



A Path to Peace for South Sudan

An Overview

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Introduction

Six months into the civil war in South Sudan, the crisis continues to intensify despite peace overtures made far away from the front lines in the Ethiopian capital of Addis Ababa. A fragile peace agreement signed last month between President Salva Kiir and former Vice President turned rebel leader, Dr. Riek Machar, has not yet been fully implemented.¹ What began as a political power struggle between two leaders—and the factions and interests they represent—has torn the new nation apart and threatens broader regional stability.

Organized targeted mass killings and sexual violence against women and girls based on their ethnicity, as well as the deliberate obstruction of humanitarian assistance, have deepened the dividing lines between communities, many of which are recovering from nearly half a century of civil war. The death toll is unknown, with an early estimate of 10,000² eclipsed by more recent massacres and ongoing heavy fighting. Over one million people have been displaced, including around 95,000 who have sought refuge on U.N. bases across the country.³ According to the United Nations, close to 40 percent of the population faces the threat of starvation.⁴

This report presents a guide to the fundamental issues that must be addressed to end South Sudan's new civil war and establish peace and security. The report draws on a wealth of research and analysis from policy and advocacy groups, South Sudanese intellectuals and civil society, and Enough Project conversations over the past six months. The discussion is divided into three sections: end the war, secure the peace, and build a nation.

End the War

The most urgent need is to stop the fighting, freeze the front lines, and open up humanitarian access into areas where civilians have fled, especially as the rainy season intensifies and inhibits transportation and movement. Much of the discussion has focused on finding the right combination of leverage and military force to elicit serious commitments from both sides in the negotiations. One powerful source of leverage is the threat of multilateral sanctions against key leaders, targeting their assets abroad, especially if enforced by neighboring states where those assets are concentrated. While the U.S. has so far sanctioned two individuals, it is not likely that either has assets in the United States. The U.N. debate

around multilateral sanctions has stalled. Another source of pressure is the deployment of a regional security force to bolster the U.N. Mission in South Sudan (UNMISS) and provide protection to the Monitoring and Verification Mechanism (MVM) tasked with reporting on the implementation of the ceasefire agreement. These efforts more deeply involve regional powers in the process of resolving the conflict and may increase political support for sanctions by neighboring countries if the parties to the conflict continue to violate the ceasefire agreement. As long as the fighting continues, the people of South Sudan will remain in desperate need of humanitarian aid that can only be delivered if the ceasefire is maintained.

Secure the Peace

In the wake of two failed peace agreements, there is an urgent need to address the underlying issues that led to the conflict in the first place. In order to address these issues, there has been a major push from South Sudanese intellectuals and civil society to garner international support for an inclusive political dialogue that goes beyond elite power-sharing arrangements that have broken down in the past. The inclusion of civil society groups, traditional authorities, and church leaders is central to this process and will also require additional efforts beyond civil society consultations in Addis Ababa. To secure the peace, there also needs to be justice and accountability for mass atrocities, including a hybrid court, and national reconciliation. One mechanism already in place is the government-sanctioned National Platform for Peace and Reconciliation (NPPR), which includes the church-led Committee for National Healing, Peace, and Reconciliation, the Government of South Sudan Peace and Reconciliation Commission, and the Specialized Committee in the National Assembly. The NPPR was set up as an independent body to align public narratives for reconciliation in South Sudan. In order to be effective, the NPPR must maintain its independence to reach across political and ethnic divisions that pre-date the current crisis.

Build a Nation

One of the most conceptually challenging and poorly articulated objectives of international support to South Sudan has been nation-building. As scholar Jok Madut Jok points out, “the most obvious impediment to national cohesion is exclusion from the national platform, especially exclusion along ethnic lines.”⁵ In order to establish national identity, the rights of citizens should be guaranteed through inclusive democratic participation, access to economic livelihoods, and security sector reform. Government institutions will require a good deal of strengthening in order to carry out a national census, constitutional review, and national elections. Access to economic livelihoods must be secured by investing in transparency for oil revenues and the protection of community land rights—perhaps through the creation of an ombudsman’s office for economic transparency or a joint national-international oversight board. The predatory relationship between state security forces and civilians must also be addressed in order to build national cohesion and reduce ethnic tensions. The effects of trauma and alcoholism on the security forces have never been properly addressed.

