

East Africa Report

Reviewing options for peace in South Sudan

Emmanuel Kisiangani

Summary

As South Sudan continues to witness intermittent armed violence, short- and medium-term options to address the conflict must be critically evaluated. Continued violence erodes the country's capital, aggravates structural problems and polarises the population. When viewed against the backdrop of South Sudan's history, prospects for durable peace appear far off. Of key importance is the need to develop a polity that confronts and reverses the country's legacy of structural problems and partisanship. This calls for more than a short-term political fix of sharing positions: it calls for proper tools to promote inclusive and responsive structures of governance. This report, examining the mood of a country that holds the top spot in the Fragile States Index, is based on field research conducted in South Sudan in April and May 2014.

IN LESS THAN THREE years, hope for a peaceful and stable South Sudan has been replaced by uncertainty. The celebrations that accompanied the independence of Africa's youngest state on 9 July 2011 have slowly waned as a crisis in governance takes its toll on the lives and property of South Sudanese people.

The situation took a turn for the worse in December 2013 when, from what was ostensibly an internal party tussle for political power, South Sudan quickly descended into violence and appeared headed for the worst-case scenario – the disintegration of the nascent state. This development served to blunt the country's post-independence optimism and threatened to unravel political and inter-ethnic fault lines. It was Uganda's military intervention in support of President Salva Kiir that substantially tilted events in favour of his government.

Nonetheless, for a country ranked as number one by the 2014 Fragile States Index,¹ the outbreak of violence and the continued failure of the conflicting parties to end the war have fulfilled the predictions of some South Sudanese and a number of analysts that an

independent South Sudan would in the immediate term fail to govern itself or create a viable state. Significantly, the overall grim state of affairs, not least the spectre of violence, raises questions about the logic of violence, why it has become internally insidious and the implications and prospects for the country's short- and medium-term future.

It is instructive that much of the ongoing discussion on the situation in South Sudan focuses on outlining the dynamics of the recent violence and the mediation process in Addis Ababa, Ethiopia, under the aegis of the Intergovernmental Authority on Development (IGAD). There is, however, limited forward-looking discourse on options and possible trajectories for South Sudan in the short and medium term. For a country that was initially scheduled to hold its first post-independence general elections by 9 July 2015, the violence has thrown into disarray the date for the next poll. This adds to the myriad of challenges that had attended earlier plans toward the elections, including lapses in adhering to constitutional provisions for a census and the demarcation and a redistribution of constituencies.

This report describes the forces driving the violence in South Sudan and explores how these forces might interact to influence the country's short- and medium-term future. Based on fieldwork in South Sudan in April/May 2014 and the author's own insights, the report aims to develop structured thinking around possible choices and their implications for South Sudan towards the next elections and the immediate term.

South Sudan relapses into violence

The violence that began in South Sudan in December 2013 led to the deaths of over 10 000 and the displacement of nearly one million people, internally and externally.² The outbreak of violence demonstrates the challenges of state formation in post-conflict contexts and the difficulties in dealing with deeper divisions and historical structural fault lines.

The long civil war in South Sudan left the country largely underdeveloped and steeped in systemic and structural problems

It is true that the atrocious long civil war in South Sudan left the country largely underdeveloped and steeped in systemic and structural problems. However, independence offered the leadership of the new state an opportunity to deal with these challenges and consolidate peace. The question is: what explains the failure of the country's post-independent leadership to mitigate violence?

The contours of violence in post-independent South Sudan have been apparent to South Sudanese and international observers for some time now. Koul Bol Deng, writing in April 2013 on the subject 'Tribal war in South Sudan is unavoidable in 2014-2015', observes that from the time the country became semi-autonomous in 2005, there had not been any tangible change in the government's policies towards development.

