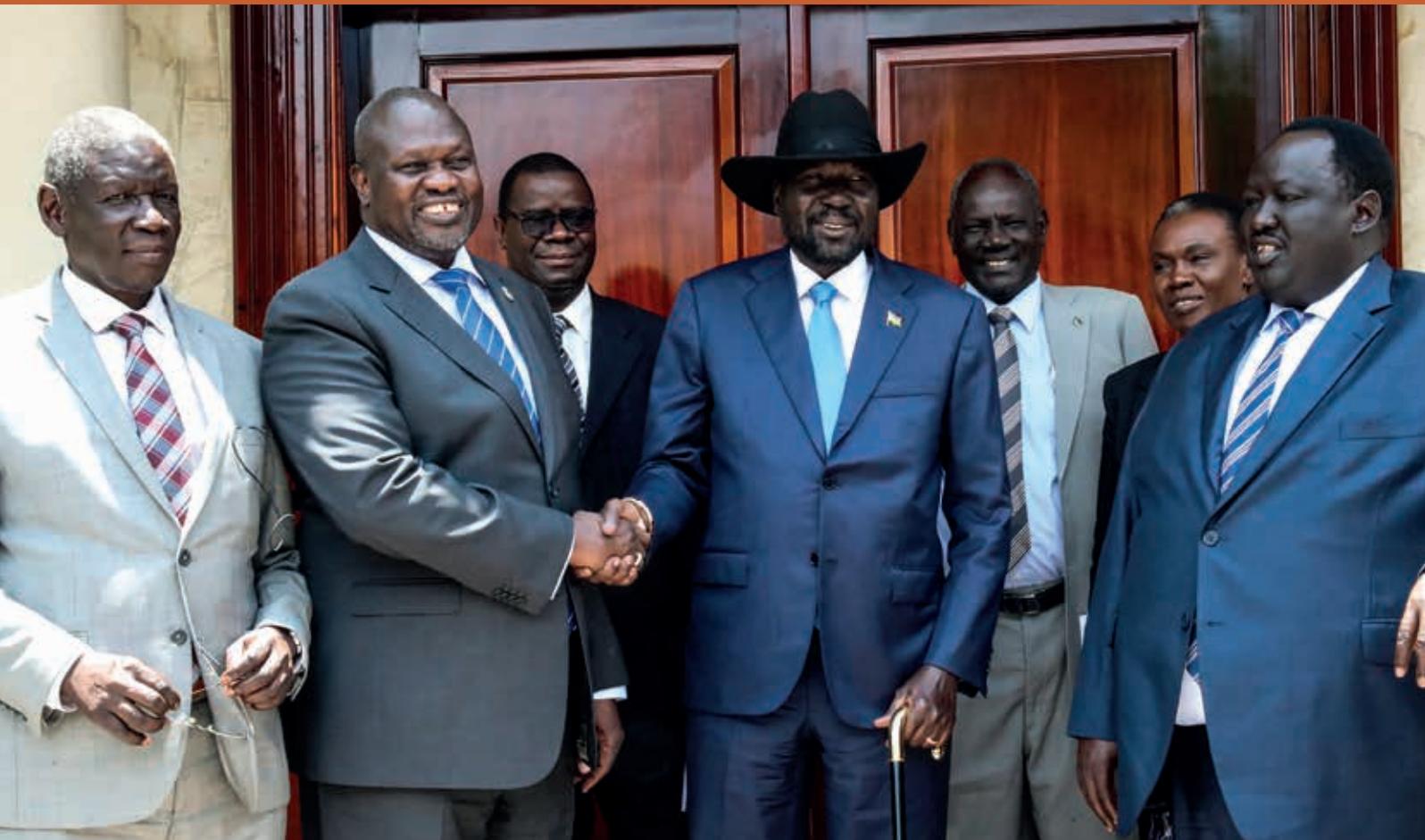


South Sudan's transitional government

Realities, challenges and opportunities

Emmaculate Asige Liaga



South Sudan's Revitalised Transitional Government of National Unity provides a roadmap to resolve the country's civil war. But the transition has not been smooth due to profound structural political disputes, deep-seated corruption, inter-communal conflicts and a shrinking economic base. This report analyses the challenges facing the transitional government and the opportunities for stabilisation.

Key findings

- ▶ The formation of the Revitalised Transitional Government of National Unity (R-TGoNU) provides a roadmap to resolve South Sudan's civil war.
- ▶ The transition has not been smooth and the R-TGoNU has been riddled with challenges, brought about by, amongst other factors: the underlying political tensions amongst the elite that have, over time, developed into profound structural political disputes and dysfunctionality; deep psychological and emotional effects of long-term violence; deep-seated corruption; endemic inter-communal conflicts; and a deteriorating humanitarian situation, worsened by the COVID-19 pandemic and the shrinking economic base.
- ▶ The lack of 'political will' to address issues is apparent in South Sudan.

Recommendations

- ▶ The R-TGoNU governance cluster should recalibrate an effective Agreement Implementation Matrix to catch up on set targets towards holding elections.
- ▶ Middle-level non-governmental organisations, international non-governmental organisations, churches and community groups should continue inclusive investments in peacebuilding and in mediation of local conflicts through cooperation and partnerships in their projects.
- ▶ The African Union, Intergovernmental Authority on Development (IGAD), United Nations Human Rights Council, United Nations Security Council, and the Troika need to continue with robust and sustained engagement in pressuring the R-TGoNU to deliver the intended objectives regarding women's inclusion and participation.
- ▶ IGAD and the Reconstituted Joint Monitoring and Evaluation Commission through their respective special envoys/representatives should scale up their political and diplomatic pressure on the two main principals to hasten the R-TGoNU's slow implementation of remaining tasks.

Introduction

The Revitalised Transitional Government of National Unity of South Sudan (R-TGoNU) was established on 22 February 2020, 17 months after the Revitalised Agreement on Resolution of Conflict in the Republic of South Sudan (R-ARCSS) was signed on 18 September 2018. It was met with an atmosphere of hope and optimism – locally, regionally, and internationally – after years of negotiations by the signatories and facilitated by the combined efforts of regional and international actors.¹

The establishment of the R-TGoNU came about against a backdrop of nationwide civil conflict caused by entrenched political divisions within the then-ruling elite, deeply entrenched communal tensions, ethno-political polarisation, bad governance, corruption, and innumerable after-effects of a protracted and tumultuous Sudan-South Sudan (also called Southern Sudan) conflict.

Since the signing of the 2005 Comprehensive Peace Agreement (CPA),² several Juba-dominated elite-level power-sharing agreements were signed, addressing the cycles of conflict and attendant violence between 2013 and 2016 across the country. Of importance is the short-lived 2015 Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS) facilitated by the Intergovernmental Authority on Development (IGAD) with the resumption of fighting on 7 July 2016, two days before the anniversary of South Sudan's independence.

The journey to the implementation of the revised transitional arrangements has been a long and exhausting one for South Sudan

This encouraged a more agile engagement by IGAD Member States, in particular Sudan and Uganda, through crisis diplomacy interventions and engagement with Juba, who came back to the table through international pressure as the hostilities deteriorated into stalemate, inflicting damage on an already fragile economy.

Through a subsequent High-Level Revitalisation Forum, IGAD facilitated the delivery of the R-ARCSS, and the transitional government remains as its best outcome attempt towards restating a South Sudan-owned peace and development agenda for this new country and towards a commonly envisioned peaceful and democratic society. Eighteen months after its establishment in February 2020, halfway through the transition, an assessment of the performance (or lack thereof) of the R-TGoNU would be beneficial.

This report analyses existing dynamics on the underlying challenges and opportunities for the full implementation of the R-ARCSS by the R-TGoNU

22 Feb 2021

ESTABLISHMENT OF SOUTH
SUDAN'S REVITALISED
TRANSITIONAL GOVERNMENT
OF NATIONAL UNITY

and how various actors and warring parties are adjusting to the conditions of the power-sharing arrangement. It provides a crucial tool for South Sudanese policy actors and stakeholders to diagnose obstacles that may hamper progress and thereby provide an opportunity to make amends during the transition.

The report argues that South Sudan's challenges are caused by a combination of external and internal historical divisions and the weak foundations of a modern state that affects the commitment of the elite to the implementation of the R-ARCSS.

The report is organised into three major sections. The first section outlines the realities facing the R-TGoNU by giving a historical account of the context within which the agreement was conceptualised and is being implemented, and also provides a brief discussion on the formation of the R-TGoNU as well as a general description of the R-ARCSS. The second section lays out the prevailing political, security, humanitarian, and socio-economic context of the challenges various actors are facing and how they are adjusting to the power-sharing arrangement. Finally, the report proposes recommendations and possible avenues for consolidating gains already made.

Methodology

This report was subjected to qualitative methods of research, entailing the utilisation of historical analysis, exploratory research processes and the utilisation of in-depth analysis towards understanding the challenges facing the R-TGoNU and realising peace.

