

THE HURDLES OF MEDIATING WITH HUMANITARIAN LENS: AN EXPLORATION OF THE  
INTER-GOVERNMENTAL AUTHORITY AND DEVELOPMENT'S FAILED SOUTH SUDAN  
2015 PEACE AGREEMENT

BY

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## **ABSTRACT**

This thesis examines IGAD humanitarian focused mediation in the South Sudanese conflict that blames the warring parties entirely for failing to end the war. It particularly looks at mediation strategies deployed by IGAD and its partners as they push to address the humanitarian situation in South Sudan, and how this approach created hurdles during the negotiations process and even at the implementation phase after the parties were compelled to sign the agreement. My investigation of IGAD mediation departs from the story of unwilling warring parties who do not want to sign a peace agreement and save lives presented by IGAD by taking a holistic look at the effect of IGAD mediation timing on parties' military expectations as well as the effect of the IGAD member states strategic consideration on their ability to enforce disputants' compliance during the negotiations, and even at the implementation phase of the agreement. I concluded that the timing of the intervention and the agreement the disputants were compelled to sign were at odds with military expectation of the warring parties, specifically those of the government. This reality was compounded by strategic consideration within IGAD that made it hard to build a consensus on putative measures needed to enforce compliance on the non-cooperating party, something the warring parties used as their opportunity to continue their power struggle within the framework of the imposed agreement, which led to the failure of the agreement to achieve a lasting peace.

## **LIST OF ABBREVIATIONS USED**

ARCISS	Agreement on the Resolution of Conflict in the Republic of South Sudan
AU	African Union
CPA	Comprehensive Peace Agreement
CRA	Commission for Reparation Authority
CTRH	Commission for Truth, Reconciliation and Healing
DPA	Darfur Peace Agreement
ECOMOG	Economic Community of West African States Monitoring Group
ECOWAS	Economic Community of West African States
GRSS	Government of the Republic of South Sudan
HCSS	Hybrid Court for South Sudan
ICISS	International Commission on Intervention and State Sovereignty
IGAD	Intergovernmental Authority on Development
IGADD	Intergovernmental Authority on Drought and Development
JIP	Joint Integrated Police
JMEC	Joint Monitoring and Evaluation Commission
IPF	IGAD Partners Forum
LRA	Lord's Resistance Army
MSH	Mutually Hurting Stalemate
MVM	Monitoring and Verification Mechanism
NLC	National Liberation Council
PB	Political Bureau
POC	Protection of Civilians

SPLA	Sudan People’s Liberation Army
SPLA IO	Sudan people’s Liberation Army in Opposition
SPLM	Sudan People’s Liberation Movement
SPLM IO	Sudan People’s Liberation Movement in Opposition
SSDF	South Sudan Defence Forces
TGoNU	Transitional Government of National Unity
UN	United Nations
UNMISS	United Nations Mission in South Sudan
UNSC	United Nations Security Council



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## **CHAPTER 1: INTRODUCTION**

### **1.1. OVERVIEW**

The idea that regional organizations should take the lead in mediating regional conflicts has gained traction since the former UN Secretary-General, Boutros Boutros Ghali, recognized their potential in preventive diplomacy, peacekeeping and post conflict peace-building (Ghali, 1992). However, this recognition has produced mixed results as some regionally mediated conflicts such as in Liberia and Sierra Leone where Nigeria, a regional hegemon, led the way succeeded, while others like the African Union's attempt to mediate the conflict in Darfur did not deliver the desired outcome (Nathan, 2017). A recent example and the focus of this work is the Intergovernmental Authority on Development (IGAD) brokered Peace Agreement in South Sudan.

IGAD was established in 1986 as the Intergovernmental Authority on Drought and Development (IGADD) with a narrow mandate of responding to catastrophic droughts that were afflicting the region in the 1970s and 1980s. Adverse weather patterns were partly linked to environmental degradation, which required a concerted human response at the time (Dersso, 2014). Despite its appearance as a regional organization, IGAD owes its existence to donor pressure on governments in the region to do something about drought as opposed to an organization that emerged because of a homegrown spirit of cooperation among the regional countries (El-Affendi, 2001).

In 1996, IGAD shifted its focus from tackling environmental degradation in the region to the maintenance of regional security, when the Assembly of Head of States and Government agreed to revitalize the organization and renamed it the Intergovernmental Authority on Development (IGAD). Revitalization also extended IGAD's mandate beyond its minimalist task

of environmental cooperation to include regional peace and security to working for regional economic cooperation and integration (El-Affendi, 2001; Dersso, 2014). According to El-Affendi (2001), IGAD's new role of regional peacemaking instantly raised its international profile and led to the emergence of a new international donor group, the Friends of IGAD. This group included the United States, the Netherlands, the United Kingdom, Norway, Italy and Canada, which pledged support for IGAD's peacemaking role. The Friends of IGAD became the IGAD Partners Forum (IPF) with an expanded membership of more than 20 countries from industrialized western nations (El-Affendi, 2001).

Based on its security mandate, IGAD intervened in the South Sudanese conflict after the simmering political struggle for power between President Salva Kiir Mayardit and his long time Vice President, Dr. Riek Machar Teny led to war in Juba on December 13, 2015 (Knopf, 2017). After an intermittent and lengthy mediation discussed later in this study, IGAD was able to compel the disputants in the conflict to sign the Agreement on Resolution of Conflict in the Republic of South Sudan (GRSS) on August 15, 2015. The signatories were President Kiir who signed on behalf of the government of the republic of South Sudan, Dr. Riek on behalf of the Sudan People's Liberation Movement in Opposing (SPLM-IO), Pagan Amum on behalf of former detainees (a group of ministers and SPLM leaders who fell out with President Kiir and were arrested when hostilities started in Juba), and Dr. Lam Akol on behalf of South Sudan's other political parties respectively (Knopf. 2016).

According to Knopf (2016), the agreement provided for a power-sharing for a duration of thirty months and tasked its signatories with an ambitious plan of overseeing political, security and economic reforms, including the approval of a permanent constitution and elections for the new government. In addition, the agreement provided for power-sharing formula as follows: the

government 53%, the SPLM-IO 33%, former detainees, and other parties the remaining 14%. Regarding executive power, it created the presidency comprised of the President, Salva Kiir, the First Vice President, Dr. Riek Machar and the Vice President Wani Igga with decisions made at the Presidency premised on collegial decision-making among the three leaders. On security, the agreement created two armies with President Kiir as the commander-in-Chief of the government forces and Dr. Riek commanding the opposition forces until their integration. The agreement created over twenty commissions and committees with a Joint Monitoring and Evaluation Commission (JMEC) to monitor the Transitional Government of National Unity, and various transitional structures set up by the agreement.

## **1.2. RATIONALE OF THE RESEARCH**

Given its ambitious scope, the Government and its partner in the Agreement, the Sudan Peoples' Liberation Movement in Opposition (SPLM-IO) struggled to implement it. Failure to expeditiously implement the agreement, attracted regional and international criticism as parties were to expedite the implementation of the Agreement's provisions and avert the pending humanitarian crisis. Regional and international apprehensions about the slow pace of agreement's implementation was further heightened by the staggering number of displaced persons, which stands at 2.4 million including 200,000 internally displaced persons sheltering at the United Mission in South Sudan's protection camps across the country (Human Rights Watch, 2017).

Generally, concerned parties cite the continued violation of the cessation of hostilities agreement in different parts of the country, which continues to put civilians' lives at risk, the inability by the partners to agree to establish Hybrid Court for South Sudan, a key plank for

transitional justice as well as the Board for Reconstruction Funds to rebuild areas destroyed by the fighting among others as the key unresolved issues. Furthermore, concerned parties fear that the longer the contentions highlighted above remain unimplemented there is a danger that hostilities may escalate. Implementation was supposed to take effect during the first month of the formation of the Transitional Government of National Unity (TGoNU) as stipulated in the Agreement. This remained a contentious point between them and the parties to the agreement (Vhumbunu, 2016).

However, focusing on unresolved issues ignores a critical assessment of the effect of IGAD's own mediation strategy in the negotiation process. When assessing the hurdles facing the agreement's implementation, IGAD, its partners and the international community in general tend to ignore the impact of how mediation was timed, the effect of competing interests over South Sudan among IGAD member states as well as the role of IGAD's reliance on donor funding with concomitant timelines that shaped the final agreement that was signed by the parties.

Stakeholders in the South Sudanese peace process tend to omit the role of IGAD's mediation in the final agreement that was signed. This thesis departs from this view and argues that IGAD's mediation strategies contributed to the failure of the peace agreement to bring a lasting peace to South Sudan. Accordingly, this thesis proposes a holistic assessment of IGAD mediation of South Sudanese conflict. The central question is how strategies deployed by IGAD to compel warring parties to sign the agreement are responsible for the difficulty on its implementation and the consequent failure of the same (agreement) to deliver peace.

### **1.3. THESIS ORGANIZATION**

This study is divided into three parts: introduction, three chapters and conclusion. The introductory chapter is an overview of the central problems for discussion and literature review. The second chapter sets the context for the rest of the thesis providing the historical context to the conflict as well as outlining the factors that led to conflict in South Sudan. It also looks at IGAD's intervention in South Sudan, its timing and the role of its member states' strategic interests and how they impacted mediation. The third chapter looks at how the coordinated advantage of IGAD Plus after the talks were elevated to include powerful countries and compelled the warring parties to sign the agreement despite strong reservations. In addition, this chapter discusses the role played by the United Nations Security Council in coordinating the pressure points for IGAD Plus: from passing resolutions that set up sanctions committees as well as the Panel of Experts to help IGAD Plus. The fourth chapter analyzes what was discussed in the previous two chapters. It focuses on how perception by the region and international community and the donor pressure towards the conflict resulted in a peace process pursued on humanitarian grounds at the expense of political imperatives. The concluding chapter revisits issues discussed in the preceding chapters and highlights some of the issues that were omitted by the mediators, which, if not adequately addressed, could lead to perpetual war in the republic of South Sudan. It also discusses areas not addressed which should be considered in future research.

### **1.4. LITERATURE REVIEW**

There is a substantial literature on coercive mediation and its justification in conflict resolution. This study examines three strands of literature that justify mediation with muscle to help situate IGAD's mediation approach in South Sudan's peace process. These strands are: 1)

the challenge of justice and humanitarianism in peace mediation. 2) The debate surrounding the idea of responsibility to protect that undergirds the humanitarian imperatives argument in peace mediation; and 3) the effect of mediators' motivation and the role of donor funding on an agreement's quality and its ownership. While these strands are distinct, examining each of them will help provide insight into broader contextual challenges IGAD faced in its attempt to bring lasting peace to South Sudan in 2015. Engaging with this literature also provides a useful framework for examining IGAD performance in mediation as well as the impact of the mediation approaches it followed.

### **1.5. JUSTICE AND HUMANITARIAN IMPERATIVES IN PEACE MEDIATION**

Justice has become a common theme in conflict resolution, and the likelihood that the push to prioritize accountability for human rights violations over everything else in peace mediation could play a critical role in the failure of peace agreements is hardly discussed. Even when considered, it is often dismissed out right. Scholars of conflict resolution have advanced plausible explanations for the role of the justice lens in conflict resolutions (Bercovitch & Jackson; 2009; Bell, 2009). From the onset, it needs to be stated that the contemporary rationale behind the prioritization of justice in conflict mediation is rooted in the liberal institutionalist order. Joshi, Lee and Ginty, (2014) observe that as a result of the liberal theory of justice, the United Nations (UN) and major states in the world have taken human rights as an indispensable requirement for political settlement in the post-Cold War era. The liberal theory views inclusion of investigations into and punishment of human rights violations in peace settlement as a necessary step for restoring the moral order in society (Bercovitch & Jackson, 2009). Under this framework, trying crimes committed during the war is critical for re-

establishing the rule of law and standards for human rights observance in the post-conflict dispensation (Bercovitch & Jackson, 2009). The liberal worldview holds a similar perspective on the prosecution of perpetrators of human rights abuses, deemed key to breaking down the culture of impunity and disrespect for human rights.

Another angle through which the justice camp supports its position (Bell 2006 & Krazan 2016) is the idea that the rule of law is a vital conflict resolution tool due to the assumption that the framework governing the agreement would include ongoing constitutional democracy, which in turn acts as a long-term solution to conflict. Krazan (2016) argues supporters of the justice paradigm in the peace process believe in the pacifying effect of international justice - the idea that punishing individual perpetrators and rehabilitating individual victims prevents the development of collective guilt and a collective myth of victimhood as well as eliminating the drive for vengeance.

Despite the dominance of the liberal view in post-Cold War era, other scholars fault it given the difficulty of implementing the idea of holding those responsible for crimes committed during the war accountable (Bell, 2009). In response to the liberal postulation, they counter that negotiating human rights in conflict settlement involves compromises between those who have been fighting and their views of what the conflict was about (Bell, 2009). They argue that the need for compromises, in a way that conflicts with justice claims. Therefore, proponents of peace over accountability believe in an approach to conflict resolution that prioritizes securing negotiated settlement over accountability (Bell, 2009). They believe that silencing the guns is a necessary priority over all other efforts of peace building, including cementing democracy.

Another key critique of the justice lens in peace mediation is its perceived inconsistency with the view that violent conflict by its nature is multifaceted and exhibits multiple



disagreements among the parties (Bell, 2009). This multiplicity of areas of disagreement between the warring parties requires any attempt to resolve conflict through negotiations to include an effort to meta-bargain, for example, bargaining over the nature of conflict as opposed to the continued focus on justice as an overarching issue. This line of thinking rejects the blue prints imposed by international actors in peace negotiations (Bell, 2009, p.213). Bell (2009) claims that the liberal institutionalist framework and its emphasis on attempts to inaugurate democratic constitutional government characterized by elections, rights framework, and capitalist economic regime, are inappropriate prescriptions for peaceful settlement to the conflict, even though these issues align with the internationalist politics that they aspire to achieve.

Nonetheless the liberal justice model has been the lens of choice to most intervening third parties in various conflict mediation efforts. As Noll (2011) points out, the putative nature of the positive law theory within which the justice lens in conflict resolution is rooted has its controversies, as discussed earlier. First, the positive law theory as a whole takes law itself as a measure of justice, and thus sees justice as nothing more than conforming to the law. Therefore, using conformity to the law as a yardstick for justice in a world where each society defines its own laws makes justice relative and creates contestation over its definition. This in turn creates a slippery slope where a democratic society could claim to have democratic justice, an oligarchic society oligarchic justice, and a totalitarian society totalitarian justice (Noll, 2011). According to Noll (2011), since the liberal justice model measures justice by obedience to law, those who committed crimes during the conflict could easily claim they were enforcing their own laws.

Despite concerns about the potential incompatibility between justice and accountability with efforts to restore political stability in the conflict situation, IGAD's intervention in the South Sudanese conflict was couched with justice and accountability terms. When it formally

announced its intent to mediate between the disputants in South Sudan's conflict, IGAD's December 13, 2015, communique explicitly cited its concerns with conflict escalation and the worsening humanitarian situation in the country as the primary motivation for its intervention. The document also set the stage for a justice lens by condemning criminal acts, and demanding that all involved in criminal activities be held accountable by their de-facto and/or de jure leaders, and called for the creation of a conducive environment for all stakeholders to participate in a face-to-face talk (IGAD Communique, 2013, December).

In its demand for justice, IGAD was supported by the British Foreign Office, the UN Secretary General and the UN Security Council who welcomed IGAD's mediation. Furthermore, these actors issued press releases in which they echoed IGAD by stressing their determination to hold those actors responsible for human rights violations and abuses accountable. It is important to note here that while IGAD and members of international community shared the goal of holding the perpetrators of human right abuses accountable, they had different views on how to approach the issue of accountability. For example, in its communique, IGAD preferred domestic accountability, while its international partners in their press releases raised the spectre of international justice, something that later became a motif for negotiations. The effect of IGAD's and the international community's different views will be discussed in the subsequent chapters.

While the demand for international accountability was not initially supported by IGAD, it ended up driving the quest for peace towards averting humanitarian crisis and finding justice for the atrocities committed during the war. This focus drew attention away from assessing the disputants' primary drivers of conflict. Furthermore, the disputants to the conflict, and particularly the government, mostly read the pre-eminence of humanitarian imperatives in the South Sudanese peace discourse as a thinly veiled justification for humanitarian intervention in

the internal affairs of a sovereign state. This created hesitations and suspicions of the peace process from the Government of South Sudan whose support was, and is still is, crucial for the achievement of lasting peace. As a result, Beza (2015) observed that the centrality of justice under the IGAD led peace process inadvertently created fear among the top echelons of power in both warring camps of being held accountable on the allegations of the ethnic carnage they have committed in their past and present rivalries for power.

#### **1.6. RESPONSIBILITY TO PROTECT (R2P)**

Because IGAD's mediation and its approaches have an extensive international dimension, it is important to look at the concept of the responsibility to protect (R2P) as a rationale behind the justice lens and the use of humanitarian imperatives in IGAD's peace mediation. IGAD and its partners' position within the international community as discussed earlier presented the warring parties with the sense of urgency, driven by numerous hints of forceful intervention if they failed to comply with IGAD's direction. This led to some hesitations and manifestation of fear, real or imagined, among the warring parties of humanitarian intervention. However, fears of external intervention in internal conflict are not unique to South Sudan. Rather, they are rooted in the wider and raging debate on the effect of humanitarian intervention on the inviolability of state sovereignty (Zaum, 2007). Francis M. Deng and his colleagues in their book "Sovereignty as Responsibility" (1996) advanced the idea of sovereignty as a responsibility, arguing that it is the responsibility of a sovereign state to protect innocent victims of civil conflicts. In cases where the state cannot protect those who fall into a moral vacuum in the conflict, the responsibility to protect vulnerable populations from conflict falls on the international community.

The publication of “Sovereignty as Responsibility” by Deng et al. (1996) ushered in an era where the international community is perceived as the ultimate guarantor of universal standards to safeguard the rights of all human beings and in the process gave a ‘license’ to powerful countries to ‘protect innocent victims’ of internal conflicts facing gross violations of their human rights, sometimes framed as facing widespread atrocity crimes. To Deng and his colleagues, the justification for an international intervention in domestic affairs of sovereign nations is anchored in normative codes such as the universal standards of human dignity, as embodied in the International Covenant on the Civil and Political Rights, and the wide array of other human rights instruments (Deng et al., 1996, p. xiii).

