

A Gender Analysis of the 2015 South Sudan Peace Agreement

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Under pressure from the international community, South Sudanese President Salva Kiir signed a Peace Agreement with the opposing warring factions to put end to the civil conflict in the Republic of South Sudan in Juba on 26 August 2015, after almost twenty months of armed conflict marked by atrocities. The agreement was endorsed by Riek Machar, leader of the Sudan People's Liberation Movement In Opposition (SPLM/IO), as well as by Mr. Pagan Amum, on behalf of the Former Political Detainees, and other South Sudanese stakeholders.

Good practices from other conflict contexts suggest that women's inclusion in the peace negotiation processes and participation in the institutions and structures defined through the agreement text is essential to the peace agreement's success. This paper exposes the gains and gaps in both the substantive aspects of addressing women's rights and needs, and their participation in decision-making processes to resolve conflict and set in place a recovery process.

At a first glance, the South Sudan Peace Agreement reveals positive - although insufficient - provisions for the participation of women in conflict resolution and post-conflict governance reforms. It acknowledges some specific needs of women arising from the impact of the conflict. For instance, the section on transitional justice is reasonably exten-

sive in addressing women's needs and participation. However, in areas such as humanitarian aid, economic and financial management, the distribution of natural resources and extractives industries, security sector reform (SSR) and disarmament, demobilization and rehabilitation (DDR), gender-sensitive language in the peace agreement text falls significantly short of ensuring effective and substantial engagement by women in crucial aspects of peacebuilding.

The limitations, gaps and recommendations illustrated in this analysis are a first attempt at analyzing the text from a gender perspective, indicating a worrying incompleteness and fragility in the arrangements for conflict resolution and prevention in South Sudan.

Peace Agreements and International frameworks

Definitions, Challenges, and Opportunities

A peace agreement is a document "produced after discussion with some or all of a conflict's protagonists with a view to ending violent military conflict" (Bell, 1). Peace processes and agreements not only aim to establish a ceasefire and end the conflict, but also define "the new structures and constitution of the country, including its political and

legal institutions” (Ibid). It can have a transformative role in redefining and rebuilding institutions and the community’s social fabric toward greater social, economic and gender equality. It is therefore an opportunity for women to have their concerns heard and to play a role in influencing the reconstruction of their country. Bell distinguishes three stages in the peace processes, which all present challenges and opportunities for women: (i) pre-negotiation processes, (ii) the agreement, (iii) implementation/re-negotiation (Bell, 2).

Understanding the role of women and/or gender advisers in supporting the draft of the text would benefit this analysis of the gender content and gaps. Unfortunately, there is little information on the extent to which women participated directly in the negotiations and the drafting of the text, nor information on the role and composition of the Women’s Bloc, a signatory of the peace agreement. For the purpose

women participate in both the design and implementation of the text is important if the objective is to advance women’s rights and leadership, and to see their livelihoods, social, economic, justice and other needs addressed.

CEDAW and UNSC 1325

Several international frameworks, such as Recommendation 30 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and UN Resolution 1325 and its subsequent women, peace and security resolutions call for women’s participation and inclusion in decision-making processes, including peace processes. From the negotiation of the agreement to the implementation of its provisions, women should be equally included and their voices taken into account. Yet, these provisions and frameworks remain

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of this short paper and due to the limited available information on women’s direct participation in the drafting of the text, we shall focus on the content of the signed agreement text.

In most peace agreements, “references to women and gender (...) are often once-off mentions, worded in very general terms and are often included in the preamble or annexes of agreements rather than in their main text” (Bell, 3). Yet the content of the text influences the design of legal and political institutions. For this reason, ensuring that

insufficiently implemented in peace agreements, in particular when the negotiations are not inclusive.