The qualitative approach involved integrating necessary and corroborative dialogues from three key constituencies: the South Sudanese constituencies, regional players, and international experts to provide a comprehensive analysis of the critical questions. The report, therefore, has a consolidation of both primary and secondary data.

Primary data was collected from key informant interviews, which heavily drew on interviews and discussions with diplomats; military officers; international actors and leading analysts on regional political-security affairs; representatives from the AU, IGAD, USAID, international NGOs, R-TGoNU, and the South Sudan Council of Churches (SSCC); local community members;

civil society groups; and academics (both in South Sudan and abroad).

Due to COVID-19 and the restrictions on travelling, most of the interviews took place virtually across eight countries with field visits and engagements in Kenya. The collection of data was carried out between 2 October 2020 and 30 April 2021.

South Sudan has a history of years of intractable conflict first ranging from 1955 to 1972

The primary data was supplemented by extensive secondary data from literature reviews of both academic writing and policy reports.

Through a thematic analysis method, the report uses a political analysis framework to analyse the behaviour of actors in the R-TGoNU in implementing the R-ARCSS and the interactions between the policy makers, interest groups and institutions and their impact of R-TGoNU. It is worth noting that this report does not attempt an analysis of the strengths or weaknesses of the R-ARCSS as this would be outside the remit of the terms of reference of this work.

It is the hope of the researcher that this paper will spur more scholarly and policy analysis on the effectiveness of the peace process as the R-TGoNU is implemented.

Formation of the state of South Sudan: elusive peace

The journey to the implementation of the revised transitional arrangements has been a long and exhausting one for South Sudan and its stakeholders. A brief historical analysis will provide insight into the legacies which informed the country's birth and liberation. Most of those that remain are apparent not only in how the nation is organised but also in how it is divided from within.

South Sudan has a background of years of intractable conflict. The first period of conflict, ranging from 1955 to 1972, was the result of the south calling for greater autonomy from Sudan.³ During this time, the south did

not possess enough infrastructure for a major offensive against the north, thus a guerrilla war was launched by the southerners.

The conflict escalated in 1962, owing to improved organisation and consolidation of southern forces under the rebel group Anyanya,⁴ with various principal leaders,⁵ most notably Joseph Lagu.⁶ The First Civil War ended with the 1972 Addis Ababa Agreement signed by the former Sudanese president Jaafar Nimeiri and Joseph Lagu. However, in 1983, Nimeiri independently revoked the Addis Ababa Agreement and declared the entire Sudan to be governed under Sharia law. This was the start of the Second Civil War of 1983–2005.

With the Second Civil War came the birth of the Sudan People's Liberation Movement/Army (SPLM/A) under the leadership of John Garang de Mabior. As a former officer in the Sudan Armed Forces (SAF), Garang operated in the underground mobilisation of some southern command officers who were planning for the rebellion, allying with the mutineers and Anyanya II.

However, soon there were disagreements over the nature of the leadership and the struggle's objectives and the alliance fractured. Anyanya II was sidelined by the SPLM/A who took over the primary liberation movement until the signing of the CPA in 2005.⁷ Similar disagreements within and between parties have continued to afflict South Sudan to date.

While the North-South conflict in Sudan was taking place, internal strife and fragmentation ensued within the liberation movement. Within the SPLM, disagreements and opposition to Garang (an ethnic Dinka from Bor) and his approach to unity and self-determination led Riek Machar (an ethnic Nuer) and Lam Akol (of Shilluk descent) to split from the SPLA.

This resulted in the formation of the breakaway SPLA-Nasir in 1991 following the failed coup attempt against Garang. This breakaway weakened the military and political arms of the SPLM/A, polarised the south, and rendered the 1990s a turbulent time for the south. To date, the legacy of this rift has had far-reaching consequences.⁸

Initially, the rift was due to ideological differences within the highest ranks of the southern military leadership but it rapidly became a full-scale conflict between the Dinka

and the Nuer, picking up ethnic tensions that continue to reverberate in South Sudan's politics post-secession.

The splinter opposition movements later aligned with and signed agreements with Khartoum – including the Khartoum Peace Agreement (KPA) encompassing Machar's faction and the Fasoda Agreement of Lam Akol – that gave assurances of 'self-determination for Southern Sudan'. Both agreements failed and Machar (in 2002) and Lam Akol (in 2003) rejoined the mainstream SPLM/A. Despite opposition from members such as Salva Kiir (who was then third in line), six protocols were negotiated towards the signing of the CPA between 2002 and 2004, which was signed in 2005, albeit contributing to mistrust within the party as a result.

In accordance with the CPA, South Sudan participated in a referendum on 9 January 2011 which culminated in the creation of South Sudan as a new state with Salva Kiir as president and Riek Machar as vice-president.⁹

Sudan's rifts began from political differences within the highest ranks of the southern military leadership

South Sudan enjoyed relative stability¹⁰ after the secession, despite ignored disputes between Sudan and South Sudan, for instance the Heglig conflict involving security, ownership of land and control of oil production between Sudan and South Sudan over the oil-rich Abyei region.

Hopes of long-term peace in the young country were shattered with the outbreak of large-scale violence in December 2013. With the inherited legacy of a power struggle for leadership in the SPLM, disagreements inside the party sparked the nationwide civil conflict. Given the historical friction between the two principals, Salva Kiir's claim that Riek Machar had attempted a coup d'état was denied by Machar, who was in hiding, citing that it was a disagreement between the presidential guards and the party in general.

Fighting continued between government forces aligned with Salva Kiir and those loyal to Riek Machar, who formed an opposition group under the banner of the Sudan People's Liberation Movement/Army-in-Opposition

(SPLM/A-IO).¹¹ This was indicative of the failure of the SPLM to overcome internal conflicts, the contours of a power struggle and the democratic deficits that were leading to the civil war in an already fragile society.

Fighting began in Juba before quickly spreading to the Jonglei, Unity and Upper Nile states that harbour a large section of the nation's Dinka and Nuer population.

Significantly the violence was fuelled by unresolved grievances between different ethnic and identity groups, remnants of South Sudan's past crises, leading the 2013 civil conflict to emulate and pick up ethnic undertones consistent with the pre-independence period of the 1990s.

As a result of this civil war, an estimated 383 000¹² South Sudanese have died. In addition, United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reported¹³ that by December 2018, about 5.7 million people had been affected by different humanitarian afflictions. This created Africa's largest humanitarian crisis and put a strain (mostly) on the East African countries who were affected by the war and accommodated many of the refugees who fled the country.

Following the unfolding of the 2013 conflict, peace negotiations were yet again on the table, mainly (but not exclusively) between the SPLM-IG and SPLM-IO.

Most notably, in August 2015, the ARCSS was signed between the SPLM/A-IG and SPLM/A-IO led by President Salva Kiir and by First Vice-President Riek Machar, respectively. ARCSS called for a Transitional Government of National Unity (TGoNU), returning Machar who had previously fled in the aftermath of the 2012/2013 civil war.

On 7 July 2016, two days before South Sudan marked its fifth anniversary of independence, despite an agreement reached, South Sudan descended into another armed conflict. The eruption of fighting watered down any progress that had been made towards implementing the 2015 ARCSS agreement.

With the escalation of the civil war in 2016, violence spread into many areas of the country previously unaffected by the fighting, including areas of Central, Eastern, and Western Equatoria. This was fuelled by the many minorities ethnic groups who felt marginalised by

the prominent Dinka and Nuer ethnic groups who still dominate politics and the peace agreements.

These states quickly mobilised into independent armed groups or aligned themselves with the SPLM/A-IO. This political realignment was to the benefit of Machar as it pushed the Equatorian region, which had mostly remained neutral, either against the government or on to his side. It, however, introduced additional competing powers as more Equatorians joined the SPLM/A-IO and, with the various agendas and grievances, this led to the disintegration of the SPLM/A-IO. Machar fled to the Congo in July 2016 and his second-in-command, Taban Deng Gai, replaced him.

The rivalries and switching of allegiances further weakened the prospect of a unity government in South Sudan. There was very little commitment to the agreements signed and the peace process within the high-ranking echelons of government and opposition forces. Therefore, despite regional and international interventions, South Sudan continued to face sporadic violence.

The UN reported that by December 2018, about 5.7 million people had been affected by the civil war

A High-Level Revitalisation Forum (HLRF) was formed on 12 June 2017 – a joint action by major stakeholders in South Sudan, including IGAD, IGAD-plus, the AU, the UN and the Troika. Their endorsement focused on strategies to bolster the defunct 2015 ARCSS by restoring the ceasefire, a Revitalised Transitional Government of National Unity (R-TGoNU), revising the ARCSS implementation schedule towards reform in South Sudan and the holding of elections at the end of the agreement's timetable.

