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RESEARCH FOR A PEACEFUL, JUST AND PROSPEROUS SOUTH SUDAN

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Policy Brief

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COVID-19 and the Political Transition in South Sudan

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Summary

- The implementation of the R-ARCSS is stalled, as the parties have had difficulty gathering sufficient momentum to push the Agreement forward.
- The outbreak of the COVID-19 pandemic has had serious negative impacts on the ability of the parties to implement the Agreement.
- The crush of oil prices in the global market, South Sudan's lack of credit worthiness internationally, US Treasury's warnings, corruption, and South Sudan's weak fiscal and monetary policies, all make it difficult for the country to access external resources to cushion budget shortfalls.
- While the economic downturn as a result of the pandemic has dried up the public coffers, a combination of distrust among the parties and lack of political will is the most important factor hampering the implementation of the R-ARCSS.
- To turn things around, leadership of the parties to the Agreement must renew their commitment to the Agreement and show by actions their willingness to move the country forward, possibly attracting external budgetary supports.
- The international community needs to push the parties to live by their commitments and also contribute necessary financial and material resources to enable the parties to overcome the economic consequences of COVID-19. Significant donor reengagement will require evidence of significantly higher political will for peace in South Sudan.
- The formation of state government is extremely critical to combating the pandemic and to restoring peace at the grassroots, which will help protect people from the

virus and reduce cattle raiding and communal violence. Recent developments toward this issue are commendable.

- Provisions aimed at returning to democracy and good governance such as election and constitutional making processes should be expedited and started early so as to build confidence in this transition. The parties to the Agreement blame current deficits in democracy and governance on COVID-19.
- Should the parties fail to implement governance protocols fully, the potential for national elections to be conducted will have been thwarted, risking a return to an all-out war¹.

I. Introduction

The outbreak of the global pandemic, COVID-19, caught South Sudan in the middle of another political transition after six years of a civil war. The pandemic has had a tremendously negative impact on the political transition in the country. In more specific terms, South Sudan is a country that has lost its democratic bearings since 2013, and this is likely to worsen as a result of the COVID-19 pandemic.

Clearly, South Sudan is struggling to implement the Agreement on the Resolution of Conflict in South Sudan (R-ARCSS), which was signed on the 12th of September 2018 in Addis Ababa, Ethiopia. The parties are particularly experiencing difficulties in fully establishing the Revitalized Transitional Government of National Unity (RTGoNU), the political entity tasked with implementing the Agreement. Its slow implementation is partly blamed on COVID-19 pandemic, though this delay mainly rests with the lack of political will and intransigence of the parties.

This policy brief assesses the extent to which COVID-19 has hampered the political transition in South Sudan and how the political actors are responding to the crisis in terms of their responsibilities implementing the R-ARCSS.

II. COVID-19 and the Political Transition in South Sudan

The outbreak of the global pandemic COVID-19 has caused major disruptions to the global economy and political processes worldwide. Since COVID-19 is a highly contagious and a lethal virus, many countries have responded by closing their borders and imposing restrictions on the movement of people, goods, and services. As a result, many economies have contracted, and developing countries have had to divert meagre financial resources

¹ This work is part of ‘Assessing the impact of COVID-19 pandemic on peace implementation, democratic political processes, the economy and livelihoods in South Sudan’ Project, OSIEA’s Grant Number OR2020-71025.

to fighting the pandemic. This means other important national processes are getting lesser attention.

South Sudan has had the greatest misfortune, in that the pandemic came at a time when the parties to the Peace Agreement had just taken a step forward in its implementation process. The coronavirus pandemic caused major disruptions to the implementation process of the R-ARCSS. The Transitional Government of National Unity was inaugurated in late February 2020 with the swearing-in of the vice presidents, followed by subsequent appointment of cabinet ministers in mid-March. By the third week of March, the government introduced safety measures² to prevent the virus from spreading. By April and May 2020, the virus killed a significant number of people, mostly public officials and some prominent members of the government started to self-quarantine after testing positive for the virus. For example, Dr. Riek Machar and his wife tested positive for the virus in May 2020³. Key members of the peace negotiation team were also quarantined, so all the processes related to the Agreement came to a halt for the duration of isolation.