Each section below provides a detailed discussion on the key issues identified above in order to end the war, secure the peace, and build a nation.

1. End the War

In order to end the war, the international community must use the right combination of leverage and military force to elicit serious commitments from both sides in the negotiations. In spite of the May 9 agreement signed during the first face-to-face meeting between Kiir and Machar since the start of the conflict, fighting continues in Unity and Upper Nile states.⁶ Allegations that the agreement was signed under duress have further undermined diplomatic efforts by the regional host, the Intergovernmental Authority on Development (IGAD), which now bears responsibility for the implementation of the agreement.⁷

The key features of the May 9 agreement include a commitment to refrain from further attacks, the full deployment of the IGAD Monitoring and Verification Mechanism (MVM), and humanitarian access across government- and rebel-held areas.⁸ Yet as the fighting continues, some observers have expressed serious concerns over command and control, particularly Machar's authority over the feared Nuer White Army.⁹ In order to ensure these forces stand down and respect the ceasefire agreement, high-level diplomatic efforts need to be embedded in a deep understanding of elite political dynamics and local grievances.

Targeted Multilateral Sanctions

Multilateral sanctions could provide a powerful source of leverage over not only Kiir and Machar but also other high-level commanders and politicians who continue to undermine the peace process. This will become increasingly important as the conflict continues in spite of the peace agreement signed by Kiir and Machar in Addis Ababa. Any commanders that disregard the agreement must be swiftly named and sanctioned. Many South Sudanese elites have assets and family in neighboring countries such as Kenya, Uganda, and South Africa, and many even hold dual citizenship with the United States or Canada. Two high-level commanders have already been named to the U.S. sanctions list—General Marial Chanuong and General Peter Gadet¹⁰—but neither individual has significant assets in the United States.

While initiating designations under the newly-established sanctions regime sends a powerful message, bilateral sanctions alone do not provide sufficient leverage over the parties to the conflict, and these sanctions also fail to convey great power alignment on the U.N. Security Council. Russia and China are the two votes to win over, and these two countries may be swayed by regional consensus among African states that have taken the lead in peace negotiations. A nuanced sanctions regime should also target members of the diaspora who disseminate hate speech as well as investigate individuals who facilitate the sale and transfer of illicit arms and ammunition into South Sudan.

In order to accomplish this complex task, Congress should allocate additional manpower and resources to the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) to carry out investigations and identify individuals to add to the U.S. sanctions list.

Regional Security Force and Ceasefire Monitors

In order to enforce the ceasefire agreement, provide additional protection to civilians, and support UNMISS troops already on the ground, discussions have been ongoing with IGAD to deploy a regional protection force, in addition to the MVM previously set up to report on the implementation of the ceasefire agreement.¹¹ In December 2013, the U.N. Security Council authorized the redeployment of an additional 5,500 peacekeepers to support the 7,000 peacekeepers already on the ground in South Sudan.¹² Over the past few months, only around 1,700 peacekeepers have been redeployed. Talks with IGAD have paved the way for a regional security force of around 2,500 troops provided by Ethiopia, and possibly Kenya and Rwanda (which is not an IGAD member state) to support UNMISS and provide protection to the MVM. The regional force would come under the unified command of UNMISS and would help support its capacity to provide protection to civilians. The presence of regional troops on the ground would also provide incentives for additional diplomatic engagement from regional leaders to further pressure Kiir and Machar to resolve the conflict and commit to the ceasefire agreement.

Safe Humanitarian Access

There is a desperate need for humanitarian aid across government- and rebel-held areas. Some experts have speculated that famine may set in as early as December and reach a scale not seen since the massive starvation that occurred in Ethiopia during the early- to mid-1980s. The planting season is nearly over in some parts of the country, as fighting continues in Unity and Upper Nile states, where thousands of people have been displaced from their land.¹³

In order to address the pending crisis, donors have committed additional funds for humanitarian assistance. At a recent donor conference in Oslo, the international community pledged an additional \$600 million but also recognized that access and protection issues may prevent the delivery of humanitarian assistance unless the ceasefire agreement is maintained.¹⁴ In addition to facing funding constraints, humanitarian aid agencies in South Sudan also face illegal roadblocks, looting, and poor command and control over the fighting forces on the ground.¹⁵ In order to address these challenges, additional political settlements must be reached and reinforced to guarantee access to humanitarian corridors and safe zones, as well as access for airdrops, to avert famine and mass starvation in vulnerable areas.