The rate of corruption and impunity by government officials has been so shocking that no one seemed accountable for any civil or criminal misconduct. Koul gives the example of 76 South Sudanese officials whom the president wrote letters to requesting them to return their ill-gotten wealth but against whom no action was subsequently taken, either by the president or the Anti-Corruption Commission.³

9 July 2015

THE INITIAL DATE SET FOR SOUTH SUDAN'S FIRST POST-INDEPENDENCE GENERAL ELECTIONS

For an underdeveloped country that is highly militarised with lots of arms in the wrong hands, it is not surprising that South Sudan has fallen far and fast. There are also questions around the widespread misuse of public funds, which eats up a substantial portion of many government office budgets. It is alleged that in South Sudan, 80% of essential services in the rural areas, especially in the health sector, are provided for by non-governmental organisations.⁴

There are also analyses that point to the lack of competent institutions of governance in the fledgling republic as having significantly contributed to the relapse into violence.⁵ Nonetheless, speaking to South Sudanese politicians, religious leaders, journalists, lecturers at the University of Juba and citizens on the streets, quite a number of them think that the tragedy of violence in South Sudan is unnecessary and avoidable. During the field trip, the general predisposition from informants was to acknowledge that the country has problems and that the post-independent leadership has not done well in addressing the structural and state-building challenges.⁶

Most of them acknowledged that the independence of South Sudan symbolised a moment of remarkable achievement and provided hope of a new era of peace and prosperity. They had differing interpretations, however, as to why the country remains vulnerable to violence. A majority agreed that the nascent state of South Sudan remained vulnerable because of its historical legacy of civil war and the attendant residual effects. Others pointed to the poor governance and tensions connected to the failure to institutionalise the political and military systems.⁷

With the exception of a few government officials, many said they believed that the country has suffered from poor political and economic leadership. The sense was that the president has lacked a sound vision to govern a fragile country. Other government officials and a section of citizens, however, noted that the problem went beyond Kiir as head of state. They argued that ministers and officials of government, including the former vice president, Riek Machar, are to blame for unethical practices such as corruption and for failing to discharge their leadership duties diligently.

On why the president did not use his constitutional prerogative to reorganise his government and remove from office those he perceived not to be performing, the response was that the immediate post-independent South Sudan was too fragile to sack some of the people from government as they could easily fuse into insurgency and further destabilise the country. The argument goes that Salva Kiir eventually sacked his deputy and cabinet months before the outbreak of violence because it was absolutely necessary as a number of them had openly shown dissent.

Those apparently in support of Kiir pointed out that running a government was a joint effort and that it was wrong for people, including Machar, to keep blaming only the president for the problems facing the country. One of them alluded to the fact that Machar was in fact in charge of the country during the interim period (between 2005 and 2010) when Kiir was the vice president of the former Sudan and that Machar 'never did anything important to transform the country or the ruling party.'⁸

Some informants maintained Machar was probably limited in what he could do during the interim period, given that Kiir was still the overall leader of South Sudan. However, others reasoned that Machar had delegated powers to influence the country's governance trajectory during that period.

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A journalist with one of the leading media houses in Juba, with extensive experience working with the ruling Sudan People's Liberation Movement (SPLM), maintained that neither Kiir nor Machar was suitable for fashioning a polity that would both confront and reverse the country's legacy of injustice and partisanship, and replace it with a state ensuring inclusiveness and fairness.⁹ To him, moving South Sudan forward required a leadership that would carefully unpick the country's deeply embedded structural problems and transform them, something which both Kiir and Machar had failed to do.

From views expressed by a range of analysts, it is apparent that the current South Sudan leadership (both Kiir and Machar's factions) cannot escape accusations of inadequacy in providing political and economic leadership. The conclusion that can be drawn is that South Sudan's key post-independent problem was the failure to articulate and follow through a clear strategic vision and direction to promote the positive economic and political transformation of the country and also the SPLM. It was apparent that the country's leadership has been lethargic in taking action against those pursuing unethical practices. This has been compounded by perceptions that the government tolerates the politics of patronage and ethnicity which, in turn, has contributed to growing unhappiness about the way the affairs of government were being run.

It is instructive that the problem of a lack of proper strategic direction extends to the SPLM. The party's ideas about governing South Sudan have, for long, remained unclear.

