



THE SUDD INSTITUTE

RESEARCH FOR A PEACEFUL, JUST AND PROSPEROUS SOUTH SUDAN

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Policy Brief

December 4, 2014

Deconstructing the Protocol on Agreed Principles and the Peace Process

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Summary

This paper analyzes¹ the ‘Protocol on Agreed Principles on Transitional Arrangements towards Resolution of the Crisis in South Sudan.’ The Protocol was signed on 25 August 2014 by IGAD heads of states and governments as the basis for negotiating a mechanism to end the ongoing armed conflict in South Sudan. Despite requiring an endorsement from all parties, only one party, the government, signed the Protocol, making it less binding for the rest of the parties.

Why were the other parties not able to sign? Have their interests not been reflected in the Protocol? To answer these questions and determine which issues the Protocol has failed to address exhaustively and could therefore be at the heart of the problem, the paper analyzes parties’ negotiation position papers in comparison with the provisions of the Protocol. On the one hand, the results show that the parties sharply differ on issues related to power sharing namely the power sharing formula, roles of the president and the prime minister, among others. On the other hand, the parties, based on their negotiation papers, appear to agree on the need for critical reforms in the security, civil service, natural resources and financial management sectors, constitutional making, elections, and national healing and reconciliation. Although the parties appear to have a consensus on the need for critical reforms in the areas suggested above, they will more likely run into disagreements on the conduct of these reforms.

The core problems leading to disagreements among the parties include belief in military solution, mistrusts and bitter feelings caused by the atrocities, bad politicking and hate propaganda and a mindless focus on capturing and maintaining the state power. Since gaining access to power seems to be the objective as seen in the negotiation position papers, it is tempting to share power as a solution. However, for a power sharing arrangement to provide sustainable solution, it should be combined with mechanisms and safeguards for vital transformations.

1 Introduction

¹ The Sudd Institute acknowledges the UNDP’s financial support through its South Sudan’s Democracy and Participation Programme.

The Intergovernmental Authority on Development (IGAD), the Eastern Africa regional body, has been mediating the South Sudanese peace talks in Addis Ababa, Ethiopia, with the intention to end the ongoing catastrophe in South Sudan. It has been eleven months since the start of the peace process and the negotiations have frustratingly been unfruitful. Cessation of hostilities agreement, signed in January, and political framework agreement, signed in May to establish an inclusive peace process leading to a transitional government of national unity (TGONU), have not yet borne any fruits. The parties and the mediation team had been stuck in a stalemate.

In an attempt to break the stalemate, the IGAD Heads of States, signed a ‘Protocol on Agreed Principles on Transitional Arrangements towards Resolution of the Crisis in South Sudan²’ on the 25th of August 2014. The principal warring parties and other stakeholders to the negotiations reportedly negotiated the Protocol, which supposedly formed the basis for negotiating the TGONU. The IGAD heads of states and the mediation team are seemingly convinced that the formation of TGONU would essentially end the ongoing civil war in the country.

However, the protocol has a very shaky foundation to form the basis for negotiating a sustainable peace agreement because of the fact that one principal party to the conflict and other stakeholders have not bought it. One of the reasons the SPLM in Opposition and the other stakeholders have partially rejected the protocol, is the divergence between the protocol the parties allegedly negotiated and agreed upon and the final version the IGAD heads of states approved and signed. This analysis identifies the outstanding problems with the Protocol and the peace process and puts forward recommendations. The analysis identifies the differences among the stakeholders to the conflict by looking at their negotiation position papers.

1.2 The Key Issues

After examining closely various negotiation positions of the South Sudanese stakeholders as expressed in the media and position papers, a major problem with the Protocol is that it is seemingly forcing certain issues on the parties that they have not necessarily agreed upon. Some of these issues include:

- The president’s role as the head of state, government and commander in chief of the armed forces.
- Establishment of the office of the Prime Minister and its role.
- Whether the Prime Minister should run for presidency after the transitional period or not.
- Power sharing formula.