In other words, the government has been distracted from the implementation of the Peace Agreement to focus on the COVID-19 pandemic. The government response to COVID-19 pandemic was well-received⁴, demonstrating unity of purpose within the political leadership of the country. Unity of political leadership is an extremely rare occasion in South Sudan, especially after the 2013 conflict.

Compounding the challenges is that South Sudan has been unable to generate sufficient resources to finance state's basic functions because of falling global oil prices. The cash-dependent implementation of the R-ARCSS has been hit hard as a result. The COVID-19 pandemic has affected all countries financially⁵, so the donors have focused their attention on addressing their own domestic challenges and cutting Official Development Assistance⁶.

Notably, South Sudan has not been receiving development assistance for the last couple of years, a result of its war and inadequate economic management. Many donors were already reluctant to provide direct budgetary support to South Sudan because of corruption concerns and lack of demonstrable political will to move the country out of its current political deadlock. Much of donor support goes toward addressing the existing humanitarian situation in the country and critical services such as health and education. This means that South Sudan cannot rely on external support to meet its budgetary needs, a situation COVID-19 has dramatically exacerbated.

² See The East African: <https://www.theeastafrican.co.ke/tea/news/east-africa/south-sudan-on-a-lockdown-over-coronavirus-fears-1439180>

³ See Reuters: <https://www.reuters.com/article/health-coronavirus-southsudan-machar/south-sudans-vice-president-wife-test-positive-for-coronavirus-idUSL8N2D05U0>

⁴ See our previous report: <https://suddinstitute.org/publications/show/5ea90d311d87b>

⁵ More is found at: <https://www.devex.com/news/development-pros-brace-for-more-needs-less-money-post-pandemic-97245>

⁶ Read more analysis: https://d3n8a8pro7vhmx.cloudfront.net/eurodad/pages/703/attachments/original/1592218061/1/Covid-19_and_ODA_briefing_final.pdf?1592218061

Moreover, South Sudan's credit worthiness has been impacted greatly both by its persistently poor corruption perception index ranking, US Treasury warnings, and poor domestic fiscal and monetary policies, on top of concerns over its political stability. The implication is that South Sudan cannot easily borrow in the global financial market to supplement its inadequate domestic resources. The country is instead, forced to seek financial help using shady means such as oil collateralized loans⁷ and other expensive loans⁸. Technically, South Sudan is bankrupt, and it is unable to meet its legal obligations such as paying salaries⁹ or servicing loans regularly and this impairs its ability to mobilize financial resources. Without reliable sources of funds, the government's ability to implement the Agreement is greatly impacted, which has had negative effects on the political transition in the country.

The COVID-19 pandemic has worsened what was clearly a lethargic political spirit in the country. First, just before the coronavirus outbreak, South Sudan was struggling to form the government of national unity, which should have been formed 10 months earlier. Due to the intransigence of the parties and a lack of adequate preparation and implementation of the Pre-Transitional Period provisions, it was extended twice. In February 2020, the parties managed a breakthrough, which enabled the appointment of cabinet ministers on the 12th of March 2020¹⁰, after the five vice presidents were sworn-in in late February. Nearly two weeks after the appointment of the cabinet, South Sudan announced a partial lock down to contain the COVID-19 pandemic¹¹.

The lockdown has granted the parties a justification for their inaction or sluggish efforts in forming the government and fully implementing the Agreement. In November 2020, the Panel of Experts on South Sudan reported that the implementation of the R-ARCSS is stalled, "as the signatories have failed to adhere to the deadlines set in the peace agreement and have backtracked on aspects of its political, security and economic provisions"¹².

