Negotiating Peace in South Sudan:
Analyzing Crucial Aspects of the August 28, 2018 Power-Sharing Agreement

Executive summary

This policy brief identifies four crucial dimensions to power-sharing agreements, and discusses the extent to which the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) agreed upon on August 28, 2018 accommodates these dimensions. The R-ARCSS, despite considering all four dimensions of power-sharing, lacks clarity on crucial elements, is deficient in terms of the provisions for third-party enforcers, and is vulnerable to failure due to the ethnic nature of the conflict. Deepening of the various power-sharing dimensions, making allowance for a third-party enforcer, and addressing underlying political and ethnic cleavages are some of the steps that the Transitional Government of South Sudan and the international community can take to strengthen the implementation of the R-ARCSS.

Background

South Sudan has known war than peace in much of its independence history. In 2005, the Comprehensive Peace Agreement (CPA) was signed by the Sudanese People's Liberation Army (SPLA) and the Sudanese government, ending the civil war between them and allowing for a referendum on South-Sudan's independence in 2011. The South Sudanese overwhelmingly voted in favor of secession, adopted a comprehensive constitution, and created a multi-ethnic government. However, in 2013, violence erupted once again after President Salva Kiir Mayardit sacked his entire cabinet and accused Vice-President Riek Machar of instigating a coup. Since then, the situation has deteriorated, resulting in tens of thousands of deaths and thousands displaced by 2014 (Kulish, 2014). Machar conducted a guerrilla warfare campaign against the Dinka, who retaliated by targeting Nuer civilians. The South Sudanese conflict became one of the world's most intense and intractable conflicts. Ethnic rivalries, land disputes, conflict over resources, deep grievances, human rights violations, and food and water scarcity all impact the region, breed armed groups and subsequent violence. The conflict has become intractable, because of South Sudan's lack of institutions, deep ethnic cleavages, lack of progress towards resolution, and a zero-sum calculations for the factions involved. In 2015, the warring parties were pressed by the United Nations (UN) to once again try to settle their disputes through an agreement. In April 2016, Machar resumed his position as Vice-President, only to be ousted again a few months later due to renewed conflict (British Broadcasting Corporation [BBC], 2018). In December 2017, the warring parties signed a ceasefire deal. This deal has, through comprehensive talks and mediation efforts, evolved over the last few months into a power-sharing deal.

The deal will see Kiir continue as president, and Machar reinstated as vice-president. There will be four other vice-presidents, shared between other political groups. After the deal is signed, parties will have eight months to form a transitional government under the new format, which will hold power for three years. Sudan's foreign minister Al-Dierdiry Ahmed stated during the signing ceremony on July 25, 2018 in Khartoum that "one issue that still needed to be resolved was how to share power at the level of regions and counties (Al Jazeera, 2018)." Previously, all power-sharing and cease-fire agreements signed in South Sudan were violated hours after they were signed.

The R-ARCSS (2018) mentions power-sharing arrangements with regards to defence and security (Article 2), economy (Article 4), land (Article 1), governance (Article 1), reconciliation (Article 5), and monitoring (Article 7). On August 28, 2018, Machar refused to sign the peace deal because he needed guarantees to certain reservations. However, on August 30, 2018, Machar agreed to the peace deal after intense negotiations, and on September 12, 2018 all parties signed the final peace deal.

Key Findings

Hartzell and Hoddie (2003) identified four dimensions of power-sharing: political, military, economic, and territorial. They examined 38 civil wars resolved via the process of negotiated settlement between 1945 and 1998, and found that the more dimensions of power-sharing among

former combatants are specified in a peace agreement, the higher the likelihood that peace will endure. They suggest that power-sharing institutions foster a sense of security among former enemies and encourage conditions conductive to self-enforcing peace agreements.

The political dimension, also called for consociationalism, consisting of the distribution of political power among the parties to the settlement. The political arena has been the dominant sphere in which competing groups may agree to share power, particularly in states emerging from civil war (Hartzell, 1999).

Wilson (2005) warns of the dangers of political power-sharing by arguing that this may entrench and institutionalize divisions in multi-ethnic societies. In particular, systems that are structured along proportionality will produce extreme rigidity (Wilson, 2005; Ghai, 2002, p. 146).

The military dimension consists of rules regarding the distribution of the state's coercive instruments (Hartzell, 1999). Additionally, positions of power within the state's military are divided in this dimension.

The territorial dimension of power defines the division of autonomy between levels of government on the basis of federalism or regional autonomy arrangements. Territorial autonomy can serve to maintain a state's external borders and may help give expression to institutional pluralism (Rothchild & Hartzell, 2007). Minority groups might find reassurance and protection in rules that assign powers to their region and

limit the power of the political center over them.

The economic dimension defines the distribution of economic resources controlled or mandated by the state and positions of power in the economic sphere among groups to the agreement.