Some people even think that the SPLM, other than fighting the North, has had no vision about how to govern an independent country. Justin Ambago Ramba calls the SPLM's current leadership 'visionless and directionless'.¹⁰ In a comment in response to Ramba's above-cited article, one anonymous writer observes that even the late Dr John Garang 'moved around with his government in his briefcase' and following his death, 'no one knows exactly what he [Garang] wanted and Salva Kiir has, therefore, inherited little'.¹¹ Regardless of whether Garang shared his vision, Kiir's detractors argue that he has fluffed the opportunity to fashion his own vision and direction for the country.

People without any qualification or government appointment simply walked into offices that had been left behind by those going back to Khartoum

It is, however, important to note that the question of leadership and institutional deficiencies extends to lower levels in government and in the party. An illustration was given of cases immediately after South Sudan's independence, when people without any professional qualification or government appointment letters simply walked into offices that had been left behind by those going back to Khartoum and took over. These people are still in office up to today.¹²

Another informant gave the example of someone who works in a senior capacity at one of the key institutions dealing in transport and who knows little about his responsibilities (other than signing papers) and has to depend on a more knowledgeable young man to do much of the work.¹³

These deficiencies in human resource owing to decades of civil war explain, to an extent, South Sudan's limited political and economic transformation. The issue is compounded by a national leadership riddled with corrupt practices and the exploitation of ethnic identity as a tool to maintain or gain power. It is no surprise that the dreams of freedom and independence are amounting to little.

The increasing concern from analysts is that South Sudan is trapped in a serious deficit of governance which, if not critically dealt with, might erode the country's capital further and aggravate the structural problems which will, in turn, polarise the country further.¹⁴



THERE IS A PERCEPTION AMONG SOUTHERN SUDANESE THAT THE RULING PARTY IS LARGELY MANAGED THROUGH MILITARY PRINCIPLES, WITH LITTLE OR NO MECHANISM TO PROMOTE DEMOCRACY

Failure to produce a peace dividend

A former opposition official who is currently working with one of South Sudan's counties explained how the SPLM moved expeditiously to, in his words, manipulate the transition and interim constitution-making process and entrench itself in power.¹⁵ To him, the SPLM has continued to stifle the political space by threatening political opponents and confiscating newspapers that proffer alternative views.

Indeed, there exists a perception among Southern Sudanese that the ruling party is largely managed through military principles with little or no mechanism to promote checks and balances and/or embrace democracy.¹⁶

The continued dominance of the SPLM and its feeling of entitlement have served to skew political power and the distribution of the country's resources (read: oil proceeds) in favour of those in the SPLM leadership and have promoted selfish interests, power struggles and ethnicisation.

A shared view in South Sudan is that there is no distinction between the ruling party and government and that those in leadership (including those who had rebelled) have used their positions to profit from the 'oil dollars', as the rest of the country remains underdeveloped.¹⁷ This has undermined the anticipations of those who were out celebrating independence on 9 July 2011, as many remain frustrated with the party's lack of participatory nature and responsiveness to their needs.

The failure to deliver the 'peace dividend', combined with an intense political contest at party, national and various lower levels has contributed to the increase in tensions and acts of aggression. The weakness of political institutions, the overlap of party and government, and party and army, have all contributed to the inability of the SPLM as a party to resolve the growing tensions.

Related to the issue of the transition is the divisive issue of the country's interim constitution. This constitution makes the president of South Sudan one of the most powerful presidents in Africa. He cannot be impeached by Parliament and has the power to prorogue the legislative assemblies of any of the 10 states. In fact, Parliament has little say in whatever the president does. A South Sudanese academic said that the constitution gives the president so many discretionary powers that if he wanted to, he could ignore parliamentary legislation and work as per his own personal convictions.¹⁸ Kiir has used these powers sometimes to try and promote loyalty or to gain leverage.

A shared view in South Sudan is that there is no distinction between the ruling party and government

A retired military official now working in government said that a young country like South Sudan needed a constitutionally strong executive to give direction to the running of a nascent state. Many of those opposed to Kiir, including Machar, have, however, argued that the overbearing presidential powers have predisposed South Sudan towards authoritarianism. The interim constitution, which came into force after the 2011 general elections, was to last for four years before being replaced by a permanent one to guide the country through the elections initially scheduled for 2015. The issue of a permanent constitution is one of the concerns raised during the negotiation process in Addis Ababa as a significant governance aspect that requires fundamental restructuring.