For example, it is now nearly one year since RTGoNU was formed, yet South Sudan still has no parliament. Given that there is no parliament, this year's budget has not been passed and so the government is operating on a provisional budget decreed by the President for

⁷ See Reuters report: <https://www.reuters.com/article/southsudan-oil/imf-urges-south-sudan-to-stop-taking-oil-backed-loans-idUSL8N2163H3>

⁸ Read More on OCCRP: <https://www.occrp.org/en/investigations/as-south-sudan-seeks-funds-for-peace-a-billion-dollar-spending-spree>

⁹ Read to the VOA report: <https://www.voanews.com/africa/south-sudan-no-money-pay-civil-servants-overdue-salaries#:~:text=JUBA%20%2C%20SOUTH%20SUDAN%20%2D%20South%20Sudan's,paychecks%20since%20April%20or%20May.>

¹⁰ As reported in: http://www.xinhuanet.com/english/2020-03/13/c_138871691.htm

¹¹ As reported: <https://www.voanews.com/africa/south-sudan-focus/south-sudan-sudan-close-borders-airports>

¹² See summary of the Report on page 2: https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/S_2020_1141.pdf

three months. It is now twelve months and South Sudan does not have state or local governments, although some state governments have now been formed. The parties are seen to be lacking any sense of urgency, with COVID-19 as an excuse. It is now months since the governors were appointed and they remain handicapped; they cannot appoint state or local government until the parties have reached an agreement, which slowly coming through.

Meanwhile, in the rural parts of South Sudan, society is falling apart for lack of government. Looting, theft, and rampant killings are now a new normal in South Sudan. It is not clear how much the pandemic has impacted the largest proportion of the nation. Many states affected by the floods have had nearly their entire population displaced, leaving them helpless for lack of local and state governments. Worse still, the unified army which should have been in place in May 2019, is absent. Nonetheless, the parties claim that the joint force has been trained and ready for deployment. The culprit in all this is COVID-19¹³, which indeed disrupted training processes. Hence, COVID-19 in the case of South Sudan has been partly used as the excuse for government indecision, inaction and to cover up failure. As reported, “while these peace processes have so far successfully managed to safeguard the implementation process from violence, the COVID-19 pandemic has forced governments to divert resources and focus away from implementation priorities”¹⁴. Nevertheless, South Sudan’s COVID-19 spending remains negligible; the donors and NGOs are instead footing the bill.

The Revitalized Transitional Government of National Unity (RTGONU), the main conduit through which the Agreement is to be implemented, was conceived to carry out specific functions within a limited time frame, approximately 36 months. In the preamble of the Agreement, the parties recommitted to lay the foundation for a united, peaceful and prosperous society based on justice, equality, respect for human rights and the rule of law. They swore to remain committed to peace and constitutionalism and not to repeat mistakes of the past. They pledged to preserve and protect the territorial integrity of the Republic of South Sudan and promised to deliver a federal system of governance, since it is a popular demand of the people of South Sudan.

These solemn commitments are at the core of what this Agreement should be about. Yet no one among the parties --RJMEC, IGAD, the international community—can say with sincerity that these fundamental principles are on course of being realized. What is obvious is that since the partial formation of the RTGoNU in late February and mid-March 2020, South Sudan has seen more division than unity. Thousands of men in the restive state of Jonglei marched to each other’s home areas, fought, and decimated anything in their way while the government sat and watched. Communities in Warrap and Lakes states are in crises and the government is helpless as the subnational governance mechanisms have yet to be put in place. As a face-saving measure, a partially baked disarmament initiative was rolled out as a response to spiraling violence in those states, and it ended in a spectacular

¹³ See the report PRIO and Kroc Institute:

<https://reliefweb.int/sites/reliefweb.int/files/resources/The%20Effect%20of%20COVID-19%20on%20Peace%20Agreement%20Implementation%2C%20PRIO%20Paper%202020.pdf>

¹⁴ Ibid

failure with more lives being lost than it could save. Thousands of citizens in displaced camps are yet to leave those camps as evidence of continuing violence and the reluctant commitment of the parties to implement the RARCSS.