In 2001, the International Commission on Intervention and State Sovereignty (ICISS) published a report, which brought forth the concept of the “Responsibility to Protect” (R2P), premised on the idea that sovereign states have a responsibility to protect their own citizens from avoidable catastrophes such as mass murder, rape and starvation. When they are unwilling or unable to do so, moreover, that responsibility must be borne by the broader community of states (ICISS, 2001). The ICISS report also affirmed the themes explored in “Sovereignty as Responsibility”, arguing that state sovereignty implies responsibility to protect its people, declaring that in the event where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect (ICISS, 2001). The ICISS report solidified the view that fundamental human rights are universal, and their protection is the concern of the international community (Zaum, 2007). Zaum (2007) and Machaji (2011) added that exercising sovereign authority depends on where the line is drawn between the authority of the state and the rights of society. They maintain the

development of human rights norms has elevated the status of the individual in world politics and challenged the inviolability of state sovereignty as a legal protection against states that violate human rights. Machaji (2011) argues that states that allow or engage in serious infringement of human rights simply vitiate their sovereignty. According to this perspective, sovereignty was never intended to be unlimited and it is unnecessary to grant unlimited powers to the state to do what it wants to do to its own people.

It is not hard to comprehend that R2P advocates are motivated by their desire to prevent extreme violence directed at civilians, especially when we consider what happened in Rwanda and Srebrenica. However, critics of R2P worry it might be exploited by powerful states as a pretext for politico-strategic objectives (Aistrophe & Gifkins, 2018). Other scholars take issue with the idealistic thinking that discounts the strategic interests of the powerful states, while subjecting sovereign power decision making of small states to control by the vague notions of ‘international community’ directed by the ‘conscience of humanity’ (Moses, 2013). According to Moses (2013), all the R2P does is present problems of power in an ethical light, while ignoring the realities of politics and power.

Nonetheless, within the power debate, the overuse of the term international community as the holder of responsibility by the R2P does not effectively disguise the fact that powerful states, acting either through the United Nations Security Council (UNSC), in partnership or independently can seize and temporarily or otherwise hold the effective sovereignty of the state believed to be irresponsible enough to warrant forceful intervention (Moses, 2013). According to Moses (2013) such interventions are imperialistic and hypocritical because they are motivated and carried out primarily in the interests of powerful states who are themselves not subject to the universal ethics of responsibility. Furthermore, critics of R2P argue that any legalization of

humanitarian intervention is a license to the great powers to engage in armed intervention whenever it suits their own interests. Moreover, given the existing power asymmetry among states and inconsistent use of humanitarian intervention by the international community, normalizing R2P could lead to it being used selectively by powerful states. They cite NATO's intervention in Kosovo on humanitarian grounds and its failure to do the same in Chechnya as illustrative of the selective use of this concept (O'Riley, 2009).

While the ICISS report outlined the threshold of what would qualify as human rights violation warranting international intervention, there is substantial disagreement over that definition. O'Riley (2009) asserted those opposed to the idea of humanitarian intervention view any attempts to accept it without a defined and widely acceptable threshold of what constitutes human rights violation runs a risk of consolidating western view of morality (O'Riley, 2009).

### **1. 7. MEDIATORS' MOTIVATION AND DONORS FUNDING ON AGREEMENT'S OWNERSHIP**

A survey of the conflict resolution literature demonstrates that third parties that intervene in conflict are motivated by collective, private, and humanitarian considerations (Greig & Diehl, 2012 & Duursma, 2014). Duursma (2015) argues actors motivated by collective considerations are primarily concerned with having a more stable world characterized by minimal negative externalities that come with armed conflict. On the other hand, those motivated by private considerations work to reduce spillover-effects of conflict, which may impinge on their immediate interest such as spillovers of war that lead to trade disruption and refugees flow (Duursma, 2014).

Based on these explanations, IGAD's intervention in South Sudan could be partly rationalized

under the rubric of private, collective and humanitarian considerations. Under IGAD, all member countries except Somalia and Djibouti share borders with South Sudan. Thus, their proximity provides strong grounds for being apprehensive about the regional implications of escalating violence in South Sudan. Collectively, IGAD member states are expected to work for peace within the region under the regional task-sharing—a two-tier conflict resolution system whereby regional organizations or states assume primary responsibilities for preventive diplomacy, mediation, peacekeeping, peace-enforcement and peace building activities within their geographical area (Bercovitch & Jackson, 2009). In theory, these factors provide a compelling justification for IGAD’s intervention in South Sudan.

In practice however, the conflict resolution literature is replete with examples of how internal regional rivalries have undermined regional mediation. In IGAD’s case, regional dynamics among its member states have been a major impediment to its ability to provide effective mediation in the South Sudanese conflict. For example, the International Crisis Group (ICG, 2015), noted that IGAD’s effectiveness in mediating South Sudan’s conflict was affected by competing interests for regional influence among its member-states. Similarly, Knopf (2016) points out “Intraregional tensions, such as the long-standing rivalry between Sudan and Uganda and the competition for regional hegemony between Uganda and Ethiopia were worsened by South Sudan’s conflict” (p.17). IGAD’s lead mediator, Seyoum Mesfin, decried competing interests when he privately chastised IGAD countries for allowing their national interests to prevail over IGAD’s regional common interest, and in the process paralyzing IGAD’s mission. According to Mesfin, disputants in South Sudan’s conflict did not feel compelled to negotiate the compromises required for peace. Instead, parties attended negotiations to see how differences among regional states could be exploited to their respective advantage (Vertin, 2018).

Such regional rivalries in peace mediations are not unique to IGAD. The Liberian civil war and the subsequent intervention by the Economic Community of West African States (ECOWAS) involved similar intraregional tensions. Ivory Coast for example, saw Nigeria as a regional rival as opposed to a partner in the peace process; while Burkina Faso, a member of ECOWAS, teamed up with Libya to back Charles Taylor in the hope of challenging Nigeria's regional dominance, and at the same time undermining the United States' influence in the region (Shaw, 1997). Shaw (1997) argues that such divergent interests made it difficult for ECOWAS to define its mandate and determine the strategy for its armed wing, the Economic Community of West African States Monitoring Group (ECOMOG) forces.

Within IGAD member states, these regional rivalries are complicated by internal political challenges. Most IGAD member-states were, and still are grappling with internal crisis: the ongoing conflict in Somalia; increased instability in Kenya prior to the 2017 presidential elections; the internal conflicts in Sudan, and the deadly political protests in Ethiopia (Knopf, 2016). The impact of internal instabilities within IGAD member states were apparent to the warring parties in South Sudan who strategically exploited them to their advantage. For example, Beza (2015) claims rivalries within IGAD member states encouraged the warring parties to reluctantly respect whatever agreement they had signed during the negotiations, based on the knowledge that IGAD member states share similar problems. These observations demonstrate the ever-present danger of internal political challenges among IGAD countries. As a result, IGAD has been reluctant to explore other options such as peace-enforcement in South Sudan as a way of bringing recalcitrant parties into compliance, out of fear that it could create a precedent that may be used in the future against them.



Apart from collective and private considerations discussed above, at times, third parties intervene in conflict on humanitarian grounds. This happens when the third party feels that suffering of the civilian population is morally unbearable. Bercovitch and Jackson (2009), define humanitarian intervention as a form of a third-party conflict resolution that involves attempts by external actors to de-escalate the conflict and facilitate pacific settlement (p.102). Therefore, unlike traditional mediation, humanitarian intervention does not seek the consent of disputing parties and its operations are primarily directed at preventing human rights abuses, mitigating humanitarian crisis, delivering aid, capturing war criminals or enforcing peace through combat operations.

While often billed as action taken to save lives where the host government has failed to protect its people, the willingness to intervene in a sovereign state affair with a clear intent to deploy offensive military force has on occasions made humanitarian intervention one of the most intensely debated subject in international relations (Greig, & Diehl, 2012). Greig and Diehl (2012) argue the humanitarian intervention model of conflict resolution contains inherent risks of creating a situation where the intervening third party focuses more on the effect of the conflict on civilians' population than belligerents' underlying issues in the conflict. The defense of state sovereignty against the undue excesses of humanitarian intervention can be seen as the demand for justice by weaker states against stronger states' proclivity to impose their preferred view of international order on the weak in the name of justice within states (Ayoob, 2002).

Since the goal of humanitarian intervention is to stop mass atrocities; the intervening third party often overlooks pure mediation and chooses power mediation. Conceptually, the two modes of mediation differ in power and approaches. According to Svensson (2011), pure mediators have no power outside the negotiations situation and merely rely on reasoning,

unforced persuasion, the control of information, and the generation of alternatives to encourage the conflicting parties to reach the agreement. On the other hand, a power-based mediator has powers to persuade parties to obey, and if necessary, uses incentives and punishment to compel parties to yield on inflexible positions and to embrace compromise (Svensson, 2007).

Historically, in international circles power mediators are preferable because of their ability to maintain a background threat of punishment, which often pushes disputing parties toward the bargaining table (Bercovitch & Jackson, 2009). By demonstrating willingness to use sticks, mediators with muscle can alter the strategic dynamics between conflicting parties, making the acceptance of mediation more palatable by influencing the parties' perception of the costs and benefits of rejecting mediation and continuing with conflict (Greig & Regan, 2008, pp. 759-781). However, reliance on power-based diplomacy with its concomitant attempts to make progress by exerting pressure on the disputant parties through declarations, admonitions, threats and punishment are ineffective in achieving the intended goal of changing parties' behaviours of conflict.

Other studies have found that parties enmeshed in conflict make choices independent of the mediator and can hold intense feelings of hatred and frustration, fear, and mistrust. These feelings lead to decisions that do not reflect the prudent cost-benefit analysis one might expect with the cold calculus of rational choice (Noll, 2011, p.43). Noll (2011) argues that imposing outside will on the disputants, may coerce a peace agreement on paper, but as soon the international community turns to the next conflict, the parties will be back fighting. Although threats eventually make negotiations attractive, the targeted party comes to view the mediator who applied the pressure as allied to its enemy (Noll, 2011, p.43).

Nonetheless, irrespective of the third-party interest and motive for mediation, any successful mediation depends on three factors, namely; consent and willingness of the warring parties, mediator's timing to get involved; and mediator's skills (Zartman & Rasmussen, 1997, p.144). In order for mediation to be effective, disputants in the conflict must unequivocally demonstrate their willingness to seek assistance or accept an offer for help from an outsider. This can be an individual, an organization, a group or a state, aiming to change their perceptions or behaviours, and do so without resorting to physical force or invoking the authority of law (Zartman & Rasmussen, 1997, p.310). The willingness of parties to negotiate with one another and accept mediation is not a function of diplomatic pressure on the warring parties alone. Rather, the decision to accept mediation partly develops as costs of the conflict between the sides mount - for example, when, the conflict becomes costly to the point where mediation becomes a desirable option to the parties or where the diplomatic approaches to settle the conflict become more appealing (Greig, & Diehl, 2012, p. 107) or what Zartman refers to as a mutually hurting stalemate.

While the disputants' consent to mediation is an important prerequisite in initiating dialogue between them, the timing of third-party intervention is equally critical to conducting a successful mediation. According to Zartman and Rasmussen (1997), disputants in the conflict are often amenable to, and sympathetic to a third-party intervention when their conflict is drawn out or complex, when their own conflict management efforts have reached an impasse, and when none of the disputants are prepared to accept further costs or loss of life. Greig and Diehl (2012) contend that as costs of the conflict rise, the willingness of the disputants to continue to bear them and suffer the resulting pain can increase their willingness to turn to diplomatic solutions such as mediation. The key point therefore is that a conflict where intervention is necessary is at

the transition point where conflict costs begin to exert a stronger push toward compromise than the pull toward continued violence (Greig & Diehl, 2012).

As a mediating regional organization, IGAD lacks the resources required to support its peace endeavours. As a result, funding for its regional mediation activities has come exclusively from western donors, specifically from the IPF (IGAD Partners Forum). Not surprisingly, lack of resources is a challenge, which has made IGAD vulnerable to charges of being a conduit for external interests. For example, Ylönen's (2014) review of the Sudan's Comprehensive Peace Agreement (CPA) mediated by IGAD noted that its dependence on financial support from several western states made it vulnerable to manipulation by external players to promote their interests. Consequently, Ylönen contends IGAD was a façade in the Sudanese peace process because the real power behind the agreement's conclusion was the United States of America. Darby and Ginty (2009) expressed similar views.

Vertin (2018) points to the use of funding by donors to push for agreement frameworks and orientations that reflect western political, economic and cultural norms in the post-conflict peacebuilding. Under such conditions, the authors found that democratization programs, human rights legislations, new constitutions, and economic reforms – all of which constitute the key pillars of western societies - are some of the outcomes donors expect from peace agreements, even though the expectations of having such institutions may overlook local norms. Proponents of this view argue that while donors in peace processes often disregard local norms, their omission casts many international peace interventions as projects of rebuilding states emerging from conflict in the western image, a charge that is detrimental to smooth implementation of such agreements (Darby & Ginty 2009; Vertin, 2018). They add that apart from attaching money to their policy preferences and legal requirements (Vertin, 2018; Nathan, 2017), external funding

of peace processes has been closely linked to the issue of deadlines demanded by donors.

The constant threats to withhold funding if talks are not progressing as expected by funders could lead to imposed agreements. Justifiably, the threat to withhold funds if talks were moving at a pace deemed undesirable by the donor is meant to alter the behaviours of disputants to conflict. However, similar threat in the situation where conflict is not ripe for resolution inadvertently affects the mediator's approach to the negotiations and consequently the nature of the final agreement itself. Fueling perception of IGAD as a cover up for external actors to pursue their interests in the region is the question of ownership over the agreements mediated by IGAD. Healy (2011) claims that IGAD's reliance on donor support provided by its Peace Forum (IPF) generates frictions over ownership of the agreements it helps broker and equally leads to the imposition of spurious deadline tied to financing by donors. Commenting on ARCSS, Vhumbunu (2016) came to a similar conclusion on the effect of donor financial support on the ownership of the agreement.

## **1.8. THEORETICAL LENS**

This study deploys William Zartman's (2008) concept of "ripe moment" as the theoretical frame for analyzing the failure of IGAD's mediation to achieve a lasting peace in South Sudan. According to Kleibor (1998), the ripe moment theory assumes that conflicts pass through a life cycle that entails a number of discernible phases, and that certain stages among these phases are amenable to an outside intervention. The ripe moment theory outlined by Zartman (2008) and Kleibor (1998) considers any conflict ripe for resolution when: 1) a mutually hurting stalemate (MHS) marked by a recent or an imminent catastrophe exists; 2) the efforts of the disputants in the conflict to impose a unilateral solution are blocked, making them

willing to accept mediation as a workable solution; 3) power relations between the warring parties have changed in such a way that the party that previously had the upper hand in the conflict sees it slipping away while the power of the underdog starts rising. The existence of these conditions creates a plateau (the unending and uncomfortable horizon with no respite in sight) for belligerents and in the process compels them to realize that matters will deteriorate if they fail to explore the option of dialogue through negotiations (Pasmussen, 2009; Zartman, 2009) The willingness to dialogue among the disputants arises from the conflict imposed costs (Greig & Diehl, 2012). According to Greig and Diehl (2012), as the conflict takes its toll, the willingness among the disputants to continue to pay costs diminishes and increases their willingness to turn toward diplomatic solutions such as mediation, thus creating a transition point where conflict costs begin to exert a stronger push toward a compromise than the pull toward continued violence.

Despite its enduring analytical utility in the field of conflict resolution, the theory of ripeness has its critics. For instance, Lederach (2009) doubted the notion that change from extreme violence to negotiations is only possible after the perpetrators of that violence have reached a maturation point for mediation. He advanced two critiques of ripeness as a theory. First, that ripeness is forward-looking and assumes that peace processes take a linear approach that is capable of foretelling outcomes, an assumption that does not tally with the unpredictability associated with most peace processes. Second that ripeness as a theory is weak in predictions and its lens is not helpful for charting a constructive pathway to peacebuilding. Lederach (2009) considers ripeness theory as subjective, meaning the determination of when conflict is ripe for resolution is in the “eye of the beholder”. Other scholars such as O’Kane (2006) fear the theory of ripeness could be used as excuse for inaction in the face of an

impending crisis.

Despite such misgivings about ripeness theory's predictive power, its broader description holds an analytical frame for explaining the failure of the warring parties in the South Sudanese conflict to adhere to the terms of the agreement they signed. Werner and Yuen (2005) argue that agreements that are made under heavy third-party pressure are prone to failure because the terms of the agreement are often at odds with the military reality on the ground. In addition, since concerns by the region and international community on worsening humanitarian crisis have been a driving force for reaching the agreement, it omits the relative military strength of the belligerents.

Privileging the humanitarian imperatives above all else was manifested in December 2015, by the then Special Representative of the Secretary-General to the UN Mission in South Sudan, Ellen Loej. Ellen Loej publicly decried during a radio interview the continuation of conflict, which had lasted for too long and caused unbelievable level suffering among the people and described the peace process as too slow and pointed out that despite signing a permanent ceasefire, fighting had continued on the ground. In her words, "I cannot repeat often enough that we need a complete stop in the fighting, full respect for the permanent ceasefire that the parties agreed to in the Agreement." This inability by the signatories to the agreement to abide by what they agreed on illustrates a lingering sense among the parties of a possibility of military victory. Another criticism of the ripe moment theory as a frame of analysis for South Sudan's conflict lies in the looming humanitarian crisis during IGAD's intervention. One could argue that ripeness theory holds no explanatory power in the situation when human lives are at risk, and that in such circumstances there is no time for further dithering by the region or the international community. Although valid at face value, these observations fall apart when assessed against the

criteria for achieving a genuine peace. In peace negotiations, there is no substitute for the willingness of the disputing parties to negotiate, and in good faith. Moreover, in order for the warring parties to commit to negotiations, they must be convinced that making peace maintains a balance of power and promotes their respective mutual interests, capabilities and wills (Joseph, 1991). Therefore, the willingness to negotiate cannot be successfully imposed on the warring parties when their assessment of mutual interest and military capabilities says otherwise.

A study of the Darfur Abuja Peace Agreement conducted by Nathan (2006) concluded that mediation of civil wars is not conducive to quick accords, because civil wars have “multiple historical, structural, political, social and economic causes that are complex, deep rooted and intractable.” Mediators, Nathan (2006) asserted, have no option but to be patient no matter how grave the situation is, for an enduring peace agreement cannot be forced on the parties. This approach favours a balance between arresting humanitarian crisis associated with civil wars, with the need to find a lasting solution to the problem that created the crisis in the place. Agreements, as Nathan (2006) found, are supposed to be shaped and owned by the disputants whose cooperation and adherence to their provisions in the long term is vital to their sustainability, a point that is often ignored by multinational organizations that seek to end civil wars through power-based diplomacy instead of supporting confidence-building mediation. Compelling the warring parties to sign agreements against their wills merely provides a lull in hostilities, which does not end violence nor the humanitarian concerns that underpin power-based diplomacy.

## **1.9. METHODOLOGY**

The research method for this thesis relies on the analysis of documents related to IGAD’s mediation in South Sudanese conflict. I intend to analyze the following documents: position



papers of the disputants to the conflict, press releases and communiques issued by IGAD, press releases from the TROIKA (United States, United Kingdom and the Kingdom of Norway), reports on South Sudan prepared for the UN Security Council by the panel of experts, United Nation Mission in South Sudan press releases and reports, civil society position papers as well as secondary documents written about the IGAD brokered peace deal in South Sudan. This study develops a thorough understanding of motivations surrounding IGAD intervention in South Sudan's conflict as well as the role played by donors' funding and interests in the mediation of peace processes that became difficult to implement.

