www.reuters.com/article/us-southsudan-machar/exclusive-ex-south-sudan-rebel-leader-believes-unity-government-wont-be-ready-by-may-12-idUSKCN1R02CQ>

preliminary results of this study were presented in a public lecture attended by policy makers and representatives of the parties to the Agreement and their insights also informed this paper.

The review is organized into four sections. The second section reviews the literature, the results of the interviews and public discussion, the third section provides an analysis, and the last section concludes.

## **2. The Status of R-ARCSS Implementation and the Challenges Facing the Formation of the RTGoNU**

Studying intra-state conflict is immensely complex and so researchers or analysts struggle to engage effectively with the “complex array of factors that shape drivers of violent conflict, elite bargains and the role played by interventions” (Meehan, 2018). All the same, existing research shows that inter-state conflict has been on the decline, but there is an upward trend for intra-state war. The Uppsala Conflict Data Program (UCDP), for example, show that “large-scale inter-state wars are almost entirely absent, although there has been a significant rise in internationalized intra-state wars, defined as conflicts in which one or more states provided troops to at least one warring party” (Pettersson and Wallensteen 2015, 536).

In this paper, we focus on the intrastate conflict literature to enable us to decipher some insights to inform our analysis of the conflict in South Sudan, which can perfectly be characterized as an intrastate conflict. Research shows that the majority of intrastate conflicts end when one warring party achieves a victory over the other (Pillar 1983; Stedman 1991). However, over the last few decades, more of these confrontations have been terminated through negotiated agreements (Licklider 1995).

A perfect example of this is the Sudanese conflict, which ended through a negotiated political settlement through the Comprehensive Peace Agreement in 2005. The current Revitalized Agreement on the Resolution of Conflict in South Sudan is also an attempt to end the civil war in South Sudan through a negotiated settlement. According to Wallensteen and Sollenberg (1997), negotiated settlements have become more common in the post-cold war period. Specifically, the international environment seems to favor negotiated political settlements where issues of identity characterize conflicts (Sawyer, 2004). South Sudan’s conflict, though not necessarily an identity conflict, it is characterized as a power struggle among the two largest ethnic communities.

While negotiated settlements are becoming more popular in resolving intra-state conflicts, reaching a political settlement is far from easy, because the “adversaries seem unable to credibly promise to abide by the terms of a treaty that by its very nature offers enormous rewards for cheating and enormous costs for being cheated upon” (Walter, 1997). South Sudan had this situation in 2016 when rival forces fought and obliterated each other in J1 with the top leaders directly in the line of fire. To allay the fear of being cheated upon, parties to an intra-state conflict are brought into a government through power sharing arrangements, which, according to Bell (2018), “aims at a form of group political equality”.

Hartzell (2005) concluded that power-sharing provisions in peace settlements have a demonstrated the ability to provide a sense of security to former combatants facing the immediate prospect of working together peacefully after a severe conflict such as a civil war. The most important aspects of a power sharing arrangement are those elements that address the security concerns of the contending parties as they move from the situation of anarchy and self-help that characterizes civil war, to the reconstruction of central state authority that characterizes the end of civil war (Hartzell, 1999).

The Revitalized Agreement on the Resolution of Conflict in South Sudan is a typical power-sharing settlement, rooted in both democratic and conflict management theories. It was signed in Addis Ababa on the 12<sup>th</sup> of September 2018 with the aim to end the five-year civil conflict in South Sudan. The core aspects of the power sharing are contained in Chapters I and II of the Agreement. Chapter I<sup>2</sup> is largely a framework for political power sharing, which is encapsulated in the yet to be formed Revitalized Transitional Government of National Unity. Chapter II<sup>3</sup> deals with issues of ceasefire and transitional security. It covers permanent ceasefire, which is essentially a prerequisite for the implementation of the whole agreement. It is an attempt to address real security dilemmas faced by the parties. The security dilemmas are layered and so the hesitation of the parties to form the government is explained by prevailing security fears.

