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RESEARCH FOR A PEACEFUL, JUST AND PROSPEROUS SOUTH SUDAN

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Weekly Review

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Understanding the Implications of the Pagak and Juba Peace Conferences

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Introduction

On 25th August 2014, Intergovernmental Authority on Development (IGAD), a East African regional bloc that has since taken on an essential role of mediating the South Sudanese warring groups, the Government of South Sudan (GoSS) and Sudan's People Liberation Army/Movement-In Opposition (SPLA/M-IO), set out a negotiating instrument for resolving South Sudan's current violence, now in its 13th month since it broke mid December 2013. The instrument, known as the 'Protocol on Agreed Principles on Transitional Arrangements towards Resolution of the Crisis in South Sudan', supposedly seeks to establish the Transitional Government of National Unity (TGONU), defines its institutional structures, and assists in identifying the landscape of political programs to be instituted. As a blueprint, the protocol enables the parties to have measured negotiations and agree to whatever conceivable terms they deem appropriate for ending the violence and implementing necessary reforms.

IGAD's attempts to sell this protocol to the belligerent parties initially faced a number of hiccups. In particular, Dr. Riek's camp found the instrument unsettling, as it delegates for their chief authority in the government, the Prime Minister, subordinating executive powers at the Presidency. Consequently, Dr. Riek, the Opposition's principal, protested and declined to sign the protocol. It took IGAD more mediation efforts and months to finally convince Dr. Riek and his group to hesitantly get on board. Even after certain changes were made to the protocol, the opposition declined to sign it and has since remained opposed to most aspects of this negotiating instrument. Following the 28th Extra-Ordinary Summit of the IGAD Heads of State and Government on November 7th, 2014, GoSS and SPLA/M-IO subsequently sought a 15-day period of consultations with their bases. The IGAD parliament granted the request, with GoSS promptly embarking upon its activities while initially making it perceptibly difficult for the UN to airlift the opposition's field commanders to their summit base, located at Pagak, Upper Nile State. Eventually, the government conceded, allowing an armed opposition to successfully conduct its conference.

The government and the opposition concluded their consultations on November 24 and December 10, respectively. Both parties published their resolutions, with the opposition presenting what is arguably more comprehensive, although the bulk of its demands are not pragmatically appealing. Unlike the government whose resolutions center chiefly on government structures, president/prime minister's executive powers, and the system of governance, the opposition attempted to address a wide range of crucial themes such as institutionalism, security, economy, justice and accountability, social accountability, and diplomatic relations. Even more appealing GoSS and the opposition express the need to work for peace in the country, considering certain conditions are met. Specifically, the opposition sees marked understanding on power sharing, presence of foreign troops, federalism, reforms, and the security arrangements during the transitional period as central to resolving the current conflict.

This analysis gives a detailed review of these resolutions in light of what they constitute in terms of timely attainment of peace in South Sudan. We show that little do the parties agree on a significant portion of the protocol. Given prevailing wide gaps between the two parties with respect to what they are expected to agree on and actively work toward, we are concerned that peace remains a distant dream for the South Sudanese. The rest of the review discusses the nuances of the resolutions, party by party, and proposes policy instructions. Emphasis is also placed upon areas of significance where the parties, either jointly or individually, appear deficient.

Government's Resolutions

The Government of South Sudan, after a conference organized in Juba, declared its three-fold position roughly two weeks after IGAD granted the parties a little over two weeks of consultations time with their support bases. In an army of issues raised since the commencement of the current war, GoSS' delegation tailored its efforts mainly towards the structure of a transitional government, differentiated powers between the President and Prime Minister, and the system of governance that would need to be instituted once peace is restored. The government envisions an administration that opens up a Prime Minister's office, along with three deputies. The proposed structure, therefore, reflects a system in which the President and his deputy exercise a relatively greater authority, with the Prime Minister and his deputies being next in the hierarchy.