² See Protocol on Agreed Principles on Transitional Arrangements towards Resolution of the Crisis in South Sudan signed on 25 August 2014 2

- Inclusion of the stakeholders in the negotiation and in the TGONU.
- Critical reforms in the security, civil service, natural resources and financial management sectors during the transitional period and beyond.
- Provision of a certain percentage of public goods (e.g. health, education, water, (roads, electricity, etc.) during the transitional period.
- Broad based and people centered constitution making process, national healing and reconciliation and transitional justice.

To determine which issues the Protocol has failed to address exhaustively, we have analyzed parties' positions in comparison with the provisions of the Protocol. The Table below illustrates the parties' positions versus the Protocol. We tally the parties' negotiation positions and interests in relation to the outstanding issues presented in the Protocol. We present our results in section 3 and conclude with policy pointers in section 4.

Stakeholders' Negotiation Positions versus the Protocol on the Agreed Negotiation Principles

<i>Parties</i>	<i>Power Sharing Formula</i>	<i>Inclusivity</i>	<i>President's role</i>	<i>Prime Minister ship</i>	<i>Prime Minister's roles</i>	<i>Critical Reforms</i>	<i>Basic services and infrastructure</i>	<i>Constitution, elections, census, national healing and reconciliation</i>	<i>Transitional justice</i>
<i>Government</i>	<i>Disagrees</i>	<i>Agrees</i>	<i>Disagrees</i>	<i>Agrees</i>	<i>Disagrees</i>	<i>Agrees</i>	<i>Silent</i>	<i>Agrees</i>	<i>Agrees</i>
<i>SPLM IO</i>	<i>Disagrees</i>	<i>Agrees</i>	<i>Disagrees</i>	<i>Disagrees</i>	<i>Disagrees</i>	<i>Agrees</i>	<i>Silent</i>	<i>Agrees</i>	<i>Silent</i>
<i>SPLM Leaders (FD)</i>	<i>Disagrees</i>	<i>Agrees</i>	<i>Disagrees</i>	<i>Agrees</i>	<i>Disagrees</i>	<i>Agrees</i>	<i>Silent</i>	<i>Agrees</i>	<i>Agrees</i>
<i>Political Parties</i>	<i>Disagree</i>	<i>Agree</i>	<i>Disagree</i>	<i>Agree</i>	<i>Disagree</i>	<i>Agree</i>	<i>Agree</i>	<i>Agree</i>	<i>Agree</i>
<i>Civil Society Organizations</i>	<i>Silent</i>	<i>Agree</i>	<i>Silent</i>	<i>Silent</i>	<i>Silent</i>	<i>Agree</i>	<i>Silent</i>	<i>Agree</i>	<i>Agree</i>
<i>Protocol on the Agreed Principles</i>	<i>To be negotiated</i>	<i>Included</i>	<i>Head of government, state and commander in chief</i>	<i>Included</i>	<i>To be negotiated</i>	<i>Included</i>	<i>Silent</i>	<i>Included</i>	<i>Included</i>

3 Results

3.1 Analysis of areas of disagreements

The results, as listed in the table above, show that the parties differ sharply on a number of issues related to power. First, the parties totally differ on the power sharing formula. For example, the SPLM-IO³, describing itself as an aggrieved party, wants 70% of power, including the position of the president, and proposes to give 20% to the sitting government and 10% to the rest. The SPLM Leaders⁴ (FD) want 25% and propose to give 28% to the government, 27% to the SPLM-IO and 20% to the Political Parties. The Political Parties⁵ on the other hand want 40% and propose to give 60% to the SPLM Factions. The civil society group did not unveil its position. We next discuss how power sharing is addressed by the Protocol.

The Protocol simply states that the parties shall negotiate the power sharing formula, which makes it insufficient to provide agreeable formula. This appears to be one of the key stumbling blocks to realizing the peace agreement as the gap between what the parties demand and what is feasible is very wide. This area requires that parties make realistic compromises on their positions and interests, provided that there are assurances, that whatever is agreed upon will be implemented and that there is a mechanism to protect the interests of the parties.