On 12 September 2018, the R-ARCSS was signed,¹⁴ rebooting the initial commitments to peace first established by the 2015 ARCSS. These agreements include the Agreement on the Cessation of Hostilities, Protection of Civilians and Humanitarian Access (COHA) and its addendum; the Khartoum Declaration of Agreement between Parties to the Conflict in South Sudan; the Agreement on Outstanding Issues of

Security; and the Agreement on Outstanding Issues on Governance. The R-ARCSS stipulates the formation of a new transitional government (R-TGoNU), led by Salva Kiir, leader of the SPLM-IG and the president. He saw the swearing-in of the leader of the SPLM-IO, Riek Machar, as the first vice-president in charge of the governance cluster.

As provided in the R-ARCSS, four other vice-presidents were also sworn in: James Wani Igga and Taban Deng Gai (from the incumbent TGoNU), respectively tasked with the economic and infrastructure cluster; Rebecca Nyandeng De Mabior (representing SPLM Former Detainees), mother of the nation and spouse to the late SPLM leader, John Garang, as vice-president responsible for the youth and gender cluster; and Hussein Abdelbagi Akol Agany representing the South Sudan Opposition Alliance (SSOA).

Formation of the Revitalised Transitional Government of National Unity

Transitional power-sharing governments are not new and can be observed in several administrations in African countries, for example, Burundi, Côte d'Ivoire, Kenya, Zimbabwe and the Central African Republic (CAR). They are often used as a crisis management technique by such countries and they are a manifestation of their dedication to peace. Despite the differences in these countries' circumstances and contexts, some attributes of the complexities and best practices of how such power-sharing systems work can be generalised.¹⁵

Rivalries and switching of allegiances have weakened the prospect of a unity government in South Sudan

If not well managed, the exclusion by such systems of much of the population and public interest with a focus on narrowly conceived power-focused transitional dispensations can affect the functionality of institutions. If the functionality becomes a reflection of elite interests in terms of service delivery, or the lack of it, there can be cumulative effects on the management of future conflicts.

The R-ARCSS should be understood as a document that broadly covers the various issues that have affected peace and stability in South Sudan. It represents a possible pathway for the new nation to attain a constitutional democracy. A transition process, especially in South Sudan, would enable democratic consolidation, which has been limited by a lack of internal constitutional democracy and institutionalisation.¹⁶

Substantively, the R-ARCSS maps far-reaching reforms akin to restructuring the state or ushering it towards a democratic goal and the foundations of a viable modern state.¹⁷ The transition is to be a process through which various restatements and reforms of policies and laws take place, restructuring various state institutions and ushering in a new constitution. In that sense, it represents a tool for state reforms and exemplifies a transition towards democracy guided by elections, which are to be held 60 days before the end of the transitional period (that is originally set to be around February 2022), 36 months after the formation of the R-TGoNU.

The ambitious three-year transition provided by R-ARCSS includes sharing positions and duties between the government and the opposition groups from various parties.

Among others, the tasks and areas of delivery cut across:¹⁸

- Enhancing a space towards realising sustainable peace
- Carrying out radical reforms of public financial management systems for transparency
- Devolution of powers and resources to the state and local government levels in the form of a workable federal system
- Expediting the dignified return and reintegration of forcefully displaced members of South Sudan society (both refugees and internally displaced persons)
- Facilitating a people-driven process of national reconciliation and healing
- Overseeing and ensuring the conversations and processes that would deliver a permanent constitution
- The restructuring, rehabilitation, and radical reforms of the civil service

- Designing and implementing security sector reforms and transformation
- Reconstitution of a competent and independent National Elections Commission (NEC) to conduct free, fair and credible elections before the end of the transitional period
- Conducting a national population and housing census within 36 months

Path for peace in South Sudan?

It is hoped that these transitional arrangements will provide a path to peace through the delivery of numerous reforms and commitments provided for in the R-ARCSS. This will have implications on the democratic process in the country, a defining moment that has been suspended since independence.

Generally, the signing of the peace agreement has significantly reduced the incidence and intensity of organised civil war and violence with the COHA being upheld to a greater degree in most parts of the country. It is now easier for former protagonists to interact and hear each other, and free movement across the country is possible. This has undoubtedly led to strengthening activities and relationships that promote social cohesion between different groups – like trade and markets – and reinforcing peacebuilding efforts.

Violence against civilians by armed actors has decreased from 23% in early 2020 to 11% towards the end of the first year of the R-TGoNU

As levels of violence reduce across the country, communities resume their economic cross-border interactions and dependency on each other. As observed by a civil society member, ‘People in Western Equatoria receive their primary source of meat from cattle herders from Bar el Gazal. During the war, there were restrictions to movement. Now you can see traders coming in and out of other communities to trade.’¹⁹

It has also promoted consultations between communities towards the implementation of the peace agreement. These consultations have linked the leaders to the population for the first time in a long time. It provides all South Sudanese and their stakeholders with an opportunity to reflect on the ruling structure of the country. As a South Sudanese professor noted, ‘We can now think about what we got wrong or right. Who is the stumbling block? Who could be a helper in this process? Most of all, we can now sit and create a government that works for us.’²⁰

The transition process has also heralded the return of South Sudanese refugees and internally displaced persons (IDPs), with a cumulative number of 241 390 returnees since the signing of the agreement.²¹

241 390

SOUTH SUDANESE REFUGEES
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Power-sharing transitional governments have played a critical role in ending most civil wars in recent decades. Despite the progress, South Sudan's R-TGoNU represents a complex, multifaceted diplomatic formation of the transition process. Despite the positive aspects, there is still much to be done. For instance, the United Nations High Commissioner for Refugees (UNHCR) reports dire livelihoods for many of the returnees, among whom at least 70% have not been able to go back to their former residence. It should also be noted that the returnees represent a small fraction of South Sudan's refugee population that stands at 2.2 million, the highest in the continent.

Violence against civilians by armed actors has decreased from 23% earlier in 2020 to 11% towards the end of the first year of the R-TGoNU. Abductions generally saw a decrease of 70%, in part due to a reduction in forced recruitment for military purposes.²² However, the United Nations Mission in South Sudan (UNMISS) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) reports ongoing armed violence involving community-based militias.

For instance, in 2020, among the Dinka, Nuer and Murle communities in Jonglei State and the Greater Pibor Administrative Area, 1 058 people were killed, at least 686 women and children, mainly from the Murle community, were abducted and 39 Murle women were sexually assaulted.²³

Key challenges faced by the R-TGoNU

Currently, the anticipated 'peace dividends' have not materialised.²⁴

Like most peace agreements, the design of the R-ARCSS assumes its smooth implementation and execution. Since the formation of the R-TGoNU, however, the transition has been far from smooth and the progress has been very slow and problematic. Over the months, the R-TGoNU has failed to honour the delivery of most of the R-ARCSS's intended objectives. There have been multiple missed deadlines, violations of agreed provisions and delayed implementations.

This has increasingly frustrated the South Sudanese and international stakeholders, casting doubt on the future of the current deal and the prospect of elections as guided

by the R-ARCSS. Less than 18 months of the initial 36 months remain. At best, this situation raises fears of keeping South Sudan in a state of transition for a few more years, or worse, a return to (both high- and low-intensity) violence with the failure of the state reforms or possibly elections contentions.

Slow transition and implementation plan

The implementation of the R-ARCSS by the R-TGoNU continues to face various impediments, delays and violations in its process.

Delays can be traced back to the interruptions experienced before the formation of the R-TGoNU. Initially, it was set to be formed eight months after signing the R-ARCSS on 12 May 2019 but this deadline was missed and the I-TGoNU received an extension of six months to 12 November 2019, and then a further extension for 100 days to 22 February 2020.²⁵ During this time, the execution of some crucial pre-transitional priorities of the I-TGoNU proved to be challenging.

Abductions decreased by 70%, in part due to a reduction in forced recruitment for military purposes

The most notable problem was the emotive question of the number of states and boundaries. There were major differences within the I-TGoNU and other opposition parties over the state boundaries. This contestation goes back to October 2015, when Salva Kiir unilaterally ordered the country to be divided into 28 states – an action which went against the signed ARCSS – and later on increased this to 32 states. The opposition insisted on reverting to 21 states and Machar made this a condition to him signing the R-ARCSS.

After much debate, and before forming the R-TGoNU, the boundary issues were settled by reverting to the original ten states, plus three 'administrative areas' in Pibor, Ruweng and Abyei.²⁶ This was a situational compromise and provided space in which the parties could move forward.

