



THE SUDD INSTITUTE

RESEARCH FOR A PEACEFUL, JUST AND PROSPEROUS SOUTH SUDAN

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Weekly Review

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Understanding the Cessation of Hostilities Agreements Violations in South Sudan

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Introduction

December 15, 2017, marked 4 years of a political turmoil in an independent South Sudan. This has culminated in the country's widespread insecurity, an unmatched humanitarian tragedy, and a heightening economic distress. This misery deepens as a host of efforts to stamp the instability continue to falter, one after another. Since 2014, several political settlements have been reached and nearly all of them have failed wholesale. The latest Cessation of Hostilities Agreement (CoH), signed on December 21, 2017, as part of another attempt to rescue and put life into a previous agreement, raised hopes for peace in South Sudan once again. The recent agreement, a constituent of the IGAD's High Level Revitalization Forum (HLRF), supposedly allows for the revival of the Agreement for the Resolution of Conflict in South Sudan, popularly known as the ARCSS. The ARCSS, signed in 2015, committed to addressing a political grievance mainly among SPLM splintered groups—SPLM-IG, SPLM-IO, and Former Detainees.

IGAD's High Level Revitalization Forum (HLRF) came on the heels of the 2016 gun-battle in Juba, after which there was little certainty as to the viability of the ARCSS. The parties to it have since engaged in a debate about whether ARCSS is dead, in a comma, or alive. The Transitional Government of National Unity (TGoNU), which was tasked with implementing the agreement, has been unable to implement it. And yet, it suggests that the agreement is still alive. But the opposition groups have insisted that ARCSS is dead and must be renegotiated. The recent CoH agreement became HLRF's first act of the monumental challenge of resuscitating the ARCSS. It restates a range of measures the preceding settlements had invested in. Familiar stipulations include specified time during which all hostilities ought to cease, full compliance by the parties, unfettered humanitarian access, disengagement from hostile propaganda, protection of vulnerable persons, and the roadmap through which the agreement should be promoted by the stakeholders.

The peace revitalization process, now heralded by the CoH–2017, offers some measure of innovation, and this makes it desirable to those concerned, injecting some hope back into

the rather hopeless political malaise in the country. As opposed to focusing on the initial 4 parties to the ARCSS, the current model advocates for a participation of 14 politically discontented groups, fulfilling the ever-growing demand for an inclusive process.

The CoH was followed by a slew of press statements by the top leaders of the competing parties and orders to various military units to abide by the letter and spirit of the agreement. Unsurprisingly, and despite the hopes and the fanfare surrounding its signature, the newly inked pact, like the ones before it, is already in tatters. Just days following the signing, a number of violations to this agreement have already been documented, angering the chief guarantor, IGAD. On December 29, IGAD outright condemned these violations, called upon the parties to ‘come to their senses’, and promised accountability measures against the culprits¹. It also called for an increased monitoring of the situation by UNMISS and JMEC. The Troika also issued a strongly worded condemnation of the violations. But whatever will happen to the violators of the CoH, the undeniable reality is that these violations, occurring within hours of the agreement, only concretize the suspicions among the South Sudanese citizenry, that the agreement had not really amounted to much in the first place, given the well-known belligerent behavior of the competing political and military leaders in South Sudan.

In this review, we highlight potential causes of failure for the South Sudanese cessation of hostilities settlements. We raised some of these points in a recent publication on the revitalization process and the prospects for peace in the country². Lastly, we offer advice on how to make the ongoing peace initiatives, particularly the security aspects of the ARCSS, more effective. In this review, we highlight matters respecting incentives, preparedness for the implementation, military command, trust, and ripeness of the conflict.

Incentives

¹ The Chairperson of IGAD Council of Ministers expresses his deep concern and disappointment over the violations of the Agreement on the Cessation of Hostilities, Protection of Civilians and Humanitarian Access signed in Addis Ababa on the 21st of December, 2017 by the Parties to the conflict in the Republic of South Sudan.

The Chairperson of the IGAD Council of Ministers strongly condemns the violations of the Agreement on Cessation of Hostilities, demands an immediate end to all forms of hostilities; and calls upon all the parties who violate the Agreement to come to their senses.

The Chairperson of IGAD Council of Ministers expresses its firm position to hold all violators accountable in accordance with the resolutions of the 28th Extra-ordinary Summit of the IGAD Heads of State and Government of 24 November 2014 and any other provisions of International Law.