Second, the parties differ sharply over the role of the president. On one side, SPLM Leaders and Political Parties want to see the president's powers reduced by assigning his role as head of the government to the Prime Minister and making him remain as head of state and commander in chief of the armed forces. The SPLM-IO instead wants the structure to remain as it is currently and wants to take the position of the president as shown in their negotiation paper. However, the Protocol maintains the incumbent president as head of state, government and commander in chief, a position the government supports.

³ Read the SPLM IO's position paper on governance and power sharing where their interests and positions have been spelled out.

⁴ Read Single Negotiating Text Arising from Draft Ii Framework for Political and Security Negotiations towards Resolution of Crisis in South Sudan presented by the SPLM Leaders (Former Political Detainees). The draft position paper, among others, reveals that the former political detainees want the prime minister to be the head of the government.

⁵ Read the position paper by the Political Parties entitled Position of the Political Parties on the Transitional Government. The paper spells out views and interests of the political parties on the TGONU. It reveals that the political parties want a prime minister to be head of the government and report to the president.

While it is crucial for the Protocol to recognize the need to keep the incumbent president, the parties should be given the opportunity to work out the details. This is important because you cannot hold other stakeholders to abide by something they have not negotiated and agreed to. It certainly makes sense to let the current president go beyond his term limit, as the country cannot conduct meaningful and acceptable elections in 2015. However, what are the conditions under which this extension will happen? This should be determined through the negotiation that involves all the stakeholders to the talks.

The Protocol creates a prime minister's position, with the parties to negotiate its role and powers. Since the incumbent president's position remains unaffected, the protocol mandates that prime minister's position should specifically go to the SPLM-IO. Although the proposition to create prime minister's office contradicts the Transitional Constitution of South Sudan, it is definitely a sensible and pragmatic thing to do to end the bloodshed. There are certainly legitimate voices that are concerned about rewarding rebellion with the power sharing agreement, but if the compromise can bring a lasting peace in the country, it is a necessary compromise. One of the critical questions the protocol is silent on is whether this office will continue beyond the transitional period. From what we have gathered, it seems the parties and even the IGAD heads of states agreed on creating this position only as a transient remedy to the conflict and the parties would definitely come up with a sustainable solution during the transitional period. Even better, it appears the government is content with the creation of the position, provided that it has considerably limited executive powers. In other words, the government would approve the position if the prime minister were the supervisor of the cabinet and not of the entire government.

One other controversy the protocol seemingly engenders is the provision that the person who shall fill this position shall not run for the elections at the end of the transitional period. It is controversial in a sense that the provision affects only one party to the conflict, namely, the SPLM in Opposition. The provision is simply unjust as it discriminates against one individual, the holder of this office. This seemingly creates a win-lose situation, which is never a sustainable in a circumstance of this nature. The only way this proposition would make sense is if a neutral party, with support from all the parties, takes up this position to lead the country into transition, as demonstrated in the Central Africa Republic, with the understanding that taking this position means not running for office in the coming elections. The fact that the position belongs to the opposition makes the provision rather less serious. Perhaps the reason the mediators are proposing this is to distribute power and in doing so, separate the two principals—President Kiir and former Vice President Riek Machar. However, the best way to separate them is to convince the rebel leader to assign someone from his side to be the Prime Minister who shall not seek the high office in the next elections to allow Riek Machar to battle it out with President Kiir in the next presidential elections.

Third, the other political parties have expressed in their negotiation papers the need for 'revitalization of agriculture and creation of sustainable rural livelihoods by directing oil revenues to rural infrastructure and agricultural development and investment in service

delivery, such as health sector, education, water and infrastructure.’ However, the paper has not specified the level of such services⁶ to be delivered during the transitional period. Nevertheless the proposal is seemingly useful in that if implemented, it can act as a true peace dividend to the citizens who, unlike the powerful political elites, are not able to get any share of power. While this appears as a minor threat to the progress toward reaching a peace agreement, lack of assurance for the provision of these services may make any agreement look like business as usual to the ordinary people. Business as usual essentially means that the elites will come back together and divide their cake with little regards to the citizens.