Overall, while South Sudan has done relatively well in building a semblance of government institutions from scratch, there is no doubt that the new state was, from inception, established on a weak foundation. The optimism that accompanied the country's independence was based on the expectation that the South Sudanese leadership would forge a novel direction and develop the country's institutional capacity to reverse past legacies and promote peace. It is apparent, however, that the country's leadership has failed to respond appropriately, with the consequence being the adverse ripple effects of violence.

The many triggers of the 2013 violence

It is clear that the struggle in post-independent South Sudan has turned into a struggle to control the SPLM, and by extension the state, with the interaction of political power and the instrumentalisation of ethnicity being central to the recent violence.



THE COUNTRY'S INTERIM
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This struggle became pronounced in 2013 when Kiir retired over 30 generals, following it up with the sacking of the governors of Lakes and Unity states, and finally, in July 2013, dissolving the entire cabinet, which included Machar, his vice president. He also issued executive orders suspending the SPLM secretary general, Pagan Amum, and preventing him from travelling outside the country pending an investigation into his conduct. Amum was apparently to be investigated for mismanaging party affairs administratively and politically, and for using the public media to discredit the party and its leadership.

A contact in South Sudan, a Ugandan national,¹⁹ observed that Kiir had sensed a growing threat from a number of his comrades in the SPLM, including Machar and Amum, both of whom had stated publicly their ambitions to contest against Kiir for the SPLM's presidential ticket. Kiir, therefore, sought to reduce their influence and assert himself by relieving them of their key responsibilities.

Sources close to government have argued that the move was necessary in order to refocus the government's operations, given the political impasse that was ensuing between some of the government's key officials.²⁰ The dominant non-Dinka groups, especially the Nuers and Shilluks, however, interpreted the move by Kiir to relieve leaders from their ethnic groups from government to be an attempt to marginalise them. The move, indeed, paradoxically contributed to the build-up of tensions before the eruption of the December 2013 political violence, when presidential guards loyal to the president clashed with troops supporting the ousted vice-president. Things spiralled out of control thereafter.

There are varying explanations about what exactly happened that led to the actual outbreak of violence on 15 December but what is clear is that it emanated from a meeting of the National Liberation Council (NLC) of the SPLM and was underpinned by political power struggles. Kiir called it an attempted coup d'état by Machar, a position shared by those who support the government and who argue that Machar has, for some time now, been exploring options for taking over the government by force. However Machar's supporters insist that it was Kiir who was using the security apparatus to carry out atrocities against a section of the population in Juba (read: the Nuer).

A majority of South Sudanese think it was purely political differences that spilled over into the army. By calling it an attempted coup d'état, Kiir seemed to have intended to morally and politically negate Machar's local and international standing.

The December 2013 violence reflected a similar crisis in 1991, when competing visions over the future of South Sudan took on ethnic overtones and led to violent clashes, some of whose political sentiments remain alive in South Sudan today.²¹

In 1991, Machar launched a failed bid to overthrow Garang, then the leader of the Sudan People's Liberation Army (SPLA). The failed coup triggered an intra-SPLA civil war and large-scale violence along ethnic lines. Machar was prominently involved, mobilising support from his Nuer ethnic group against Garang's Dinka. In the notorious Bor Massacre in November 1991, it is estimated that at least 2 000 mainly Dinka died. Machar then allied with the Khartoum government in fighting the SPLA until he reconciled with Garang and re-joined the SPLM in 2002.

The narrative about Machar defecting from the SPLA in 1991 and forming a splinter group that sided with Khartoum to fight the SPLA is truly well and alive in South Sudan's current political discourse. Even in his opening speech to the NLC before

2 000

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the outbreak of the December 2013 violence, Kiir is quoted as saying, 'In the light of the recent development in which some comrades have come out to challenge my executive decisions, I must warn you that this behaviour is tantamount to indiscipline, which will take us back to the days of the 1991 split.'²² Many of the South Sudanese in Juba also linked the December 2013 violence to the 1991 incident and especially those in government, who maintained that Machar's main motivation was to take over the government and all accusations he was levelling against Kiir were mere excuses, however genuine they might be.