The study will deploy a qualitative case study research design, specifically using the document analysis method. Glenn A. Bowen (2009) defines document analysis as a systematic procedure for reviewing or evaluating documents—both printed and electronic (computer-based and Internet-transmitted) material. Bowen (2009) argues this method requires that data be examined and interpreted in order to elicit meaning, gain understanding, and develop empirical knowledge, an observation that aptly fits the guidance I need to evaluate and synthesize the research findings from reviewing documents emanating from multiple actors whose interest may be at variance.

Since the study examines documents produced by stakeholders and interlocutors in peace mediation to shape the process, the main source of data for this work comes from primary sources - mainly United Nations and IGAD websites along with other electronic repositories containing these documents. There will also be a component of secondary sources about the agreement by academics in the last few years. This will make Killam Memorial Library electronic holding central to my research. I will utilize credible web sources, specifically,

reactions of various South Sudanese Diaspora communities to the ups and down during the peace mediation and during the difficulties in implementation.

The purpose of this qualitative case study is to understand how the timing of IGAD 's intervention in South Sudan's conflict, the competing interests of IGAD member states and its reliance on donor funding during the mediation process affected the resolution of the conflict and in the process the resultant challenges in the implementation phase of the Agreement. I hope that examining these challenges from all angles, including the circumstances around IGAD's chosen mediation strategies in the negotiations process, will allow for a contextual discussion of the hurdles that are presently afflicting the agreement.

#### **MAIN RESEARCH QUESTION**

- How has the timing and motives of IGAD's intervention in South Sudan's conflict affected the commitment of the warring parties to the negotiated peace settlement?

#### **SECONDARY RESEARCH QUESTIONS**

- How have the competing strategic interests of IGAD member states in South Sudan been responsible for hurdles facing the implementation of the peace agreement it brokered.
- To what extent has IGAD's reliance on donor funding to mediate the South Sudanese conflict affected the mediation strategies it deployed to compel South Sudan's warring parties to sign the agreement.

#### **1.10. SCOPE AND LIMITATIONS OF THE STUDY**

This study's focus is the mediation strategies used by IGAD to mediate the South Sudanese conflict. While IGAD is the focus of this study, a limited discussion of other actors who played significant roles in supporting IGAD's efforts are included. Specifically, the role of the following actors: United Nations Security Council; United Nations Mission in South Sudan; African Union, European Union, Troika (Norway, the United Kingdom, United States of America) and China will be discussed with respect to how their actions influenced the negotiations. Limited examination of IGAD's partners will provide a comprehensive view that

will help in understanding how the interests of these partners influenced the broader objective of IGAD's mediators.

Since this study is mainly focusing on IGAD mediation, it will only evaluate the mediation strategies deployed by IGAD by discussing the key protagonist in the conflict. While cognizant of the role played by the civil society, faith-based groups and eminent personalities in peace negotiations, I have chosen to focus on the protagonist as discussing other parties in the negotiations would lengthen this work beyond what a master thesis could accommodate. Finally, this study will only cover the period from December 2013 to August 2016. The current revitalization activities undertaken by IGAD to strengthen the agreement will not be included in this study, except that a brief postscript will be appended at the end of the study as an update on where things stand on the quest for peace in South Sudan.

## **CHAPTER 2: HISTORY, CRISIS AND IGAD INTERVENTION**

This chapter undertakes three tasks. 1) It briefly explores some of the historical fissures within the SPLM party as a way of showing a possible link between SPLM history and the causes of the crisis that led to the civil war. 2) It looks at how IGAD's timing and approach to mediation partly led to the failure of the agreement they brokered in South Sudan to hold. 3) It discusses disputants' positions in the conflict. Examination of these issues will answer questions such as how the timing and motives of IGAD's intervention in South Sudan's conflict affected the warring parties' commitment to negotiate a lasting peace settlement and how the competing strategic interests of IGAD member states in South Sudan have contributed to the hurdles facing the implementation of peace agreement. Grappling with these questions helps in developing a thorough understanding of motivations of IGAD's intervention in South Sudan and how those motivations may have missed the disputants' primary motivations in the conflict, which in turn led to the failure of the agreement to bring lasting peace.

### **2.1. HISTORICAL FISSURES WITHIN THE SPLM/A**

Historical disagreements among South Sudanese, especially their conflicting visions on how to fight for their rights within the Sudan, are as old as their aspirations for statehood. The first Anyanya war in the Sudan from 1955 to 1972 for example, was waged on demands for an independent South Sudan (Mamdani, 2016). However, during the second civil war from 1983 to 2005, Dr. John Garang de Mabior, the late SPLM /A leader, rejected the call for an independent South Sudan. According to Garang, uniting South Sudanese around the call for an independent South Sudan was tantamount to licensing the government of Sudan to isolate the South and rally the rest of the country against it (Collin 2007; Mamdani, 2016). Therefore, instead of waging a

secessionist war, Garang changed the direction and definition of the Southern problem and rallied South Sudanese around an all-Sudan vision with the hope that such a vision will draw all marginalized forces in the country to the SPLM/A cause. As a result, under Garang's leadership the declared objective of the SPLM/A was the liberation of the whole of Sudan from any discrimination based on race, religion, culture, language or gender (Deng, 1996).

The New Sudan vision, championed by Garang, eschewed secessionist demands and focused the problem of Sudan on marginalization of peripheral regions. It held for the first nine years of the SPLM/A's existence (Collin, 2007). However, that vision was tested in August 1991, when three senior commanders of the SPLM/A: Dr. Riek Machar Teny, the current leader of the SPLM-IO, Dr. Lam Akol, the former Vice President of South Sudan; and Gordon Kong Chol publicly announced they had dismissed John Garang as the chairman of the SPLM/A because of his dictatorial leadership (Collin, 2007; Roque, 2014). The three rebelling commanders justified their call for Garang's removal on two counts. First, they asserted that Garang had tied the SPLM/A closely to the Marxist government of Mengistu Haile Mariam of Ethiopia. Second, they argued that these ties were being used to forestall demands for an independent South Sudan and internal reforms within the movement (Mamdani, 2016).

The ostentatious dismissal of Garang over charges of dictatorial leadership and closer ties to the Marxist regime in Ethiopia was followed by a plethora of promises of instituting reform within the SPM/A (Collin, 2007). For example, Dr. Riek and his group promised democratization within the Movement, observance of human rights and the rule of law, adoption of secession of South Sudan over the New Sudan Vision, and the release of detained political prisoners (PaanLuel Wël, 2014). However, the perceived reform agenda by the Nasir faction<sup>1</sup>

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<sup>1</sup> The group was named the Nasir Faction after the town of Nasir where Riek and his group made their declaration of John Garang removal as the SPLM/A leader.

was exposed by the subsequent military confrontation between them and the SPLM/A mainstream led by John Garang, specifically, the massacre of civilians by the Nasir faction troops under Dr. Riek Machar in the town of Bor (PaanLuel Wël, 2014).

Among supporters of the rebellion who remained with Garang's SPLM/A mainstream, Dr. Riek Machar's decision to unleash the exclusively Nuer militia (the so-called white army) in Bor, Garang birth-place, where around 2,000 Dinka civilians were slaughtered and the signing of Khartoum Peace Agreement, which allowed the government to pump oil from South Sudan fields in Unity and Upper Nile reinforced the sense of Riek's betrayal (Collin, 2007). Within the SPLM, Dr. Riek Machar's 1991 defection exposed him as a divisive figure and traitor for his role in the Bor massacre and for signing the Khartoum Peace Agreement with the Government of Sudan (Fletcher, 2013).

While Machar and his group correctly judged that the demands for secession and reform within SPLM/A would resonate with the public as a majority in the south favoured separation, they were undercut by the decision they made based on political and military exigencies. Their demand for the secession as a credible alternative to Garang's vision of the new Sudan was weakened by their choice to seek military and political support from the government of Sudan, the arch-enemy of the South in general and the SPLM/A, in particular (Roque, 2014; Lyman, 2014).

The same 1991 revolt against the SPLM/A also had negative ramifications on personal relationship between President Kiir and Dr. Machar. In a recent opinion piece, published in the Sudan Tribune online edition, Ambassador Telar Ring Deng, who served under both men, noted that President Kiir has a strong dislike for Dr. Riek Machar because of his role in the split of the SPLM/A in 1991. In that article, Ambassador Deng revealed that then Commander Salva Kiir

furiously objected to the reinstatement of Dr. Riek Machar as the third ranking official in the SPLM/A hierarchy following Dr. Riek's return to the SPLM/A after the signing of the Reunification Declaration in Nairobi in 2002 (Sudan Tribune, 2018). According to Ambassador Deng, Kiir's objection to Dr. Machar's reinstatement was informed by the view that it would amount to rewarding rebellion within the movement. Kiir's objection was only overcome through voting by the SPLM/A Leadership Council, which voted in favour of Dr. Riek's reinstatement. The enmity dating to the historical split within the party in 1991, continues to cast its long shadow over the governance of independent South Sudan and could partly explain the genesis of the South Sudanese crisis.

## **2.2. GENESIS OF SOUTH SUDAN'S CRISIS**

When President Kiir assumed the leadership of the SPLM/A after the death of its founding leader, Dr. John Garang in 2005, he was confronted from the onset with the issue of unity among South Sudanese militia factions. To safeguard the conduct of the referendum that was agreed to under the 2005 Comprehensive Peace Agreement (CPA) that ended the war between North and South Sudan, Kiir needed unity among South Sudanese (Roque, 2014; HSBA, 2014; Johnson, 2016). The threat to the conduct of the referendum was informed by the realization that SPLM/A soldiers were a minority among the multiple armed groups in southern Sudan, most of whom were aligned with Khartoum and were not willing to disband, which left Kiir with buying them off via integration as his only option (Alex de Waal, 2015). Kiir's desire to unite South Sudanese rival militia factions led to the formulation of his "big tent" policy that allowed for absorption of broader political and ethnic militias into the government of South Sudan and the Sudan People's Liberation Army (SPLA) (Mamdani, 2016).

The ‘big tent policy’ was actualized through the Juba Declaration on Unity and Integration signed in January 2006, between the Government of South Sudan and the Nuer dominated forces of South Sudan Defence Forces (SSDF) led by the former war lord, General Paulino Matip Nhial (Small Arms Survey HSBA<sup>2</sup>, 2014; Warner, 2016). The declaration granted amnesty to all former Khartoum allied militias for related war activities in exchange for their loyalty to the government and their integration into the SPLA (Warner, 2016). Under the Juba Declaration military integration, the SPLA became the primary vehicle for political-military accommodation in South Sudan (Warner, 2016). The integration of the Khartoum allied militias, as the centerpiece of the ‘big tent’ policy, served its purpose by preventing a large-scale conflict within South Sudan, and operationalizing the conduct of the CPA-mandated referendum on self-determination in 2011 (Warner, 2016). As a result, analysts who hailed President Kiir as a conciliator lauded this policy and its inclusive approach (Roque, 2014).

However, the ‘big tent’ policy and its open-door policy for integration of armed groups into the SPLA inadvertently ended up incentivizing rebellion against the government. It encouraged armed militia to take up arms against the state for the slightest of grievances, as rebelling individuals often expected their re-integration into the government to be accompanied by higher positions than they held before rebelling (Warner, 2016). Mamdani (2016) aptly captured the drawback of Kiir’s accommodation policy thus:

Kiir’s big tent was envisaged as a grand reconciliation, but it encouraged militias to barter for peace, and turn rebellion into a bargaining chip: those with a grievance rebelled, only to return with a reward, which was understood by rebels, non-rebels and the central command to be the prize for having kept the peace. The reconciliation policy became an incentive to rebel.

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<sup>2</sup> Human Security Baseline Assessment



Aware that the government was willing to compromise for the sake of stability, armed group leaders were encouraged to continually use force or the threat of violence as an instrument of bargaining with the government leading to the spiral of integration that created enormous budgetary strains in the army. As Alex de Waal (2015) observes:

Between 2005 and 2011, the military payroll (including police and paramilitaries) expanded from 40,000 to over 300,000; salaries doubled twice; and the officer corps increased from 60 commanders to 745 generals-more than in the four US armed services combined. The political elites, meanwhile, were allowed to steal vast amounts of money-some \$4 billion, according to Kiir himself.

Apart from incentivizing rebellion and inflating the army's payroll, the integration of the former Khartoum allied militias also weakened the SPLA in terms of command and control, thereby creating some threat to the country's top executive (Hutton, 2014). As Hutton (2014) noted ethnic composition of the SPLA that absorbed mainly troops from Nuer ethnicity, the majority of whom had fought alongside the government of Sudan during the war, terrified the executive leadership in South Sudan. The fears generated by this unbalanced army forced individuals in President Kiir's Bahr al-Ghazal political circle to realize that with such composition they could not be protected by the SPLA (Hutton, 2015). As a result, they were forced to conduct a parallel recruitment of security forces primarily from the Bahr al-Ghazal region starting in 2012, which undermined the goal of military integration as an insurance policy for integrated forces (Warner, 2016).

Military recruitment outside the SPLA's chain of command in the pursuit of ethnically loyal forces further undermined attempts to transform the army and undermined the notion of cohesion and the establishment of a professional national military (Hutton, 2014). Coupled with the challenges brought by the integration policy, and SPLM/A's reluctance to reform its pre-CPA Politico-Military High Command hierarchy contributed to the start of crisis (Awolich & Akol,

2013). According to Awolich and Akol (2013), the SPLM/A continued use of its liberation era seniority to apportion governmental positions, undermined the ethos of civilian leadership that include individual aspirations, experience, and merit.

Such cumulative grievances were exacerbated further by the negative reviews of SPLM/A's performance from the grassroots. The party's Political Bureau (the SPLM's highest political organ) had visited states to thank the public for supporting the SPLM during the liberation struggle and for voting for the independence of South Sudan (Awolich & Akol, 2013). Awolich and Akol (2013) observe the visiting delegation had a rude awakening when what was planned to be a congratulatory affair turned into a condemnation of the party for its lost vision, direction, and inability to deliver essential services such as road networks, health facilities, security, and education, among others, to the population.

The disapproval of the SPLM/A by its grassroots when elections were two years away alarmed the party leadership, which began to trade accusations in public. The first shots in this war of words between the SPLM/A top echelon were fired by Dr. Riek Machar Teny, the Vice President and the SPLM deputy chairperson in the interview with Simon Tisdall, of the Guardian newspaper on July 4, 2013. In the interview, Dr. Machar blamed President Kiir for the negative reviews the party had received from the grassroots. He accused the government led by President Kiir of being unable to satisfy the people's expectations after the 1983-2005 civil war ended with the signing of the CPA. "Kiir," he asserted in the interview, "has failed to use his time as a leader since 2005 to build strong institutions, tackle official corruption and create cooperative relations with Khartoum" ... "to avoid "authoritarianism and dictatorship", he concluded, "it better to change" (Tisdall, 2013).

The acrimony over who should take responsibility for the party's failure to deliver services to the population along with the open challenge by Dr. Machar and Pagan Amum, to Kiir's leadership set things in motion (Rolandsen, 2015; Awolich, 2013). In response to the challenge, President Kiir stripped Dr. Machar of his delegated powers as the Vice President, lifted immunities from two influential ministers, Kosti Manibe and Deng Alor and dismissed Governor, Taban Deng Gai of Unity State because of his links to Machar (Temin, 2018). The expulsions paralyzed the party and the government leading to stormy meetings at cabinet and party levels (Rolandsen, 2015). As the power struggle within the party and government escalated, President Kiir on 23 July 2013, suspended Pagan Amum, the SPLM Secretary General, and ordered that he be investigated for insubordination and administrative mismanagement. President Kiir concurrently dismissed Dr. Riek Machar from his position as the vice president along with the entire cabinet (Rolandsen, 2015).

Following his dismissal as the vice president, Dr. Machar called for calm among his supporters, cautioning them not to give President Kiir an excuse to declare a state of emergency and arguing that his removal was within the president's constitutional powers (BBC, 2013). While giving assurances on constitutionality of the president actions, Dr. Machar made it clear that the power struggle between the two men was now moving to the party structures as he declared his intention to challenge President Kiir for the leadership of the SPLM before the 2015, elections (BBC, 2013). Machar's decision to stay and fight within the SPLM party instead of forming his own party was based on reality that the route to power in contemporary South Sudan passed through gaining control of the SPLM (Rolandsen, 2015).

To the dismay of those dismissed by President Kiir from ministerial positions, their replacements were people they viewed as individuals close to Khartoum (Temin, 2018). Temin

(2018) notes those removed from the government saw the appointments of those they considered closed to their erstwhile enemy, Khartoum as a clear signal that President Kiir was now surrounding himself with a small circle of hardline advisors with the goal of centralizing power in his office. Since most of those dismissed from the government were members of the SPLM Political Bureau and NLC, their immediate response was to coalesce around Dr. Riek Machar as their counterpunch to President Kiir's power consolidation (Johnson. 2015).

Johnson (2015) points out that the coalition was based on expediency, since many of the dismissed ministers who joined Riek's camp had never been his strong supporters. Despite their tenuous political affinity, those dismissed by President Kiir from ministerial positions showed their solidarity with Dr. Machar and joined him in the press conference on December 6, 2013. The press statement read by Machar on behalf of the group denounced President Kiir's mismanagement of party (Small Arms Survey, 2014). Those in attendance at the press conference were:

1. Rebecca Nyandeng de Mabior, Garang's widow
2. Pagan Amum Okiech, SPLM Secretary General
3. Deng Alor Kuol, Minister of Cabinet Affairs
4. Oyay Deng Ajak, a key wartime disciple of Garang and the former SPLA chief of general staff;
5. Majak D'Agoot Atem, a precocious trusted commander of Garang and former deputy minister of defence
6. Gier Chuang Aluong, former minister of interior and another senior SPLA figure,
7. Alfred Ladu Gore, an Equatorian Bari and political mobilizer who many believed to have been robbed of the 2010 gubernatorial election in Central Equatoria

8. Madut Biar, former governor of Northern Bahr El Ghazal, provided representation from Kiir's Bahr el-Ghazal Dinka heartland
9. John Luk Jok, the former minister of justice and the architect of the 2011 transitional constitution that had bestowed so much power on Kiir
10. Peter Adwok Nyaba, a veteran political dissident and former minister of education, who regularly expressed in writing his dismay at the failures of leadership in the SPLM.
11. Mabior Garang Mabior, Garang's eldest son (Johnson, 2016, p. 174).