In addition, in its negotiation paper, the SPLM-IO has not clearly stated its position on the transitional justice regarding the atrocities committed during the war. However, the Protocol stipulates that individuals, groups and parties shall be held accountable for their actions. It suggests those individuals identified by the African Union Commission of Inquiries as demerits would be excluded from participating in the transitional government. As the SPLM-IO has not stated anything in its negotiation paper about transitional justice, could this be one of the reasons it has not been able to sign the Protocol? One would assume a party that has been very vocal about the atrocities committed, especially at the beginning of this conflict, would have a very clear position on this matter. It remains everyone’s guess, but it seems obvious that both parties would shy away from anything to do with the rigorous accountability and justice. In short, we are not able to ascertain what the opposition is thinking, but it is an important point to note moving forward.

The Protocol also brushes over the conduct of transitional justice during the transitional period. It is obviously noble to address issues of transitional justice as part of a broader peace settlement because people must be held to account and for the entrenched impunity to end. The problem though is that it is seemingly going to be applied selectively. It is possible that only junior officers may be used as scapegoats to take bullets for their bosses, but the real culprits, since they will hold positions of power, will not be affected. The protocol does not delve into this matter and it is only suggestive and not assertive. The AU Commission of Inquiry is only an investigative body without prosecutorial powers. This begs the question, who shall enforce its findings? This is important because justice does not end with the investigation. Any effective investigation should be accompanied by punishments.

In an attempt to address the aforementioned challenges of transitional justice, the Protocol enshrines Truth, Reconciliation and Healing Commission (TRHC) whose terms and mandate shall be negotiated by the stakeholders. A section in the Protocol yet stipulates another independent commission associated with the judiciary to investigate and prosecute individuals that have committed war crimes during this conflict. The problem with the two

⁶ Level of services in this context refers to how many kilometers of paved roads should be constructed, how many agriculture plantation projects, how many megawatt of electricity, how many schools, hospitals and sewage systems should be built during the transitional period

bodies is that they are likely to overlap in their mandates and seemingly they will create some legal redundancy. It would have been best had the terms and mandate of the TRHC been spelled out so that it is known for certain that there is a need for an independent judicial body. The reasoning could be that the Truth commission may deal with issues of reconciliation only and the judicial body will take the punitive actions. This is left to the parties to decide at the negotiation.

The great fear about these two provisions is that they are going to be negotiated primarily by the two parties. This poses a problem because both parties, with the knowledge that their forces might have committed atrocities, will most likely water down the functions of these bodies. It would have been better if the parties had agreed in principle to form these bodies, but then defer the deliberations on their mandates and terms to the national dialogue for wider and more inclusive and objective discourse.

3.2 Analysis of the areas of consensus

The parties, based on their negotiation papers, appear to agree on the need for critical reforms in the security, civil service, natural resources and financial management sectors and constitutional making, elections, national healing and reconciliation during the transitional period and beyond. The Protocol has incorporated these issues to be addressed in the peace talks.

However, the parties still have not agreed on the Protocol because they want power to protect their interests for they feel if not part of power, these issues may not be addressed. Another explanation for the parties' support of the proposed reforms is that they do not want to be seen as anti change just to attract followers and supporters, though in practice, reforms may not be on top of their agenda.

The Protocol talks about the permanent constitution-making process (SIC). In the first place, we should get the name right. No country has a permanent constitution. All constitutions are subject to amendments, and so they are inherently a work in progress. In light of this, it should just be called the Constitution of the Republic of South Sudan by omitting transitional or interim. The reason for getting this naming correct is because once it is permanent; people will resist making crucial amendments. Naturally, a constitution is a living document that grows and develops with the society, so it should be given a certain degree of constancy as well as a wriggle space for necessary or emerging changes.