It is instructive too to note that the violence that erupted in South Sudan in December 2013 has been variously presented as an ethnic conflict between Kiir's Dinka and Machar's Nuer ethnic groups.²³ It is important, however, to observe that the sources of discontent in South Sudan are not ethnically based. The underlying problems are political and structural issues, where ethnicity is used as an instrument to mobilise for political power.

The root problem is political power and access to the country's main source of revenue – the oil proceeds

The description of the conflicts in South Sudan as ethnic conflates symptoms of underlying problems with their causes. The root problem is political power and access to the country's main source of revenue – the oil proceeds. Thus, ethnic divisions in South Sudan are a consequence rather than a cause of conflict. This is why peace initiatives focusing on reconciling ethnic groups often fail, because of their inability to deal with structural problems.

Three options for South Sudan's immediate future

It will undoubtedly take time and concerted effort to create a stable, peaceful and democratic South Sudan. The South Sudan narrative tells the story of a conflict that is deeply embedded in structures of injustice that need to be carefully unpicked if sustainable peace is to be achieved. Like many other experiences across the continent, post-independent South Sudan has demonstrated the challenge of building an inclusive and fair state that makes those in power accountable to the people. For this transformation to happen in a fragile context like South Sudan, a clear reform roadmap is called for, with timelines and mechanisms for implementation as well as greater regional and international involvement to create conditions for meaningful reform.

While the mediation process in Addis Ababa under the aegis of IGAD can be an essential part of peace building and, hopefully too, lead to the necessary framework for state building, it remains slow and indications are that the conflict might linger on for some time. In any case, the underlying forces and factors that are affecting the political violence might not be eliminated by a cessation of hostilities and the peace talks in Addis Ababa alone. The litmus test for creating a viable South Sudanese state lies in transforming governance structures so that they are more fair, inclusive and accountable to ordinary citizens. Going forward, there are a number of possible scenarios:

Scenario 1:

A transitional government of national unity

One of the proposals made in the Addis Ababa mediation talks is for the two protagonists to form a transitional government of national unity (GNU). The



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mechanics of the unity government remain unclear but the broad expectation is that it would be agreed upon by the two conflicting parties. The transitional GNU would be tasked with implementing critical reforms as negotiated through the peace process; overseeing a permanent constitutional process and guiding the country to new elections.

This option may be seen as a good way of reducing political violence and possibly as a win-win situation but is fraught with challenges. This option did not get much traction among many of the interviewees. Some, especially those outside government, see the two leaders as responsible for the current problems in South Sudan.

The problem, therefore, would be to convince an elected government to give up power

Moreover, a unity government involving the two would probably not create a favourable environment to bring about the necessary reforms. It is, indeed, difficult to envisage the necessary concessions and transitional reforms being carried out under the two leaders, given their history in government and the stakes inherent in the elections after the transitional period. It is also plausible that a GNU with the two principals would return the country to the status quo before the sacking of the former vice president.

Some believe that with the increasing ethnicisation of politics in South Sudan, a unity government made up of Kiir and Machar would just be seen as a Dinka-Nuer power-sharing arrangement that excludes other ethnic groups. There is also the possibility that a transitional GNU between the two leaders would perpetuate mistrust and could result in the two sides organising themselves in preparation for another possible war. Overall, while a transitional GNU offers a good option for possibly stopping the ongoing intermittent violence, it does not seem to enjoy much support from sections of the South Sudanese public and does not look like the best option for promoting lasting peace in South Sudan.

Scenario 2: A neutral interim government

Nearly all the interviewees in South Sudan (with the exception of those in government) maintained that in the current polarised environment, a better option for promoting political dialogue and necessary reforms would be an interim government headed by a neutral individual with no ambitions for political office in the next elections.