For Dr. Machar, the presence such senior SPLM figures, who were historically loyal to the late Dr. John Garang de Mabior at the press conference gave him an aura that he had finally succeeded in broadening his political support base across the party and ethnic lines. At the Press statement, the group decried:

The deep-seated divisions within the SPLM leadership, exacerbated by dictatorial tendencies of the SPLM Chairman, and the dysfunctional SPLM structures from the national to local levels are likely to create instability in the party and the country. For these reasons, and out of our sincere concern about the future of our people, we the SPLM members of the Political Bureau and the leadership of the party are obliged to inform the public about the true state of affairs in the SPLM and how General Salva Kiir is driving our beloved Republic of South Sudan into chaos and disorder (Johnson, 2016, p. 174)

In addition to indicting President Kiir for his dictatorship leadership, the group blamed him for the paralysis of the party structures, and went on to raise the substantive issue, their dismissal from various positions as a critical boiling point of the crisis:

The crisis reached boiling point in March 2013 when General Salva Kiir cancelled the meeting of the National Liberation Council; issued a Presidential Decree withdrawing the delegated powers from his Vice President and First Deputy Chairman. Other decrees followed including the dismissal on false grounds of the Governors of Lakes and Unity States; the dismissal and appointment of a new Cabinet and the suspension of the SPLM Secretary General. We want to assure our people that these were personal decisions by General Salva Kiir since neither the PB<sup>3</sup> nor the National Liberation Council (NLC) deliberated on these decisions, which have far-reaching implications for the SPLM and the Country (Sudan Tribune, 2013).

As a sign of their willingness to escalate the power struggle further, the group announced at the press conference that they would hold a public rally on December 20, 2013 to inform the public about the mismanagement of the party by the chairman (Sudan Tribune, 2013). These announcements were made when the party chairperson, President Kiir, was away on an official trip to Paris. Upon his return, the President did not respond to the issues raised by the group as he had to proceed to South Africa to attend the funeral of its former President, Nelson Mandela (Rolandsen, 2016). Upon his return from South Africa, his immediate act was to bypass the scheduled SPLM political Bureau (PB) meeting and convene a two-day National Liberation Council<sup>4</sup> (NLC) meeting on December 14 and 15, 2013 (Rolandsen, 2016). Kiir's decision to bypass the PB meeting was based on his awareness that his opponents within the party has taken the fight for political supremacy to the party structures and based on his knowledge that the PB was divided with a possibility that few members of the organ support him (Awolich, 2013).

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<sup>3</sup> Stands for the Political Bureau, which is the highest decision-making organ of the Sudan People's Liberation Movement.

<sup>4</sup> The National Liberation Council is the lower party organ of the Sudan People's Liberation Movement that ratifies party policies.

Although Dr. Machar and his group were not expecting the President to convene the NLC, they did not insist on the PB meeting where they knew they held sway. Instead, they took conciliatory steps by postponing their planned public rally, and attended the first day of NLC deliberations, to demonstrate their attempt to create room for dialogue with the President (Rolandsen, 2016). However, if Machar and his group were expecting any rapprochement from President Kiir, they were sadly mistaken. In his opening address to NLC, president Kiir responded belligerently to the charges made against him at the press conference, stating that:

I must warn that this behavior is tantamount to indiscipline, which will take us back to the days of 1991 spilt. We all know where the spilt took us from that time. This could jeopardize the unity of our country and we must guard against such things, my comrades. I am not prepared to let these things happen again (Johnson, 2016, p. 177)

President Kiir's tone in response to his critics revealed that their sustained criticism of him had shocked him and left him feeling disrespected and abandoned by his comrades in the political bureau (Awolich, 2013).

Furthermore, in referencing the emotive 1991 SPLM/A spilt engineered by Dr. Riek Machar, the de facto leader of those opposed to him, President Kiir sought to brand dissidents within the party as disloyal (Awolich, 2013). Further, his forceful refutation of the criticism directed at him forced Machar and his group to withdraw from attending the second day of NLC deliberations (Rolandsen, 2016), citing what they called lack of conciliatory spirit from the President. The failure by Dr. Machar and his group to attend the second day of the NLC's deliberations created tension within Juba and become the trigger point that subsequently sparked the military confrontation between Presidential Guards in their headquarters on December 15, 2013, marking the beginning of the war (Johnson, 2016; Howden, 2013).

Accounts of what took place on the night of December 15, 2013 are highly contested by the principal parties to the conflict. According to Johnson (2016) and Apuuli (2015) the official

account provided by President Kiir in his first media appearance in the morning of December 16, 2013, was that what took place was an attempt by Dr. Machar to seize power by force of arms (coup d'état). He characterized Dr. Machar as a 'prophet of doom'.



**FIGURE 1: SOUTH SUDAN'S PRESIDENT, SALVA KIIR, WHO RARELY APPEARS IN MILITARY FATIGUES, ADDRESSES THE NATION ON MONDAY. PHOTOGRAPH: REUTERS**

For his part, Dr. Machar denied any attempt to overthrow the government of President Kiir and attributed what happened in the SPLA headquarters to a misunderstanding between Presidential Guards within their division (Howden, 2013). According to Howden (2013) Dr. Machar firmly rejected the coup narrative championed by the President, insisting that it was an attempt by President Kiir to get rid of those who opposed him within the party. While denying the coup, Dr. Riek spoke plainly about his desire to see President Kiir removed. In the interview with Radio France International reported by Reuters' news agency, he said

Kiir must go because he can no longer maintain the unity of the people, especially when he kills people like flies and try to touch off conflict based on ethnic basis (Fletcher, 2013)



With those remarks, violence spread quickly to other states of Jonglei, Unity, and Upper Nile where rebel soldiers took control of the towns of Bor and Bentiu and parts of Malakal (Apuuli, 2015).



**FIGURE 2: SOUTH SUDAN'S REBEL LEADER RIEK MACHAR SITS NEAR HIS MEN IN A REBEL-CONTROLLED TERRITORY IN JONGLEI STATE JANUARY 31, 2014. REUTERS/GORAN TOMASEVIC**

Internally in Juba, eleven politicians, most of whom stood alongside Dr. Machar during the press conference were arrested and charged with being part of the wider plot to overthrow the government (Doki, 2014). After holding them in detention for about a month, the government released seven of them on bail in late January, 2014, and held the remaining four politicians on charges of: treason; inciting the masses; subverting a constitutional government; insurgency; causing disaffection among the police and the army; publishing or communicating false information; and undermining the authority of the president (Doki, 2014; Apuuli, 2015; Jok,

Awolich & Tiitmaner, 2014). The continued detention of these politicians put the government under pressure from international community and the region. Under enormous pressure, the government dropped charges against: Pagan Amum Okiech, former SPLM Secretary General; Oyai Deng Ajak, former minister of national security; Majak Agoot Atem, former deputy minister of defense; and Ezekiel Gatkuoth Lul, former head of the South Sudan Liaison Office in United States after 145 days in detention (Apuuli, 2015). The government cited international pressure, public interest, the need for peace and reconciliation and the belief that their release may increase the chances of reaching a peaceful settlement to the conflict (Jok, Awolich & Tiitmaner, 2014).

Given the political nature of the conflict and ensuing power struggle, what drew the world's attention were reports that following the fighting, units loyal to President Kiir within the army and police services allegedly went through a largely Nuer (Machar's tribe) neighbourhoods in Juba and carried out indiscriminate killings and targeted murders of specific individuals (Johnson, 2014). Reports of killing in Juba were alarmingly followed between January 1<sup>st</sup> and 18<sup>th</sup>, 2014, by the targeting of Dinka civilians by Nuer forces in Bor (United States Department of State – Country Reports on Human Rights Practices, 2014). Within a short span of time, the conflict in Juba resulted in between 400 and 500 fatalities and up to 800 wounded with more than 16,000 persons seeking refuge at the UN facilities in Juba (Guardian, 2013).

Across the country, casualties ballooned as the conflict spread to other areas. By January 2014, the fighting had killed approximately 10,000 people, and displaced roughly 1.91 million both internally and externally with more than 100,000 individuals seeking refuge in the United Nations Protection of Civilians (PoC) sites across the country (United States Department of State – Country Reports on Human Rights Practices, 2014). When pressed to explain these violations

of human rights, including charges of targeted killings, the government often framed it as acts of undisciplined troops chasing rebels, while the rebels insisted their targeted killing of civilians in Bor was a retaliatory act, aimed at avenging the death of their kith and kin in Juba (Johnson, 2014).

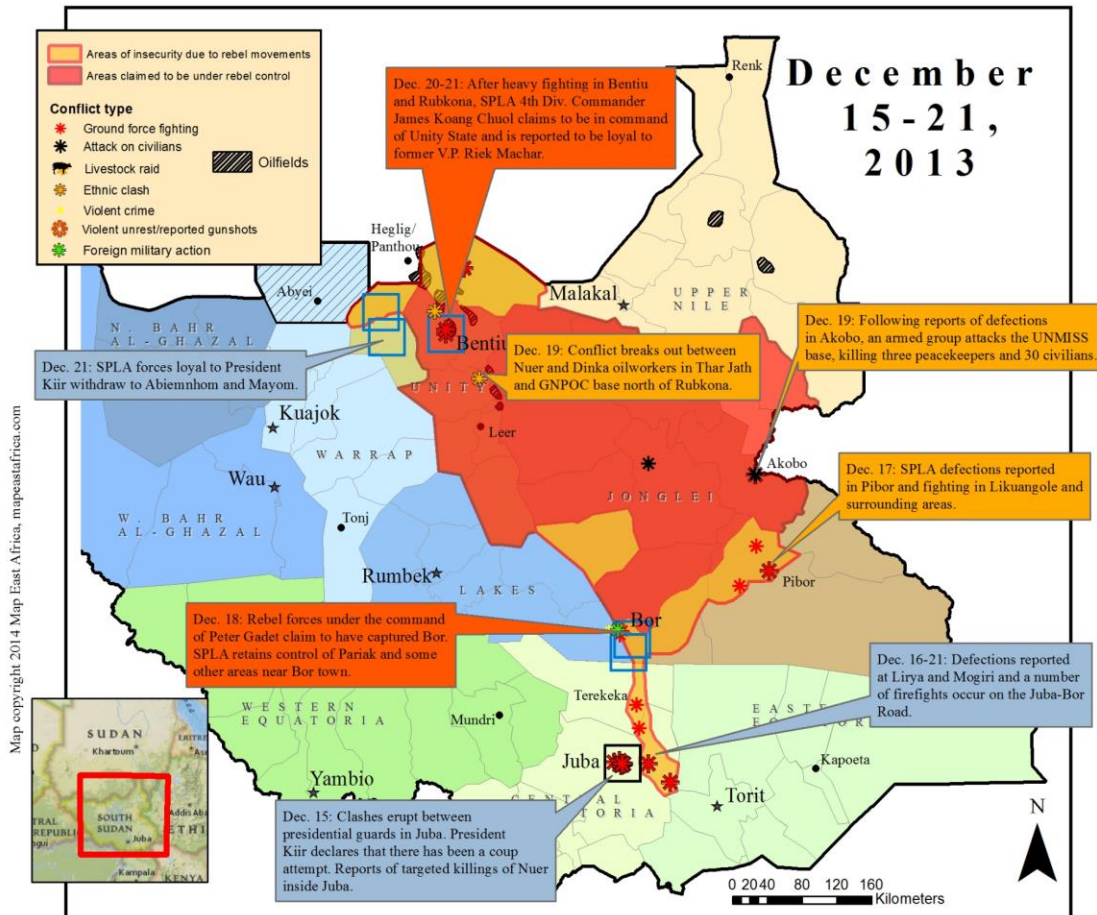


Figure 3: Map showing conflict progression at its first 7 days

### 2.3. IGAD INTERVENTION IN SOUTH SUDAN

So far, this study has demonstrated that the genesis of the South Sudanese’s civil war is rooted in the struggle over central authority. Studies shows that in most centralist conflicts, “insurgents fight in order either to replace the government or to be included in it, and

governments fight back to resist being replaced or sharing the power with the insurgents” (Maundi, Zartman, Khadiagala & Naumah, 2006, p. 4). The discussion has shown that the struggle for power was at the centre of the South Sudanese conflict. Furthermore, IGAD’s intervention was prompted by the fear that the warring parties were deploying ethnicity as a political weapon in their power struggle (Young, 2009). The fear of ethnic mobilization and its concomitant destructive force was clearly stated in a December 25, 2013 joint AU and IGAD press release by respective chairpersons, Dr. Nkosazana Dlamini-Zuma and Prime Minister Hailemariam Dessalegn of Ethiopia, expressing concerns over reports of mobilization of tribal militias in South Sudan, which they feared may create further inter-ethnic violence that would threaten the very existence of South Sudan (AU and IGAD Joint press release, 2013).

The joint AU and IGAD statement culminated in the convening of IGAD’s heads of state extra-ordinary session in December 2013, in Nairobi where attending head of states echoed the AU and IGAD chairpersons’ concerns about violence in South Sudan and its deteriorating humanitarian situation (IGAD Communique, 2013). To avert further deterioration of the humanitarian situation, the session’s communique issued a political mandate authorizing IGAD to mediate South Sudan’s conflict (IGAD Communique, 2013; Pring, 2017). In addition, the communique authorized the appointment of three senior IGAD diplomats: Ambassador Seyoum Mesfin, Ethiopia’s former foreign affairs minister who had been involved in the Somali peace process; General Lazaro Sumbeiywo, the Kenyan mediator in the CPA<sup>5</sup>; and General Mohammed al-Dhabi, who led Sudan negotiators during the CPA negotiations (Pring, 2017).

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<sup>5</sup> Comprehensive Peace Agreement signed in 2005 between the government of Sudan and the Sudan People’s Liberation Movement. This agreement formally ended the North-South war in the Sudan and led to the independence of South Sudan in 2011.

The announcement of IGAD's mediation was a welcome relief to the apprehensive international community for four principal reasons identified by Apuuli (2015). First, mediation provided by the regional economic organizations provides legitimacy, because states in the region tend to have a better grasp of the conflict situation and its cultural backdrop than countries outside the region. Secondly, regional organizations and agencies' closeness to the conflict area allow them to deploy and supply troops rapidly if needed. Third, there are instances where parties to the conflict prefer the intervention of a regional organization to international organizations like the UN or other external bodies. The proximity of the region to the crisis in question often impels regional organization to resolve the conflict, because if it is left unresolved they are the one to live with its consequences through the influx of refugees and other destabilizations associated with civil wars.

While IGAD's mediation was affirmed by most stakeholders in the South Sudanese conflict, the AU, in line with its subsidiarity principle that upholds the leadership of regional economic organizations in creating mechanism for resolving local conflicts, opted for a complementary, but behind the scene role on it support of IGAD mediation (Motsamai, 2017). In 2014, the AU established the High-Level Ad hoc Committee composed of the Presidents of South Africa, Algeria, Chad, Nigeria and Rwanda to support IGAD's mediation. It was strengthened further in 2015, with the creation of the High-Level Representative for South Sudan headed by its former chairperson and the former President of Mali, Alpha Oumar Konare who was tasked with maintaining close contact with South Sudan parties, the stakeholders and IGAD leaders whose countries led the peace process (Motsamai, 2017).

During the initial phase of negotiations when IGAD brought the warring parties together, the government of South Sudan insisted on two conditions that created the first hurdles for IGAD

mediation (Pring, 2017; Jok, 2015). First, it argued that the December 2013, violence was a coup attempt, and that based on the AU statute banning undemocratic change of power, Dr. Riek Machar must be treated as a coup plotter and not as a negotiator. Secondly, the government rejected the participation of civil society and other stakeholders in the negotiations because the conflict was between a legitimate government and a belligerent group, a situation that called for a bilateral resolution, and that the inclusion of civil society would prolong negotiations and settlement of the conflict (Jok, 2015).

The SPLM-IO on the other hand, rejected the coup narrative championed by the government as a fabrication and accepted the inclusion of other parties such as civil society organizations as a way of focusing the process on overhauling the governance system in South Sudan, and of putting the country on the right track (Pring, 2017). Inclusivity, for the SPLM-IO, was in line with their demand for fundamental change to the SPLM and state structures. They also demanded a federal state system, separate armed forces, transitional security, equal power-sharing at all levels, wealth sharing, dissolution of the legislature, judiciary, and setting up of a constitutional review commission and elections (Bereketeab, 2015). According to Bereketeab (2015), all these demands from the SPLM-IO were rejected by the government, which offered incorporation of the opposition into the existence structures of the SPLM and the state. The divergent positions between parties became the first source of conflict intractability as disputants became entrenched in their zero-sum expectations on the issues under discussions.

Confronted with rigid positions in the face of what mediators considered continuing atrocities committed against civilians by both parties to the conflict, IGAD and its partners exerted tremendous pressure on the government to reconsider its position on issues that were impeding the progress in negotiations. Under severe pressure, the government relented on its

demands. Negotiations were expanded to include seven parties including the government itself, the SPLM-IO, Political parties, civil society, faith-based groups, tribal chiefs and the former detainees (Jok, 2015). As predicted by the government the inclusion of other parties became another source of stalemate in negotiations as new players called for accountability for the massacres that took place during the course of conflict, something the warring parties, the government and the SPLM-IO were not ready to commit themselves to as a process aimed at punishing them for their actions (Jok 2014). Despite difficulties in bridging parties' positions, IGAD was able to get the parties to commit, albeit reluctantly, to the signing of the first cessation of hostilities on January 23, 2014. This was followed by the setting up of the Implementation Modality Agreement, the Monitoring and Verification Mechanism (MVM), and the Monitoring and Verification Team (MVT), to ensure implementation of what was signed (Adetula, Bereketeab, Olugbemi, 2016).

Signs that the ceasefire would not hold appeared immediately in the media briefing given by the heads of the respective delegations. Speaking for the government, Mr. Nhial Deng Nhial, the head of its delegation questioned the ability of the rebels to abide by the ceasefire by telling gathered press that: "What worries us" is whether the agreement on the cessation of hostilities will stick [and] the capacity of the rebel group ... to stop fighting" (Muchle, 2014, Smith, 2014). For their part, the armed opposition, through Mr. Taban Deng Gai, the head of their delegation said they hoped the deal would pave the way for a serious national political dialogue aimed at reaching lasting peace in the country (Smith, 2014). Despite their commitment demonstrated by signing the cessation of hostilities document, the ceasefire was not adhered to, even before the ink it was signed with dried on paper. This first ceasefire was not respected and other seven

ceasefires brokered by IGAD were ignored in spite of threats of sanctions from IGAD and its partners (Bereketeab, 2015).