Although South Sudan has initiated a National Action Program (NAP) to implement these resolutions, of which one of the four NAP pillars promotes “women and girls’ perspectives in all decisions related to prevention, management and resolution of conflicts through consulting women organizations to inform local peacebuilding initiatives” (Sudd, 5). In practice, gender equality and women’s participation in decision-making in South Sudan remains

limited due to a lack of adequate funding, gender discrimination, and high levels of female illiteracy (Ibid). Since 2013, a Sudan-South Sudan Women Taskforce, supported by Inclusive Security, has advocated for women's needs and participation in the peace negotiations. While the agreement's drafting process limited the participation of civil society, the taskforce is currently active in engaging with the authorities to ensure the implementation of the peace agreement will be more inclusive and more meaningful (Case, 2015). The South Sudan peace agreement and implementation are an opportunity to address structural challenges to women's participation in decision-making. The following part shall examine the text's language and implications.

An Analysis of the South Sudan Peace Agreement

This section shall critically analyze the provisions of each chapter of the agreement through a gender-sensitive lens, looking at both procedural and substantive issues.

On Inclusivity (Preamble)

The need for inclusion is not an exercise in political correctness; it is vital to the agreement's success». (Case, 2015)

On paper, the Agreement recognizes the need to promote inclusivity and popular ownership. Women are recognized as stakeholders in its Preamble, and represented by the Women's Bloc of South Sudan, one of the four signatories of the text.

Beyond the Peace Agreement, women in South Sudan have initiated several peacebuilding activities in the past, and the women of South Sudan Task Force published demands for the peace processes

(Sudd, Inclusive Security). These demands, such as women comprising 50 per cent of participants at all levels and bodies all peace processes have not been met, and women's priorities have not been mainstreamed throughout the process.

In addition to the reasons exposed in the first section of this paper, several studies demonstrated that peace agreements processes including civil society are 64 per cent less likely to fail, and when women were able to exercise influence, deals were reached and implementation was stronger (Nilsson, Graduate Institute of Geneva). Moreover, as several studies note, "peace processes that include women as witnesses, signatories, mediators, and/or negotiators demonstrated a 20 per cent increase in the probability of a peace agreement lasting at least two years. This increases over time, with a 35 per cent increase in the probability of a peace agreement lasting 15 years" (O'Reilly, O Suilleabhain, Paffenholz). Research proves that the more inclusive the drafting of the agreement, the more inclusive the composition of the commissions set up in the agreement, the more effective these commission have been in practice, as well as women bringing consensus to the negotiating table on the need to implement agreements (Global Study 1325, 41- 42). Indeed, involving women in peace agreement processes is crucial to rebuilding countries, and this can be expected to be particularly so in South Sudan. Women in South Sudan "have played instrumental roles in resolving conflicts" in the past, and as conflict affects men and women differently, their needs in post-conflict settings should mirror these differences (Sudd, 3). Whether women and gender advisers were included throughout the negotiation process and design of the agreement is unclear. The process lacks transparency with no information on the composition of the Women's Bloc in South Sudan and its role in the peace agreement process, nor information on whether consultations

with women organizations and representatives have taken place. This may put at risk the implementation and sustainability of the Peace Agreement.

On Governance and Political Participation (Chapter 1)

Participation of women in South Sudan's government is a constitutional right, defined in Article 16(4a), which calls the government to "promote women participation in public life and their representation in the legislative and executive organs by at least twenty-five per cent as an affirmative action to redress imbalances created by history, customs and traditions" (Sudd, 4). Women's participation in the Transitional Government is guaranteed with reference to the Convention of 2011 establishing quotas (25 per cent), and no fewer than 4 women nominated by the Government of the Republic of South Sudan (GRSS) and no fewer than 3 women from the SPLM/IO to the Council of Ministers (Peace Agreement, 10.5.2). However, the peace agreement limits the 25% provision to the executive branch (a minimum of 2 out of 8 of the Deputy Ministers shall be women), failing to involve quotas for women in the legislative and judicial branches (Peace Agreement, 10.5.4; Sudd, 6). Moreover, the power sharing of ministries has been mostly divided between the two main belligerents, with 53 per cent of the Ministries in the hands of the GRSS (16 Ministries) and 33 per cent under control by the South Sudan Armed Opposition (10 Ministries), and the remaining four Ministries divided between former detainees and "other political parties". There will be a Ministry for Gender, Child and Social Welfare (Peace Agreement, 10.2.3), but if not adequately funded or empowered, it may only be symbolic.