In total, the I-TGoNU²⁷ had completed 7 of the 63 pre-transition tasks by 22 February 2020, hoping to complete the rest during the transition period. Up to date, midway

into the transition period, some critical pre-transition tasks remain:

- The lack of agreement between the parties on responsibility-sharing at the state and local government levels remained a concerning factor for most of 2020 after the R-TGoNU was formed.²⁸
- The training, unification, and graduation of Necessary United Forces (NUF) is lagging a year behind schedule.
- The Transitional Constitution of South Sudan (TCSS) is still operational and is riddled with provisions that concentrate power in the executive. With delays of the I-TGoNU and the other opposition parties to fast-track their nominations to the Judicial Reforms Committee, permanent constitution-making will serve a crucial role in paving the way for free and fair elections.
- The provisions in Chapter V of the R-ARCSS on transitional justice mechanisms are yet to be established.
- Permanent constitution-making (provided for in Chapter VI) has not yet commenced beyond the mandated workshop for the parties to agree on the details of the Constitution Process.

In addition, the I-TGoNU reportedly violated various provisions, for instance, the procedural and substantive motions, related to the process of transitional-constitutional amendments. The agreement provides that 'the president shall only ratify and assent to the respective Constitutional Amendment Bill or any legislation drafted by the National Constitutional Amendment Committee (NCAC) without effecting change on any provision pursuant to article 1.18.6-8 of the Agreement.' Notwithstanding, the NCAC reported that out of 124 amendments in the Constitution Amendment Bill (No. 6), 2020, the I-TGoNU deleted, modified and inserted eight new provisions which were signed into law by Salva Kiir on 19 February 2020 (a day before the formation of the R-TGoNU).

The formation of the R-TGoNU, on the other hand, has repeated these delays and violations. For example, the sharing of state and local government positions with the sharing ratio set at SPLM 55%; SPLM/A-IO 27%; SSOA 10%; and 8% for OPP. These numbers were slowly allocated and only completed on 31 March 2021. This delayed the reconstitution of the TNLA which took place on 8 May 2021.

Although the state executives have been established with the appointment of the state ministers, advisors, independent and county commissioners, some are yet to be implemented and some appointments remain outstanding.

The slow implementation of the R-ARCSS has also led to the delay of the elections which were expected to be held by December 2022. Already, on 23 March 2021, the then Minister for Presidential Affairs, Nhial Deng Nhial, announced that due to the lack of a permanent constitution these elections could not be held, Although such a decision can not be unilaterally arrived at, there is a high likelihood of this outcome.

The UN reports that South Sudan has the highest refugee population in Africa, which stands at 2.2 million

R-TGoNU has also failed to adhere to the provision for 35% women's representation and participation in the executive of the R-TGoNU.²⁹ Women only received 26% representation in the Council of Ministers and 10% among the deputy ministers.³⁰ The recent presidential decree reconstituting the TNLA projects that the 35% women's representation threshold was yet again not met. Despite the interim RJMEC chairperson urging for rectification in line with articles 1.12.2 and 1.12.5 to the R-TGoNU, this is yet to be effected.

The sequence of the various issues presenting challenges in implementing the R-ARCSS by the R-TGoNU are discussed below and an understanding of the interconnectedness of these factors will shed light on the reasons for the low efficiency in the execution of various provisions.

Legacies of the North-South war run deep

With the brief and fragile interludes of peace, South Sudan has for the most part been a battlefield or theatre for cyclical hostilities.³¹ It is important to understand the impact of the past wars on the young state's capacity to govern and deliver services.

The R-TGoNU is, therefore, inheriting a peculiar system and infrastructure of government, with a myriad of the R-ARCSS implementation tasks aiming to effect robust

state and nation-building. The legacy of the North-South conflict is evident in the very political identity of the different players in South Sudan.

The South Sudanese and the rebellion movement needed to organise themselves to form a resistance movement in the first and second civil wars against Sudan (1955–2005). The Anyanya I and II were born fighting the north and joined later by the SPLM/A.

Generally, South Sudan's strategies were to go against the divide-and-rule tactic used by Sudan, constructed from the necessity of self-determination and the secessionist project. However, the offensive largely lacked a solid leadership structure that later led to most of the South Sudanese post-independence woes and struggles.

Neo-patrimonialism, a recipe for weak political institutions

During the war, as a conflict strategy, the SPLM/A rewarded political loyalty through political positions and wealth. A crisis of distribution was formed in terms of who was benefiting most. This rapidly developed into what Alex de Waal³² termed 'rent-seeking rebellions' where a commander/leader could lay claim to a stake of state resources through a mutiny or rebellion.

This can be observed in the Yau Yau Rebellion in Jonglei State by the Murle leader, David Yau Yau, who launched his first rebellion in May 2010 shortly after losing an election. His rebellion took the form of marginalising the Murle community, mostly found in Jonglei State, where he operated from Pibor. He quickly laid waste to many of his target areas. Following this, the Government of South Sudan and Yau Yau signed an amnesty agreement in Addis Ababa to end one of the country's longest-running rebellions. He returned to Juba, where he was promoted to the rank of general in the South Sudanese army. However, a few months later, in April 2012, he defected and another ceasefire agreement was signed in January 2014.

Furthermore, Mamdani³³ has argued that the CPA premise established the militarist assumption that only those with the capacity to wage war have the right to determine the terms of the peace. This in turn raised interest in the role that peace deals play in rent-seeking.

Increasingly, claims of spoils can be observed during and after the CPA when questions of state and local

governance positions arose. In lieu of producing a genuinely national set of political institutions, there was intense competition between groups as they attempted to capture and control the state machinery. Over the years, this perpetuated a disjointed vision and disjointed voice from the political elite in South Sudan – instead of creating a genuinely national set of political institutions.

With the implementation of the R-ARCSS, the struggle for control of institutions was one of the central political battlegrounds in Upper Nile State. As the division according to the R-ARCSS stipulates, Upper Nile fell on the side of the SPLM/A-IO to nominate a candidate for the governorship and they nominated General Johnson Olony as their candidate for Upper Nile State.

R-TGoNU has not adhered to the provision for 35% women's representation and participation in the executive

However, their candidate was rejected by the president over allegations that he still commanded a militia group, and unfortunately, both sides remained in a deadlock for six months. To Machar, Olony proved his loyalty while he was a leader of the powerful Agwelek militia who joined Machar's forces in 2015 and helped him escape the 2016 clashes, perpetuating the neo-patrimonialism in liberation elites. The deadlock ended with Machar appointing Abudhok Anyang Kur, who was nominated by Kiir, as the governor of Upper Nile at the end of January 2021.³⁴

Persistence of politicised, militarised and ethnicised conflict

Another conflict strategy during the war saw South Sudan structuring its defences through ethnic militias, mostly in response to the military ethnicisation strategy used by Sudan, which, as demonstrated above, runs along neo-patrimonial lines.³⁵

Heavy militarisation led to two significant effects. The first is the large and seemingly uncontrolled South Sudan military force, which, for the most part, has been operating under no-rule rebel combat. In contrast to the revitalised peace agreement's provisions, the R-TGoNU has exhibited no intention of restraining the unchecked security powers of the

National Security Service or the South Sudan People's Defence Forces (SSPDF) military intelligence.³⁶

Amid the revitalised peace agreement's implementation, the SSPDF and National Security Service's military intelligence have expanded their unchecked security control to silence political and civic dissent, as reported by the UNSC panel of experts. According to the reports, it is claimed that the SSPDF have arbitrarily detained civilians and committed severe human rights violations. The SSPDF have also reportedly committed acts of sexual and gender-based violence, occupied civilian structures, looted and burned property and targeted humanitarian workers in Central Equatoria affecting the prospect for peace and peaceful coexistence.

The UNHRC in South Sudan has noted that civilian casualties have increased by 192% between 2018 and 2020

Additionally, the country remains highly militarised, posing a risk to stability.³⁷ The past conflict has cultivated a heavily militarised local society as has an increase in intercommunal violence which has risen sharply over the past year.

The Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism (CTSAMVM) has reported that although there has been a reduction of major hostilities since the signing of the R-ARCSS, there has been an escalation of violence over the competition on pastoral resources in localities where the rule of law is absent. There has been a proliferation of arms, further demonstrating the fragility of the state apparatus. The power vacuum at the local level, due to lack of agreement in responsibility sharing, opens opportunities for spoilers and other actors to exploit local tensions and fuel violence. The UNMISS secretary general reported such occurrences in Jonglei and Warrap, where a surge in violence has occurred between the government and the uncontained armed community militia.

As the United Nations Commission on Human Rights in South Sudan noted, the national conflict only transformed into localised and communal conflicts at the beginning of December 2018, raising civilian casualties by 192% between 2018 and 2020.³⁸

Thus, the R-TGoNU may have little meaning for day-to-day security where non-state actors engage in security provision in places experiencing a vacuum of leadership.

The second effect of heavy militarisation is that these armed local communities operating under neo-patrimonial lines can be mobilised at short notice to carry out the wishes of the commanders, transforming the state-society relation to an observable ethnic local-national level conflict. The political elite's grip on the ethnic division is clear and in many cases these local conflicts have been directly fuelled by national political actors further polarising the country. The UNHRC³⁹ reported that the local militias aligned to the warring parties benefited from military-grade weaponry supplied by parties to the conflict.

