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# Prospects for Inclusive Peace in South Sudan

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#### **The current situation**

The United Nations Special Adviser on the Prevention of Genocide declared that there is a looming genocide in South Sudan at the end of his tour in November 2016. He further added that he feared the situation may reach that of Rwanda if not addressed. In his report to the UN Security Council, the Secretary General echoed concerns regarding the looming genocide and the need for urgent action. Since that declaration was made, the scorched earth policy of targeting civilians based on ethnicity has only gotten worse, with arbitrary arrests and enforced disappearances are on the increase. The level of sexual violence is unprecedented, with a UN report indicating that 70 percent of women in the protection of civilian sites (POCs) in Juba have been raped by government troops.

In short, the Republic of South Sudan is facing catastrophic humanitarian crisis. Since the country was plunged into a deadly conflict in December 2013, over 200,000 people have taken refuge in the UN POCs, over two million have been internally displaced and over one million have taken refuge in neighbouring countries. The situation deteriorated since 8 July 2016 when President Salva Kiir decided to abrogate the peace agreement and introduced violence once more in an attempt to assassinate the first vice president. What followed was an attack on the Sudan People's Liberation Movement/Army in Opposition (SPLM/A-IO) forces positions in Juba and the violent pursuit of the withdrawing forces to the Democratic Republic of Congo by air strikes and ground assault. The UN Panel of Experts confirmed that President Kiir, his chief of staff and his national security director planned and directed the July 2016 fighting.

#### **The root causes**

The signing of the Comprehensive Peace Agreement (CPA) in 2005 between the Sudan People's Liberation Movement (SPLM) and the Government of the Republic of Sudan (GOS), which granted the people of South Sudan the right to self-determination, ended the civil war. While most Southern Sudanese leaders and people devoted their full attention during the interim period to ensuring that the referendum was successfully conducted, President Kiir was establishing a police state. The whole world was euphoric at the birth of the Republic of South Sudan on 9 July 2011 – little did they know then that a police state was in the making. To consolidate his grip on power and assert his dictatorship, the president made sure that all security agencies were loyal to him and not to the state. In other words, the president was bigger than the state and challenging any of his views amounted to treason.

Immediately after the referendum, the ruling party, SPLM, had its first disagreement over the transitional constitution. Various members of the SPLM, including the then Vice President Dr Riek Machar, proposed that the transitional constitution should address issues relating to the system of governance, devolution of power and institutional restructuring required in order for it to reflect the aspiration of the people of South Sudan. The president, on the other hand, directed the committee entrusted with the drafting to produce a centralized constitution concentrating powers to himself. The president would not tolerate any dissenting views, going so far as to threaten the parliament with dissolution if they dared to vote against his proposed constitution, which was inferior to the interim constitution of 2005.

There was widespread insecurity in the country, so much so that South Sudan was frequently discussed in the UNSC. The president used force to target communities that were engaged in intercommunal conflict. As a result, communities lost faith in their own government for the fundamental service of providing security.

The tribalisation of government institutions, corruption, and poor external relations pushed the international community to lose faith and patience with the government, characterized by Kiir's leadership. Furthermore, in 2012 the SPLM membership clearly stated to the leadership that the ruling party had lost vision and direction and could not steer the country forward unless changes were made.

In March 2013, some members of the SPLM political bureau raised the above-mentioned concerns in order to initiate dialogue and charter a way out for the party and the country. The president responded by dismissing colleagues from government and shutting off any chance for dialogue by introducing violence in December 2013, under the pretext of fake coup. In the span of just one week, over twenty thousand people were massacred simply because of their ethnicity. The African Union commission of inquiry on the crisis in the Republic of South Sudan found that ethnic cleansing occurred in Juba in December 2013.

The president's actions in December 2013 resulted in the split of organized forces and all government machinery. Subsequently an armed resistance to the government's offensive emerged and the SPLM/A-IO was established on April 2014 in Nasir.

#### **IGAD mediation and the peace agreement**

Goodwill from the international community towards South Sudan prompted an immediate action to contain the conflict. The Intergovernmental Authority on Development (IGAD), represented by Ethiopia, Kenya and Sudan, with the support of the AU and the Troika (US, UK, Norway) mediated the peace talks. We welcomed the initiative; however, the process was frustrated by the lack of political will on the side of the regime to address the root causes, justice and accountability, as well as their determination for a military solution. An agreement was reached after serious efforts exerted by the mediation and partners, over two and half years of negotiation. The SPLM/A-IO signed the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS) on 17 August 2015. President Kiir signed the agreement nine days later on 26 August 2015 in Juba, in response to the serious pressure mounted on him by the international community.

President Kiir attached a list of reservations upon signing the agreement. His list was the beginning of the systematic dismantling of the agreement, leading to a collapse on 8 July 2016, when violence was once more introduced in Juba, in his attempt to assassinate the first vice president. The president publicly announced that the agreement was not akin to the Holy Bible, or the Holy Quran, clearly demonstrating his unwillingness to implement it. He did not conceal his determination against the implementation of transitional security arrangements, with regard to cantonment of forces in Equatoria and Bahr el Ghazal. The major violations of the government are as follows:

- The creation of 28 states on 2 October 2015. Despite universal condemnation, Kiir went ahead with implementation and appointed governors to these states on 23 December 2015, two days after the first SPLM/A-IO peace advance team arrived in Juba. This was a violation of chapter 1, articles 1.1.6, 15.2 and 15.3 of the agreement.
- Violation of the permanent ceasefire agreement within 48 hours of its declaration. Forces loyal to the Kiir regime launched multiple attacks on SPLM/A-IO positions in Leer, Mayiandit and Koch counties in Unity State and such violations have continued up to now.
- Violation of the mandated demilitarization and relocation of troops to 25km radius outside of the capital Juba within 90 days of signing the agreement. Instead, the Kiir regime deployed 25,000 more

troops in Juba and the surrounding area. The process of relocating forces outside the capital was supposed to be a joint activity as per the agreement.