The implementation of the R-ARCSS has been moving at a frustratingly slow speed, and it has been long 13 months since its signing, while the country remains in suspense. The uncertainty revolves around the fact that it has been over a year and half since the signing of the Agreement, yet no meaningful progress is achieved with regards to implementation of the core items. Citizens had hoped that the parties would take drastic measures to speed up the implementation of the Agreement. Increasingly, there is a reasonable fear that the Agreement will collapse. That it has not collapsed so far is a pleasant surprise. Other than the Peace Celebration of October 30<sup>th</sup>, 2018 and the fact that Ceasefire is holding, the parties have done little at the highest political level to reassure the citizens of their full commitment to the Peace Agreement. Since the signing, President Kiir and Dr. Machar have not been interacting as regular as is expected and this casts so many doubts on their commitment to the Agreement.

Our analysis shows that only 58% of the activities required to be completed during the Pre-Transitional Period contained in Chapters I and II are accomplished in the course of 13 months. That leaves 42% of the issues to be accomplished only in less than a month. The parties are doing much better in implementing Chapter I, because 73% of the required activities have been completed. Chapter II is lagging behind by far, as the parties have managed to implement only 51% of the activities, with less than a month to go.

Despite the growing worries among the citizens, recent reports show some progress being made towards the implementation of the Agreement. Recent meetings in Juba between Dr. Riek Machar and President Kiir boosted the citizenry's hopes, provided some impetus into the implementation process, and created a sense of optimism. Interviews with the military representatives also add to the sense of assurance because all the security mechanisms are

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<sup>2</sup> See the Revitalized Agreement on the Resolution of Conflict in South Sudan (R-ARCSS) 2018 Chapter I

<sup>3</sup> *ibid*

reportedly functioning well, marked by a great deal of cooperation among the commanders. CTSAMVM reports also indicate that the Permanent Ceasefire is holding, and violence has greatly reduced since the signing of the Agreement. The National Pre-Transitional Committee is also making progress, except that the necessary funds have not been forthcoming as exigently needed. During the public lecture, the Deputy Chairman of the NPTC reported that 68,600 soldiers have now been cantoned, ready for training. The committees working on the Constitution have made meaningful progress. In light of this positive progress, a logical question could be asked, what is holding back the formation of the government then?

Based on the interviews conducted with key informants and the public discussion which followed our lecture, three core issues are the obstacles to the formation of the government. The first is the delay in the unification of forces, which is at the heart of security arrangements and a prerequisite to the formation of the government. The second obstacle is the need for parties' agreement on the number of states and their boundaries and the last issue relates to the integration of the R-ARCSS into the Constitution. We discuss these in the subsequent sections.

## **2.1. Security arrangement**

Interviews with the military leaders point to the fact that the delay in the unification of forces is neither technical nor logistical. Rather, it is anchored on the parties' political will. The political leaders are apparently holding back the process by not taking political decisions to move the process forward. The main opposition group, SPLM-IO, accused the government of reluctance to provide the funds necessary to deliver on this important item. The SPLM-IO claims that the government desires to delay the implementation of this provision deliberately to frustrate the opposition, possibly implementing the Agreement at the behest of the government. For example, the oppositions claims that their soldiers are ready to be transported from the field to join government forces to be trained as a VIP protection unit, but the government has not made the resources available to facilitate this process. As well, although the cantonment sites are created, the resources and logistical supplies needed to make the sites hospitable for soldiers are not made available. The opposition believes that the pledged funds (100 million dollars) by the government, although little, could have made a meaningful difference had it been released on time.

The opposition dismisses the government's claim of lack of funds as disingenuous and a demonstration of lack of political will and commitment to the terms of the Agreement. They point to the fact that the oil production has increased since the signing of the Agreement, and the global oil prices have risen and so if the implementation of the Agreement was the priority for the government, such resources should have been availed. Besides, the oppositions assert that the government has the capacity to borrow and so if there was a genuine commitment to expedite the implementation of the Agreement, such measures would have been taken.

In response to all this, the government claims that the delay to release the funds is not at all a question of political will, but that of lack of sufficient financial resources to carry out the activities. The government points to the fact that even civil servants and soldiers go unpaid for months. This shows clearly that financial resources are limited. The government's capacity to borrow is also hindered by sanctions and other international financial restrictions. The government further claims that it has provided sufficient resources to operationalize the cantonment sites and now

nearly 70,000 forces are cantoned and undergoing training. Hence, the government argues that the accusation of it being uncommitted is simply a “charade.”