The practice has increased incidents implicating armed forces recruiting, training and using children as young as 12 years old for the conflicts. This is contrary to South Sudanese domestic and treaty law, including the Optional Protocol to the Convention on the Rights of the Child to which South Sudan acceded in September 2018.⁴⁰ This poor progress on the R-ARCSS security programme provides a signal as to the commitment, or lack thereof, of the parties to the agreement.

Personal rifts between principals: Salva Kiir and Riek Machar

A third conflict strategy saw the unresolved historical conflicts fracture the relationships between the key principals.

The relationship between Salva Kiir and Riek Machar had been at odds for a long time, particularly since the 1991 SPLM split.⁴¹ In 2002, Machar rejoined the SPLM. Salva Kiir openly opposed this move and fired him in 2013 after allegations that he was planning a coup. It is clear that the R-TGoNU rests on the fragile unity of long-time political adversaries.

With the formation of the R-TGoNU, there was a sense of reconciliation and a willingness to move forward. This was seen when Kiir requested forgiveness and intimating that he had forgiven Machar while calling on the South Sudanese to chart a path of forgiveness and healing.⁴² Despite this magnanimous gesture, the R-TGoNU continues to suffer the impact of the fracturing of trust between the two.

Tensions are rife within the R-TGoNU as Machar and other opposition parties contest the unilateralism displayed by Kiir, arguing that most of his decisions do not consider or acknowledge the relative prominence of the political parties within the respective states and administrative areas. This is particularly troublesome, as Kiir is headstrong and his power as president under the 2011 Transitional Constitution is considerable.

To a great degree, the sense of loyalty to Machar and Salva Kiir has a trickle-down effect on their respective aligned parties' decisions and defence forces. Despite the principals agreeing to unify their forces into a national army, there is a strong sense of division based on loyalties: those loyal to Machar have not been fully integrated and the government did not place all those forces in barracks and training centres but as reserve armed soldiers in the event they may be needed.⁴³ Kiir does not appear to be eager to reveal the size of his army.⁴⁴

This is a clear indication of the trust deficit within the system with the government not wanting to lose control of the military by the (re)inclusion of large numbers of Nuer, Shilluk and Equatorians.⁴⁵

The R-TGoNU continues to suffer the impact of personal rifts and fracturing of trust between the two principals Salva Kiir and Riek Machar

As long as the army's allegiance is split between Kiir and Machar there is a risk of an increase in violence as was observed in the 2013 and 2016 high-intensity skirmishes.

Moving forward, the best-case scenario is that Salva Kiir and Riek Machar will find a way to work together for the transitional period. This is the logic of the 2018 agreement and is the scenario that millions of conflict-fatigued South Sudanese and the regional powers that mediated the agreement desperately hope for.⁴⁶

Fracturing within and between party lines

There is a rampant division among the political parties in South Sudan. The power struggles and party disputes have led to strained political relationships.

Since the formation of the R-TGoNU, internal fracturing within parties has led to multiple defections; for example, members of South Sudan's main opposition party have defected to the ruling party. This lack of cohesion has made the implementation of the R-ARCSS challenging. Compounding this situation are the accusations made about the SPLM-IG luring senior opposition generals to join as individuals by offering them lucrative posts.

Currently, within SPLM-IO, there has been a call to remove Machar as leader, although many members remain faithful to his command.



KIIR AND MACHAR MUST
WORK TOGETHER DURING
THE TRANSITION AS PER
THE 2018 AGREEMENT

Some members have accused Machar of running the opposition like a family dynasty – especially after the appointment of his wife, Angelina Teny, as Minister of Defence in the transitional unity government. These accusations perpetuate the hereditary politics that were used in the liberation struggle.⁴⁷ This has escalated to infighting in both the Machar camp and the Joseph Olony camp, leading to loss of lives and property on both sides, and increasing concerns of the impact on the internal fragmentation of the SPLM-IO to the R-TGoNU progress so far.

This includes the possibility of the rejection of some or all of the stipulations within the R-ARCSS by the SPLM-IO splinter groups of three generals (chief of staff General Simon Gatwech, General Johnson Olony and General Thomas Mabor Dhoal) who were fired from SPLM-IO for leading a campaign to oust Machar, and the implications of the illusion of Machar's loss on the grip of power, him being a key component and a signatory of the agreement. The implications on the peace and progress have sparked regional concern, expressed in the IGAD Executive Secretary's recent fact-finding mission in South Sudan.⁴⁸

Between the signatories of the R-ARCSS there are continuous hostilities. Of considerable concern during the reporting period has been the violation of the Cessation of Hostilities Agreement (2017) and the Rome Declaration (2020) by the SSPDF, SPLA-IO, and the National Salvation Front (NAS) as reported by the UNSC. Armed clashes between the NAS, the SSPDF and the SPLA-IO escalated in July/August 2020, leading to scores of civilian fatalities and the displacement of thousands of civilians, particularly in Central Equatoria State.

In January 2021, there were attacks on SPLA-IO in Upper Nile State by former SPLA-IO forces who had defected to the SSPDF. Unfortunately, CTSAMVM has been unable to verify and investigate violations by the SSPDF, SPLA-IO and NAS due to the lack of communication with NAS commanders and the fact that the cessation of hostility modalities previously agreed to is yet to be implemented.⁴⁹

The lack of party coherence between and within the parties of R-ARCSS has both immediate and long-term effects on the implementation of the agreement and on the R-TGoNU's ability to function and hold elections after

36 months. For instance, restructuring and reconstituting the TNLA and the Council of the Republic of South Sudan is recognised as a pre-transitional task, but the R-TGoNU only dissolved their parliament on 9 May 2020 – more than a year after the R-TGoNU was formed.⁵⁰

This slow pace went on despite the IGAD heads of state appealing to President Salva Kiir to dissolve the incumbent TNLA by 26 July 2020 and, in accordance with the R-ARCSS, reconstitute it within seven days. Sequentially, according to the R-ARCSS, parliament was scheduled to be constituted before the selection of executive posts, which were all filled during the R-TGoNU formation in 2020.

Implementation requires mutual trust but a further obstacle in the path is the fact that not all parties subscribe to the R-ARCSS. The R-ARCSS was rejected by the NAS and the People's Democratic Movement (PDM) and adopted with reservations by the SPLM-Former Detainees (FDs).⁵¹

Machar is accused of running the opposition like a family dynasty after appointing his wife as Minister of Defence

For these groups, there has been a parallel process by the international community to push for full inclusivity on some level. After several years of quiet diplomatic efforts to bring the non-signatories into the peace process, in early 2021, the Community of Sant'Egidio⁵² in Rome facilitated various dialogues to bring some parties into agreement. These dialogues were mainly between the government and two non-signatories of the R-ARCSS, namely the SSOMA-SSUF led by General Paul Malong and the SSOMA-Real SPLM, led by Pagan Amum.

The alliance and signatories to the R-ARCSS signed two agreements: the first was on their inclusion in the CTSAMVM under the Rome Declaration and Rome Resolutions; and the second called for a round table political discussion to end armed conflict in order to spare further suffering to the South Sudanese people. Although the dialogues have not successfully brought the non-signatories into the peace process or the R-TGoNU, they have managed to sustain the peace, at least for now.

The parties, mediators and guarantors of the agreement recognised that the quick formation of the R-TGoNU would start to build trust between the leaders and would win the hearts and the minds of the South Sudanese. It is equally important that a unity government be imbued with the needed public administrative capacities, a common purpose and much-needed political good will, without which it is impossible to address the fundamentals of peace such as security, basic services, justice and accountability.

Transitional justice hurdles in pursuing peace

For peace to be holistically realised and to address the legacies of conflict, there is a need to address concerns related to memory and conflict. This relates to transitional justice that is crucial towards addressing the legacy of violence and impunity in the country and facilitating reconciliation and healing in South Sudan.

The R-ARCSS provides three national-level institutions to guide the transitional justice and national reconciliation programme. First is the Commission on Truth, Reconciliation and Healing (CTRH), responsible for documenting and reporting on past human rights abuses; second is the Hybrid Court for South Sudan (HCSS), comprised of judges, lawyers and staff from South Sudan and other African countries and responsible for bringing cases against violations of international human rights and humanitarian laws since 15 December 2013; and third is the Compensation and Reparations Authority (CRA) which provides compensation and reparations to people who were affected by the conflict, including survivors of conflict-related abuses.⁵³

The establishment of these three institutions remains crucial towards a positive transformation of society and to ensure that the perpetrators of atrocities are held accountable. These institutions will also provide justice to victims and give the South Sudanese a space for reconciling and healing from the traumatic experiences of war.⁵⁴

The R-ARCSS makes provision to exclude individuals implicated in human rights abuses and corruption from holding public office in both transitional and latter governments. However, these provisions are yet to be established.⁵⁵ This is due to the overlapping delays as

the establishment of the HCSS was delayed due to the delays of the reconstitution of the TNLA. The TNLA has only recently been formed and can now pass legislation to establish the court and other institutions.