The mandate of the Transitional Government described in the Agreement does not make any spe-

cific mention of gender or women. Yet, by including a specific provision on gender equality and women's participation, the Agreement would improve women's chances of having their needs met. For instance, the provisions on relief and protection and reconciliation mechanisms would have been strengthened by special mentions of women's specific needs and experiences, including gender based sexual violence (Peace Agreement, 2.1.2-3). Rape camps, abduction of women and girls by armed forces, and numerous of cases of sexual violence were reported, depicting a major feature of conflict (McNeish, 2015). Sexual violence remains an unaddressed aspect of the conflict in South Sudan (Human Rights Watch). It requires specific attention as it impacts negatively governance and peacebuilding in several ways (Goetz, 8). It undermines the rule of law and trust in governance institutions when there is impunity, it "fractures families and dissolves community bonds, making it harder for reconciliation and easier for relapse into conflict", while perpetuating "an atmosphere of insecurity" which affects in particular women and girls' lives and rights (Ibid).

The Agreement does not explicitly guarantee women's representation in the National Constitution Amendment Committee (NCAC), it refers instead to "two representatives of IGAD and one of "other political parties" (out of 8 members) (Peace Agreement, 13.2). Although women may be represented through the Women's Bloc, it does not reach the 25 per cent women representation mandate. This should be at least compensated for with effective consultations with women and women's organizations, to include their perspectives in the constitution, in a transparent, inclusive, and gender-sensitive manner (Sudd, 6).

Regarding elections, the Agreement could have provided specific language on women in identifying measures for participation, facilitating access to

polls and providing identification documentation to internally displaced persons (IDPs) and women. Structural challenges, displacement and illiteracy are challenges that affect women's rights in South Sudan. Women should be included in the design of such measures. Yet the description of the National Election Commission (NEC) does not guarantee the inclusion of women as members. Female-led households – as well as internal displacement in South Sudan - as a consequence of conflict can impact severely the participation of women as voters or candidates. Specific measures to remove barriers to women's participation, such as providing adequate identification documentation, supporting women candidates, and ensuring women are registered and free to vote are measures that should be part of agenda, if not the priorities, of the NEC¹. South Sudan's 2012 electoral law, expected to be implemented in 2015, states that twenty-five per cent of women members shall be elected on the basis of proportional representation with closed party lists (Quota Project). In 2011, women elected represented twenty-seven per cent in the single/lower house (reserved seats quota system), but only ten per cent of members appointed in the Council of State were women (reserved seats quota system). Although these numbers are close to the recommended thirty per cent minimum quota for effective to show benefits to the society as a whole, quotas alone are not sufficient to address cultural and legal barriers for women's participation and vote, which are exacerbated by the conflict (Global Study, 175). It is not only about the number of women present, but also about their expertise, independence and the actual integration of their concerns and demands into policies and funding.

1 Electoral participation measures and gender quota systems should be further examined in the South Sudan context. Similarly, an analysis of main barriers to women's participation should be provided to develop recommendations.

Finally, women's participation should not be limited to the national level governance. Decentralization post-conflict may harm or limit women's rights if local community governance is primarily male-dominated (Global Study, 176). Women's concerns may not be heard and addressed if patriarchal local government systems are in place. Yet their demands would benefit the community as a whole, addressing issues such as education, health care and access to water.