The government, instead, blames Dr. Machar’s absence from Juba as a major setback to the implementation of the Agreement. The point is that if Dr. Machar were present in Juba, the top leaders would consult regularly and resolve outstanding issues. The contention is that Dr. Machar’s refusal to come to Juba is an act of bad faith and creates many challenges to the implementation process. After all, the delay and even the extension of the Pre-Transitional Period was at the request of Dr. Machar. The government believes that the R-TGoNU should be formed on time and the outstanding issues will continue to be worked on during the 30 months Transitional Period. Still, the SPLM-IO points to the events of July 2016 as the basis for Dr. Machair’s decision not to return the country without sufficient assurances.

## **2.2. The number of states and their boundaries**

The other obstacle to the formation of government relates to the work of the Independent Boundary Commission (IBC), which was tasked to establish the number of states and boundaries. The problem with the number of states and their boundaries is that, at independence, South Sudan inherited and adopted 10 states from Sudan. After the 2013 conflict, the main opposition, the SPLM-IO, proposed the creation of 21 states, which was presented at the negotiations. The response of the government then was that the issue of states needed popular consultations with the people. At the same time, the people of Equatoria were pushing for the establishment of a federal system. In reaction to this, the President issued an executive order in October 2015 dissolving the 10 states and creating 28 new states.

The SPLM-IO characterized the President’s Order as a violation of both the Constitution and the Agreement<sup>4</sup>. This was one of the sticky issues that created impasse in 2016, leading to the collapse of the ARCSS in July that year. To address this matter, Article 1.15.1 of the R-ARCSS establishes Independent Boundaries Commission (IBC), with the mandate to consider the number of States of the Republic of South Sudan and their boundaries. The Commission is also mandated to determine and make recommendations about the composition of the Council of States.

To deliver on this mandate, the IBC is required to deliver its final recommendation based on consensus, and if consensus is not achieved, the IBC is to issue its final decision based on at least seven 7 votes out of its 10 South Sudanese members. Unfortunately, the IBC failed to get neither the consensus and nor the majority decision, so it submitted an unsettled report to the IGAD. Through the interviews, however, it is apparent that majority, 6 to 4, of the South Sudanese members of the IBC, wanted the country returned to the former 10 states. This proposition is said to have also been supported by 4 members of the African Union C-5 on the committee. While the majority of the members supports return to 10 states, the decision is still not binding because it has not met the legal threshold set in the Agreement. The issue is now returned to the political leadership to decide. In a recent meeting between President Kiir and Dr. Riek, they formed a committee to look into the matter and make recommendations.

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<sup>4</sup> <http://www.sudantribune.com/spip.php?article56961>

### **2.3. Incorporating the R-ARCSS into the Constitution**

One of the key provisions of the Agreement is the requirement to incorporate it into the Constitution. The opposition claims that unless the decision is taken on the number of states and their boundaries, the Agreement cannot be incorporated into the Constitution. They also claim that the normal constitutional amendment procedure must be followed to incorporate the Agreement into the Constitution. This means that it will take another month to amend the Constitution. The response of the government is that the Agreement doesn't make decision on the number of states a prerequisite to the incorporation of the R-ARCSS into the Constitution. Also, the Agreement is superior to the Constitution and so it does not require normal amendment procedures to be followed. Besides, the parliament is not going to debate and amend the Agreement; they will just ratify it as it is and so it will simply take a couple of hours to pass. Hence, incorporating the Agreement into the Constitution should have nothing to do with the delay in the formation of the government. Let's now make sense of all this diagnostically.

## **3. Discussions and Analysis**

Analytically, the claims of the parties can be given an additional interpretation. From the literature, we learn about the central fears of the parties to any agreement, and why addressing these fears helps in easing a sense of vulnerability. Such fears include the concern that one party may gain control of the coercive apparatus of the new state, that one's opponent may gain an advantage in the allocation of political power within the new state, and that one's opponent may gain an economic advantage within the new state. These are as relevant to South Sudan as they are to any country facing such a political situation; thus, these inform why the unification of forces has become a core obstacle in the South Sudanese context.