Second, the protocol seems to pre-empt an important national dialogue issue by prescribing the system of government, for example, federalism. This is not a prerogative of the mediators, nor is it for the warring parties. South Sudanese must resist this attempt by the warring parties to negotiate and predetermine the direction of the constitution making process. The

constitutional making process should be an inclusive, broad-based process whose terminal stage should end in a referendum.

The constitution making process lies at the heart of translating any political agreement into sustainable peace in the country. Hence, the making of such a constitution should be subjected to a multi-stage-multi-party process. First, the debate about the constitution must be seen as a real peace making process. That is, it must be seen as a formal process of social contract between the state and the people. This means that there must be a debate between the elites (politico-military), the traditional leaders (chiefs and kings), religious leaders and the ordinary citizens to discuss their various visions for the nation. These debates should center on issues of power and state structures, economic resources related to equitable development, national security and the rule of law, rights of citizens in relation to the state, and the judicial unification in order to dismantle the duality between modernity and traditional systems of justice. The state should be renegotiated and safeguards should be put in place to prevent the elites from abusing power and taking the country to unwarranted wars.

These debates should happen at the Boma, Payam, County, and State levels. Once these debates are exhausted, the views of citizens from these places are profiled, analyzed, and brought to the national drafting committee, which shall present its draft to the national constitutional conference that is made up of traditional leadership, spiritual leadership, politico-military leadership, trade union leaders, youth, women, civil society representatives, academia and independent research institutions and representatives of political parties who shall debate the final draft of the constitution before a final referendum and eventually a presentation to the national legislature and to the president for signature.

We believe the constitution presents an opportunity for renewal, especially that of the relationship with the citizens and state. It is actually the peace process in every sense of the word. A political settlement only silences the guns, but it does not put the guns away. A credible constitution making process could actually put the guns away forever and bring people closer to the government and to themselves. The integrity of this process must be protected so that the warring parties do not hijack it and carry their war over into the process.

3.3 Comparison with August 24 Draft Protocol

Apart from the issues identified earlier, there are other important issues with the Protocol that are worth highlighting. The final version of the Protocol was signed by leaders of IGAD countries and President Salva Kiir and witnessed by the three members of the IGAD

Mediation Team. However, a first draft⁷ of the Protocol dated August 24, seemingly negotiated and agreed to by the stakeholders, reveals that the Protocol was supposed to be signed by President Kiir and former Vice President Riek as the principal signatories and endorsed by the stakeholders, namely: Mr. Deng Alor Kuol (SPLM Leaders), Dr. Lam Akol (Political Parties), Bishop Enock Tombe (Faith Based Group) and an unnamed Civil Society Representative to reflect the spirit of multi-stakeholder negotiations. In addition, The IGAD member representatives were supposed to sign as guarantors. Representatives from USA, UK, Norway, UN, AU, EU, China and IGAD Partner Forum were also supposed to sign as witnesses.

The fact that this process was not followed through the final signing of the Protocol makes it less binding on all the parties. The obvious way to determine what went wrong is to compare the Protocol signed on August 25 with the August 24 Draft Protocol. Apparently, August 24 Draft Protocol divides the powers between the President and the Prime Minister by making the incumbent President the Head of State and the Commander in Chief and the Prime Minister as Head of Government. By examining the negotiation position papers, we found out that most of the stakeholders wanted the prime minister to be the head of government. Comparison between the two documents reveals that the requirement for the Prime Minister to be someone acceptable to the President was allegedly added later to the new version. In addition, the role of the Prime Minister to be the head of government was dropped. Other than these provisions, the two documents are obviously the same in the remaining content, which suggests that the real disagreement is over sharing executive powers between the president and the prime minister.