2. Secure the Peace

In order to secure the peace, there needs to be inclusive political dialogue, justice and accountability for mass atrocities, and reconciliation between communities that

have been torn apart by the violence. According to the May 9 agreement, “[the parties agree] to ensure the inclusion of all South Sudanese stakeholders in the peace process, and the negotiation of a transitional government of national unity, in order to ensure broad ownership of the agreed outcomes...”¹⁶ South Sudanese intellectuals and civil society have been outspoken about the need for more inclusive political dialogue. Time and again, elite power deals have broken down, leading to renewed conflict.

Those responsible for mass atrocities, acts of genocide, and rape also need to be held accountable by an impartial and independent legal mechanism. Some legal experts have suggested the idea of a hybrid court like the one set up for Sierra Leone, yet the idea of national ownership over the legal process, when the government itself stands accused of mass atrocities, is somewhat problematic. Finally, in order to win the peace, there needs to be reconciliation between communities. As in Rwanda after the genocide, large segments of South Sudan’s population have been touched by the violence, either as victims or perpetrators. Punitive justice alone may be insufficient in addressing the deep wounds that have been inflicted by communities against one another; these communities might be better served by a reconciliation process grounded in local norms and customs, including the authority of traditional leaders and the church.

Inclusive Political Dialogue

According to the May 9 agreement, stakeholders include “the two direct negotiators (the government of the Republic of South Sudan and the Sudan People’s Liberation Movement/Army In Opposition, SPLM/A-IO), and others such as the SPLM leaders (former detainees), political parties, civil society, and faith-based leaders.”¹⁷ In practice, increased support to civil society requires high-level diplomatic outreach to secure a place for civil society and unarmed opposition at the negotiations. Civil society’s effective participation requires support for capacity building, development of mediation skills, and leadership training. In particular, women, youth and traditional leaders at the grassroots level need to be supported and engaged to reflect common interests across political and ethnic divides. Efforts on this front have proven problematic in the past, due to logistical challenges associated with accessing communities in rural and remote areas. These issues will have to be addressed going forward, once security has been established.

Public opinion polling could serve as a powerful tool to gauge public perceptions on the peace process. Domestic polling firms, such as Opinions Oyee, have the cultural and language skills to access a statistically significant population sample in order to amplify the voices of South Sudanese people.¹⁸ Most importantly, a reciprocal feedback mechanism, allowing the negotiators to communicate outcomes to those back home and giving grassroots stakeholders a voice, should be established. This feedback loop would help ensure that the peace process is consultative and inclusive. The European Union has already embedded a communications officer in the IGAD secretariat to help increase information flow. However, more must be done to disseminate information about the peace talks in South Sudan. With the South Sudanese government’s recent public objections to media houses carrying

opposition voices and commentary expressing a plurality of opinions, the space for such dialogue is in jeopardy.

Justice and Accountability

There has been a significant discussion among legal experts on a hybrid court for South Sudan. The need for justice and accountability is clear, but the model of a hybrid court, such as the Special Court for Sierra Leone, may be problematic for South Sudan, because the government also stands accused of mass atrocities and violations of human rights. The hybrid court model implies a national-international joint legal mechanism. In some cases, such a structure has led to undue national government influence over the appointment of judges, clerks, court registrars, and other officials. The African Union Commission of Inquiry has endorsed the hybrid court idea for South Sudan, drawing on the experience of Senegal's nascent tribunal for former Chadian leader Hissène Habré. Other innovative legal models that draw on legal expertise from the diaspora and national legal experts are also worth considering.

While a tribunal or hybrid court should be responsible for prosecuting those most responsible for mass atrocities, rape, and acts of genocide, similar to the challenge faced in Rwanda after the genocide, punitive justice alone may not fully provide justice, accountability, and a sense of peace for victims of the conflict.