Let's now examine the positions of parties. For the SPLM-IO and SSOA, the armed oppositions, a unified army is an essential guarantor to the Agreement and without it, there would be no Agreement. This is because the armed oppositions believe that the current security architecture is partial, as it is ostensibly there to protect the interest of the sitting government at the expense of the oppositions. To secure sufficient assurances in terms of their security and the security of their political interests, the oppositions want this security architecture dismantled and a new one, inclusive of their forces, formed to serve as a guarantor to the Agreement. From their perspective, failure to rebuild the security architecture on the basis of the new political dispensation provided in the Agreement would nullify the Peace Agreement. Indeed, that the forces have not been unified led to the extension of the Pre-Transitional Period for six months. Therefore, if this situation remains unchanged, the SPLM-IO and other armed oppositions might not accept the formation of the government. At the time of writing this report, Dr. Machar was reported to have requested another 6 months extension of the Pre-Transitional Period, citing the same reasons as previously discussed.

The major security dilemma for the SPLM-IO and the opposition groups is the possibility of the repeat of the July 2016 scenario where the leader of the SPLM-IO narrowly escaped death in Juba, leading to the collapse of the ARCSS. With the benefits of a retrospect, the SPLM-IO is being very careful to ensure that there are enough guarantees and safety valves before they get

into the government. The SPLM-IO considers coming into the government without enough safeguards as an obvious trap in light of the rearview experience from 2016. To address this dilemma, the Agreement proposed to neutralize all of the forces and created a new unified force that can serve as a security guarantor for all of the parties. This explains why the SPLM-IO is adamant in ensuring that the forces are unified first, before the government is formed. The alternative to the unified army would be for each party to keep its own forces or to have a third-party provide security for all of the parties. These options are not provided for in the Agreement.

There is, therefore, a genuine concern on the side of the SPLM-IO and the other opposition groups to ensure that history does not repeat itself and so more guarantees are expected and desired. What could actually allay these fears from the perspective of the SPLM-IO is for the parties to genuinely implement the security provisions of the Agreement. If genuine steps are taken to unify the army and there is adequate VIP protection force, this could perhaps provide some assurances that no one party could breach the terms of the Agreement in the middle of the game. The fear is essentially that of one-party vetoing singlehandedly the entire Agreement after the government is formed.

Notwithstanding the aforementioned security fears expressed by the oppositions, there is also a concern about the position of strength of the armed oppositions to threaten the government with the resumption of fighting if and when it fails to implement the Agreement. This is an important guarantor to the implementation of the Agreement because if the opposition is perceived weak, the incentives to violate the Agreement by the government would be very high, absent third-party guarantor.

Even without the aforesaid security fears, there is still a concern, the SPLM-IO supporters are divided. There are those who believe that this Agreement is tantamount to a surrender because the Agreement doesn't really make a groundbreaking change to the status quo and fails to address major concerns of the SPLM-IO constituency. Rather, the Agreement maintains the status quo, they contend. This group feels that the war should continue until the government is overthrown or at least until a fundamental transformation is achieved. Among these also are those who hold ethnic sentiments of vengeance for the alleged massacre of their kinsmen in Juba in 2013.

There are yet others, who believe that it has proven difficult to overthrow the government, so the Agreement, while it does not secure a sweeping change, it creates sufficient conditions for reform, gets the SPLM-IO into the government, and gives it a reasonable share of leadership. The challenge for Dr. Machar and the SPLM-IO leadership, therefore, is to strike a balance in managing these contradictory voices and expectations. That includes having to persuade those who feel betrayed by getting into this peace deal and joining the government.

At a strategic level, there is a belief that Dr. Machar signed the Peace Agreement after having been either coerced or given assurances by President el Bashir of Sudan. Unfortunately, President el Bashir was overthrown in a series of protests in April this year, invoking a fear as to what this does to Dr. Machar's commitment to peace. This fear arises in response to the role of President Museveni of Uganda in the peace process, who is widely believed to be President Kiir's ally. This creates another imbalance in the power equation between Kiir and Machar, stoking fear that is likely to delay the formation of the government.