On President and Prime Minister's executive powers, the delegation proposes 16 functions for the President and 7 for the Prime Minister. The powers of the President during the transitional period, for example, include appointing and removing the prime minister, assenting to the laws passed by the national parliament, appointing and removing state governors, and serving as commander in chief of the national armed forces. On the other hand, the Prime Minister would function as commander in chief of the opposition forces during the pre-transitional period, take charge of the implementation of national laws and policies, and prepare agenda of the council of ministers.

The government's delegation commits to a federal system of governance, conceding that such meets a high demand of the South Sudanese people. Acknowledging that the adoption of a germane federal system requires a sober study, the government suggests devolving more powers in the realms of security, judiciary, law, and reforms for both fiscal administration and public sector, to individual states.

Opposition's Resolutions

Attended by various support groups at Pagak, Upper Nile State, the opposition's conference drew its resolutions from speeches delivered by individual leaders and committees comprising states, regions, and the diaspora. Dr. Riek Machar¹, the leader of the opposition, opened the convention with remarks that detail the proximal causes of the war, followed by a litany of political programs proposed to punctuate the transitional arrangements. More specifically and as usual, Dr. Riek recited the ongoing skirmish as President Kiir's responsibility, referencing the 2013 alleged Juba massacre of ethnic Nuer. Critical of the government to which he belonged until he got booted out in July 2013, he stressed the importance of peace and forgiveness, stating "The gains our people scored throughout the six decades of relentless struggle against the oppressive regimes are now at dire risk. There are people plotting to rob us of our independence and sovereignty. We must resist this attempt. To prevent this from happening and in order for us to save our people and country, we must seriously look for ways to achieve peace. We must be ready to exercise magnanimity. We must forgive atrocities committed against us and likewise ask forgiveness from those we have harmed."

Dr. Riek regurgitated the origins of war to include the President's excessive powers granted in the transitional constitution, widespread insecurity, dilapidated economy, rampant corruption, tribalism, SPLM's inability to appropriately govern, and an inadequate foreign policy. Responding to what it considers ills of a dysfunctional system under the sitting President, the opposition in its resolutions offers a number of political programs, namely an institution of a federal system that increases the number of states to 21 in accordance with the English colonial structure, reforms, and economic and infrastructural improvements. The opposition's basis for 21 states as opposed to the existing 10 states remains under-articulated. The government, in return, does not agree to this proposed structure, accusing the opposition of power politics and opportunism.

However, the government's proposition of maintaining a Vice President and giving very limited powers to the Prime Minister does not bode well with the opposition. Instead, the opposition, fighting back aggressively, proposes a transitional government that is administered by the President as head of state (ceremonial), Prime Minister as head of government, and the council of ministers. Drawing from these propositions, it is clear

¹We are holding this conference when we are about to mark the first anniversary of the Juba genocide carried out by President Salva Kiir against his people killing over 20,000 innocent lives of Nuer people in less than a week. The massacres against Nuer in Juba triggered the pre-sent civil war, which Kiir feigned as a coup against the state. Excerpts from Dr. Riek's speech.

that the two parties have yet to reach an acceptable understanding capable of inducing peace. An additional flashpoint regarding resolving this crisis is the presence of foreign troops (Ugandan People's Defense Forces—UPDF) in support of the government. The opposition demands an immediate withdrawal of these forces, arguing that their presence violates the territorial integrity of the country. This is despite agreeing in August last year to have these forces in the country until regionally mandated security forces are fully deployed (Reuters)². The government, however, challenged this complaint, cautioning that the presence of the Ugandan forces in the country maintains security and protects the infrastructure. The government points to the destructive activities of the White Army in various parts of the Upper Nile region as evidence of its entreaty. The regional bodies and international partners have not explicitly challenged the government as regards to this matter, an indication of passive endorsement of Uganda's military intervention in the crisis.