Other than the actual establishment of the HCSS there is also the question of its practicality. Some members of the signatory parties are already implicated in violations of international human rights and humanitarian laws and will not want to incriminate themselves, raising a question of self-interest in such processes.

The reluctance to establish such a court can be seen in the failed efforts by the AU, which was given a critical role in the implementation of the transitional justice framework and has the authority to establish the HCSS and implement other transitional justice mechanisms under Chapter V of the R-ARCSS. It has the power to do so even without the engagement of the South Sudanese government. Although the AU expert consultations on the HCSS began in 2019, the implementation has been halted in the face of a lack of will and slow implementation progress.⁵⁶

Peace without justice will only fuel resentment, encourage reprisals, and may sow the seeds for future conflict

The HCSS process has also been compounded by the splitting of a consensus position between a rigid pursuit of either justice or peace. This has undermined both the underlying vision for durable peace or justice, undoubtedly obstructing the implementation of the R-ARCSS. The debates are that, regarding the 2013 and 2016 scenarios, any commitment ambitiously leaning towards justice will be at the expense of sustainable peace, defeating the vision and objective of the R-ARCSS.

Mahmood Mamdani and Thabo Mbeki's response to this is that, in such an early stage of state-building, the focus should not be on pursuing criminal prosecution but focusing on the truth, reconciliation and healing (TRH) programme. Such programmes have worked in Rwanda, Mozambique and South Africa after their liberations and civil wars.

Given that many of the perpetrators in South Sudan are affiliated to largely ethnicised constituencies that continue without a robust reconciliation process to transform their societies, any tangible gains that have been realised so far in the implementation process could be limited. For reconciliation to be effective, there needs to be a functional local mechanism to engage the communities but these local mechanisms have only been partially established.

Those who have functioning structures remain susceptible to interruptions by opportunistic political actors who want the status quo to remain as it is. This has unfortunately opened the space towards rent-seeking and patrimonialism in the R-TGoNU.

There is also a need for these mechanisms to resonate with South Sudanese cultural and religious values by focusing on rebuilding relationships and restorative forms of justice systems, as seen for instance in the concept of puk/pug among the Dinka. Perpetrators of violence pay compensation to the victims and the community participates in the process. It has been observed where pug, as sanctioned by the customs, has been ignored, a cycle of revenge killing may ensue, generating a protracted cycle of violence among different groups.⁵⁷

More robust diplomatic engagement on South Sudan is necessary not only from the AU but from a range of international and regional stakeholders

Peace without justice will only fuel resentment, encourage reprisals, and may sow the seeds for future conflict. These are problems Kiir and Machar will now have to resolve by working together in the R-TGoNU. The question remains whether they have the political will to continue negotiations.⁵⁸

Additionally, there must be adequate financial mechanisms to ensure that operational challenges do not impede the implementation of the peace process. The international community has reportedly declined to fund specific aspects of the R-ARCSS unless the R-TGoNU demonstrates a substantial commitment to finance the agreement. However, while the R-TGoNU publicly pledged to support the establishment of the CTRH, it has not committed the required resources to make it operational.

The lack of political will to address justice and accountability is apparent in the political establishment in South Sudan. More robust diplomatic engagement is necessary, not only from the AU but from a range of international and regional stakeholders, including IGAD and key provincial governments that should encourage and support the government of South Sudan to abide by the transitional justice commitments in a meaningful and timely manner.



DUE TO COVID-19
OIL PRODUCTION FELL
FROM 250 000 TO 165 000
BARRELS PER DAY

Prevailing economic factors

There has been limited progress in the implementation of Chapter IV of the R-ARCSS concerning resource, economic and financial management. The Public Financial Management Oversight Committee has increased the government's capacity to implement reforms in the sector but improvement is slower than desired.

In 2020, South Sudan experienced its worst economic downturn yet. Due to the COVID-19 pandemic, the oil price — the nation's main source of revenue — plummeted, depreciating the value of the South Sudanese pound and increased inflation. South Sudan's oil production level dropped from about 250 000 barrels a day to about 170 000 barrels per day in March 2020 and had dropped further to 165 000 barrels per day by the end of October 2020.⁵⁹

In retrospect and having the 2005 CPA provisions as a reference, South Sudan must supply as many as 28 000 barrels of crude oil per day to the Khartoum refinery. This is in addition to the failing economy which was affected by deep instability over the years during the civil conflict. South Sudan's economy has passed through deep distress, undermining the ability of the R-TGoNU to implement the R-ARCSS fully.

Furthermore, while it is difficult to identify the full debt affiliated to South Sudan due to large discrepancies in the financial calculations, the International Monetary Fund (IMF) calculated a debt of US\$1.2 billion. At the same time, in FY2019/20, the Ministry of Finance and Planning projected that this amounted to US\$371 billion.⁶⁰

In addition, planning of the budget for the FY2020/21 was significantly delayed. According to the budget process timeline, the government should have presented it to the TNLA by 15 May 2020. The Council of Ministers only endorsed an aggregate draft budget (budgetary envelope) on 26 September 2020 for 2020/21.

The aggregate budget reported a deficit of US\$750 million. So far, only a part of the necessary financing has been obtained through a loan from the African Export and Import Bank amounting to US\$313 million. The R-TGoNU also relies on the applied IMF loan

amounting to US\$200 million under the Rapid Credit Facility to meet its financial needs.⁶¹

The effect of the dire economic situation has impacted various industries. For example, five hotels wrote to the National Transitional Committee (NTC) and the presidential advisor for security affairs requesting the settlement of the hotel accounts owed by the government of US\$10 million for services offered in hosting government officials during various peace talks. In addition, the government has also failed to meet the salaries of civil servants. As one lecturer recounted:

We have only received salaries worth six months at most for the entire 2020. My friend who is a very good doctor is also only earning about 35 dollars a month, and that is only when he gets paid. We are living in difficult situations and that is why the government must do everything in its powers for this peace deal to actually work.⁶²

The security sector, one of the key sectors for stability and peace, is also affected. For the R-TGoNU, executing transitional security arrangements that include the unification of forces and security sector reforms is undoubtedly an expensive undertaking. Challenges may be faced in raising a budget sufficient to cater to all the expenses. Unfortunately, the government has also only partially honoured its pledge to make US\$100 million available to support the process and other security mechanisms even though a critical factor in the screening, selection and training process is proper financing.

The lack of will to address justice and accountability is apparent in the political establishment in South Sudan

Emerging after decades of conflict and its devastation, South Sudan faces an array of dire developmental challenges and a crippled economic sector. There is a need to expedite this sector by establishing the Economic and Financial Management Authority (EFMA), which, according to R-ARCSS, is supposed to report on progress to the RJMEC.

Poor humanitarian conditions

The humanitarian situation further exacerbates the financial difficulties being faced in the country. Over the years, South Sudan has experienced a devastating humanitarian crisis. As a result of conflict, at least 383 000 people have lost their lives. Nearly four million people have been internally displaced or fled to neighbouring countries as refugees⁶³ making holistic post-conflict recovery efforts difficult to realise.

In their October 2020 report, the UN estimates, approximately 157 000 people across South Sudan have been displaced by inter/intra-communal and sub-national conflict in 2020 alone.

Natural disasters have also affected the population. For instance, OCHA has estimated that more than 700 000 people in 34 counties have been affected by flooding, nearly 90% of these people come from Jonglei, the Lakes, and Unity, particularly along the White Nile River.⁶⁴

The UN estimates that nearly 157 000 people across South Sudan were displaced by conflict in 2020

In addition, the region suffered from an invasion of locusts, and projections were that 5.5 million South Sudanese would go hungry without humanitarian assistance. The humanitarian situation worsened with scores of civilians killed and thousands further displaced due to escalating inter-communal violence linked to cattle rustling and revenge attacks. This included attacks against humanitarian workers and a near-complete halting of IDPs and refugees' voluntary return. The returnees have generally preferred to maintain their refugee status.

The worsening macroeconomic conditions have led to most households facing large food consumption gaps or using extreme livelihood coping strategies to mitigate them.

Financially, there is also a regression in the areas of education and health. There was a drop in allocations from 5.5% to 1% in the FY2019/20 in health and education and a total of 15% further regression of the health, education, and social and humanitarian affairs

sector allocations from 15% in FY 1028/2019 to 8.5 % in the FY2019/20. According to the National Development Strategy, it may prove even more difficult for the R-TGoNU to meet the social needs of South Sudan.⁶⁵

These adverse circumstances in the humanitarian situation threaten stability, having a situation where 300 000 refugees have returned in the past year and a half. There are various complications that the country is not ready for. Land issues and allocation will, for example, affect the return of these refugees in terms of their economic and social re-integration.