The SPLM-IO's strategy in trying to manage these complexities is to try to delay Dr. Machar's return to Juba as much as it could, without necessarily tipping the balance towards renewed conflict. Perhaps, the party hopes that the strategic context might change, and that Dr. Machar could come into the government having regained some influence. The SPLM-IO is aware of the fact that President Kiir and his government are at odd with the international community, a nuisance that plays into the opposition's hands. Hence, their possible belief is that delaying the formation of the government while scanning the international environment buys the time needed to reorganize. It also creates conditions for President Kiir to commit an offense that could prompt an international anger, leading to his potential down fall, eventually tipping the scale in Dr. Machar's favor.

If indeed Dr. Machar signed the Agreement under pressure or with assurances from President el Bashir, he might be seeking ways to back out of the deal without necessarily taking the blame for the collapse of the peace deal. Hence, delaying his return to Juba slows the implementation of the Agreement down, while buying him time to recalculate and reassess his position. If it pays to continue the war, then he might pull the rug at the time of his choosing, an option that may be a lot difficult to pull once he is part of the government. The delay may also be aimed at waiting and hoping that the other armed oppositions, which did not sign the Agreement, begin to make gains and put more burden on the government, a condition that may strengthen the position of the oppositions vis-à-vis the government and boost Machar's position.

It is, therefore, plausible that Dr. Machar's delay in returning to Juba and his hesitation to form the government may be based on real security concerns, but it could also be informed by complexities just discussed. While the Agreement addresses many of the security dilemmas, the fear arises from the fact that these parties are known for raising militias outside the main national army, a factor that could tilt the balance of power in favor of one of the signatories to the Agreement, more especially the government. The real challenge for Machar now is, how long could his delaying tactics be tolerated and whether they will pay off.

From the incumbent TGoNU perspective, the real challenge in this Agreement is that power has to be shared with Dr. Machar and his group. Sharing power, of course, weakens the status quo and diffuses power, creating uncertainty and raising security dilemma stakes. For the President, sharing power with Dr. Machar again is the worst-case scenario, given the history between the two. This is because the trust between the two principals is extremely thin. After all, Machar has ambitions for the high office, obviously threatening President Kiir. What is more is that the Agreement has completely disfigured the presidency and diluted the powers of the President. For example, the Presidency is now crowded, and the executive powers are shared among six different individuals, 5 of these vice presidents.

The Agreement, therefore, is seen from the government's perspective as a possible trojan's horse, in a sense that it brings the opposition in, which could collaborate with international actors to capture the apparatuses of state power. It is clear what the opposition would do if they took state power: they would hold President Kiir and members of his government responsible for the many woes the country has experienced.

Taken as such, it is plausible that the government would be least interested in implementing this Agreement fully. For example, the government may fear the unified army as it may not fully control it. When the government is no longer able to possess the monopoly of the use of force, it cannot be so confident in its security, including the security of its position. It is, therefore, unsurprising that the government has been moving at a snail's speed in providing the resources needed to execute the integration of forces. If the government is uncommitted to the Agreement, there is a real risk that this Agreement could not be implemented in letter and spirit and risks collapsing.

It has to be remembered that the decision of the government to engage in peace talks with the oppositions came as a result of an intense international pressure on the government and not necessarily from the battlefield. There have been increasing isolation of the government, restrictions on government's ability to access money in the international market, the imposition of an arms embargo by the Security Council, and sanctions on key political and military officials that have created enough pressure to make peace more a viable option than war. Unless such international pressure remains high, the government faces less consequences for any breach to the Agreement.

In addition to the international pressure, the threat from the armed opposition to return to war if the deal is breached, provides another incentive to implement the Agreement. This threat must be backed up by real military capacity on the ground, otherwise it is a non-threat. At the moment, it is not so clear how credible the threat of the armed opposition is on the ground. Absent international pressure and the threat of armed oppositions, the implementation of the Agreement risks faltering.

The consolation may be that the government could implement the Agreement to avoid further international isolation and sanctions. This is because if the Agreement fails, because the government has not provided the necessary leadership and resources, it may take a large share of the blame and this may attract more international sanctions. Another consolation is the hope that if the government has calculated and found that the fighting capacity of the armed opposition is higher, they could avoid confrontation by implementing the Agreement.