While this option raises the prospects of promoting an honest dialogue that can bring about the necessary systemic reforms, it faces the challenge of being accepted by the government side that maintains it has to serve its full term. The problem, therefore, would be to convince an elected government to give up power. Kiir has not welcomed suggestions that he leave office, often arguing that he was elected by the people and should remain the president until the next elections. Machar has indicated that he is not averse to the idea of a neutral interim government²⁴ probably because it takes away the state leverage of his main opponent in the next elections.

A general consensus from interviews was that a neutral interim government should organise an inclusive platform to cultivate compromise on the fundamental principles of transforming the state towards being more accountable and inclusive.



THERE IS THE POSSIBILITY THAT A TRANSITIONAL GOVERNMENT OF NATIONAL UNITY COULD PERPETUATE MISTRUST

Scenario 3: The status quo

This scenario is a case of the continuation of the current state of affairs. Under these circumstances, Kiir and his group continue holding office with the SPLM-in-Opposition controlling the areas they currently control.

This scenario is contingent on the ability of both sides to maintain their leverage over the armed groups they control. To do so, both parties will have to find ways to fund their armed operations.

Unfortunately, this scenario would by no means lead to democratic transformation, nor would it constitute a safe exit from the current deepening crisis in South Sudan. It might, in fact, lead to what has been described as the ‘Somalia-scenario’ where the country goes into a completely failed state or degenerates into total civil war. This can happen if the negotiation process in Addis Ababa fails and the two parties increase the arming of their factions and/or it is compounded by armed insurgency elsewhere in the country. This could be a nightmare scenario, especially if regional actors intervene to support armed elements in proxy wars.

How can the Sudan crisis be resolved?

Looked at from the context of the country’s history and on the evidence of the last few months, during which both the government and the opposition have frequently broken agreements on the cessation of hostilities, it is apparent that the prospects for peace across South Sudan remain distant. The fear is that, left to itself, South Sudan might not have the ability to resolve its ongoing problems without resorting to violence. Violence will further erode the country’s capital, aggravate structural problems and even polarise the country further.

The challenge of building a stable polity in South Sudan needs more than a short-term political fix

The disturbingly long list of failed intervention initiatives in South Sudan points to a lack of proper tools to deal with the country’s underlying and complex problems. Greg Larson, Peter Biar Ajak and Lant Pritchett have argued that so far, orthodox state building and capacity building approaches in South Sudan have more or less failed to make any real change in the country.²⁵ They vouch for innovative approaches to building state capability which go beyond importing ‘best practice’ solutions while feigning ‘client ownership’.

Indeed, much of what currently passes as peace/state building efforts in South Sudan has failed to bring about peace because it often takes ad hoc and reactive approaches to stopping violence or dealing with the country’s symptoms.

The challenge of building a stable polity in South Sudan needs more than a short-term political fix; it requires approaches that also deal with the intrinsic nature of South Sudanese structural conflicts and their historical roots. Political negotiations or the sharing of positions are, by themselves, insufficient options unless complemented by mechanisms that can help transform governance structures at party and government levels to be inclusive and responsive to people’s needs.

The focus on peace/state building in South Sudan should, therefore, not be directed simply towards containing and managing violence but rather towards reforms that address the deeper structural problems. The litmus test for the viability of any peace



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process in South Sudan lies, therefore, in its contribution to the transformation of governance structures so that they can perform sovereign functions effectively and responsibly. It is the opinion of this report that a neutral interim government headed by a person without ambitions for the next elections will help in addressing serious nation-building issues including democratising the ruling party and the creation of accountable, democratic and inclusive state institutions.

Conclusion

In this fragile state of affairs in South Sudan, it appears that the unfolding peace process needs robust engagement from local and international stakeholders to keep it on track. Such engagement should realise, among other things, that the recent violence in South Sudan is a product of the overall crisis that has bedevilled the nascent state since its inception. It needs to be addressed at that level.

Resolving these conflicts calls for inclusive political processes and the participation of citizens. As observed earlier, South Sudan needs to develop a polity that confronts and reverses the country's legacy of injustice and partisanship and replaces it with a sense of inclusiveness and fairness. Only by embarking upon genuine and positive reconstruction of the governing structures, including the interim constitution, to promote fairness and inclusiveness will the government in South Sudan enjoy stability and popular legitimacy.

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