<https://igad.int/programs/115-south-sudan-office/1732-statement-by-the-chairperson-of-igad-council-of-ministers-on-violations-of-the-agreement-on-cessation-of-hostilities>

²https://www.suddinstitute.org/assets/Publications/5a190f01a0581_TheRevitalizationOfTheARCSSAndTheProspects_Full.pdf

More generally, all negotiated political settlements are inherently bad but some can be effectively enforced for desirable results. The bad element of such agreements is constituted in the fact that they are often a product of a compromise, not a complete satisfaction of the parties. In the South Sudanese context, the 2005 Comprehensive Peace Agreement (CPA), which culminated in the independence of South Sudan, makes for a good example. The CPA benefited from both carrots and sticks in realizing its goals and objectives. In other words, in the CPA case, both positive and negative nudges were applied. Because parties have to give something up in order to get something in return, this creates a middle ground for action. This point underscores the importance of incentives in motivating action for implementation. Incentives, therefore, are instrumental in shaping behavior. The recent South Sudanese political settlements are littered with duress and empty intimidations from the sponsors. While duress can produce a signature from the parties as the previous experiences show, it does not necessarily beget implementation. Other than a ubiquitous reference to the cliché that the parties must do what is right by their people, there are rarely incentives or consequences attached to a particular behavior. For instance, an economically distressed Transitional Government of National Unity (TGONU) may respond positively to financial assistance that is premised upon an adherence to the agreement. What is more, a bad behavior goes unpunished. The current situation in South Sudan is partly produced by the absence of both incentives and punitive measures.

Limited preparation for the implementation

In essence, the Cessation of Hostilities agreement was only an agreement to pave the way for a more comprehensive agreement on the fate of ARCSS down the road; it was not in itself a political pact that offered the warring parties, especially those in opposition, any meaningful incentives to encourage them to cease attacks. Instead, it was a promise, that once the guns were silent there would be a political process to end the war and divide power and resources.

The CoH was a response to a gesture from the conflict parties, that there is willingness on all sides to end the suffering of the South Sudanese. As such, anyone who is familiar with the Sudanese and South Sudanese game of peace talks would have remembered that the eve of peace agreements is often characterized by more military action, aimed at possible last minute gains in order to boost one's negotiating position. This is what happened with this CoH, where the armed parties who signed the agreement went on the offensive soon after, perhaps with the calculations that they will be a force to reckon with during the next phase of talks.

When the current CoH agreement was signed, the parties were left alone to make do with whatever they have in their disposal. But in a country as vast as South Sudan and where troops are scattered in remote locations, have no meaningful command structure, and are logistically isolated, including poor communication, it was nearly impossible for them to abide by the agreement in such a limited amount of time. For example, there are indications that with limited material support, some of the forces fighting in the remote locations felt that the agreement did not really address any of their unique circumstances, and that they will most likely be excluded from any gains that might result from a future peace deal. Additionally, the conditions in which some of these fighting forces operate

render some of the commitments of the agreement inoperable, including the fact that there is common skepticism among many South Sudanese who have been victims of many past violations and who question the utility of yet another CoH agreement without concrete guarantees by the international community. When these violations occur as they did recently, they often get blamed squarely on the warring parties. But is it really the sole responsibility of the warring parties, especially if we suspend for a moment the now ubiquitous refrain that it is South Sudanese moral obligation to safeguard the lives of their own people? It behooves those in charge of monitoring the CoH agreements to ask the basic questions about why these agreements are so quick to violate. Are the warring factions truly bent on continuation of war? Or is it the lack of trust between the parties, who will flinch first sort of thing? Or is it then a question of laxity in the command of forces? Whatever drives the violations, it is our conviction that as much as these agreements are a product of collective efforts between the warring parties, mediators and donor countries, their success requires a collective endeavor to implement them. There ought to be sufficient preparations for implementation prior to the signing of such agreements.

Lack of trust between the parties

There is strong evidence suggesting that the military and political landscape of South Sudan, due to the protracted nature of violent confrontations, is ripe with problems of confidence in self and trust in others, not just at the level of top leadership but also within the rank and file of the various political and military outfits competing to seize state power and control of the country's resources. This lack of confidence and trust neatly plays into the failure of the South Sudanese peace agreements. It is a bit odd to expect people who have been locked into deadly military confrontations for prolonged periods of time and who have become very bitter towards one another to suddenly begin to embrace one another, forget all the ensuing atrocities endured, and build friendly relations as members of competing units.