Sadly, the commitment of the parties to peace and constitutionalism and the pledge not to repeat the mistakes of the past are just but a hoax in light of what is actually unfolding in the country. Our observations point to the fact that the parties are not committed to the provisions of the very Agreement they drafted and signed. Thus, how would these parties be expected to commit to an abstract concept of constitutionalism? Furthermore, the parties are not serious when they say they will not repeat mistakes of the past. They have repeated these mistakes from day one and throughout the last two years since the signing of this Agreement.

One repeated mistake of the past is failure of the political leadership to make compromises, a core principle in leadership. South Sudan is still struggling two years after the signing of the Agreement to implement its very basic provisions because the leaders have not provided the requisite leadership and the necessary compromises to move the country forward. The second mistake is the inability of South Sudan's government to provide critical services to its citizens. The services are still not being provided and we can now blame this on COVID-19-induced economic downturn. The third mistake is the penchant for South Sudanese leaders to resort to violence when facing political difficulties. In light of the major challenges posed by COVID-19, there is latent fear that the parties might resort to violence to avoid being blame for the pandemic disaster and failure of the Agreement.

The last important mistake of the past is not establishing a powerful vision around which the people of South Sudan can rally. Countries cannot prosper without a collective purpose. This has, to a larger extent, been the situation in South Sudan. People fought for the purpose of gaining independence and did so heroically. After independence, though, the whole idea of a national purpose dissipated into a thin air. This may sound really awful and sinister, but if one analyzes what has been happening, one can conclude that South Sudan has been but a nation without a collective purpose.

Enough has been said about the principles and cardinal pillars of this Agreement. It is needful to highlight its specific provisions, which should have been implemented up to this point, but remain unattended to, partly as a result of COVID-19 and partly as a result of lack of political will. Following the formation of RTGoNU, both the Transitional National Legislative Assembly (TNLA) and the Council of States should have been reconstituted. Nearly a year later, these critical oversight institutions are not reconstituted, and the country is being run by the executive without oversight from people's representatives. This, of course, is a violation of democratic principles of checks and balance and of representative government and a violation of the Agreement which gave birth to the RTGONU.

In summary, under Chapter I of the R-ARCSS, there were 13 critical provisions which should be implemented during the transitional period; 6 of these should have been implemented by now, but they have not been. There are four provisions which have no specified period and could be implemented at any time during the Transitional Period and none of them is implemented. The last three provisions will be implemented towards the

end of the given period. The non-implementation of these provisions is easily blamed on COVID-19 pandemic, but in reality, it is lack of political will that explains the pace of implementation.

Lack of political will is manifested in the lack of doing what is needful or obvious. An example of this is the fact that there is no controversy over the reconstitution of the parliament. The power sharing ratios and percentages are clear to all and so there is no better explanation for its non-reconstitution than lack of political will. As a consequence, provisions that require parliamentary action have been put on hold. The provisions which are on hold under this chapter include review and adoption of the Political Parties Act, 2012, which allows for the reconstitution of the Political Parties Council. By now, the TNLA should have reviewed and adopted the National Elections Act, 2012, which would have formed the basis for reconstitution of the National Elections Commission.

Other provisions the RTGoNU is mandated to implement by now include the formation of ad hoc Judicial Reform Committee whose recommendations assist in the reconstitution of the Judicial Service Commission. Another example of lack of political will, and quite frankly an abdication of responsibility, is the failure of the parties to reconstitute local and state governments, which under Article 1.16 of the R-ARCSS, should have been accomplished on the first day of the R-TGoNU. It has been 12 months and counting since the partial formation of the government and state and local governments have not been reconstituted. Recent developments in the reconstitution of some state government is commendable.