- President Festus Mogai, the chair of the Joint Monitoring and Evaluation Commission (JMEC), submitted a report to the UN detailing the continual intimidation, harassment and detention by the government of members of the Ceasefire Transitional Security Arrangements Monitoring Mechanism (CTSAMM) teams. This inhibited their ability to monitor the implementation of security arrangements as per the agreement.
- The SPLA continued attacking the SPLM/A-IO cantonment sites.
- President Kiir appointed advisers on 4 May 2016 without consultation with the first vice president, thereby violating the power sharing agreement.
- The creation of security checkpoints intended to provoke SPLM/A-IO through harassment and intimidation, including killing its members. This was in violation of transitional security arrangements in the capital.
- A refusal to lift the state of emergency.
- The murder of two SPLM/A-IO officers by regime forces in Juba on 2 July 2016.
- The assassination attempt on the first vice president on 8 July 2016.
- The airstrike and bulldozing of the residence of the first vice president in Juba on 10-11 July 2016, and attacks on SPLM/A-IO sites in Juba.
- Violation of the ceasefire declared on 11 July 2016, by attacking the SPLM/A-IO positions from 13 July 2016.
- Appointment of the speaker of the house and various MPs to the Transitional National Assembly in violation of the agreement.
- The illegal replacement of the First Vice President Dr. Riek Machar Teny with General Taban Deng Gai, who ceased to be a member of the SPLM/A-IO at the time of his appointment. The appointment of Taban Deng Gai is in violation of both article 6(4) of the ARCSS and the SPLM/A-IO constitution.
- The violent military pursuit of the SPLM/A-IO leadership after 11 July 2016, who were withdrawing from Juba to the Democratic Republic of Congo, by President Kiir's ground forces, drones and helicopter gunships.
- Since July 2016, the Kiir regime has targeted civilians based on ethnicity, perpetrating unlawful killings, arbitrary arrests, enforced disappearances and sexual violence. This is highlighted in the report of the Panel of Experts on South Sudan to the UN Security Council. This was particularly prominent in Equatoria and Western Bahr el Ghazal.

The violations of the peace agreement, lack of political will to implement it and the determination for a military victory by the regime led to the final collapse of the agreement. The weak preventative diplomacy on the part of the guarantors and the international community did not help. Most unfortunate is the fact that the guarantors of the agreement and international community are engaging the regime in Juba as

though it is the Transitional Government of National Unity (TGNU) and is implementing the agreement. The position of the guarantors and the international community only encourages the regime to assume the legitimacy that it has lost due to the collapse of the agreement.

### **The way forward**

Despite Salva Kiir's determination to destroy the agreement, we are still committed to the agreement and to a peaceful settlement of the conflict, so as to give the people of South Sudan an opportunity to work towards sustainable peace. However, we believe that there is a need to review the agreement to ensure that what happened in July 2016 would not occur again.

Enshrined in the agreement are institutional and political reforms that would address issues of governance, the constitutional making process and economic reforms. It would provide a road map for democratic transformation and will put an end to impunity. It can provide the necessary environment for reconciliation, healing, justice and accountability and allow the return of those who are internally displaced or have taken refuge in neighboring countries. Therefore, we urge the international community to initiate a new peace process in order to end the war.

The SPLM/A-IO recommends the following in order to revive the agreement and ensure that peace returns to South Sudan:

- The launch of a political process that will enable the warring parties to peacefully engage in a review the agreement, with the aim of its resuscitation.
- The regime should stop its scorched earth policy of targeting of civilians along ethnic and political lines, as well as its military offensive and crackdown on the opposition.
- Acknowledgement that since the agreement has collapsed, the regime in Juba is not a TGNU, and is a regime lead by one party to the conflict.
- Suspension of the agreement's implementation institutions until such time that the TGNU is reconstituted – namely JMEC, the Joint Military Ceasefire Commission (JMCC), CTSAMM, the Strategic Defense and Security Review Board (SDSRB) and the Joint Operations Centre for Joint Integrated Police Management Team (JOC-MT). Focus should be on supporting a new process to resuscitate the agreement.
- Release all political detainees.
- The UN should engage the SPLM/A-IO on the deployment of the Regional Protection Force.
- The guarantors of the agreement should support the new political process to revive the agreement.
- The AU should establish the Hybrid Court of South Sudan to try the perpetrators of war crimes.
- The SPLM/A-IO reiterates its support for the IGAD communiqués addressing South Sudan's crisis since 8 July 2016. The SPLM/A-IO however expresses grave concern about the recent 29 communiqué from the Extraordinary Summit of the IGAD Heads of State and Government, held in Addis Ababa, Ethiopia on 9 December 2016. We hoped that the summit would address the report of the UN Special Adviser on the Prevention of Genocide, sentiments echoed by the UN Secretary General to the Security

Council as a “looming genocide”. We also expected more clarity on the way forward to end the war. The communique only exacerbated the war.