Lastly, we may take solace in the fact that the longer the war lingers in the country, the more it presents a challenge to the legitimacy of the government. People are extremely tired of war and have had enough, and so it is undesirable and the government risks losing support at the grassroots if it pursues actions that may return the country to war. There may still be individuals in the government who believe that they can win the war and doing so avoids the discomfort of having to share power, including military power, with the opponents.

The truth, however, is that civil wars are extremely difficult to win, especially if the fault lines are fixed along ethnicities. The international environment is also tilted towards finding a quick political settlement that leads to power sharing. The world will not tolerate a long-drawn-out war with the hope that one party could achieve a victory. It is, therefore, important for the parties to internalize the fact that no Agreement will deviate too far from the R-ARCSS in terms of power configuration.

If the real intention of the government is not to implement the Agreement, especially if it believes that it can pursue military action and win, it certainly does not want it to collapse at their behest. They could simply meander around security issues by giving Dr. Machar not enough assurances and ensure that he does not come to Juba. The hope is that Dr. Machar would become so frustrated to the point of violating the Agreement. If that happens, this would be an opportunity to portray him as anti-peace, with the hope that doing so would draw domestic, regional and international condemnation. Creating such a scenario may induce the pressure needed to force Dr. Machar to take the risk as he did in 2016, to come to Juba without enough assurances. This would, of course, play well into the hands of the government.

Alternatively, Dr. Machar might decline to partake in the government. This, of course, could be interpreted from the government side as a violation of the Agreement and the government could possibly work to undermine his leadership and authority by trying to split his group and create phase II of the 2016 scenario, get the splinter groups to join the government, and the remnants pressed harder militarily. This would be the worst-case scenario and it could lead to the collapse of the Peace Agreement. The best-case scenario would be for the parties to address remaining hurdles give enough assurances to Dr. Machar to join the government.

Regarding the number of states, what are the positions of the parties? For the government, the current 32 states should be accepted provisionally and if there is a need to revise the number of states, it should be done during the constitutional making process, which incorporates wider consultations with the people. Alternatively, the matter could be referred to the National Dialogue to resolve. For the government, giving up the 32 states is a high-risk political decision and could create an impression that the government is defeated by the opposition, subsequently disappointing its supporters. Besides, the decision to create 32 states is flaunted as a fulfilment of the SPLM vision of taking towns to the people, so walking back on it might hurt the party politically in the long-run. Whether the government could be formed without the decision on the number of states, the government believes that existing states should be adopted so that the government is formed without delay. The parties would then continue to dialogue until a permanent solution is found.

For the SPLM-IO, which actually proposed 21 states before the President's decision to create 28 states, the party has now reconsidered its position and supports return to the former 10 states. The idea of creating more states can later be revisited during the making of the Constitution. The SPLM-IO's argument is rooted in the Constitution, in that creating 21 states or the 32 states by the government violates the Constitution. Furthermore, the 32 states have created ethnic tensions in places where land is contested. To avoid conflict, it is better to simply return to the former 10 states, which were not controversial and reconsider more states at a later time.

Resolving the question of the number of states before the formation of the government is so critical for the SPLM-IO. This is because the decision on the number of states, from their perspective, is a pre-requisite to three important processes. First, the incorporation of the Agreement into the Constitution needs a decision on the number of states and so without it, one could not incorporate the Agreement into the Constitution. Second, in order to reconstitute the Council of States, its composition must be determined, which is dependent also on the number of states. Lastly, state governments cannot be formed on the basis of the R-ARCSS without agreement on the number of states and their boundaries. Besides this prerequisites, key

constituencies of the SPLM-IO are aggrieved by the creation of the 32 states and demand reversal of this decision.

The Former Detainees (FDs) have largely been consistent in calling for the return to the former 10 states because any creation of new states that does not follow the Constitution is a violation of the law. However, there was a row recently when an FD member to the IBC voted for the 10 states. It appears the FDs support the government's position at the moment. The position of the FDs is not yet clear on deferring the decision on the number of states until the government is formed.