3.4 Developments since the signing of the Protocol

After the Protocol was signed, the negotiations have been on and off. Revelations from the negotiations demonstrated that the role of prime minister has proven to be the most dividing issue. On the one hand, the opposition groups have continued to demand for an executive prime minister who shall play the following roles:

- Chief Executive and Head of Government,
- Chairs the Federal/National Council of Ministers,
- Directs the daily business of the government,

⁷ Read draft Protocol on Agreed Principles on Transitional Arrangements towards Resolution of the Crisis in South Sudan 24 August. This version was supposed to be signed on 24 August 2014. However, changes were made and the final version was signed on 25 August.

- Appoints members of the Federal/National Council of Ministers in consultation with and consent of the President in accordance with the Peace Agreement,
- Appoints, in consultation with and consent of the President, heads of independent institutions, commissions and parastatals as per the Peace Agreement,
- Coordinates the activities of the regional and international stabilization force,
- Initiates legislation on all matters of national development in accordance with the Transitional Federal/National Constitution,
- Negotiates international agreements, treaties and convention with approval of the Council of Ministers and the Senate/Council of State,
- Causes the preparation of the annual budget of the country and its presentation to the Federal/National Legislature,
- Appoints undersecretaries and other senior civil servants with approval of the Council of Ministers,
- Oversees the implementation of the Peace Agreement including the process of institutional reforms,
- Prepares the Council of Ministers' Meetings' Agenda in consultation with the President,
- Chairs the Federal/National Security Council and be a member of National Defence Council.

This demand is contrary to the terms of the Protocol, suggesting the opposition groups do not agree with the Protocol. On the other hand, the government has rejected this demand. However, it has agreed on the following to be the roles of the Prime Minister:

- Commander-in-Chief of SPLM/SPLA IO forces during the Pre-Transitional Period and before absorbing them into the Army,
- Consult with the Council of Ministers and the President on issues of public policy and government function,
- Oversees the implementation of laws and policies passed by the federal/national legislature,
- Follow up on the implementation of the Council of Ministers' resolutions with the relevant ministries,
- Any other functions as may be prescribed by the Constitution and the law

Apart from the above areas of agreement, the government has accepted to allow the prime minister to run in the post-transitional elections as opposed to the stipulations in the Protocol. This has been seen as a good gesture from the government. Furthermore, the parties also disagree on some of the roles of the president as much as they disagree on the roles of the prime minister.

Another notable development since the signing of the Protocol is that the SPLM factions namely SPLM IO, SPLM (in government) and SPLM leaders (former detainees) met in October 2014 for an intra – party dialogue in Arusha, Tanzania through the facilitation of Chama cha Mapinduzi, the ruling party of Tanzania. President Kiir and former Vice President Riek were there to launch the dialogue. This intra – party dialogue was a positive step towards the resolution of the conflict. At the very least, the dialogue softened hardened positions on both sides and allowed the parties to talk to each other in an honest and candid manner. This frank discussion could have some positive implications for the IGAD led peace process in that it may help reduce bitter feelings and build trust in a manner that can pave the way for a peace deal to end the fighting. However, some people have raised concerns that the dialogue may end up with the maintenance of the status quo, a proposition that might trigger conflict once again in the future.

Another step following this is the recent meeting between the President and the former detainees in the Ugandan capital, Kampala. Reports have it that the Ugandan President, Yoweri Museveni, organized this reconciliation meeting to bridge the differences between the President and the former detainees. Details of the meeting’s resolutions aren’t yet available, but the meeting is another step in a series of efforts to end the conflict and return the country to peace.

The region and the world at large seem frustrated and running out of patience with the parties. There is a sense of urgency within those quarters to try to put pressure on the parties to bring a speedy conclusion to this conflict. The President of the Security Council recently hinted at the readiness of the Security Council to slam targeted sanctions on individuals as well the imposition of an arms embargo on both parties, if they do not end the conflict. Before the parties went for consultation (from 10 – 24 November 2014), the IGAD heads of state and government passed a resolution⁸ dated 7 November 2014 which:

- Commits parties to an unconditional, complete and immediate end to all hostilities,
- Allows parties to go on a 15 day consultation on key matters,
- Spells out that if any party violates the cessation of hostilities, IGAD would start
 - the enactment of asset freezes,

⁸ See the Resolutions by the 28th Extraordinary Summit of the IGAD Heads of State and Government

- the enactment of travel bans within the region,
- denial of the supply of arms and ammunition, and any other material that could be used in war,
- Allows the IGAD to ‘take the necessary measures, without reference to any party, if need be, to directly intervene in South Sudan to protect life and restore peace and stability.’
- ‘Calls on the Peace and Security Council (PSC) of the African Union, the Security Council of the United Nations, and the entire international community, to render all possible assistance in the implementation of these measures.’