The Gaps

From the preceding narrative, the two parties seem to only agree on establishing a devolved federal state and separate armies during the pre-transitional period. By proposing the Prime Minister to be commander in chief of the opposition forces during the pre-transitional period, Juba impliedly opens up negotiation possibilities with the rebels for separate armies during the transitional period. The rebels are unlikely to support medium-term arrangements that unilaterally integrate their forces into the national army. Any continued disagreements between the two parties regarding this matter certainly delay peace. In addition to the demanded withdrawal of the Ugandan forces, there remains a deadlock over the distribution of executive powers between the President and Prime Minister. The government remains passive on both reforms and the number of federal states to be instituted, seemingly advocating a status quo. The opposition, in contrast, calls for radical reforms. While the Equatoria's committee, a subsidiary of the opposition, sketchily touched upon reconciliation and accountability affairs, Dr. Riek, like his counterparts in the government, gave a scanty attention to these fundamental programs as justice, social cohesion, and accountability. Pagak's resolutions are criticized for centering largely on power gains while placing little significance on addressing the consequences of war.

Given that the two parties hardly agree on key items, such as power arrangements and reforms, is peace then a distant dream in South Sudan? Indeed, in the absence of a power-sharing formula that is acceptable to both parties, hopes for peace in South Sudan remain truly dashed. The government thinks the opposition is less deserving to govern, suggesting that allowing a significant participation of this newly emerged military/political group breaches the constitution and certainly subsidizes bad

² South Sudan rebels have agreed to let Uganda maintain its forces on South Sudanese soil until a regional body deploys a peace keeping force, a spokesman for the Ugandan government told Reuters on Friday.

Source: <http://www.reuters.com/article/2014/08/22/us-southsudan-unrest-uganda-idUSKBN0GM0EE20140822>

precedence. The government maintains that this threatens the democratic process of a power transfer. Consequently, what Juba seems committed to in terms of peaceful settlement of the conflict is granting an insignificant share of the government to the opposition. The opposition, on the other hand, indicts the government as unfit to govern, criticizing it for the 2013 December violence. Accused of causing instability in the country, the opposition questions the sitting government's legitimacy and only seeks the President's participation in the next government as a ceremonial head of state. The Prime Minister, according to this proposition, assumes the head of government role.

Demonstrating a typical power struggle state, the opposition is bent on elbowing out the sitting government. Such proposition is not appealing as it depresses efforts toward peace. Even worse, the prevailing news points to the condition in which the two parties are now poised to engage in an all-out-war³. Finally, other peace related attempts, such as the Arusha intra-party dialogue, have yet to produce promising results. This initiative could be potent in support of peace if the divided party bases were to unconditionally give their blessings. This has not been so.

These hardened positions by the two parties indicate insufficient progress in IGAD's attempts to end South Sudan's current crisis. This calls for more radical, yet sober and predictable settlement models.

Policy Instructions

Instead of allowing the warring parties to determine the nature of political settlement from a generic protocol, perhaps IGAD and partners could be more effective if they developed a reasonably comprehensive and specific symmetry drawn from independent observations and the two parties' positions. The IGAD's roadmap should be largely influenced by facts, not mere partisan politics as told by the warring parties themselves. This means that the parties should be made to propose a kind of settlement that reflects comprehensive, independent observations from scholars and analysts. Based on policy analyses, the parties first need to engage in IGAD's facilitated dialogues, agree on what might be the causes of war, and then come up with an appropriate settlement model.

As the two parties continue to be unfettered, the possibility of peace will remain illusive. A hands-on approach, in short, is what IGAD might need to end the current war in South Sudan. A closely guarded process may be required.

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Author's Biography

Augustino Ting Mayai is cofounder and Director of Research at the Sudd Institute. As a demographer, his major research interests include childhood mortality differentials in the Sudan and South Sudan, applied quantitative methodology (econometrics), applied development research, social accountability and public service delivery, and the demography of conflicts and violence. Currently writing a dissertation that empirically evaluates the relationship between state effectiveness and child health outcomes in South Sudan and Ethiopia, Augustino is completing a PhD in Sociology (Demography) and Development.