For some members of SSOA, it is not necessarily the question of the number of states that matters, it is the effort to resolve the conflict that should drive the creation of more or fewer states. The view is that states should be created to resolve land disputes. The parties should take a decision that gives peace a priority. Since the 10 states and 32 states have become controversial, these options should be dropped and the 23 former districts adopted, or simply, the states should be abolished in favor of the former 79 counties. The point is, the parties should be flexible enough if the intention is to resolve the conflict. For some members of SSOA interviewed, the Agreement does not say that the government cannot be formed unless the decision on the number states is taken. As such, this issue, from their perspective, should not derail the formation of the government. The parties could form a partial government at the national level and continue to dialogue on unresolved matters until a decision is reached.

#### **4. Conclusions and Recommendations**

From the forgoing discussions, it is clear that the formation of a unified national army and security sector remains largely unimplemented. This is in addition to the fact that the parties have not reached a decision on the number of states and their boundaries. For the leading armed opposition group, the SPLM-IO, it would not join the unity government unless these provisions are implemented. In light of this, three possible conclusions can be drawn. First, the RTGoNU may not be formed on the 12<sup>th</sup> of November 2019. Second, if it is formed, the SPLM-IO may not be part of it. Lastly, there is a remote possibility that the parties could pull out a miracle and address the outstanding issues, which could enable the formation of the government on time.

If the parties fail to form the government on time, there are two possible scenarios to consider. The best-case scenario would be for the parties to give themselves more time, say 60 to 90 days to try and resolve outstanding issues. The worst-case scenario would be for the parties to simply declare the Agreement unworkable. If the government decides to form the RTGoNU partially without the SPLM-IO, a number of scenarios are possible. First the SPLM-IO might pull out of the Agreement completely, resume the war or ask for the renegotiation of the Agreement. Second, the SPLM-IO might remain committed to the Agreement and will continue to demand the implementation of the outstanding issues, after which it can join the government. Third, the government could try and split the SPLM-IO by crowning someone else representing the SPLM-IO as 1<sup>st</sup> Vice President, a waste of opportunity to restore real peace.

All the key informants interviewed expressed optimism that the Agreement will not collapse and that all the parties do not want to go back to war. One would hope that this optimism is real and

that the parties would really demonstrate a sense of leadership to implement the Agreement. The people of South Sudan cannot bear even another minute of this state of war. They want peace, security, and development. They currently truly feel cheated and betrayed because they fought so courageously to liberate their country only to find themselves trapped in a cycle of violence rooted in a struggle for power. If the literature is to be believed, in that conflicts that break out after a peace deal breaks down are more vicious, deadly, and difficult to resolve, it would be a real tragedy if this peace Agreement collapses. This would absolutely break the hearts of ordinary citizens and the country could descend into a much deeper abyss.

To save the Agreement from collapse, we recommend the following:

1. The government should use its power, including the power to borrow, to mobilize all the resources needed to ensure speedy training and deployment of the unified force.
2. The SPLM-IO, particularly Dr. Riek Machar, should move to Juba to allow for regular interaction with the President in order to speedily overcome remaining issues.
3. The IGAD, through the Regional Protection Force, should provide provisional security to Dr. Machar while in Juba until the unified army is deployed, including the VIP protection force.
4. If the parties cannot adopt the recommendation of the IBC, they should defer the decision on the number of states and their boundaries to the constitutional-making stage and benefit also from the Resolutions of the National Dialogue.
5. The International Community, especially the Troika, African Union, UN Security Council and IGAD should support the parties to overcome the remaining hurdles to the formation of RTGoNU by providing both material support and maximum pressure.
6. The parties to the Agreement should be more flexible in handling contentious issues to create an environment for compromise.
7. The citizens, through civil society organizations, should be more assertive in putting pressure on the parties to implement the Agreement.
8. Non-signatories should be engaged collectively by the parties to the R-ARCSS to join the Agreement to restore a comprehensive peace in South Sudan.