Building this trust prior to an implementation of any sort of agreement is likely to increase cooperation among the parties. This suggests that no amount of duress can produce this cooperation. The attitude of mediators and sponsors is that the first violation is seen as the death of the whole agreement, when in fact, a minor violation here or there should be sufficiently investigated and the results shared widely with all the parties and used as an example of what goes wrong and how to prevent the repeat.

Military command

There is a clear indication that the warring parties aren't necessarily in control of their forces. Field commanders, not their superiors, seem to have a final say. In the absence of a coherent military command, chances are that a sufficiently functioning cessation of hostilities could not be easily attained. Even more importantly, at the level of an individual fighter, individual circumstances and the lived experience of a prolonged conflict, where combat takes place in very harsh conditions and where commanders do not really represent the most caring of the welfare of their subordinates, often command orders amount to very little, if any at all. We have observed that in many of South Sudan's agreements relating to ending the on-going war, there is always a glaring tendency to think that the mere signature of an agreement and its announcement to all forces is necessarily going to be heard by everyone and heard in its correct spirit and letter. It takes time in

South Sudan for information to travel and for the agreement and subsequent orders issued to be received and sufficiently understood.

Furthermore, applying these political accords to resolving heavily technical situations and expect to get peace has proven a fallacy. Political pacts reached in foreign capitals and whose focus is the top leaders do not necessarily address all the grievances of the local commander and the foot soldier. Such a complex and nuanced conflict, as in South Sudan, is difficult to explain in uniform terms and addressing one issue at the peace talks, say a competition for public office, does not automatically answer the questions of what drives disparate communities and draws different individuals to conflict. It is, therefore, logical that monitoring violations of such agreements should also be from this nuanced angle, to ensure that we are actually getting to the bottom of why violations happen, instead of a rush to vilification of the violating party. This is not to suggest that parties should not be held responsible for their actions, but to simply point out that an entire party to the conflict should not be assumed responsible for the transgressions of its individual members or group of fighters who may be unhappy with the agreement or its particular terms.

If a number of these minute details from inside the belly of the conflict are unearthed by the monitors, situating the violations in the right context, it might be more useful even to the central commands of these warring parties to utilize such an information to better monitor and direct their forces. It would provide the mediators and the sponsors such as IGAD, JMEC, EU or the Troika with information that they can use to engage the country's leadership. This allows the monitoring process to be a joint effort of the parties to the conflict and the mediators, and not just as a process that leads to a rushed judgment of the warring groups.

Ripeness of the conflict

CoH agreements signed when conflicts are not ripe for resolution are prone to violations. I. W. Zartman argues that a conflict is not ripe if one or more of the parties think that they can still outright win the conflict. Ripeness arrives when there is a stalemate, when the parties reach a mutually hurting level, when no alternatives are available for any party to think they can win. In the South Sudanese case, the government has a strong advantage in the frontlines, making it think that it can win the war. However, the government commands limited international support. This weakness of international support is used by the rebels as their strength, hoping that when the international community successfully blocks the government from buying arms, they can defeat it. In addition, the economic situation gives hope to the rebels that they can defeat the government or that the government will collapse, ushering in an inevitable opportunity for transition.

In a situation where one party is weak, a ceasefire is viewed as an opportunity to gain military advantage. Since the rebels are weak in the frontlines, ceasefire is not in their best interest as they do not hold a single important town to use as a bargaining chip. Note, a ceasefire can hold only if the consequences of violating it are higher than the consequences of holding it. The government perhaps believes that allowing ceasefire gives the rebel a time to recuperate and prepare for an attack. The rebels might see the ceasefire as truly an opportunity to prepare for a military offensive to gain territories and grounds so that they can have advantage at the next negotiating table.

Lastly, timing of a ceasefire is crucial. If you add the fact that the parties think military confrontation is still a viable tool for winning the war or gaining the stronger position, it gets complicated when you sign a ceasefire at the beginning of the dry season, especially when military offensives are usually viable. Thus, signing the ceasefire at the start of the dry season without strong restraints and incentives was a bad idea. This does not mean that war should continue, but presenting an agreement at the time the parties were already preparing for operations and cry foul at violations, is a little astonishing. That said, the mediators could have had a great shot at sustaining the recent CoH if they prepared the parties to sign such an agreement during the wet season to give time for negotiations.

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.

Author's Biography

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Jok Madut Jok is a cofounder of the Sudd Institute. He is the author of three books and numerous articles covering gender, sexuality and reproductive health, humanitarian aid, ethnography of political violence, gender based violence, war and slavery, and the politics of identity in Sudan.