#### **2.4. IGAD MEMBER-STATES' COMPETING INTERESTS VERSUS SOUTH SUDANESE FAILURE TO HONOUR AGREEMENT THEY HAVE SIGNED**

IGAD's failure to enforce adherence to the provisions of the ceasefires signed by the warring parties for the faster conclusion of the peace agreement, has been blamed on vested interests of its member states in the mediation. The pursuit of narrow interests by mediating countries is not new in conflict resolution. Greig and Diehl (2012) note mediators generally engage in mediation and expense their resources with the expectation of gains after the conflict resolution. That is, mediation by itself is seen as a policy instrument through which states can pursue some of their interests without arousing too much opposition. Divergent interests of their constituent states, as summed up by Laurie Nathan's (2016) observations, also encumber mediation by regional organizations:

RECs have mixed record of conflict management and resolution. They have certain assets, such as good knowledge of the causes and dynamics of conflicts in their neighborhood, but they also have liabilities related to inadequate capacity and partisan interests. Their engagements have often been sub-optimal, and at times counter-productive, because of their weak capabilities and because the national interests of their members give rise to divisions within their ranks and to biased interventions (Nathan, 2016. P.2).

From the beginning, IGAD's mediation in South Sudan was beset by competing national interests of its member states: Uganda, Sudan, Ethiopia and Kenya (Bereketeab, 2015). Each of the listed country has competing strategic interests in South Sudan that either favoured a quick resolution of the conflict, or deprive IGAD of the necessary leverage to compel the warring parties to adhere to what they signed.



Take Uganda for example: at the start of the crisis in South Sudan, it dispatched troops to South Sudan, justifying its intervention as an operation launched on humanitarian grounds to prevent a Rwanda style genocide from happening in South Sudan (IRIN, 2014). Such unilateral intervention undoubtedly became an issue in the initial phases of IGAD's attempt to mediate an end to the conflict, because Uganda's presence in South Sudan where its troops were fighting alongside government forces undermined its impartiality (IRIN, 2014). Pretensions of humanitarian motives aside, its national interests, especially economic and security considerations drove Uganda's intervention in South Sudan. Economically, South Sudan provides the largest export market for Ugandan goods with Kampala exporting a wide variety of goods from fuel to agricultural products. This makes South Sudan an indispensable life line for Ugandan business, something the government in Kampala decided to protect by entering the war on the side of the government of South Sudan (Vertin, 2018).

Security-wise, Uganda has a long-standing security concerns in South Sudan linked to the Lord's Resistance Army (LRA), a proxy force sponsored by Sudan in response to Uganda's backing of the SPLA during the North South war (IRIN, 2014). To Uganda, any security vacuum created by instability in South Sudan could rejuvenate the LRA, which could once again threaten its northern frontier (Adam & Beny, 2014). According to Adam and Beny (2014) further complicating issues are President Museveni's accusation that Dr. Riek Machar, the leader of the SPLM-IO supports Joseph Kony, the leader of LRA. The fear of the LRA and President Museveni's antipathy towards Dr. Riek Machar clearly demonstrates that Uganda favours President Kiir's continued leadership in South Sudan to allow him to continue his role as Uganda's strategic ally (Wagner & Cafiero, 2014).

Like Uganda, Sudan has economic and security interests in South Sudan (Wagner & Cafiero, 2014). On economic interests, Khartoum desires a peaceful South Sudan to allow it to receive oil transit fees. It should be recalled that after the partition of Sudan in 2011, Sudan lost control of an estimated 75 per cent of its oil reserves. That left Sudan with a weak economy supported only by its secured advantage over the control of pipelines where it was granted the rights to charge transiting fees for South Sudan's export of its crude oil to the global market via Port Sudan at the Red Sea (Wagner & Cafiero, 2014; IRIN, 2014). The desire for oil flow to ensure continued revenue from transit fees compelled Khartoum to offer its support to the government of South Sudan during the crisis (Wagner & Cafiero, 2014).

While Sudan's dictates of economic viability required continued cooperation with South Sudan, its security concerns over its multiple insurgencies operating on its southern border and its long-standing rivalry with Uganda, which had intervened in South Sudan gave it pause in supporting a peaceful South Sudan (IRIN, 2014; Vertin, 2018). Due to such security considerations, especially reports that its rebels are fighting alongside South Sudanese troops, Sudan never gave its full support to South Sudan. Many analysts believed Sudan was hedging its bets to exploit the conflict in South Sudan for its own strategic interest (Adam & Beny, 2014; IRIN, 2014). In addition, the long-standing rivalry between Sudan and Uganda was exacerbated by Uganda's unilateral intervention in South Sudan, which brought the Uganda People's Defence Forces fighter jets near its northern border (IRIN, 2014).

Ethiopia's desire for a peaceful South Sudan is motivated by bilateral and multilateral considerations (Verjee, 2017). Bilaterally, Ethiopia was preoccupied with mitigating the risks of destabilization of its border area of Gambella. This preoccupation was driven by two fears, namely, the region being used as a safe haven by South Sudanese rebels because the majority of

the population in Gambella region shares the same ethnicity with Dr. Riek Machar, and the prospect of Ethiopian Nuers being drawn into the conflict via ethnic solidarity (Vertin, 2018). Part of Ethiopia's preoccupations were informed by the influx of about 60,000 refugees across their border at the start of the conflict (Vertin, 2018).

At the Multilateral level, Ethiopia's desire to end the conflict in South Sudan was informed by its concerns over the risks of regional war and its associated destabilization (Verjee, 2017). As articulated by Obonyo (2014), South Sudan's strategic importance in East Africa added a sense of urgency to regional efforts to end the war, because there were fears that the war could lead into a regional conflict if left unresolved, as evidenced by the presence of Ugandan troops in South Sudan. To demonstrate its seriousness over the worries about the regional war, Ethiopia appointed its veteran diplomat, Seyoum Mesfin, as the lead mediator and applied heavy pressure in concert with other IGAD countries, which led to the conclusion of the agreement between the warring parties in South Sudan in 2015, which the parties failed to implement.

Further complicating IGAD member states' coordination is the ability of the Government of South Sudan to target regional states security vulnerabilities. For example, Ethiopia as a regional hegemon that invested diplomatically to midwife the 2015, agreement was not able to intervene forcefully when the agreement collapsed in 2016. Ethiopia's failure to act against South Sudan in the face of flagrant violations of the agreement it helped broker is explained by the Juba government's astute targeting of Ethiopia's national insecurities by fostering a close relationship with Egypt, Ethiopia's arch-rival over the use of Nile water as well as Eritrea, its long-term antagonist (Verjee, 2017).

Kenya's interests in South Sudan's stability are primarily economic and revolve around fears that prolonged instability in South Sudan could affect its lucrative trade with Juba (African

Research Bulletin, 2014). Moreover, Kenya wished to upstage Sudan by offering Juba an alternative route for South Sudan oil exports through the Port of Lamu. This project was dependent on stability in South Sudan (African Research Bulletin, 2014). While trade and long-term economic considerations underpin Kenya's desire for peace in South Sudan, its financial interest in that country prevents it from supporting punitive measures such as sanctions aimed at compelling Juba to expedite a peaceful resolution of the conflict, thus undermining any stick and carrot regime IGAD mediators may come up with (Vertin, 2018). According to Vertin (2018) whenever the international community attempted to create advantage by threatening economic sanctions against South Sudan, Kenyan diplomats publicly supported the calls while privately campaigning against them.

As the preceding discussions in this chapter illustrates, South Sudan's conflict is rooted in a power struggle with a historical dimension, something IGAD mediators, compelled by humanitarian imperatives, did not adequately factor into their mediation. While this omission is critical to the failure of the IGAD brokered peace agreement to bring lasting peace, as will be demonstrated in later chapters, IGAD's own mediation fell victim to its member-states' strategic considerations, which were successfully exploited by the disputants to the conflict to drag the process on. As noted above, the triangular rivalry involving Sudan, Uganda and Ethiopia over South Sudan coloured the mediation process and made it difficult to build any consensus on the way forward in the mediation (International Crisis Group, 2015). Apuuli (2015) notes that IGAD's lack of unified stance over the quest for peace in South Sudan explains its failure to force the belligerents in the conflict to adhere to the terms of cessation of hostilities agreement they have signed (Apuuli, 2015). Finally, the intervention of Uganda in South Sudan, although

Ugandan troops were later withdrawn, was used by the SPLM-IO to accuse IGAD of fighting, mediating and negotiating at the time in the South Sudan conflict (Mathok, 2014).

## **CHAPTER 3: IGAD PLUS AND THE IMPOSED POWER SHARING AGREEMENT**

### **3.1. IGAD PLUS**

After its failure to break the impasse in its attempt to mediate a peaceful settlement to the South Sudanese conflict, at the urging of United States and under the Ethiopian leadership, IGAD elevated and expanded the talks to include other nations with stakes in South Sudan in the mediation. The newly expanded table, dubbed IGAD Plus, drew its membership from the African Union; the Troika, (which comprises of United States, United Kingdom and Norway); the United Nations; China; and the IGAD Partners Forum (IPF) (IGAD-Plus Background document, 2015; Vertin, 2016).

Based on its composition, IGAD Plus was conceived as an international partnership aimed at coordinating international efforts for peace in South Sudan through the inclusion of countries that have been playing unofficial roles behind the scene in IGAD's mediation as formal stakeholders (Booth, 2016). IGAD Plus, as an entity created to jump-start the stalled peace process, set out three principal objectives towards achieving that goal. One, strengthen IGAD mediation efforts by galvanizing regional and international leverage (on both incentives and pressure points). Two, respond to previous lack of commitment by parties to adhere to agreements they have signed by establishing strong oversight mechanism that will assist parties in the implementation of the agreement. Three, provide a joint platform that will prevent proliferation of initiatives and in the process deter the warring parties from delaying the full implementation of the agreement (IGAD Plus Background document, 2015).

To guarantee coordination of the international pressure on the warring parties, the new set up of IGAD Plus provided for a strong representation of western countries, China and

international organizations to ensure international support for the stalled peace process. The inclusion of new but influential participants outside the IGAD region was used to address the issue of conflicting strategic interest of IGAD member states over South Sudan, discussed in chapter 2. IGAD Plus attempted to address the lack of coordination among IGAD countries during the initial phase of the negotiations. The result was aimed to address the lack of commitment to the signed agreements by the disputants by putting the process under one umbrella to reduce forum shopping among the warring parties, and in the process minimize their ability to exploit the differences and divergent interest among mediating countries (Booth, 2016). To maintain the necessary balance between continental ownership of peace mediation and concerted high-level international engagement in South Sudan, the framers of IGAD Plus included five African countries to ward off the anticipated criticism of the agreement being considered an international imposition on South Sudan (Kaheru, 2016)

### **3.2. THE IMPOSED POWER SHARING AGREEMENT**

When IGAD Plus entered the mediation scene, its intervention came on the heels of a pledge by the Sudan People's Liberation Movement-in Government (SPLM-IG) and the Sudan People's Liberation Movement-in Opposition (SPLM-IO) of Riek Machar in early 2015 to reach an agreement by March of that year and form a Transitional Government of National Unity (TGoNU) by July. This pledge was never respected (Douglas Johnson and Guma Kunda, 2016). Concerned with pledges that were never honoured, including the failure of previous ceasefire agreements to stop violence considered as the source of the humanitarian crisis, the newly constituted IGAD Plus decided to push the stalled peace process by drafting the Compromise Peace Agreement (CPA), later renamed the Agreement on the Resolution of Conflict in the

Republic of South Sudan (ARCISS) (Agreement on the Resolution of Conflict in the Republic of South Sudan, 2015).

The draft agreement was based on a power-sharing model premised on shared decision-making rights and access to state resources among entities competing for power (Wight, 2017). The attractiveness of this model to IGAD Plus mediators who are invested in the liberal peace approach is that it marries the principles of democracy with those of conflict management in the deeply divided society (Sisk, 2009). This is mainly because power sharing guarantees disputants in the conflict a place and influence in governments and prevents any scenario of power monopolization by one party through the mutual veto that stipulates that in this environment decisions must be taken with the widest possible consent (check and balance) and the result is the use of blackmail (Sisk, 2009).

Having designed a power sharing formula, it thought would satisfy the disputants' demands, IGAD Plus presented the draft to them on a take or leave it basis. According to Wight (201&), what was presented to the warring parties was anchored on the four power-sharing dimensions, namely: One, mandate the establishment of a Transitional Government of National Unity (TGoNU) between the SPLM-Juba and the SPLM-IO; two, call for federalism to be the system of governance in South Sudan; three, partially demilitarize Juba, with the two rival armies to begin merging into a single national force within eighteen months and units of joint integrated police (JIP) to be formed. Although wealth-sharing formula was in the draft agreement, resources were to be allocated to the opposition by granting them the privilege to nominate the governors of oil-rich Unity and Upper Nile states, a 40% stake in Greater Upper Nile's three states, and 15% in the other seven (IGAD, 2015a)" (Wight, 2017, p. 1-35).





Figure 4: South Sudan's President Salva Kiir signs a peace agreement in the capital Juba, on August 26, 2015. AFP PHOTO

Upon presentation, some key planks of the draft agreement were vehemently rejected by the government of South Sudan, which termed them blatant infringement on South Sudan's sovereignty. The issues the government identified as contentious were later compiled and presented to the assembled dignitaries by President Kiir as a 12-page reservation document at the agreement signing ceremony in Juba. In his speech delivered at the signing ceremony, President Kiir's told his audience that the agreement he had just signed was an imposed agreement, revealing that he had received 'intimidating messages' without specifying the source (Copnall, 2016). In the same speech, Kiir stated that the agreement constituted a designed roadmap for regime change in South Sudan. While what was written in the reservations and said in the speech were overlooked because President Kiir had signed the agreement, those words clearly communicated what the government of South Sudan saw as an imposition upon the parties by

those with ulterior motives beyond a negotiated settlement accepted by the warring parties. Such a perception of the agreement went on to haunt its implementation and led to its subsequent breakdown.

In order to tease out the government of South Sudan’s objection to certain planks in the IGAD Plus proposed agreement, it is important to identify and discuss the key provisions in the agreement that the warring parties deemed contentious. This will be done by looking at each contentious provision together with the corresponding reservations presented against it by the warring parties. It is important to note here that much of what was proposed in the agreement was not the subject of the government and the SPLM IO objections, and therefore, this section will focus only on some contentious provisions in the Agreement’s Chapters. The focus of our discussion will be on the following Chapters:

**TABLE 1: CONTENTIOUS CHAPTERS IN THE AGREEMENT**

<b>Chapter</b>	<b>Content</b>
One	power sharing during the transition period
Two	transitional security arrangements
Five	accountability for atrocities committed during the war, including reparations for the victims of war as well as reconciliation among communities affected by the conflict;
Seven	establishes a body tasked with monitoring, evaluation and the implementation of the agreement
Eight	the supremacy of the agreement proposed by the IGAD Plus

Given the centrality of the historical dimension in the struggle, IGAD Plus devoted some provisions of Chapter 1 in the agreement to address the issue of power-sharing. Chapter 1 defined the governance structure that will guide the transitional period for the three branches of the government: Executive; Legislative and Judiciary. At the Executive level, IGAD Plus proposed a collegial presidency headed by the President and deputized by the First Vice President and the Vice President. The post of the President was to go to the incumbent Salva Kiir, with the post of First Vice President and Vice President occupied by Dr. Riek Machar, the leader of the SPLM-IO leader and Wani Igga, the Vice president of South Sudan respectively. Regarding decision making of the collegial presidency, IGAD Plus recommended consultation to promote consensus in decision making among the three-person Presidency, and suggested voting at the Council of Ministers as the preferred option of breaking the deadlock when it arises within the joint executive powers (ARCISS, 2015).

The agreement also created a thirty (30) member Cabinet and provided a percentage-based formula that awarded the Government of the Republic of South Sudan with 53 per cent of cabinet positions (16 ministers); South Sudan's armed opposition or SPLM-IO 33 per cent of ministerial portfolios (10 ministers), former Detainees 7 percent of ministerial portfolios (2 ministers) and other Political Parties 7 per cent of ministerial portfolios, (2 ministers). To ensure that no party monopolized key ministries during the allocation, ARCISS structured the 30 ministries into three sectorial clusters and applied the same formula used to allocate ministries among the warring parties.

The clusters created included:

- Governance cluster <sup>6</sup> (10 Ministries)
- Economic cluster <sup>7</sup> (13 Ministries);
- Service delivery cluster <sup>8</sup> (7 ministries)

In the same order, the government share in each cluster was put at 53%, the SPLM-IO, 33% and the remaining parties received their share based on the percentage formula discussed earlier. The agreement also gave the cabinet the voting power on decisions where the presidency composed of three individuals cannot reach a consensus. For the decision to be binding, the agreement specified that two-thirds of ministers must vote in favour of the decision and a quorum of 23 ministers out of 30 ministerial positions created by the agreement must attend.

Regarding parliament, the agreement proposed the creation of the Transitional National Legislative Assembly and expanded it from its previous three hundred and thirty-two (332) MPs to four hundred MPs by adding 68 new seats. The newly created seats were allocated to three parties with the SPLM-IO receiving fifty (50) seats, other political parties seventeen (17); and SPLM FDs one (1) seat. To provide for regional balance across the country, the agreement designated the position of the speaker of the Transitional National Legislative Assembly to be filled by someone hailing from the Equatoria region. No major restructuring was proposed for

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<sup>6</sup> Governance Cluster Ministries include Cabinet Affairs; Foreign Affairs and International Cooperation; Defence and Veteran Affairs; Interior; Justice and Constitutional Affairs; National Security; Parliamentary Affairs; Communication Technology and Postal Services; Federal Affairs; and Minister in the Office of the President.

<sup>7</sup> Economic Cluster Ministries included the following ministries: Finance and Planning; Petroleum; Mining; Agriculture and Food Security; Livestock and Fisheries; Trade and Industry; Energy and Dams; Transport; Road and Bridges; Environment and Forestry; Land; Housing and Urban Development; Water Resources and Irrigation, Wildlife Conservation and Tourism.

<sup>8</sup> Service Delivery Cluster Ministries include Higher Education, Science and Technology; General Education and Instruction; Health; Labour; Public Service and Human Resource Development; Gender, Child and Social Welfare, Culture, Youth and Sport, Humanitarian Affairs and Disaster Management.

the judiciary by the proposed agreement except for the call to the parties to maintain its independence in accordance with the principles of separation of powers and the supremacy of the rule of law as enshrined in the South Sudan Transitional Constitution of 2011. The agreement also recommended professional development of judicial staff in the Ministry of Justice via training.

In addition to three branches of government, ARCISS also created a plethora of Transitional Commissions and tasked the Executive with the role of reconstituting them at the national level within one month. While a detailed discussion of the underlying mechanics of these commissions is beyond the scope of this thesis, the commissions are listed here to illustrate how IGAD Plus mediators, in their quest to create institutions to strengthen accountability, exaggerated the capacity of South Sudanese warring parties to establish and implement commissions whose work is far greater and more complex than existing capacities within the country. The commissions created by the agreement include:

- 1) Anti-Corruption Commission (ACC);
- 2) Public Grievances Chamber (PGC);
- 3) Fiscal, Financial Allocation and Monitoring Commission (FFAMC);
- 4) National Audit Chamber (AC);
- 5) Relief and Rehabilitation Commission (RRC);
- 6) Peace Commission (PC);
- 7) National Bureau of Statistics (NBS);
- 8) Human Rights Commission (HRC);
- 9) Judicial Service Commission (JSC);
- 10) Civil Service Commission (CSC);

- 11) Land Commission (LC);
- 12) Electricity Corporation (EC);
- 13) Refugees Commission (RC);
- 14) South Sudan Broadcasting Corporation (SSBC);
- 15) National Petroleum and Gas Commission (NPGC);
- 16) National Bureau of Standards (NBS);
- 17) Urban Water Corporation (UWC); and
- 18) . Roads Authority.