There needs to be a reflection about boundaries, citizenship and any instability surrounding land disputes. As seen in past civil wars, the lack of an optimum and enabling space for returnees has more often than not created tensions over houses, land and property. This is especially so in urban areas where land rights have been increasingly privatised and partially commoditised by formalising land ownership after 2005.⁶⁶

In addition, amid a fragile political transition, the humanitarian crisis poses a challenge on some of the tasks to be completed by the R-TGoNU, for example, towards conducting a census within the next 12 months (as stipulated in the R-ARCSS) and generally planning for elections and voting.

The COVID-19 pandemic

South Sudan was already struggling with economic challenges when COVID-19 hit in 2020, and within days, the potential scale of the impending impact on the nation became evident. By mid-September 2021, there were 11 790 reported COVID-19 cases: 11 195 recoveries and 121 deaths with the Alpha, Beta and Delta variants detected, and although vaccination continues, only 56 989 vaccines have been administered.⁶⁷ It is largely due to the global effect of the coronavirus that the progress on implementing the South Sudan peace agreement halted for most of 2020.

The spread of COVID-19 in South Sudan is adding further stress to existing humanitarian challenges. The South Sudanese population has very limited access to healthcare facilities, with only 44% of the population living within a one-hour walk of a medical centre.⁶⁸ It is also worth noting that many international organisations have become the major healthcare support providers in South Sudan.⁶⁹

The COVID-19 pandemic exposed the poor health care system and health budget in South Sudan. The World Bank attributes the low investment in crucial sectors, like healthcare, to the fact that most of the state funds go toward the security and defence sectors due to the protracted conflict.

The already burdened government budget was further strained by health spending to procure COVID-19 personal protective equipment, testing kits, quarantine facilities and equipment. This has led to a lack of funding for some of the R-ARCSS implementations. INGOs are also diverting their attention from peacebuilding towards COVID-19 projects. This endangers the social cohesion needed to hold the communities together as the R-TGoNU attempts to rebuild.

Although the R-TGoNU delayed the security sector reforms of its own accord, the pandemic caused delays to the training of ex-combatants who had assembled in barracks and training sites. In March 2020, the government decided to suspend the training of 29 000 of the envisioned 83 000 unified forces as a precautionary measure against COVID-19. To date, around 40 000 soldiers are still untrained and 47 000 more are awaiting graduation, further delaying security tasks as provided in the R-ARCSS. The stalling of soldiers' training and unification has led to defections and changes of allegiance, which ultimately undermine the unification process.

In 2020 the government suspended the training of 29 000 of the envisioned 83 000 unified forces as a precautionary measure against COVID-19

Adding to the challenge, most barracks and training sites have deplorable living conditions and lack access to adequate water, food or medical supplies. In October 2020, General Wesley Welebe, the joint Transitional Security Committee's co-chair, reported that 77 soldiers had starved to death in the camps. These poor conditions have forced many of the soldiers to leave the camps, causing instability. Women in the training camps are forced to take time off from training to do informal work such as selling wood and charcoal to make a living. In addition, many of these women are at risk of sexual violence.⁷⁰

Regional dynamics

Over the past years, the international and regional countries have been pushing South Sudan toward the agreed-upon or desired outcomes. Currently, there has been a slight pull-back by some countries for various reasons. However, the regional dynamic presents a significant challenge to resolving the South Sudan context. Regional fragmentation, internal challenges within the IGAD member countries and the East Africa region at large, and exhaustion of these states have resulted in a decline of the (needed) focus on South Sudan.

5.5 MILLION

SOUTH SUDANESE WOULD
GO HUNGRY WITHOUT
HUMANITARIAN ASSISTANCE

For instance, Sudan, a significant player in the South Sudan peace process, has been overwhelmed by its internal challenges and is focusing much-needed attention on rebuilding and regaining its place on the international scene. In addition, the Grand Ethiopian Renaissance Dam (GERD) dispute, has been a decade-long diplomatic stand-off between Sudan, Ethiopia and Egypt.⁷¹

Ethiopia is facing another humanitarian crisis after the long-standing tensions between the federal government and the northern Tigray region's leadership came to a head in November 2020. In the absence of any international monitoring, this crisis is gradually posing a threat regionally. With the increase in arms, there is a threat to the border with the proximity of too many well-armed forces between Sudan and Ethiopia.

Kenya has taken a hands-off approach during most of the revitalisation processes amid debates on its own nation-building project (Building Bridges Initiative) launched in March 2018. This initiative saw President Uhuru Kenyatta and opposition leader Raila Odinga come to an agreement that ended months of post-election violence and served as preparation for the 2022 elections. In addition, Kenya is engaged in an election campaign taking place in August 2022. Kenya is also headlocked in a security and diplomatic stand-off with Somalia, which affects its financial budget and current political priorities in South Sudan. Similarly, Uganda recently held elections and its income from investments in South Sudan has dwindled significantly although it maintains its influential military position.

It is clear that the commitment and degree of influence these IGAD countries had for peace in South Sudan has been weakening over time and the agreement currently has little support regionally and internationally.

Opportunities for peace: remaining tasks

With the current trajectory, two scenarios are possible in South Sudan.

First is a scenario where R-TGoNU extends its transitional period either indefinitely or for a specific amount of time. This is supported by the evidence of slow and reluctant implementation of the R-ARCSS tasks over the past 12 months. During the formation of

the R-TGoNU, there were still seven outstanding issues and only two were fulfilled within the year. Clearly, the R-TGoNU might not be able to fulfil all expected terms of the R-ARCSS in the required time. Any extensions will leave South Sudan in a constant state of transition, undergoing little development, and further hurting the peace process.

The second scenario is that South Sudan might have some kind of compromise or prioritisation plan where some tasks will be completed, and some will be put on hold to be implemented by the elected government after the transitional period. The elected government could work on reforming the security sector, the economy, the civil service, and the judicial sector including healing and reconciliation. However, this type of arrangement might also persist with a level of instability that will take some time to resolve. The flexibility during the transitional period is more supportive of reform.

After years of conflict and ethnic polarity, South Sudan needs robust structural, state and nation building

There is a possible third scenario – the return to large-scale conflict as happened in 2016. This is unlikely but not impossible, and might lead to further communal violence and the formation of militia groups with different interests.

Taking all the above issues of concern into perspective there is a risk of a 'poorly' implemented peace deal.

After many years of conflict and ethnic polarisation, South Sudan presents a society in need of robust structural/state/nation building. Top-down approaches to peace in South Sudan have made a meaningful contribution; however, they have fallen short of achieving sustainable peace. A more integrated and robust bottom-up approach promoting cohesion among the South Sudanese offers a better chance of success.

A focus on a more dynamic bottom-up approach to peace that is close to the people that contribute to, and are most affected by, the conflict is an opportunity for the R-TGoNU to depoliticise, demilitarise and de-ethnicise the peace process.

One major way that this has already taken place is through people-to-people dialogues and peace conferences. For instance, UNMISS has facilitated some localised rapprochement processes that engage the country from a bottom-up context or at the subnational levels of engagement, allowing people to discuss how differences could be resolved through dialogue instead of guns. For example, in Jonglei Terekeka Central Equatoria State, a three-day peace conference resulted in the return of raided cattle to the rightful owners and the opening of all roads in the area.

National dialogues have also provided an opportunity for peace reforms. The four-year process concluded in December 2020 has provided an open space for the national dialogue. It carefully collected grievances and suggestions, both from the grassroots and political elites. Despite its many flaws, in the end, these dialogues had a wide reach of consultations and the participants' presented very candid criticism and suggestions. Resolutions were reached, most notably the notion that the SPLM-IG/IO are to blame for the crisis and a call for the stepping down of the

The principals in R-TGoNU must focus on the security sector, unifying the forces, and ending the conflict

two leaders. This satisfied neither Kiir nor Machar, who argued that the resolution document did not meet legal standards on this subject.

Despite the friction, being a parallel process to the peace-making process, the national dialogue converges with the aims of the revitalised peace agreement. These include some form of local autonomy, some form of localised ownership of governance structures and a strong platform for addressing the grievances that are attached to land and migration, security sector transformation and similar transitional justice issues.

Since its conclusion, the National Dialogue Steering Committee presented the final resolutions to Kiir on 10 May 2021 and the resolutions provided by the national dialogue circuit of conferences and conversations should be taken further into consideration by the R-TGoNU.

In addition, the education of civilians regarding peace and democratic reforms needed might be necessary. This will help reduce inter-communal conflicts that continue to surge in South Sudan and could have a huge impact on the forthcoming elections where such conflicts could provide an opportunity for fresh grievances to be expressed and certain political parties or ethnic groups could be excluded from the election process. Ideally, in addition to community education and cohesion, constant international efforts focused on subnational levels of engagement and peacebuilding will be needed.