This is the first time the IGAD has come out with measures with far reaching dire consequences on individual actors and the country as a whole. This provision indirectly invokes the responsibility to protect doctrine of the UN Security Council. Ivorian and Libyan situations come to minds when it comes to these resolutions by the IGAD. What remains to be seen is whether the measures in the resolutions would nudge the parties towards reaching a speedy deal. And if the parties do not reach a deal, would the international players act to implement the resolutions?

Travel bans and asset freezes within the IGAD region could force the parties to reach a deal if the negative costs brought by these measures outweigh the benefits of not reaching a peace deal. However, the main risk in forcing the parties to reach a peace deal through these measures is that they can sign a peace deal that may not address the core issues of the conflict, just to avoid the consequences, a situation that may lead to a resurgence of conflict in the future. Experiences show that a good peace agreement can come when parties are willing to reach a compromise and sign a deal on their own terms rather than through coercion.

4 Conclusion and Recommendations

- Even though it is essentially supposed to be a blueprint for the resolution of the conflict, the Protocol on the Agreed Principles is partially binding on the parties considering the fact that it has only been signed by one principal party to the conflict and that the corresponding principal and four other stakeholders did not sign. The fact that the opposition groups have continued to demand executive powers contrary to the terms of the Protocol demonstrates its partial binding.
- Although the parties appear to have a consensus on the need for critical reforms in a number of sectors during transitional period and beyond, they will more likely run into disagreement during the negotiation on how such critical reforms should happen.

- The core problems which are keeping the gap among the parties wider appear to be the belief in military solution, mistrusts and bitter feelings caused by the atrocities, bad politicking and hate propaganda and a mindless focus on capturing and maintaining the state power.
- IGAD's role is critical, but it should demonstrate that it is thoughtful, impartial and candid in dealing with the parties to the conflict.
- A power sharing deal that does not guarantee mechanisms and safeguards for vital transformation is like saving this devastating conflict to explode in the future even at a greater magnitude.
- Mediators and parties should not re-invent the wheel when it comes to power sharing formula. They should look at the regional power formula including Kenya's power sharing formula⁹ following the election violence of 2007 – 2008 and the Zimbabwean power sharing deal of 2008.
- Mediators and international partners should objectively and impartially engage the parties to arrive at an amicable solution instead of judging them. This will build trust between the parties and the mediators.
- Faith based group should start an informal or a parallel dialogue and reconciliation process between communities and other affected parties to soften the hardened positions and reduce bitter feelings.
- The ongoing Intra -SPLM Dialogue should focus more on reconciling the leaders and less on reuniting the party to maintain the status quo. The Intra-SPLM Dialogue process should act as a trust building exercise geared towards achieving a sustainable peace through the IGAD led peace process.
- The threats of sanctions should be thought through very carefully because they tend only to antagonize the parties and they are rather symbolic and not impactful. The international community must be firm when it comes to those who violate the terms of any agreement and targeted punishment would be useful rather collective punishment.

⁹ See the Kenyan National Accord and Reconciliation Act 2008 <http://www.dialoguekenya.org/Agreements/28%20February%202008-The%20National%20Accord%20and%20Reconciliation%20Act%202008.pdf>. This Kenyan power sharing formula, which helped end the 2007 -2008 elections violence, gave supervisory and coordination roles of functions of the government and of ministries to the Prime Minister and any other function as assigned by the President.

About Sudd Institute

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.

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