As a supplement to the legal process, there also needs to be a truth and reconciliation process (discussed further below) that could be supported by the work of the African Union High-Level Commission of Inquiry and the Human Rights Division of UNMISS, which recently released a detailed report documenting the violence in South Sudan.¹⁹ Community consultations are a critical component for this process and will help define precisely what justice and accountability mean for those most affected by the violence. The potential role of customary courts, traditional leaders, civil society, and the church should also be explored in great detail.

Finally, reparations, especially for victims of gender-based and sexual violence, may provide an essential tool for moving past recent atrocities.²⁰ The government of South Sudan should also provide reparations, or compensation in the form of a recovery fund, to allow war-affected communities to rebuild. Such an initiative would provide a powerful sign of good faith and commitment to peace, particularly for the Nuer community that was targeted during the initial fighting in Juba. Many remain under the protection of the United Nations, and many are unable to return home due to persistent insecurity and fear of retribution.

Reconciliation and Trauma Healing

Closely linked to justice and accountability, reconciliation and trauma healing require addressing the sweeping devastation the conflict has inflicted on communities across South Sudan. As Saferworld's Paul Murphy notes, "The current

crisis has re-opened painful memories of the past and inflicted new trauma among South Sudanese, which will need to be aired and urgently addressed.”²¹

David and Elizabeth Deng have argued persuasively for “an integrated response that incorporates truth-telling and meaningful reconciliation and ultimately seeks to transform South Sudan’s abusive and corrupt governance systems.”²² The Sudd Institute, a South Sudanese think-tank based in Juba, notes that it might also be necessary for the people to see a program of justice and reconciliation started early on, so that citizens can begin to feel genuinely and collectively tied to the nation state.²³ “My Tribe is South Sudan” and similar social cohesion messaging should also be encouraged and supported. The group leading this initiative, which has been driven mainly through social media through the hashtag *#MyTribeIsSouthSudan*, has been collecting audio and visual testimonials from many in the diaspora to underscore messages of unity for South Sudan.²⁴ While Internet penetration remains low in South Sudan, the diaspora is deeply connected and has a powerful role to play in reconciliation on the ground.

In April, the National Platform for Peace and Reconciliation (NPPR) was launched in order to begin the process of reconciliation. The NPPR mandate, which predates the current conflict, is to align three independent government-sanctioned reconciliation and healing institutions. The church-led Committee for National Healing, Peace, and Reconciliation is independent and has a spiritual basis. It sees itself as more of a facilitative than implementing actor. The South Sudan Peace and Reconciliation Commission is a government body led by government officials. Its primary mandate is to coordinate peace-related activities and to advise and represent the government on such matters. The Specialized Committee in the National Assembly addresses issues related to peace and reconciliation within the Assembly.

All of these institutions were established by Republican Orders, and all have joined hands to support political and community efforts to work for peace, healing, and reconciliation. In order to fulfill their ambitious mandate, the church leaders will need generous financial support, including mobility assistance and security assurances. As state-sanctioned and state-funded bodies, these institutions could be labeled as government-aligned. Their leaders must clearly communicate their independent mandate and objectives.

Finally, the need for psychosocial services and trauma healing cannot be ignored. This is particularly true for women and girls who have survived horrific rape and sexual violence, recently documented in a scathing report by Amnesty International.²⁵

3. Build a Nation

Nation-building is perhaps the most fraught task that lies before the South Sudanese people and the international actors working on South Sudan. National identity has been recognized as a key component for successful democratic transitions, because it provides a foundation for democracy to peacefully mediate disputes within a political community.²⁶ The immediate question for the international community

regarding South Sudan is not how to create a national identity, which may take years and cannot be externally imposed, but rather how to guarantee the rights and responsibilities of citizens regardless of ethnic or tribal identity.