## **Bibliography**

- Bell, C. (2018). *Political Power-sharing and Inclusion: Peace and Transition Processes*. The University of Edinburgh, Global Justice Academy School of Law. South Bridge, Edinburgh: Political Settlements Research Programme.
- Fett, T. D. (1996). How Civil Wars End: A Rational Choice Approach. *The Journal of Conflict Resolution*, 546-568.
- Hartzell, C. (1999, February ). Explaining the Stability of Negotiated Settlements to Intrastate Wars. *Journal of Conflict Resolution*, 43(1), 3-22.
- Hartzell, M. H. (2005). Power sharing in peace settlements: initiating the transition from civil war. In P. G. (eds), *Sustainable Peace: Power and democracy after civil war*. New York: Cornell University Press.
- Hoddie, C. H. (2003). Institutionalizing Peace: Power Sharing and Post-Civil War Conflict Management . *American Journal of Political Science*, 318-332.

- Jarstad, A. (2006). The logic of power sharing after civil war. *Workshop on Power-sharing and Democratic Governance in Divided Society* (pp. 1-41). Oslo: Center for the Study of Civil War, PRIO.
- Jarstad, A. K. (2009). The Prevalence of Power-Sharing: Exploring the Patterns of Post-Election Peace. *Africa Spectrum*, 41-62 .
- Licklider, R. (1995). The Consequences of Negotiated Settlements in Civil Wars, 1945-1993. *The American Political Science Review*, 681-690.
- Meehan, P. (August 2018). *What are the key factors that affect the securing and sustaining of an initial deal to reduce levels of armed conflict?* UK Government Stabilisation Uni.
- Mehler, A. (2008). *Not Always in the People's Interest: Power-sharing Arrangements in African Peace Agreements*. German Institute of Global and Area Studies (GIGA).
- Mehler, A. (2009). Peace and Power Sharing in Africa: A Not so Obvious Relationship. *African Affairs*, 108(432), 453–473.
- Mehler, D. T. (2005). The hidden costs of power sharing: reproducing insurgent violence in Africa. *African Affairs*, 375.
- Milner, H. (1991, January ). The Assumption of Anarchy in International Relations Theory: A Critique. *Review of International Studies*, 17(1), 67-85.
- Peter Wallensteen, M. S. (1997, August). Armed Conflicts, Conflict Termination and Peace Agreements, 1989-96. *Journal of Peace Research*, 4(3), 339–358.
- Pillar, P. R. (1983). *Negotiating Peace: War Termination as a Bargaining Process*. Princeton NJ: Princeton University Press.
- Sawyer, A. (2004). Violent Conflicts and Governance Challenges in West Africa: The Case of the Mano River Basin Area. *The Journal of Modern African Studies*, 42(3), 437-463.
- Stedman, S. J. (1991). *Peacemaking in civil war: International mediation in Zimbabwe, 1974-1980*. Lynne Rienner Pub; New ed. edition.
- Stedman, S. J. (1997). 'Spoiler problems in peace processes. , *International Security*, 5–53.
- Walter, B. F. (1997). The Critical Barrier to Civil War Settlement. *The International Organization Foundation and the Massachusetts Institute of Technology*, 335-364.
- Wantchekon, L. (2000). Credible Power-Sharing Agreements: Theory with Evidence from South Africa and Lebanon. *Constitutional Political Economy*, 11, 339–352.

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The Sudd Institute is an independent research organization that conducts and facilitates policy relevant research and training to inform public policy and practice, to create opportunities for discussion and debate, and to improve analytical capacity in South Sudan. The Sudd Institute's intention is to significantly improve the quality, impact, and accountability of local, national, and international policy- and decision-making in South Sudan in order to promote a more peaceful, just and prosperous society.

## About the Author

*Abraham A. Awolich* is the Acting Executive Director at the Sudd Institute. Awolich's research has focused on governance and public administration. Awolich serves double roles as Deputy Coordinator and the Head of the Finance and Administration Unit for the National Dialogue Secretariat. Before joining the Sudd Institute, Awolich was the co-founder Executive Director of

the Sudan Development Foundation (SUDEF). Awolich has a master's degree in Public Administration from the Maxwell School of Citizenship and Public Affairs at Syracuse University and bachelor's degree from the University of Vermont in Anthropology and Business Administration. Awolich is a McNair Scholar and winner of the prestigious Samuel Huntington Public Service Award in 2006.