Regarding Chapter II of the Agreement, all provisions were intended to be accomplished during the Pre-Transitional Period. Unfortunately, not much was accomplished at the time. Right now, there are still 11 critical provisions yet to be accomplished 12 months into the Transitional Period. To put it in perspective, these provisions should have been accomplished in the first six months following the signing of the Agreement; we are now in the 30th month since the signing of the Agreement. One of the key provisions is for the parties to create conditions for the return of refugees and internally displaced persons. While the ceasefire is holding, occasional confrontations between the forces and the rampant intra-and inter-communal conflicts raging in various states do not allow refugees and IDPs to return home. The UN Protection of Civil sites (PoCs) remain occupied. This situation is compounded by natural disasters such as floods in the Upper Nile region. Another important provision is the cantonment, training, and deployment of unified forces. This was supposed to take place within 240 days after the signing of the Agreement. We are close to 900 days into the Agreement and the unified forces are not deployed.

Chapter III of the Agreement relates to the humanitarian situation, return of refugees and IDPs, and reconstruction. Key activities under this chapter remain untouched, even though they were all scheduled to have taken place by now. For example, the program for the return of refugees and IDPs was to be implemented immediately. Though there is a strategy, we have not seen its implementation yet. A Special Fund for Reconstruction (SFR) was to be established by now, but it has not been. The Board to manage the fund was to be appointed; it has not been appointed. The government should have contributed the first \$100 million to the fund; this has not happened partly because of the ongoing fiscal stress.

A pledging conference is supposed to have been held by now; this cannot happen because the fund does not yet exist. While some steps have been taken to implement this chapter in the Pre-Transitional Period, it remains untouched since the beginning of the Transitional Period.

Chapter IV of the R-ARCSS, which deals with public financial management and economic reforms, is also an important contribution to the Agreement, after governance and security chapters. This chapter has more than 54 provisions intended to be implemented during the Transitional Period. Of these 54 provisions, more than half (31) should have been implemented by now. Of the remaining provisions, 22 of them have no specified time period. Only Article 4.8.2.1.2, which is on land issues, is scheduled to be implemented in the first half of the second year of the Transitional Period.

Chapter V of the Agreement is among the most important chapters of the R-ARCSS. This chapter, in broad terms, deals with transitional justice matters, matters of accountability, and matters related to healing and reconciliation. While the chapter has many provisions, the most important provision is Article 5.1.1, which states that upon establishment, the RTGoNU shall initiate legislation for the establishment of the following transitional justice institutions: The Commission for Truth, Reconciliation and Healing (CTRH); an independent hybrid judicial body, to be known as the Hybrid Court for South Sudan (HCSS) and the Compensation and Reparation Authority (CRA). While there is no specified time period for passing a legislation authorizing the establishment of these institutions, what is implicit is that it has to be sooner, as these must be completed before the end of the transition. Since we are now one year into the transition without the parliament, this provision is unlikely to see the light of the day sooner.

Chapter VI of the Agreement is the last chapter in terms of this analysis. Chapter VI deals with the making of the permanent constitution and there are only five important provisions, one of which has no specified timeline, but four have specific timelines. The first provision, which should have been implemented by now (4 months into the transition), is the convening of a workshop on the making of the Permanent Constitution. This obviously has not taken place because of the COVID-19 and because of the slow process in forming the government. The second provision which should have been implemented 6 months into the transition is the passing of a legislation to govern the constitutional making process. South Sudan still doesn't have a parliament, so 12 months into the transition there still is no legislation. The provision without a specified time frame is the reconstitution of the National Constitutional Review Commission (NCRC), but it is to be assumed that it should be passed immediately before or after the legislation. This is because Article 6.4 of the Agreement mandates that the Permanent Constitution be ready 24 months into the transition. Two months after passing the Permanent Constitution, the parliament should transform into a constituent assembly to pass the constitution, after which it is dissolved, followed by national elections.