Each additional category of power provisions (political, territorial, military, economic) reduces the likelihood of failure by 53 per cent. Furthermore, the presence of a third-party enforcer reduces the risk of settlement failure by 83 per cent (Hartzell & Hoddie, 2003).

Stedman (1997) warns for the effects that spoilers have on the signing of peace deals. He argues that where international custodians have been created who effectively protect peace and manage spoilers, damage has been reduced and peace triumphed (p. 6).

Additionally, wars with high casualties are more likely to produce pronounced feelings of insecurity, very low levels of trust, and deep concern about the future (Hartzell & Hoddie, 2003). Their findings demonstrate that each unit of greater intensity of conflict increases the likelihood of settlement failure by 124 per cent (p. 327). Additionally, conflicts that are divided along ethnic lines have a staggering 413 per cent greater risk of a return to war.

Spears (2005, p. 184) posits that to expect power-sharing to work in complex conflicts in Africa, it is expected to work under the most difficult conditions. This is because

"Conditions of anarchy effectively force local factions to look after their own security interests before they consider options that entail cooperation and risk" (Spears, 2005, p. 185).

In such an inherently unstable environment, sharing power across the various dimensions is paramount to achieve a successful transition from civil war to manageable peace (Hartzell, 1999). Power-sharing is not a simple dichotomous variable which is either present or absent in an agreement. Rather, as Hartzell and Hoddie (2003) argue, it is a continuous variable that ranges from zero to four, with each increment being an additional dimension of power-sharing. The greater the number of power-sharing dimensions specified and agreed upon, the more likely a peace coalition will survive.

Conclusions

The South Sudan conflict is very intense where parties are divided along ethnic lines. This greatly increases the chances of failure of negotiated power-sharing agreements. Therefore, it is of paramount importance that all four power dimensions are considered in the agreement, and that a third-party enforcer is present to reduce the risk of settlement failure.

The agreement emphasizes the political dimension, consisting five vice-presidents (among them main opposition leader Machar), Kiir as President, 35 ministers and 550 Members of Parliament (MPs). These MPs will be chosen along proportionality, thereby possibly institutionalizing or entrenching ethnic divisions.

The agreement mentions military power-sharing arrangements such as Annex C of the R-ARCSS, which provides a pre-transitional unification management structure in which the commanders in chief (of all warring parties) shall sit jointly on a defense board. However, despite this arrangement, there is a proliferation of armed groups operating in South Sudan, some of which are very poorly trained and ill-disciplined. They mostly consist of armed civilians, and only a few of them are represented in the peace agreement. It is unknown whether the people that signed the agreement represent them or whether the agreement is sufficient to guarantee safety for all. Incorporating all units into the main army is a daunting task given the unprofessional nature of the South Sudanese army.

Articles 1.4.6, 1.2.15, and 1.15.4 of the R-ARCSS specifically address the territorial dimension. In selecting nominees, extra attention should be given to regional representation. Power and resources must be devolved to state and local levels of governance. Additionally, an Independent Boundary Commission (IBC) for South Sudan is to be created, consisting of 15 members from different regional, national, and international backgrounds. Their role is to consider the number of States for the Republic of South Sudan and decide on their boundaries. These articles, despite addressing the territorial dimension, are vague and do not provide an explanation as to how these will be implemented.

The economic dimension lays pathways for the South Sudanese economy, but largely overlooks power-sharing in this regard. For example, Article 4.8.1.4 states that current employment in the oil sector shall be reviewed because job allocation is not based on merit and competence, but on ethnic, political and regional considerations. The agreement offers no solution to this problem.

Finally, and crucially, a third-party enforcer is lacking in this agreement. The R-ARCSS allows for various monitoring and verification mechanisms, and a defense and security review board. However, both are not military enforcers and are rather expected to monitor military activities and defense reform on behalf of the transitionary government. There is no mention of the role of an international custodian in enforcing the peace agreement and managing potential spoilers.

Recommendations

In order to create sustainable peace in South Sudan following the R-ARCS, the South Sudanese government should:

- Commit to the implementation of the present settlement.

- Prevent violence by all means. Violence impedes state-building.

- Deepen the political dimension by providing answers to questions on entrenchment of ethnic politics, logistics, governance, and potential tensions between the national government and, state and municipal governments.

- Further deliberate on, and deepen crucial dimensions of power-sharing agreements, such as the military, economic, and territorial dimensions.

- Address the underlying political and ethnic cleavages fueling the war by fully complying with Article 5 of R-ARCSS.

Similarly, IGAD, UN, and the African Union (AU) should:

- Offer themselves as third-party enforcers to monitor the agreement and guarantee implementation.

- Uphold and enforce the United Nations arms embargo of Friday July 13, 2018.

- Provide objective military, economic, and political support to the South-Sudanese peace effort.

- Provide continuous humanitarian assistance and reconstruction support.

- Serve as international custodians, to the agreement, identify spoilers and devise proper spoiler management techniques.

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