In response to what was proposed by IGAD Plus in Chapter I of the agreement, the government of the Republic of South Sudan raised two objections. First, it rejected the creation of the position of the first Vice President because its creation and allocation to Dr. Riek Machar, the leader of the armed opposition, was tantamount to rewarding rebellion. To the government, since Dr. Machar took up arms against the state, giving him that position amounted to encouraging others to rebel because it would confirm the idea that those who rebelled against the government improve their lot with better positions when they sign agreements with the government (Government Reservations, 2015).

The government also viewed the creation of the position of the First Vice President as a humiliation of its sitting Vice President, Wani Igga and his constituency since the new position meant he had to vacate his position (Government Reservations, 2015). While the government was only rejecting some provisions in the agreement, the SPLM IO, the key player in the negotiations with the government entirely rejected any power-sharing formula with the government proposed by IGAD Plus, arguing that Salva Kiir and his government had lost

authority by overstaying their terms in power and by the killing of civilians in Juba (Young, 2015).

On the collegial presidency decision-making process, the government objected to the consultative decision-making mechanism, insisting it was an attempt by IGAD Plus mediators to undermine the constitutional mandate of the President to consult with his colleagues or subordinates without being mandated to the consultation process as outlined in the agreement (President Kiir letter to IGAD 2015). Furthermore, the government opposed the proposed decision making in the council of ministers at the national level and the composition of state governments in the conflict affected areas of Jonglei, Upper Nile and Unity States. The government protested that such a proposal amounted to an undeclared confederation structure for South Sudan, a concept which if applied would undermine the sovereignty of the country (President Letter to IGAD, 2015).

Since confidence between the warring parties, even after agreeing to a peaceful settlement of the conflict was often at its lowest due to mutual suspicion, IGAD Plus drafted Chapter II of its proposed agreement with confidence building in mind. The transitional security arrangements proposed in Chapter 2 called for Juba, the capital city of South Sudan, to be demilitarized along with other conflict affected areas in Jonglei; Unity and Upper Nile states. Justification for this proposal was that the areas targeted for demilitarization were severely affected by the conflict, and therefore, require the deployment of a neutral force. In recognition of its proposal to demilitarize Juba, IGAD Plus permitted 495 troops to remain in Juba as bodyguards for the President and the First Vice President, with 260 bodyguards for the President and 195 guards for the First Vice President (ARCISS, 2015).

While the proposal was seen as uncontroversial by the framers of the IGAD Plus agreement, it confirmed the government's worst fears of what President Kiir has called the regime change roadmap because it technically handed over the security of Juba, the seat of the Government of the Republic of South Sudan, to the UN, AU and IGAD forces, leaving South Sudanese only with the dimmed hope that the city will be handed back when the national army composed of two opposing forces mandated in the transitional security arrangement comes into effect after 18 months (ARCISS, 2015). The government challenged the proposed demilitarization of Juba because this amounts to an infringement on South Sudan's sovereignty and firmly insisted that the national army, the SPLA, remain deployed in Juba. The government also pointed out that Juba was not identified as one of the forced cantonment areas in the agreement (Government Reservations, 2015). To the government, it is the army's responsibility to protect the nation, its people and leadership, which made the proposed relocation a contravention of the army's responsibilities and a provocation (Government Reservations, 2015).

Once more, the warring parties' interests diverged on the proposal advanced by the transitional security arrangements. To the government the proposed demilitarization of Juba is testimony to the lack of a genuinely negotiated peace and a further confirmation of its long-held view that the agreement was imposed on South Sudanese (President Kiir Address to the Nation, 2015). The SPLM IO on the other hand, accepted the demilitarization of Juba and called for all state capitals and major towns in South Sudan to demilitarize as a gesture of confidence building and insisted on the government forces inclusion in the cantonment areas (Young, 2015). The SPLM IO also argued that the unification of the armed forces could not be completed in eighteen months as called for by IGAD (Young, 2015).



Since the impetus behind IGAD Plus' coercive mediation in the South Sudanese conflict was the determination to end impunity by punishing those who committed atrocities during the conflict, Chapter V of ARCISS was designed to deal with issues of accountability, reconciliation and healing. In preparation to hold those who committed atrocities during the war accountable for their crimes, the agreement called for the creation of an independent court, the Hybrid Court for South Sudan (HCSS) with the mandate to investigate and prosecute individuals who violated international law and/or applicable South Sudan law, during the conflict from December 15, 2015 to the end of the Transitional Period stated in the agreement (ARCISS, 2015). It stipulated that HCSS judges be chosen from among persons of high moral character who are impartial and possesses demonstrable expertise in criminal law and international law, including international humanitarian and human rights law (ARCISS, 2015). On the HCSS judges' nationalities, the agreement proposed they be recruited from African states other than the Republic of South Sudan.

The other key plank of the agreement was the recommendation to create the Commission for Truth, Reconciliation and Healing (CTRH) to help repair the ruptured social fabric in South Sudan. For IGAD Plus mediators, the CTRH was seen as critical to the peace building process in South Sudan. It was also seen as an avenue suited to address the harsh legacy of conflicts and for promoting peace, national reconciliation and healing (ARCISS, 2015). Unlike the hybrid court that was created for the sole purpose of retributive justice against those who committed atrocities, the CTRH's objective was to reconcile communities by preaching forgiveness, supported by the Truth and Reconciliation and Healing Commission. The CTRH was set up to be administered by seven (7) commissioners of which four (4) will be South Sudanese and three (3) commissioners would be recruited internationally. As a further nod to the healing process, the

agreement also created the Compensation and Reparation Authority (CRA) to administer reparations to those whose lives and properties are affected by the conflict (ARCISS, 2015).

Apart from setting up institutions to ensure human rights violators were held accountable for their crimes during the conflict, Chapter V of ARCISS set out to keep those accused of such crimes out of future governments. It was emphatic that individuals indicted or convicted by the HCSS shall not participate in the Transitional Government of National Unity, or in any successor governments for a period to be determined by law, and that those who are serving in government will lose their position if convicted of atrocities committed during the war (ARCISS, 2015). The government did not respond to most provisions outlined in Chapter V on transitional justice, but it strongly objected to the call for reparations and compensation for the victims of war, calling it unprecedented in the country's history as no previous agreements in South Sudan's history included compensation (Government Reservations, 2015). The government also argued that even if this provision was accepted, it would be susceptible to abuse because the entire country, which was affected by war, would qualify.

While the strong focus on human rights as outlined in Chapter V of the agreement reflected SPLM IO's demands from its Pagak Conference, the SPLM IO leadership felt they did not go far enough. The SPLM IO objected to the location of the hybrid court in South Sudan, proposing instead that it be formed outside of South Sudan (Young, 2015). The SPLM IO agreed with the reparations provision as it will compensate families of what it called '20,000' victims killed in Juba (Young, 2015).

For the overall supervision of the agreement, Chapter VII of ARCISS created the Joint Monitoring and Evaluation Commission (JMEC) to be headquartered in Juba and tasked with monitoring and overseeing the implementation of the Agreement (ARCISS, 2015). As per its

mandate, JMEC's responsibility includes monitoring the Transitional Government of National Unity, especially the adherence of the Parties to the agreed timelines and implementation schedule of the agreement. According to the agreement, JMEC's membership will be drawn from representatives of the Parties to this Agreement, South Sudanese stakeholders, and regional and international guarantors and partners of South Sudan.

To the framers of the agreement, the smooth monitoring of the agreement's implementation, the supervision of TGoNU as well as the recommendation of appropriate action in case of serious deficiencies in the agreement were compelling enough to designate a position of the JMEC chairperson to be occupied by a non-South Sudanese. The agreement stipulated that the position be filled by a prominent African personality appointed by the IGAD's Assembly of Heads of State and Government in consultation with IGAD-PLUS Partners (ARCISS, 2015).

The agreement also established a multiple level reporting mechanism for JMEC. Apart from reporting to South Sudanese government institutions (Council of Ministers, Transitional Legislative Assembly) in writing, it is also obligated by the agreement to report to the: Chairperson of the IGAD Council of Ministers; the Chairperson of the African Union Commission; the Peace and Security Council (PSC) of the African Union; and to the Secretary-General and Security Council of the United Nations on the status of implementation of the Agreement every three (3) months. The agreement also anticipated grey areas where JMEC and the Transitional Government of National Unity may clash and recommended that JMEC and TGoNU, within one month of its establishment, negotiate and define functions that TGoNU may cede to JMEC to allow it to break a deadlock and ensure implementation of the agreement (ARCISS, 2015).

The supervisory role assigned to JMEC by the agreement was rejected by the government, on grounds that the powers contained in its mandate made it a governing authority in the Republic of South Sudan, when its role should have been limited to ceasefire violation monitoring (Reservations, 2015). The government also objected to the proposal that JMEC be headed by an eminent African personality, because in the government's opinion that personality is a foreigner who should not play any role in running the affairs of South Sudan. Further, the government only contested Chapter VIII of the agreement, which calls for two-thirds of the votes of either the Council of Ministers or JMEC members to amend any clause in the agreement. To the government, this article confirms the supremacy of JMEC over the Transitional Government of National Unity (TGoNU) and its National Legislative Assembly and makes JMEC a neo-colonial entity (Reservations, 2015). Further, the government argues that the powers given to JMEC, including powers to veto government decisions, are an unacceptable infringement on the country's sovereignty (President Kiir's Statement, 2015).

As demonstrated in the preceding discussions, the government and SPLM IO held divergent views on almost every issue proposed by the agreement. However, they found unanimity on the failure of IGAD Plus mediators to afford the negotiating parties time to resolve contentious issues via sustained dialogue. Like the government, which repeatedly condemned the imposition of the agreement on the parties, in one of its Pagak Conference resolutions SPLM IO urged IGAD Plus to focus its mediation on facilitating the warring parties to negotiate a sustainable peace agreement, instead of imposing solutions on the parties, which will not lead to a sustainable peace agreement (SPLM-IO Pagak Resolution, 2015). Since the entire logic of mediation was predicated on an expeditious conclusion of the peace agreement to avert the humanitarian crisis, the mediating parties' goal become ending the war at all cost. When the

parties balked at the proposed agreement, IGAD Plus turned to coordinating its leverage to bear on the parties.

### **3.3. COORDINATING IGAD PLUS LEVERAGE**

After running into hurdles with the warring parties, the expanded IGAD Plus mediation team collectively turned to the United Nations to coordinate any leverage it needed to incentivize or compel the warring parties to sign the peace agreement. It should be stated at the outset that the UN presence in South Sudan precedes the 2013 crisis. Its presence in the country started with the United Nations Mission in Sudan (UNMIS) which was transformed after South Sudan's independence in 2011, into United Nations Mission in South Sudan (UNMISS), through Security Council Resolution 1996 (2011). UNMISS was mandated to consolidate peace and security, and help establish the conditions for development in the Republic of South Sudan, with a view to strengthening the capacity of the Government of the Republic of South Sudan to govern effectively and democratically (UNMISS, 2011)

Following the 2013 crisis and its aftermath, the UN Security Council passed resolution 2155 (2014), which drastically changed UNMISS' mandate from its development and capacity building focus to the protection of civilians, human rights monitoring and the delivery of humanitarian assistance. Resolution 2155 (2014) also elevated the UN mission in South Sudan from a Chapter VI to a Chapter VII mandate, in order to give the mission, the authority it needs to fulfil its mandate of protecting civilians, monitoring human rights violations, and the delivery of humanitarian assistance. The UN, through resolution 2155 (2014), took its initial step to align itself with IGAD by allowing the deployment within UNMISS of IGAD's task force (a contingent of troops) to support protection of civilians and the Monitoring and Verification

Mechanism (MVM) established by IGAD pursuant to the 23 January 2014 Cessation of Hostilities Agreement (Res 2155).

When the so-called Compromise Agreement (which was later rebranded as the Agreement on Resolution of Conflict in the Republic of South Sudan) was presented to the parties by IGAD Plus mediators and met with fierce opposition from the government of South Sudan, the United Nations Security Council (UNSC) passed resolution 2206 (2015) signaling the world body's intention to punish any party that will not sign the agreement through a coordinated effort. Resolution 2206's (2015) language unambiguously warned warring parties of the Security Council's willingness to impose targeted sanctions on spoilers or those seen resisting the search for an inclusive and sustainable peace in South Sudan (UNSC res 2206).

In a marked departure from previous resolutions, 2206 (2015) created a Sanction Committee and Panel of Experts to support the Security Council in its efforts to punish those who are reluctant to sign the agreement. The resolution tasked the Sanction Committee to:

- monitor the implementation of measures outlined by the resolution;
- seek and review information regarding individuals and entities engaged in the activities prohibited by the resolution;
- seek from all States whatever information it may consider useful regarding the actions taken by them to implement effectively the measures imposed; and
- examine and take appropriate action on information regarding alleged violations or non-compliance with the measures contained in this resolution among others.

To sustain pressure on warring parties, the UNSC on July 1, 2015, and on the recommendation of the Sanction Committee, authorized an assets freeze and travel ban on seven (7) senior military officers, three from the SPLM IO military wing (SPLA IO) and four from the

government side (Res. 2206 List, 2015). The table below lists names of the senior officers sanctioned and summarizes violations alleged to have been committed by the units under their command:

**TABLE 2: SENIOR OFFICERS SANCTIONED**

Senior Officer sanctioned	Violations committed by the units commanded
<b>SPLA IO Senior Officers</b>	
<b>Major General, James Koang Chuol,</b> Commander of the SPLA-IO Special Division.	The UN accused his forces of having been engaged in attacks against civilians. It was noted that in February 2014, forces under his command attacked United Nations camps, hospitals, churches, and schools, engaging in widespread rape, torture, and the destruction of property, in an attempt to flush out civilians, soldiers, and police officers allied with the government.
<b>Major General, Simon Gatwech Dual,</b> Chief of General Staff, SPLA-IO	His forces are accused of conducting an early February 2015 attack in Jonglei State, and as of March 2015, he had tried to destroy the peace in Jonglei State through attacks on the civilian population.
<b>Major General, Peter Gatdet Yaka,</b> Deputy Chief of Staff for Operation, SPLA IO	Forces under his command targeted civilians, including women, in April 2014 during an assault on Bentiu, including targeted killings based on ethnicity.
<b>Senior Officers sanctioned on the government side</b>	
<b>Lieutenant General, Gabriel Jok Riak,</b> Sector One Commander, SPLA.	In his position as the SPLA Sector One commander, he was accused of expanding or extending the conflict in South Sudan through breaches of the Cessation of Hostilities

	<p>Agreement. The SPLA under his command engaged in actions that have extended the conflict in South Sudan, including breaches of the January 2014 Cessation of Hostilities Agreement and the May 9, 2014 Agreement to Resolve the Crisis in South Sudan, which was a re-commitment to the CoHA. He was also accused of obstructing the activities of IGAD's Monitoring and Verification Mechanism.</p>
<p><b>Major General, Marial Chanuong Yol Mangok,</b> Commander of Presidential Guard</p>	<p>His Presidential Guard led the slaughter of Nuer civilians in and around Juba, many who were buried in mass graves. One such grave was purported to contain 200-300 civilians.</p>
<p><b>Lieutenant General, Malek Reuben Riak,</b> Deputy Chief of Staff for Logistics, SPLA</p>	<p>As SPLA Deputy Chief of Staff for Logistics, Riak was one of the senior officials of the Government of South Sudan who planned and oversaw an offensive in Unity state in 2015 that resulted in widespread destruction and large population displacement.</p>
<p><b>Major General, Santino Deng Wol,</b> Commander of the Third Division, SPLA</p>	<p>Has led and directed military actions against opposition forces and conducted confrontational troop movements in violation of the CoHA. During May 2015, forces under his command killed children, women and old men, burned property, and stole livestock as they advanced through Unity State towards Thorjath oil field.</p>

Sanctions were placed against senior military commanders on both sides as punishment for their failure to uphold international law in their operations. They were also meant to signal to



their respective leaders the international community's impatience with their inability to conclude the agreement. The timing of the sanctions, especially their announcements at the time when warring parties were objecting to the proposed agreement presented to them by the IGAD Plus, confirmed where the international community stood at the time of negotiations. To maximize pressure on the intransigent party or parties, the mandate of the Panel of Experts was broadened to include collection of information relevant to supply, sale or transfer of arms and other materials related to military or other help, including through illicit trafficking networks, to individuals and entities undermining political processes or violating international human rights law or international humanitarian law.

In line with the coordinated leverage envisioned by IGAD Plus when it chose the UN as its focal point on South Sudan, the Panel of Experts that was instituted by resolution 2206 (2015) released its first report on South Sudan immediately after the sanctions were announced. In direct reference to what may come if the parties failed to sign the agreement, the report recommended further sanctions on those who failed to sign the compromise agreement presented to the parties by IGAD Plus on 17 August 2015 (Panel of expert's report, 2015). The Panel of Experts report also called upon the UNSC to assess responsibility for any party that will fail to sign the agreement and swiftly take action that is commensurate with that responsibility. The report went further to recommend more putative action against parties even if they signed the agreement, but failed to promote national reconciliation and a durable and inclusive political settlement for South Sudan, including ensuring accountability for serious crimes committed throughout the war.

While the pressure exerted by the UN and other powerful actors ended up compelling the warring parties to sign the agreement, as mentioned earlier, the use of a single narrative of

humanitarian crisis as the propellant to move the quest for peace forward in South Sudan led to the failure of the agreement. Whereas the humanitarian lens and its call to alleviate human suffering helped in forcing the parties to sign the agreement, though unwillingly, it omitted the key ingredient in the process, namely, belligerents' expectation. As argued by Werner and Yeun (2005), agreements that specify terms at odd with military expectations or agreements between belligerents that hold different expectations about the consequences of fighting are at much higher risk of failure. Such risks, according to Werner and Yeun (2005) happened because these types of agreements are inherently risky and leave open the possibility that a renewed war could lead to better terms and a better deal for at least one of the belligerents. Werner and Yeun (2005) attribute the same risk with the agreement that are reached under strong third-party pressure, which are often violated because the terms of the agreement are often at odds with military reality on the ground. The omission of belligerents' expectations warranted by the humanitarian imperatives, and the attempt by IGAD Plus and its partners to increase the costs of war between belligerents through coercive measures such as sanctions ended up failing to ensure the agreement it brought forth was an enduring one.