In order to build a nation, South Sudan needs comprehensive political reform and strong state institutions to carry out a national census, produce a new constitution, and hold national elections to secure the democratic transition. Equally important is transparency for oil revenues and access to economic livelihoods, including community land rights and water resource management. Finally, comprehensive security sector reform is needed in order to ensure that the security forces serve and protect citizens. Nation-building has faced a number of key challenges in South Sudan, among them the almost immediate descent into massive corruption, land grabs, and overwhelming sense of entitlement exhibited by many top military commanders and political elites in relation to the spoils of the state for sacrifices they made during the independence struggle.²⁷

Before these steps can be taken, South Sudan needs an environment that fosters freedom of speech and a free press. Institutional development will be critical to ensuring that the national census, constitutional process, and elections, when conducted, are vehicles for inclusion rather than consolidation of elite power.

National Census, Constitution, and National Elections

A national census, new constitution, and national elections have been the elusive goal of those providing international democracy support to South Sudan for the past three years. The issue of sequencing of elections in conflict-prone states is a prominent subject of debate among academics and policymakers. Some have argued that competitive multiparty elections may release latent ethnic tension and lead to a resurgence in armed conflict, while others point out the centrality of elections as the basis for the legitimacy of the state. Former United States Agency for International Development (USAID) Assistant Administrator for Africa Kate Almquist Knopf says, "Elections should not proceed without first restoring some confidence in the country's political processes, namely through a credible and participatory process to draft and adopt a new permanent constitution, through the adoption of internal SPLM party reforms to restore democratic procedures and transparent vetting and selection of candidates for office, and through the provision of space for other political parties to organize and develop their capacities. Progress on national reconciliation and healing should also precede elections."²⁸ Experts at the Sudd Institute, among others, have argued the more immediate need for democratic elections.²⁹

In November 2012, the National Democratic Institute conducted a nationwide survey on South Sudanese citizens' attitudes towards the constitution process. At the time, survey participants made clear that they wanted the national constitution process to be representative and participatory in all its aspects, including the selection of a broad range of constitutional conference delegates and the holding of a referendum on its adoption. Experts at the United States Institute of Peace (USIP) have argued that discussions around South Sudan's future should be "anchored in

the process of developing a permanent constitution."³⁰ They suggest that if a new, inclusive, transparent, and participatory constitutional review process were conducted, it could provide a vehicle for nation-building. Kate Almquist Knopf suggests that the, "draft constitution should be put to a popular referendum to demonstrate societal commitment to this political course while significantly boosting the legitimacy of the new state."³¹

Kiir has already announced that elections will be postponed until 2017 or 2018 in order to give South Sudanese time to heal and the transitional administration time to prepare.³² The transitional administration that is agreed upon in Addis Ababa will likely dictate the future of democracy in South Sudan for years to come. The participation of Kiir and Machar in the transitional administration is likely to be a sticking point in negotiations in the absence of a clear military victory.

Transparency for Oil Revenues, Land Reform, and Access to Economic Livelihoods

South Sudan's elites have perhaps fallen hardest for the resource curse that has plagued so many other African nations. Oil revenues should have been sufficient to finance the foundations of the state, along with donor assistance and other sources of revenue. However, sporadic conflict with Sudan, a military bloated by multiple amnesty deals, and a sense of entitlement have all provided easy justification for the looting of government coffers. In June 2012, President Kiir released a letter that implicated his own administration in the theft of at least \$4 billion in government funds. Individuals were named, and Kiir requested that the money be returned, sparking further resentment and deepening rivalries, with huge patronage networks fueled by corruption potentially at stake.

Machar has also accused Kiir of corruption and claims that he was dismissed after requesting that the Minister of Justice prosecute members of Kiir's elite inner circle based on evidence of corruption uncovered by the World Bank's Stolen Asset Recovery Initiative (StAR).³³ The Minister of Justice was also removed in July along with Kiir's entire cabinet. A full-scale investigation should be launched into corruption in South Sudan, with the support of the U.S., World Bank, and other institutions dedicated to financial transparency. One global initiative, Publish What You Pay, provides training and support to civil society groups in order to create a local push towards accountability for extractive industries.³⁴

Access to economic livelihoods must be secured by investing in transparency for oil revenues and the protection of community land rights – perhaps through the creation of an ombudsman's office for economic transparency or a joint national-international oversight board. USIP scholars have suggested the idea of joint administration, including over oil revenues and financial management.³⁵ Sudd Institute has, however, called the proposal "outlandish."³⁶ The idea of an office of the ombudsman would have to be carefully developed so that it would not meet the same fate as the notoriously inept anti-corruption commission.