On Ceasefire and Security Reform (Chapter 2)

The second chapter covers the ceasefire and issues of security reform. An important gender dimension of a ceasefire is the inclusion of gender based sexual violence as a violation of the ceasefire (UN DPA, 21). The South Sudan agreement recognizes that "acts and forms of sexual and gender-based violence, including sexual exploitation and harassment" constitute a violation of the ceasefire (Peace Agreement, 1.7.2). Whether ceasefire-monitoring teams are equipped to monitor sexual violence is unclear. At the procedural level, women's participation in security reform is limited to monitoring mechanisms with only one representative of the Women's Bloc out of twelve South Sudanese members in the Ceasefire and Transitional Security Arrangements Monitoring Mechanisms (CTSAMM) and one out of sixteen members in the Strategic Defense and Security Review (SDSR) (Peace Agreement, 4.3.4 ; 6.1.9). This is far from the 25 per cent of women defined in the constitution. There should be a minimum of three women representatives in the CTSAMM, with for instance the inclusion of a woman from each warring party in addition to the Women's Bloc representative (Sudd, 6). Moreover, the CTSAMM workshop does not mention if women

will be convened or even consulted. This is a crucial gap, because, though often seen as victims, women are essential partners in stopping sexual violence through greater inclusion in the security sector, including in the police and military forces². The SDRS Board will provide the roadmap for the Security Sector Transformation, which defines the details for the unification of armed forces, the DDR and SSR processes. Security reform affects all citizens, yet security issues affect men and women differently. Gender substantive issues, such as women's specific needs and experiences, are not guaranteed to be taken into account based on the language in the text as they remain overall under-represented and sit only at the review stage of the roadmap. For example, for DDR cantonment sites there is no mention of specific attention to women and girls' needs and measures of protection gender based violence; nor does the text mention gender specific measures for resettlement, disarmament or reintegration (social and economic) and women dependent on armed forces revenues (Goetz, 7, 22). This Chapter should have ensured a deeper inclusion of women as participants in the design and implementation of the ceasefire, SSR and SSR processes, and a mainstreaming of gender specific issues, at all levels.

On Humanitarian Assistance and Reconstruction (Chapter 3)

While other pillars guarantee (limited) women's participation, this pillar does not ensure any women in decision-making positions, including on the Board of the Special Reconstruction Fund (Sudd, 7; Peace Agreement, 2.2). The resulting measures taken will be most likely imbalanced and may result to further marginalization of women. In the Agreed Principles for Humanitarian Assistance and Reconstruction state, special consideration should be given to the needs of conflict-affected people, including women. Overall there is a critical gap in language on women's needs and gender-sensitive humanitarian response. For instance, provisions should ensure medical and psychosocial services for sexual violence survivors, as well as shelter, basic necessities and legal support. Re-settlement and support for displaced female-headed households who face particular and severe difficulties in rebuilding their lives is also crucial to rebuilding the country (Goetz, 5). Female-headed household may be discriminated against by aid distributed to male-headed households. As conflict exacerbates gender inequalities, the Transitional Government should carry out a

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² Training of security forces on gender based violence should also be part of SSR.

needs assessment based on sex-disaggregated data to guide its response, and women should be considered equitably, and their specific health needs addressed, in welfare programs (Goetz, 21).

Displacement makes women and girls more vul-

nerable to gender based violence. In South Sudan, “witnesses described women being dragged out of their dwellings and gang-raped in front of their children, or burned alive inside their houses after being raped” (Global Study, 68; UN Mission in South Sudan, 7). The trauma and social marginalization, resulting from sexual gender based violence, are barriers to building a peaceful society. Other types of violence, in particular affecting women and girls violations should be addressed (Global Study, 68). For example, access to education and health services may be impossible in an unsafe security area, where women may feel vulnerable and at risk of gender based violence. If women stay behind closed doors, their participation in peacebuilding will be very limited, and the potential of the transformative gender agenda inexistent. By including more women on the frontlines of service delivery, as well as in the design and implementation of humanitarian services, these programs will improve in their access, use and effectiveness for women, men, girls and boys (Global Study, 87). The gender gap in the language of the Peace Agreement will impact negatively the society, and its reconstruction, as a whole.