Recommendations

R-TGoNU

- The R-TGoNU should through its governance cluster, should recalibrate an effective Agreement Implementation Matrix to catch up on set targets as mapped out by the R-ARCSS. This matrix should take into context the prioritisation of pending pre-transitional phase tasks like the urgent and methodical unification of the forces for South Sudan and hasten the constitution-making process.
- The principals in the government should focus on the security sector, work on unifying the forces, and bring an end to the endemic waves of lawlessness and high-intensity skirmishes to enhance a semblance of stability. At the same time, they should not neglect other aspects of human security service delivery across South Sudan.
- The R-TGoNU should seek to earnestly position the newly revitalised TNLA in a situation whereby the legislature can consider and pass laws that have been reviewed through the offices of the NCAC. The passing of these long-awaited laws and reviewed acts is overdue and will pave the way for the holistic realisation, legal reforms requirements and policy guidance related to, amongst others, Chapter I in R-ARCSS. An example of this would be the enactment of the Political Parties Bill and full legal creation of crucial institutions like the Political Parties Council.
- The R-TGoNU should focus on a robust strengthening across South Sudan entities that deploy solidarity missions in the current contexts of flood victims, situations of violence, the dissemination of provisions

like healing, reconciliation and transitional justice ideals. Ultimately, the R-ARCSS should seek to effect a nation-building exercise that addresses the root causes of the conflict.

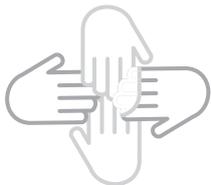
- The R-TGoNU should seek to instil the transparent management of its public resources that is embedded in the rule of law. This will ensure an effective delivery of services to the South Sudanese people.
- The signatories should remain committed to their vision of a democratic South Sudan through the R-ARCSS, and minimise internal fragmentation and fighting as seen in the SPLM-IO, which may lead to the jeopardy of the progress made so far.

IGAD, RJMEC, AU and UN

- IGAD and RJMEC should scale up their political-diplomatic pressure on the two main principals of the peace accord and R-TGoNU partners towards implementing the outstanding pre-transitional tasks and including women's representation as detailed in the agreement.
- IGAD and RJMEC should also encourage inclusive and people-centred conversations towards a permanent constitution-making process.
- The AU, IGAD, UNHRC, UNSC, and the Troika need to continue with more robust and sustained engagement with the R-TGoNU in order to deliver on the R-ARCSS's intended objectives regarding women's inclusion and participation.
- More visible and action-oriented engagement is demanded of the AU and IGAD towards holding the actors in South Sudan who are guilty of gross violations of human rights accountable for their actions.

International donor community

- The international community should continue with its humanitarian support given the suffering occasioned by famine, floods and COVID-19. Beyond support related to emergency gap-filling, effective humanitarian development hubs should be established in close collaboration with R-TGoNU through the Ministry of Humanitarian Affairs and the Ministry of Health. These development hubs will spur a coherent humanitarian development support space in South Sudan.
- Once the R-TGoNU makes significant progress in implementing the peace agreement, the international community should collaborate with various partners to prioritise projects that will have maximum benefits for the people of South Sudan.
- The limited but effective diplomatic community in South Sudan, in particular the Troika, IGAD and the neighbouring countries, should step back from their wait-and-see approach and disengagement policy on South Sudan. All possible international support efforts that could be directed to kickstart the R-ARCSS Chapter II provisions of the unification of forces should be the main focus in foreign and development policy strategies. The current



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state of affairs at the training sites is worrying. There are large numbers of ex-combatants who need humanitarian assistance.

- Given the large dependency of the official development assistance (ODA) in South Sudan, international donor organisations need to ensure the strengthening of public financial management systems for proper budget allocations and institution building.

South Sudanese organisations

- Middle-level NGOs, INGOs, churches and community groups should continue inclusive investments in peacebuilding, conflict prevention and mediation of local conflicts among communities through cooperation and partnerships in their projects.

Conclusion

From the above findings, the R-ARCSS has undoubtedly provided a framework within which South Sudan, at the very least, can determine how to live peacefully. There has been noticeable progress towards achieving this peace that has eluded the region for over half a century. However, deep and structural concerns from the past still plague the R-TGoNU. These relate to institutionalising democratic reforms within the governance structures.

R-TGoNU is running out of time, and major tasks, including drawing up a constitution and security sector reforms have remained outstanding. Although the TNLA has been reconstituted, the delay in its formation has affected the implementation of dependent provisions within the R-ARCSS. A more serious conundrum is the poor political culture of corrupt and neo-patrimonial

officials in governing the country, rent-seeking politics, and party disunity. The effect of these liabilities further promotes distrust and a lack of willingness to implement the R-ARCSS.

The agreement, if implemented, would provide the opportunity for a good foundation for state institutions that South Sudan has not achieved since its birth. There is a need for South Sudan to build a functional state, a state with a presence that can project its power within and across its territory. In addition, there is a need for the people who occupy that territory to feel equally protected and cared for by that state.

More visible and action-oriented engagement from the AU and IGAD is needed on matters concerning South Sudan

Beyond party politics, South Sudan citizens, stakeholders, civil society groups and churches should hold their government accountable, albeit in this instance it is the R-TGoNU that was not elected as such. This can be achieved through civic education and to encourage citizens' participation, the R-TGoNU and the regional signatories should take the national dialogue recommendations that were concluded in December 2020 seriously. This will help identify some of the regional grievances and make the voices of the citizens heard.

Without a collective effort, both internally, regionally and internationally, the fragile peace in South Sudan will face serious threats to its stability.

Acronyms and abbreviations

ARCSS	Agreement on Resolution of Conflict in the Republic of South Sudan	ODA	Official development assistance
AU	African Union	OHCHR	United Nations High Commissioner for Human Rights
CAR	Central African Republic	OPP	Other Opposition Parties
COHA	Cessation of Hostilities, Protection of Civilians and Humanitarian Access	PDM	People's Democratic Movement
CPA	Comprehensive Peace Agreement	R-ARCSS	Revitalised Agreement on Resolution of Conflict in the Republic of South Sudan
CRA	Compensation and Reparations Authority	R-TGoNU	Revitalised Transitional Government of National Unity
CTRH	Commission on Truth, Reconciliation and Healing	RJMEC	Reconstituted Joint Monitoring and Evaluation Commission
CTSAMVM	Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism	SAF	Sudan Armed Forces
EFM	Economic and Financial Management Authority	SPLM-IG	Sudan People's Liberation Army-in-Government
EU	European Union	SPLM-IO	Sudan People's Liberation Army-in-Opposition
FDs	Former Detainees (FDs).	SPLM/A	Sudan People's Liberation Movement/Army
FY	Financial Year	SPLM/A-IG	Sudan People's Liberation Movement/Army-in-Opposition
GERD	Grand Ethiopian Renaissance Dam	SPLM/A-IO	Sudan People's Liberation Movement/Army-in-Opposition
HCSS	Hybrid Court for South Sudan	SSCC	South Sudan Council of Churches
HLRF	High-Level Revitalisation Forum	SSOA	South Sudan Opposition Alliance
I-TGoNU	Interim- Transitional Government of National Unity	SSOMA-Real SPLM	South Sudan Opposition Movements Alliance
IDP	Internally displaced persons	SSOMA-SSUF	South Sudan Opposition Movements Alliance-South Sudan United Front
IGAD	Intergovernmental Authority on Development	SSPDF	South Sudan People's Defence Forces
IGAD	Intergovernmental Authority on Development	TCSS	Transitional Constitution of South Sudan
IGAD-Plus	Intergovernmental Authority on Development-Plus	TGoNU	Transitional Government of National Unity
IMF	International Monetary Fund	TNLA	Transitional National Legislative Assembly
KPA	Khartoum Peace Agreement	TRH	Truth, reconciliation and healing
NAS	National Salvation Front	UN	United Nations
NCAC	National Constitutional Amendment Committee	UNHRC	United Nations Human Rights Council
NSS	National Security Service	UNMISS	United Nations Mission in South Sudan
NUF	Necessary United Forces	UNSC	United Nations Security Council
OCHA	Office for the Coordination of Humanitarian Affairs		

Notes

- 1 Signatories of the agreement are the Transitional Government of National Unity (TGoNU), the main opposition (South Sudanese People's Liberation Movement/Army-In Opposition – SPLM/A-IO), the South Sudan Opposition Alliance (SSOA), Former Detainees (FD), and Other Opposition Parties (OPP). Major regional and international players include the UN, AU, IGAD, TROIKA and EU.
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About the author

Dr Emmaculate Asige Liaga is an associate post-doctoral researcher at the Centre on Conflict, Development and Peacebuilding, Graduate Institute Geneva. She has a Doctorate from the University of Pretoria (2020) and a Master's from the University of Manchester (2016). Her research interests include peace and security, and conflict resolution, mediation and intervention in Africa.

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