Community land rights and water resource management require urgent attention to ensure local access to economic livelihoods. A report published by the Oakland

Institute in early 2011 warned that, “from the start of 2007 to the end of 2010, private interests sought or secured 5.15 million hectares (ha) of land in the agriculture, biofuels, forestry, carbon credit, and ecotourism sectors – equivalent to more than eight percent of South Sudan’s total land area.” The report argues, “As currently conceived, these land deals threaten to undermine the land rights of rural communities, increase food insecurity, entrench poverty, and skew development patterns in South Sudan.”³⁷ The Nile is another vital economic lifeline for the people of South Sudan that is under threat. Without greater accountability and transparency, the political elites risk not only squandering not only South Sudan’s oil revenues but also its land and water resources.

Security Sector Reform (SSR) and Treatment of Post-Traumatic Stress Disorder (PTSD) in the Security Forces

SSR in South Sudan, particularly reform of the Sudan People’s Liberation Army (SPLA), has been notoriously problematic over the years. The main issue stems from the way in which rebel militias were integrated into the SPLA as part of a series of amnesty deals handed out to powerful opposition leaders to buy the loyalty of their fighting forces. In the wake of the 2010 general elections, a number of rebellions reemerged as elites competed for political power, proving the fragility of such arrangements.³⁸ Many of these conflicts have since been settled by another wave of amnesty deals, including the most recent deal between the Government of South Sudan and Murle rebel leader David Yau Yau in May.³⁹

As a result of these amnesty deals, the SPLA is anything but a unified fighting force. The inherent dangers of open or blanket amnesty have not been fully acknowledged, not just from a justice and accountability perspective, but for SSR as well. Former army chief James Hoth Mai commented, “Yes we have a problem. The SPLA is composed of different militias most of whom haven’t gone through training. They’re from the village and they can’t read or write; they don’t know anything but loyalty to their local commander who identifies with them.”⁴⁰ The dangers associated with open or blanket amnesty in the context of the current crisis cannot be overstated.

Another key security issue has been the proliferation of small arms and light weapons, which has fueled devastating cycles of violence and revenge around cattle raiding in rural areas and urban violence in Juba. Efforts to curb the illicit flow of small arms have been fraught with difficulties related to regional arms flows, corruption, and limited capacity of the United Nations and government of South Sudan to implement comprehensive programming to improve small arms registration and reduce cross-border smuggling.⁴¹ The current conflict has revealed extensive arms proliferation and easy access to weapons stockpiles in South Sudan.

Finally, the issue of post-traumatic stress disorder (PTSD) needs to be addressed as part of SSR. Information on mental health in South Sudan is scarce. One trauma survey conducted in Juba in 2009 revealed that out of 1242 adults surveyed, 36 percent met criteria for PTSD and 50 percent met criteria for depression.⁴² Alcoholism and PTSD form a toxic combination that threatens the security of

civilians and must be openly acknowledged and addressed by the government of South Sudan so that donor resources and programming can help address the problem.

Conclusion

The agreement between Kiir and Machar is a precarious first step forward, but the fate of the deal remains to be seen. This paper has provided an overview of some of the key issues that must be addressed in order to establish peace and security in South Sudan. To end the war, the right mix of leverage and military force must be used to enforce the ceasefire agreement, including targeted multilateral sanctions and the deployment of the IGAD regional force to bolster the U.N. peacekeeping mission's mandate to protect civilians. To secure the peace, there needs to be coordinated international support for inclusive political dialogue that goes beyond plush hotels in Addis Ababa and transcends political and ethnic divides. National opinion polling, justice and accountability, and reconciliation are critical elements of this process. Finally, to build a nation, the state must guarantee the rights and responsibilities of citizens regardless of ethnic or tribal identity. This involves strengthening state institutions to conduct a national census, constitutional review process, and national elections as the basis for political inclusion. Access to economic livelihoods and the transformation of the security forces to protect the rights of citizens are also critical components of the nation-building process that cannot be accomplished without sustained high-level diplomatic engagement and long-term commitments from the international community. The people of South Sudan deserve the security, stability, and freedom independence sought to achieve.

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