## **CHAPTER 4: ANALYSIS OF IGAD MEDIATION LENS**

The discussion in the preceding chapters illustrated that IGAD and IGAD Plus mediation in the South Sudanese conflict was watered down by external factors, a development warring parties capitalized on to pursue their objectives despite constraints placed on them by the mediators. These factors are the focus of analysis in this chapter. They include: intervention motive, timing and the disputants' reaction; did mediators miss anything by focusing on the humanitarian aspect of the conflict; lack of consensus among mediating organization (IGAD) member states due to their respective strategic considerations; and the role of donor funding on the determination of the international community to mould post-conflict South Sudan into a liberal democratic state.

### **4.1. INTERVENTION MOTIVE, TIMING AND THE DISPUTANTS' REACTION**

As discussed in chapter 2, IGAD's intervention in the South Sudanese conflict was prompted by fear that the two warring parties were using ethnicity as a weapon in their struggle for political power. The perception of ethnicity as the driving force in the conflict compelled IGAD and its international partners to justify their forceful mediation on humanitarian grounds, which prioritized ending the war at all cost and relegated other relevant variables that could have led to the success of the mediation to the bottom of their priorities. By privileging the humanitarian imperatives, IGAD mediators failed to consider relative power parity between the warring parties as well as the presence of the ripe moment for conflict resolution, often marked by the presence of a hurting stalemate in the conflict, a situation in which both parties are inclined to accept mediation because of the costly nature of continued fighting (Greig & Diehl, 2012).

By failing to consider relative military parity between the parties and their expectation to bear the cost of the continued fighting, mediation subordinated these imperatives to the prevention of the humanitarian catastrophe in South Sudan. However, in the South Sudanese conflict, threats of intervention nudged the warring parties to adjust their tactics without compromising their overall political objectives. For the government, the adjustment came in the form of casting the agreement as a foreign conspiracy to usher in regime change in South Sudan. Such a characterization provided a rallying point required to mobilize and consolidate internal support to resist implementation of the agreement.

Broadly, government opposition to the agreement was fueled by claims that it was a foreign conspiracy. The government's action was partly helped by poor decision-making within the United Nations Mission in South Sudan (UNMISS) leadership. UNMISS, breached the agreement it signed with the government not to transport armaments by road by sending weapons intended for the Ghanaian contingent of peacekeepers who were deploying to Bentiu in the rebel-controlled Unity State in a convoy with cargo disguised as food supplies (BBC, 2014). Upon interception by South Sudanese authorities, UNMISS clarified that the arms belonged to the contingent of Ghanaian peacekeepers that were being deployed to Unity state, and that marking of cargo as food supplies was an oversight from its logistical staff. UNMISS further acknowledged it had breached the agreement with the government by transporting the weapons by road. Despite such clarifications, public perception among government supporters turned against UN and international community's role in the conflict as the people bought into the government narrative of an international conspiracy to topple it (BBC, 2014).



**FIGURE 5: CACHE OF WEAPONS AND AMMUNITIONS SEIZED FROM UNMISS CONVOY IN RUMBEK**

Another example, illustrating alleged UN bias towards armed opposition came in 2016 when a Small Arms Survey report revealed that UNMISS troops stationed in Bentiu handed back weapons collected from government troops who sought refuge in their compound to General James Koang Chuol, the self-declared rebel military governor of Unity State, on flimsy grounds that he was their interlocutor (Small Arms Survey, 2016, p. 15). The same report disclosed that when the UNMISS leadership in Juba tried to do the same (return weapons collected from rebel soldiers that sought refuge in their premises) the UN Headquarters in New York overruled them. Instead of remaining true to their initial policy of returning weapons collected from combatants who sought protection in their premises to the nearby authorities, either government or

opposition, the UN Headquarters refused citing the need to ‘preserve neutrality’, which was not observed in Bentiu when weapons were handed over to the armed opposition military governor.

These examples made it easy for the government to hide behind what it called an international conspiracy to topple it and justified its confrontational approach with IGAD Plus and the international community over the agreement. However, a closer analysis reveals that government resistance was rooted in the failure by the mediators to account for disputants’ military expectations in the conflict as they pushed to end the war quickly. When compelled to sign and implement an agreement it perceived to be at odds with its military expectations, the government adopted a posture of a victim of international conspiracy and deployed that victimhood to turn the international community into a bogeyman in the public mind, particularly among its supporters.

In adjusting its posture and turning the UN and international community into objects of fear in the public mind, the government achieved three important objectives. One, it rationalized its rejection of the agreement it was compelled to sign to the public by presenting it as a foreign imposition motivated by the international conspiracy to recolonize South Sudan. Two, by invoking an international conspiracy, the government knew the influence it would have on consolidating its internal front and shifting blame for both the actual and anticipated hardship that may result from putative measures taken by the international community to punish its reluctance to implement the agreement. Three, given the ambitious reform agenda embedded in the agreement, the narrative of a recolonizing international community helped the government to explain away the armed opposition’s demands for reforms in all sectors of the society as the work of foreign agents aspiring to install a new puppet regime in South Sudan. Cumulatively,

with the above objectives the government hoped to bring the population on its side and resist the implementation of the agreement, and remain in power.

For the SPLM IO, the objective was to take power from the government, but unlike the government, with a strong military position at the time when IGAD Plus imposed the agreement, the SPLM IO was on the verge of military defeat, and welcomed any lull in the fighting triggered by the agreement in order to re-organize. However, while the lull in fighting was a welcome relief, the SPLM IO leadership was faced with a conundrum of reconciling its acceptance of the agreement with the incredible anger from its support base toward the same. Once the agreement was presented to the parties, the SPLM IO leadership was immediately inundated with complaints, dissatisfaction and resentment over President Kiir's continued presidency as provided for in the agreement, which was interpreted as a surrender to the government by the SPLM IO base (Small Arms Survey, 2016).

The anger from its base over Kiir's continued leadership put the SPLM IO leadership in a difficult position politically since its political program was built on removing President Kiir (whom it has accused of killing the Nuers in Juba) from power. Furthermore, the anger from its rank and file at the lower echelon was compounded by its senior military commanders' unhappiness with the power-sharing provided for in the agreement, which they saw as SPLM politicians sharing the spoils of war with no potential gains accruing to them from it (Young, 2015).

Facing anger and resistance from their supporters whose motivation for war was the desire to avenge their kinsmen killed in Juba, and top military leadership skeptical of the agreement, the SPLM IO leadership, like the government, was forced to change its tactics and try to address the concerns from its support base within the agreement framework. Unlike the

government whose rallying point was characterizing the agreement as an imposition by those who want to recolonize South Sudan, the SPLM IO's strategy was to align its political demands to those advanced by IGAD Plus in two key areas: accountability for human rights violations and the issues of governance. In the two areas, SPLM IO's saw an opportunity to address the concerns of their support base within the context of the agreement.

This tactical shift was officially formalized during the SPLM IO Pagak Leadership Conference in April 2015, where the leadership adopted a resolution "reiterating its call for the UN and AU Peace and Security Council to institute an independent judicial body to bring to account the perpetrators of human rights violations in South Sudan conflict." (Pagak SPLM/SPLA IO Leadership Conference Resolution, 2015, p. 2). Calling for justice for those killed during the war despite their own egregious human rights record, the SPLM IO made a deliberate choice to assure its constituency that those killed in Juba have not been forsaken. Furthermore, the shift aligned the SPLM IO position with that of IGAD Plus, and the wider international community who placed accountability for human rights violations as a critical factor in ending impunity in South Sudan. Viewed within this context the SPLM IO's quest for accountability was therefore not raised as a matter of principle, but rather informed by political expediency to signal to the support base that the justice they sought during the war was still possible by other means within the agreement framework. That would ensure SPLM IO's survival as an organization politically.

Regarding Kiir's continued presidency, the SPLM IO's tactic was to render it illegitimate on grounds that the National Legislature's 2015 extension of its own lifespan and that of the presidential term were usurpation of people's power to choose their leaders. That was reflected in the SPLM IO Pagak Leadership Conference Resolution appeal to African leaders and the



international community at large to denounce Kiir's regime as illegitimate and demand its immediate dissolution in order to give peace a chance (Pagak SPLM/SPLA IO Leadership Conference Resolution, 2015, p. 2). Linking the illegitimacy of Kiir's government to peace serves three critical purposes for the SPLM IO. One, it casts them as reformists fighting the government, which has usurped the people's power to elect their representatives. Obviously, this argument discounts the fact that the extension was necessitated by war, which made it impossible to hold elections. Two, it serves to calm their base, which considers Kiir's continued Presidency as anathema. Three, it portrays the government and Salva Kiir as the key obstacles to the country's democratic aspirations. In short, adjustment in the SPLM IO's tactics was meant to weaponize international concerns for human rights and international quest for liberal peace-oriented reforms and deploy them collectively against the government to bring it down.

#### **4.2. WAS ANYTHING MISSED BY THE FOCUS ON HUMANITARIAN LENS TO GET THE DEAL SIGNED**

Human lives in South Sudan were undoubtedly at stake at the time of IGAD's intervention, and the world community was justifiably pushed to mediate with muscle (even though this power mediation was weakened by the lack of consensus within the IGAD region). The focus on threats of intervention in South Sudan using human rights violations as justification forced the warring parties to sign the agreement. However, the focus on humanitarian imperatives excluded political imperatives undergirding the war.

What then did IGAD Plus and its partners miss by limiting discussion of political issues? Given the tumultuous history of the SPLM, it is obvious IGAD Plus' determination to conclude the war quickly meant that it failed to cast a glance at the SPLM's history to assess whether the conflict it was dealing with has roots in the movement's history. There were no questions asked

as to whether hard feelings from Dr. Riek Machar's defection in 1991 had a role in this conflict, or whether the same event had any negative ramifications on Dr. Riek Machar's relationship with President Kiir. As discussed in chapter 2 enmity from SPLM's historical spilt carried over to the governance of an independent South Sudan and was partly to blame for the genesis of South Sudan's crisis.

Despite the glaring role played by historical animosity within the SPLM along with evidence of intense dislike between the two protagonists in war (President Kiir and Dr. Riek Machar), IGAD completely subordinated such political imperatives to humanitarian imperatives of silencing the guns at all cost and saving lives. In the process, IGAD's devised solutions to the conflict were confined to dealing with the question of what has happened, while the question of why it happened were excluded. Levy and Thompson (2010) argue that conclusions drawn solely in response to what happened without accounting for why it happened tend to lead to superficial and generalized solutions. The focus by IGAD Plus and its partners on criminalization of political struggle for power by the warring parties in South Sudan is illustrative of how its mediation prioritized the 'what' question in its attempt to resolve conflict in South Sudan.

In response to the deliberate choice by IGAD and its partners to gloss over political disagreements over power among the warring parties, Thabo Mbeki and Mahmood Mamdani argued in their New York Times article that "mass violence is more a political than a criminal matter. "Unlike criminal violence, they contended, "political violence has a constituency and is driven by issues, not just perpetrators" (Mbeki and Mamdani, 2014). For the South Sudan conflict specifically, Mbeki and Mamdani saw the conflict as a manifestation of extreme violence, a function of a broken political order whose solution does not require the international community's preoccupation with criminalization of the perpetrators (Mbeki & Mamdani, 2014).

Mbeki and Mamdani, (2014) argued what was required was a political solution. In a caution to the edifice of an international human rights regime whose basis is built on the universal nature of human rights and devoid of specific context of human rights, Mbeki and Mamdani wrote:

Human rights may be universal, but human wrongs are specific. To think deeply about human wrongs is to wrestle with the problems that give rise to acts of extreme violence, which means fixating less on perpetrators and particular atrocities, and being more alert to issues that drive continuous cycles of conflict from which communities need to emerge. For this to happen, there can be no permanent assigning of victim and perpetrator identities. Instead, there must be a political process where all citizens — yesterday's victims, perpetrators and bystanders — may face one another as today's survivors (Mbeki & Mamdani, 2014)

The caution contained in Mbeki and Mamdani's piece over the handling of South Sudan peace mediation was not however unprecedented. The same preoccupation with the what happened question when addressing the conflict was applied by the AU and its partners in relation to the failed Darfur Peace Agreement (DPA) which they imposed on the Sudanese government and Darfur rebels. Laurie Nathan (2006), in his assessment of why the DPA failed, found that the agreement imposition led to its failure because its content was not shaped or owned by the disputants. The imposition of the agreement by the AU and its partners without the warring parties' cooperation made the entire exercise futile.

Nathan (2006) also raised the penchant to ignore confidence building as a stepping stone for the warring parties to reach agreement and the increased preference for power-based diplomacy by multinational organizations seeking to end civil wars as an issue that has become problematic in recent years. For the Abuja process on Darfur, Nathan (2006) drew a key lesson that could have helped in understanding South Sudan's conflict, namely that civil wars are not conducive to quick accords. They are by nature intractable because they manifest multiple historical, structural, political, social and economic dimensions that are mostly complex and deep rooted to

be solved using a quick fixed approach favoured by humanitarian imperatives deployed by IGAD in South Sudan.

### **4.3. LACK OF CONSENSUS AMONG IGAD MEMBER STATES ON SOUTH SUDAN'S CONFLICT**

That IGAD's intervention in South Sudan was premised on ending the war quickly was not in doubt. What was in doubt was whether entities within that body tasked with mediation (IGAD Plus and its partners) were on the same page in taking a concerted action to stop the war. As discussed in the preceding chapters, the consensus among IGAD members and later among actors within its iteration, IGAD Plus, was to develop putative measures that would compel the warring parties in the South Sudan conflict to sign the peace agreement. While the need to end the war was often officially stated, the mechanism for achieving it was often hampered by IGAD member states' concerns in three areas namely, economic, security and regional solidarity considerations.

Security and economic considerations of IGAD member states in South Sudan played a significant role in thwarting consensus building both regionally and internationally on how to deal with 'spoilers' in the South Sudanese conflict. This was the case because IGAD member states' calculations based on their national interests rendered whatever carrot contemplated by the international community ineffective. Warring parties were aware that IGAD member states would be reluctant to enforce any punitive actions imposed by the international community such as economic sanctions or asset freeze, so they ended up treating threats of sanctions as a bluff from the international community, thereby rendering the entire potency of the sanction regime as a tool to compel the parties to an agreement ineffective.

The sanctions regime as a tool for bringing compliance to enforce peace was also affected by the expectations of regional solidarity within IGAD. Obonyo (2014) highlights this quandary when he observed that IGAD often insists on solidarity among its members, which prevented it from imposing sanctions on friendly countries out of fear that this could spoil regional relations (Obonyo, 2014). In the context of South Sudan, it turned out that no country within IGAD was willing to spearhead and implement sanctions against South Sudan because doing so was viewed as jeopardizing regional solidarity within the IGAD bloc.

The potency of regional solidarity in frustrating international action against South Sudanese parties was tested in 2016 when IGAD rebuffed its main financiers, the US and the UK's push to implement targeted sanctions that would have included asset freezes and travel bans on alleged peace spoilers in South Sudan on the grounds that this could spoil any remaining legitimacy it had in the talks that were planned to resume in Addis Ababa (Mutambo., 2016). Interestingly, the refusal came even after the US had clearly stated that based on its assessment, the Transitional Government of National Unity in South Sudan was no longer inclusive, and even cited what it called a forced exiled of key leadership who signed ARCSS as a cynical repudiation of the peace process by Kiir's regime (Mutambo, 2016).

#### **4.4. DONOR FUNDING AND ITS EFFECT ON MEDIATION STRATEGIES**

As an organization IGAD does not have the financial wherewithal to mount a successful mediation (Ylönen, 2014; Apuuli, 2015). IGAD relies on donors for funding (who are accountable to their tax payers) who have leverage on the pace of mediation and on the content of what constitutes the agreement. The second dimension of why mediators eschewed sustained dialogue among the warring parties and chose the path of mediation that preferred ending the

war quickly at the expense of ignoring political issues took a less visible role in the narrative of IGAD's mediation approach. In the context of IGAD Plus and its partners' narrative, saving lives became the justification to push the warring parties reach the deal expeditiously. The donors' worries about the financial costs of mediation were hardly mentioned as another reason for wanting the disputants to reach a quick deal in the mediation process, even though it was at par with the narrative of saving lives.

The indifference demonstrates that in South Sudan's peace process, the exclusion of the political aspect of the conflict was not only attributable to humanitarian imperatives, but was also due to an unstated fear from IGAD Plus and its partners that tackling political issues through sustained dialogue among the warring parties in the mediation process was unaffordable financially. Therefore, the twin goal of arresting the deteriorating humanitarian situation and donors' need to save their taxpayers money were fused and used to back the quest for a quick agreement through mediation with muscle. Interestingly, while both goals carried equal weight in IGAD Plus and partners' conception, their chosen communication strategy of why the parties should reach the agreement expeditiously was justified on saving lives. There were no fears of financial implications of the sustained dialogue among the warries parties, and if mentioned at all, only appeared dimly beneath the dominant humanitarian imperative narrative.

Another unstated reason for desiring a quick resolution to the conflict for donors who controlled funds is their leverage over the shape and content of the agreement under negotiations. For South Sudan, this influence came within the context of draft power sharing agreement that was presented to the parties on a take or leave it basis. The draft power sharing framework was an opportunity for donors to include structures that incorporate liberal democratic approaches

with human rights protection into the draft agreement, something that would have been difficult to achieve if the disputants were given time to negotiate and reach agreement by themselves.

It must be noted that the IGAD Partners Forum (IPF) is entirely composed of western democracies who preferred the establishment of a ‘democratic state’ in South Sudan that mirrored their values. An illustrative example of this influence on the draft agreement can be discerned from the plethora of Transitional Commissions (mentioned in chapter 3) created by the agreement, which in turn tasked the Transitional Government of National Unity to establish and run them. On closer examination, these commissions were included by IGAD Plus mediators to help strengthen accountability in governance demanded by the liberal institutional order. To the backers of IGAD Plus mediation, the crisis in South Sudan was an opportunity to mould the country into a democratic country through the creation of liberal institutions, something made possible only via the imposition of a compromise agreement with liberal peace solutions.

While liberal institutions were considered crucial for the long-term stability of South Sudan by the mediators due to their ability to prevent any scenario of one-party monopolization of power, their establishment was conceived with no consideration to the capacity of South Sudanese to establish and run them. To a keen observer, the checks and balances preferred by IGAD Plus mediators require capable human resources to run these complex institutions, a key ingredient that is missing in South Sudan. Thus, put into context the structures were far more complex than existing capacities within the country yet this dearth of capacity was overlooked by the mediators who crafted the agreement with such complex institutions.

Furthermore, IGAD Plus and its donors/partners’ reliance on universal templates and lessons learned (Autesserre, 2014) led to the drafting an ambitious agreement whose pillars were rooted in external ideas, which affected the ownership of the agreement along with its durability.