III. Conclusion and Recommendations

In this analysis, we have discussed the impact of COVID-19 on democratic transition in South Sudan. Specifically, we have looked at the interplay between the COVID-19 global pandemic and the implementation of the Revitalized Agreement on the Resolution of Conflict in South Sudan. We have concluded that COVID-19 has rallied citizens' support of their governments and leaders. Studies have shown a rise in political support for leaders, especially those managing the pandemic, including here in South Sudan. We have also concluded that in less democratically established countries such as South Sudan, citizens' support could be abused to cover up government failure or justify inaction. South Sudan government is simply failing the implementation of the R-ARCSS, which is a central element in the country's effort to return to democracy and good governance. There are 60 provisions which should have been implemented to date; many are yet to be implemented.

There are glaring reasons for non-implementation of the critical provisions of the Agreement. COVID-19 did derail the formation of the RTGoNU and took critical time away from the government between April and June 2020, but this should account for a smaller fraction of the delay in the implementation process. However, the largest share of the blame for non-implementation could be attributed to lack of compromise among the parties to move forward. Much of it could be blamed on lack of political will and indecision among the parties.

In light of this reality, we make the following recommendations:

- ⇒ COVID-19 has proven resilient and it is not going away anytime soon, so the government should continue to ensure maximum protection of citizens while taking measures, including necessary political decisions, to put the country back on peace course.
- ⇒ If South Sudan is to emerge out of its current political predicament and violence, the parties must renew their commitment to implement the Agreement in good faith and to make necessary compromises to move the process forward. This presents the potential to attract external budgetary supports. Recent formation of some state governments is welcomed.
- ⇒ If the Agreement is to survive, implementation of the security provisions is urgent and further delay is unwarranted.
- ⇒ The reconstitution of the TNLA and the Council of State should be taken as a priority so as to move the democratic transition forward.
- ⇒ The formation of state government is extremely critical to combating the pandemic and to restoring peace at the grassroots, as this will protect people from the virus and reduce cattle raiding and communal violence.
- ⇒ Provisions aimed at returning to democracy and good governance such as election and constitutional making processes should be expedited and started as early as possible to build confidence in this transition. The parties to the Agreement falsely

blame current deficits in democracy and governance on COVID-19, in an effort to disguise their own lack of political will.

⇒ The international community needs to push the parties to live by their commitments and also contribute necessary financial and material resources to enable the parties to overcome the economic consequences of COVID-19.

In conclusion, should the parties fail to implement governance protocols fully, the potential for national elections to be conducted will have been thwarted, risking a return to an all-out war.

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The Sudd Institute is an independent research organization that conducts and facilitates policy relevant research and training to inform public policy and practice, to create opportunities for discussion and debate, and to improve analytical capacity in South Sudan. The Sudd Institute's intention is to significantly improve the quality, impact, and accountability of local, national, and international policy- and decision-making in South Sudan in order to promote a more peaceful, just and prosperous society.

Author's Biography

Abraham Awolich is a founding member and the Managing Director of the Sudd Institute where he is also a senior researcher and policy analyst. His research interests are in democracy and governance, public administration and international cooperation. Awolich was appointed recently as a Deputy Rapporteur for the Upper Nile Conference. He is also the Deputy Coordinator of the South Sudan National Dialogue Steering Committee Secretariat. Awolich had served as a member of the Board of Directors at the National Revenue Authority of South Sudan from 2018—2019. He also served as a consultant for many organizations including USAID, ECHO, Saferworld, Government of South Sudan, Integrity Research, MSI, and Tetra Tech ARD. Previously Awolich was the Executive Director of the Sudan Development Foundation (SUDEF) and ex-Co-Director of New Sudan Education Initiative (NESEI). Awolich holds a master's degree in Public Administration (MPA) from Maxwell School of Citizenship and Public Affairs at Syracuse University where he was a McNair Fellow. He graduated in 2005 from the University of Vermont where he studied Anthropology and Business Administration and became a McNair Scholar. Awolich was awarded the William A. Havilland Medal for outstanding achievement in Anthropology. In 2006, he won the prestigious national award in the United States, The Samuel Huntington Public Service Award for his commitment to public service.