The prominence of external solutions was achieved by portraying the warring parties as entities with less concern for their peoples' wellbeing due to the atrocities committed during the war. However, as Mbeki and Mamdani (2016) pointed out, those discounted by this approach have constituencies, which allow them to subvert any imposed solutions on them. In his assessment as to why ACRISS collapsed, Vhumbunu (2016) wrote, "the durability of peace agreements usually depends on the extent to which the key parties to the conflict exhibit ownership of the peace pact." "The imposition of deadlines to force conflicting parties to sign agreements – even in circumstances when the end justifies the means," he continues – "succeeds in getting signatures on papers but largely fails to secure much-needed peace, as parties are usually reluctant and unwilling to implement actions" (p.11).

This assessment aptly captures what happened with respect to the IGAD brokered peace agreement in South Sudan. Vhumbunu's (2016) view corresponds with the argument made in this thesis that the imposition of the agreement by IGAD only forced the warring parties to adjust their tactics on how to continue their struggle within the confines of the imposed agreement without compromising their objectives of retaining power (for the government) or taking it (for the opposition). In a sense, what the warring parties did was appeal to their constituencies using what they disliked about the agreement to subvert it for the government cause, or for the opposition to weaponize some provisions with the agreement to pursue the struggle and placate its angry base. In short, for the government, the agreement reeks of neocolonial schemes, while the opposition embraced some of its provisions and turned them into tools to achieve its objectives.



## CHAPTER 5: CONCLUSION

### 5.1. MEDIATION APPROACH

Analysis of IGAD's mediation in South Sudan's conflict reveals that warring parties are reluctant to sign and implement the agreement partly because of the complex situation. That indifference among the disputants in the conflict to end the war has motivated this study to take a different view that calls for an all-inclusive assessment of how IGAD's intervention was timed and justified in order to provide a comprehensive view of why the agreement failed to end the war. One reason for IGAD approach to mediation as gleaned from their communications was the fear of the negative role of ethnicity in the conflict. Interestingly, the role of ethnicity in the conflict was taken at face value even though a consensus existed among analysts that the genesis of war in South Sudan was rooted in the power struggle within the SPLM party, specifically between President Kiir and his former deputy Dr. Riek Machar (Johnson, 2015; Campbell, 2015; Raghavan, 2014).

At the centre of the conflict is Dr. Riek Machar's aspiration to become president and President Kiir's intention to remain in that position (Campbell, 2014). Despite ethnic undertones that were later taken to be the cause of war, a broad look at how the government reacted to the events of December 15, 2013 incident by arresting eleven senior politicians, the majority of whom were ethnic Dinka like President Kiir himself for an alleged coup further contradicts the characterization of the war as an ethnic one (Raghavan, 2014). Indeed, even senior international figures like Hilde Johnson, the top UN official in South Sudan during the crisis, termed the war as a power struggle which some elements were seeking to exploit (Raghavan, 2014).

Nonetheless, despite such consensus, the urge to end the war that was cast in ethnic terms, relegating power struggle to the concerns over ramifications of ethnicity as the weapon of

war after violence broke out in Juba and spread across the country. As discussed in Chapter 2, IGAD's mediation was officially motivated by atrocities committed by warring parties in Juba on Nuer civilians by government troops, and in Bor, Akoba, Malakal and Bentiu on Dinka civilians by rebel soldiers who justified the killing as retaliatory action aimed at avenging the death of their kinsmen.

However, in prioritizing an ethnic lens in their attempt to end the war and save civilian lives, IGAD overlooked the mechanics of power struggle in the conflict, a decision that affected the pace and conclusion of the agreement and its implementation even after the parties were coerced to sign it. One consequence of viewing the war in ethnic terms was IGAD's justification of its intervention on humanitarian grounds aimed at strengthening its hand as it moved to find an urgent solution to the conflict and the toll it was taking on civilian lives.

While this approach brought urgency to the region's desire to end the war, it also subordinated political imperatives to the negative role of ethnic cleavage in the conflict. Unfortunately, this focus missed the point: namely that in South Sudan's conflict, ethnicity was not an end in itself, but rather a means to achieve one end: power. The meaning is that all symptoms read by mediation to be attributes of ethnicity at the start and during the war (such as division within the army and atrocities committed along ethnic lines) were all the consequences of the warring parties using tribal affiliations for political maneuvering over power (Campbell, 2014).

Furthermore, as highlighted in Chapter 4, the exclusion of the political aspect of the conflict by IGAD and its iteration, IGAD Plus, while justified on humanitarian grounds, was partly a result of IGAD's unstated fear that tackling political issues in the mediation process would require sustained dialogue among the warring parties, which IGAD and its donors

consider unaffordable financially. To achieve the goal of saving money via a quick resolution of the conflict, IGAD's strategy zeroed in on portraying warring parties as unfazed by deteriorating humanitarian situations and pushed for a quick agreement via mediation with muscle. To compensate for its lack of sustained dialogue among the parties, IGAD Plus and its partners chose to rely on universal templates and lessons learned from other conflicts to draft an ambitious agreement whose pillars were rooted in external ideas, something that ended up affecting the ownership of the agreement along with its durability (Autesserre, 2014). This was achieved by portraying warring parties as entities with little concern for the peoples' wellbeing.

This study has noted that while external templates can provide quick fixes to a complex situation, their lasting impact especially in the cases of civil wars is questionable. As Nathan (2006) noted in the assessment of Darfur's Abuja Peace Agreement, civil wars are not conducive to quick accords, because they often have multiple historical, structural, political, social and economic causes that are complex, deep rooted and intractable. Accordingly, Nathan called for caution given the gravity of the situation because a lasting peace cannot be imposed on the parties. Nathan's (2006) key insight is that mediators should always strike a balance between stopping a humanitarian crisis in a civil war with the need to finding a lasting solution to the problem that created the crisis.

The urge to urgently end the conflict despite the continued disagreement among the warring parties in the South Sudanese conflict was puzzling, especially when compared to IGAD's mediation of the Sudanese conflict that brought the 2005 Comprehensive Peace Agreement. IGAD involvement in the quest for peaceful settlement in the Sudan started in early 1990s and ended with the peace agreement in the early 2000s. Notwithstanding the difficulties of issues under the discussion then, and the concomitant humanitarian situation, IGAD mediators

afforded enough room to sustained dialogue among the warring parties at the time, including the elevation of talks that brought the then Sudanese Vice President Taha and the then SPLM/A leader John Garang direct negotiations that led to both leaders making painful compromises which midwifed the Comprehensive Peace Agreement (CPA) on January 9<sup>th</sup>, 2005 that ended the search for peace in the Sudan, in the context of North – South conflict (Arop 2005, 405)

When the agreement IGAD imposed on the warring parties in South Sudan is judged from the lens of the CPA, which was not perfect, but delivered on most of what was agreed, it became clear that any agreement that is not shaped and owned by disputants whose buy-in and implementation of its provision is vital fails to endure. As confirmed by Nathan (2006) on Darfur Peace Agreement and by Vhumbunu (2016) on ARCSS getting disputants to buy-in which is often ignored by mediating organizations who seek to end civil war via power-based diplomacy at the expense of supporting confidence building mediation is crucial to the success of any agreement. Said differently, compelling the warring parties to sign agreements against their wills merely provide a lull in hostilities, which does not end violence nor the humanitarian concerns that underpin power-based diplomacy. Under IGAD's mediation of ARCSS, warring parties' input in terms of time required for mediation was secondary to what was desired by IGAD Plus and its partners. Whatever time was required for the parties to hold sustained dialogue and build confidence was considered a surplus to mediators' requirements, which led the parties signing a deal coerced with deep suspicion lingering among them.

More importantly, the external coercion by IGAD and its partners lacks the critical ingredient of internal consensus among the warring parties that ending the war was the best alternative. Unlike the CPA where the Sudanese government saw cooperation with IGAD as a desirable move towards ending its status in the international circles as pariah state and avoid

United States reprisals on past support for terrorism, the government of South Sudan did not have the same motive as the Sudanese government. The SPLM/A under John Garang, also came to the realization that oil revenues the government was receiving would in the long term make them vulnerable to military pressures. As a result, the combination of these internal factors with external pressures forced the warring parties to recognize that what was at stake and led them to negotiate in good faith (Porteous, 2008, 113). The success of the CPA was attributable to the fact that internally, both parties have come to the realization that the war they had been waging against each other for two decades has reached a hurting stalemate (Antwi-Boateng & O'Mahony, 2008). This lack of realization that the cost of waging war has become unbearable among the disputants in the South Sudanese conflict along with the lack of credible threat from mediators due to strategic considerations are the issues in IGAD mediation failure, and both constitute the reason for the agreement failure to bring lasting peace.

## **5.2. HOW MEDIATION TIMING AFFECTED AGREEMENT'S OUTCOME**

This study has demonstrated that analysis of IGAD's approach to ending the war in South Sudan in the form of pressure that was exerted to compel warring parties to sign the agreement discounted the effect of belligerents' expectation in the conflict (Werner & Yeun, 2005). Furthermore, the role of power struggle in the genesis of war was subordinated to negative ramifications of ethnicity that favour mediation with a humanitarian lens that called for an end to war in order to alleviate suffering. Unfortunately, warring parties' military expectations in war was not given the attention it deserves in the push to end the conflict. Moreover, as illustrated in Chapter 4, agreements whose terms are at odds with military expectations of belligerents are at greater risk of failing to end the war, because such agreements are inherently risky since they

leave open the possibility that one or both belligerents will calculate that renewed war could lead to better terms and a better deal for at least one of the belligerents.

Werner and Yeun (2005) argue that agreements reached under a strong third-party pressure are often violated because the terms of the agreement are often at odds with the military reality on the ground. For the case of IGAD's mediation in South Sudan, the omission of belligerents' expectations necessitated by the humanitarian imperatives emphasized by IGAD Plus increased the cost of war between the belligerents through coercive measures such as sanctions and threats of intervention, but ended up failing to ensure faithful interpretation of the agreement. While the timing of intervention justified in humanitarian terms helped in forcing the parties to sign the agreement, though reluctantly, it overlooked one key element in the process, namely belligerents' expectations, which ended up affecting how the agreement was implemented and its ultimate failure to usher in lasting peace.

By imposing an agreement that was not in line with military expectations, IGAD ended up forcing the warring parties to adjust their tactics to continue their struggle within the framework of the imposed agreement. For example, the government sold the agreement to its supporters as a neocolonial project with the goal of using that description to subvert it, while the opposition weaponized some of its provisions with the goal of using them to pursue the struggle to get into power. The polarization that came with these positions put the government, which is opposed to the agreement on the collision course with opposition who supports it, jeopardizing any step forward because this polarization makes the mediation team stand accused of bias in the government's view and of not doing enough by the SPLM – IO - a position that makes success impossible.

### **5.3. LACK OF UNITY WITHIN IGAD**

Given the severity of the humanitarian situation informing IGAD's intervention in South Sudan, one would have expected that the region would show unity of purpose and action and adopt an all hands-on deck approach to crisis mediation. However, this was not the case. As demonstrated in Chapter 3, IGAD's mediation in the South Sudan's conflict was marred by strategic considerations of its member states towards South Sudan. Accordingly, the security - cum - economic interests of Uganda, Sudan, Kenya and Ethiopia in South Sudan hampered IGAD's ability to build consensus necessary to forge the way forward on how best to resolve the conflict and end the humanitarian crisis (International Crisis Group, 2015). As a result, the injection of strategic interest in the mediation by IGAD member states prevented any agreement on punitive steps to enforce non-compliance, and was successfully used by the disputants in the conflict to drag out the peace process. The lack of a unified stance by IGAD member states contributed to its failure to force the warring parties to adhere to the terms of cessation of hostilities that was violated repeatedly (Apuuli, 2015).

### **5.4. CONCLUSION: A FUTURE RESEARCH AGENDA**

This study has outlined IGAD's mediation in South Sudan's conflict. I believe that this modest study moves us-students and resercahers-a step closer to a comprehensice understanding of the conflict in South Sudan and why IGAD and IGAD PLUS's mediation efforts did not succeed in resolving the conflict. This work was motivated by the single narrative that blames South Sudan's warring parties for the failure to end the war without examining how the intervening entities timed, justified and worked together after their intervention. This study seeks

to look beyond the warring parties and to investigate mediation approaches with the goal of highlighting how some of the warring parties' actions were informed by mediators' proposals and unity, or the lack thereof. While this was done using both primary and secondary sources, this study would have benefited from interviewing key personalities in South Sudan mediation: mediators, lead negotiators, donors and even ordinary South Sudanese, something complicated by lack of resources and security constraints. Given the cost implications associated with mediation, my future interest in IGAD's role is to further explore how donors' financial considerations influenced the design of agreements in cases where mediators choose to draft a compromise agreement.

This study has shown that IGAD shares some responsibility in the inability of the agreement it mediated to bring lasting peace in South Sudan, contrary to the single narrative that blamed the warring parties. For example, IGAD's challenges in trying to bring lasting peace to South Sudan are not solely rooted in the role of recalcitrant disputants or on its lack of knowledge of what needs to be done to bring peace to South Sudan. The challenges are traced to the difficulty of generating a consensus on any course of action among its member-states and international partners who hold divergent interests over South Sudan. This side of internal challenges is hardly told except on occasions when mediators become exasperated. For this discussion, such lack of consensus among various entities reinforced the parties' resolve to drag out talks during negotiations because of their knowledge that any agreement to impose punitive measures is hard to arrive at given multiple interests at play. The government exploited the lack of consensus which prevented development of coordinated action to bring pressure to bear on warring parties. The government whose expectations of the agreement were at odds with its military position in the field when the agreement was imposed, aimed to subvert the agreement



and its implementation. IGAD's lack of the gumption necessary to back up its proposal or enforce them on those who rejected it was another issue to which the agreement's failure to bring lasting peace in the country could be attributed.

## 5.5. POSTSCRIPT

The main body of this thesis was limited to the discussion of events between December 2013, to August, 2016. However, in the interest of providing the status of the quest for peace in South Sudan beyond the said period, I have appended this postscript as a way of incorporating events that took place after 2016 into my analysis. The fighting that broke out in July 2016, officially marked the collapse of the Agreement signed in 2015. After the fighting, Dr. Riek Machar was exiled at the urging of Washington and with the regional consent and placed under house arrest in South Africa (International Crisis Group, 2019). Taban Deng Gai was appointed to replace Dr. Machar in the hope that Dr. Riek Machar isolation will make President Kiir amenable to compromises that in the process will facilitate the implementation of the agreement (International Crisis Group, 2016).

Despite this consensus behind Taban appointment as the First Vice President, it became apparent that he does not command wider support among the opposition ranks required to unite them behind the agreement. Indeed, Dr. Reik Machar replacement with Taban Deng and his eventual isolation in South Africa led to widespread intensification of violence across South Sudan. More importantly, this new wave of violence was worsened by the proliferation of armed groups across the country (IGAD, 2017). This led to recognition within IGAD that the 2015 Agreement cannot address these new realities and resulted into the formation of the High-Level Revitalization Forum in 2017 (IGAD, 2017).

According to the International Crisis Report (2019), the Revitalization Forum brought the government together with opposition leaders – some of whom soon formed new rebel groups – and opposition political parties hoping to benefit from a future power-sharing agreement. These

parties participated in the exploratory discussion that led to the signing of the Agreement on Cessation of Hostilities, Protection of Civilians and the Humanitarian Access by: Transitional Government of National Unity; SPLM in Opposition; National Salvation Front; The National Democratic Movement; The Federal Democratic Party/South Sudan Armed Forces; South Sudan National Movement for Change; The South Sudan United Movement/Army; South Sudan Liberation Movement/Army; South Sudan Patriotic Movement/Army (also known as Armed Opposition Group); The SPLM Leaders (Former Detainees); Other Parties; Civil Society; Women Bloc; Youth; Faith Based Leaders; Eminent Personalities Academia; and Concerned South Sudanese (IGAD, 2017). With the revitalization process in full gear, IGAD on its 61st Council of Ministers Extra-Ordinary Session decided to lift Dr. Riek Machar house arrest on conditions that he must renounce violence and must not obstruct the peace process.

This call for Dr. Riek Machar release from his house arrest in South Africa coincided with the hardening economic realities in the Sudan that could be soften by oil flow from South Sudan. And since oil business is a major consideration in South Sudan – Sudan relations, Sudan took a central role in managing the agreement revitalization process (International Crisis Group, 2019). After lengthy negotiation process that included Sudan-Uganda collaboration, the Transitional Government of National Unity, the SPLM IO, South Sudan Opposition Alliance, the Former Detainees and Other Political Parties signed the Revitalized Agreement in Addis Ababa conforming their commitment to end the war in South Sudan (IGAD, 2018).

The agreement calls for the creation of a Transitional Government of National Unity in South Sudan with a mandate to rule for a 36-month period, after which a democratic election should be held 60 days before the end of this transition period. On the governance structure, it introduced one key innovation of a single executive president deputized by four vice presidents,

an accommodation that was created to respond to the proliferation of armed oppositions groups (Vhumbunu (2019))

While the signing of the revitalized agreement in 2018, brought in some lull in fighting across South Sudan, some challenges remained. First, the National Salvation Front (NAS) led by Thomas Cirillo, refused to sign the agreement. The same applies to South Sudan United Movement/Army headed by General Paul Malong, whose participation in the revitalization was successfully blocked by the government. As noted by Ryan (2016), these holdout groups present likely danger of the renewed military offensives various places in South Sudan as these groups are not obliged by the agreement to respect the ceasefire or the revitalized agreement (Ryan (2019)).

Secondly, the agreement implementation is behind scheduled at the time of this writing. The disputants are still far apart on the issues of military unification and security arrangements, boundaries and status of states created by the government during the war. These areas are key prerequisite to the formation of the transitional government of National Unity scheduled to be formed in May 2019. This lack of agreement in the listed areas above presents a real danger to the survival of the agreement if IGAD does not provide creative solution to narrow these areas of disagreement among the parties.

Thirdly, is the challenge of securing funding for agreement implementation. During the Sudan led mediation, the closed-door policy adopted by the Sudanese mediators alienated the key constituency IGAD needed in the support for agreement implementation. “The U.S.-led Troika and the EU”, according to International Crisis Group Report (2019), “found themselves kept in the dark, together with the civil society groups that they have long argued deserve a seat

at the table. The donors' discontent throws into question the peace deal's ambitious timelines, which they never agreed to back financially" (P.10).

Finally, the recent change of leadership in the Sudan pose a serious threat to the revitalized agreement and its implementation. As noted earlier, the former Sudanese President, Omar el Bashir, along with President Museveni of Uganda were the perceived guarantors of the agreement due to their leverage on Dr. Riek and President Kiir respectively. The removal of Omar el Bashir from power as created uncertainty on the continued stability of the agreement, because the guarantees for its implementation on the Sudan's side of equation will largely depend on the attitude of the new government in Khartoum towards South Sudan stability.

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