On Resources, Economic and Financial Management (Chapter 4)

“Women do not eat peace. Women want programs that integrate peacebuilding initiatives with economic empowerment.” (Global Study, 170)

At the substantive level, the Agreement reveals a gain³ for women’s economic empowerment with the establishment, by the Transitional Government,

³ Women in Sudan have articulated this demand in the Oslo Donors Conference for Sudan in 2005, as well as to hold a role in the management and disbursement of funds. This second demand was not heard. See Women’s participation in peace negotiations (UN Women sourcebook) p.13

of “a Women Enterprise Development Fund for provision of subsidized credit for women-based enterprise development; capacity-building of women entrepreneurs” (Peace Agreement, 7.1.5). Adding a reference to women’s specific needs in post-conflict situations in the provision “subsidized credit and capacity building for vulnerable members of the society” would participate to a transformative agenda towards gender equality (Peace Agreement, 7.1.9). Women in South Sudan are among the poorest (in the nation or world), and with a majority working in agriculture they would benefit greatly from economic empowerment (Sudd, 7). Beyond the fund for women-based enterprise, funding should cover education for women and girls, skills-training and capacity-building for women, as well as greater access to credit (Goetz, 13). This funding could come from Development Funds financed through oil revenues for example⁴. Evidence shows that “conflict-affected communities that experienced the most rapid economic recovery and poverty reduction were those that had more women reporting higher levels of empowerment” (Global Study, 171). Indeed, women tend to spend their income for their family’s health and education, contributing thus to post-conflict reconstruction (Ibid).

The Global Study on the implementation of Resolution 1325 states that “economic recovery for women too often translates only into micro-credit or micro-enterprises, while the large scale projects continue to be dominated by men” (Global Study, 174). This is the case in the South Sudan Peace Agreement. In terms of participation, a representative of the Women’s Bloc will be on the Board members of the Economic and Financial Manage-

⁴ This was a recommendation by women from South Sudan in the Donor Conference in Washington in 2011. See « Increasing women’s participation and engagement in planning for Peace : the 2011 Gender Symposium and International Engagement Conference for South Sudan » (UN Women Sourcebook).

ment Authority, amongst the President and Vice President, Ministers and representatives of political parties (Peace Agreement, 8.2). However, resources, economic and financial management remains highly male-dominated. Women are not represented in commissions on resources, economic and financial management⁵, meaning resultant gender-related budgeting may be extremely low. With no adequate funding and no participation by women's groups, the likelihood that women's needs, both identified and omitted in the Agreement, will be addressed is very obscure and uncertain. Issues such as land rights should be addressed in the post-conflict context, as female-headed households may lose their properties. Moreover, women's participation and oversight on the management of public resources would reduce corruption (Powely, 10).

On Transitional Justice, Accountability, Reconciliation, and Healing (Chapter 5)

This chapter has probably the most references to women's needs and participation. The Ministry of Justice of the Transitional Government shall conduct public consultations to "ensure that the experiences of women, men, girls and boys are sufficiently documented and the findings of such consultations incorporated in the resultant legislation" (Peace Agreement, 2.1.3). The Commission for Truth, Reconciliation and Healing (CTRH) will "record the experiences of victims, including but not limited to women and girls", and issue "quarterly reports (...) and activities to inform the public, in particular with youth and women, about the Commission's work" (Peace Agreement, 2.2.2.6 ; 2.2.3). The CTRH also includes measures to protect women as victims and

⁵ Anti-Corruption Commission, Fiscal Financial Allocation and Monitoring Commission, National Petroleum and Gas Commission, Land Commission.

witnesses. The Hybrid Court's jurisdiction mandate shall address gender-based crimes and sexual violence (Peace Agreement, 3.2.1.4). Whether this is the most adequate and sensitive way of prosecuting sexual violence in conflict, when all parties have committed it, should be discussed in a separate paper, informed by more details on the composition and functioning of the Hybrid Court. Support to survivors of sexual and gender based violence should benefit from adequate protection, socio-economic and psychological support, to ensure access to justice and accompaniment throughout judicial procedures. In terms of participation, the CTRH shall be composed of 7 commissioners, 4 of whom will be South Sudan nationals, including 2 women, and the remaining 3 will be from other African countries, including 1 woman, meeting the 25 per cent mandate (Peace Agreement, 2.3.2). The Compensation and Reparation Authority includes representatives of the Women's Bloc (Peace Agreement, pp.4.2.b.ii). However, women representation is not sufficient. Women should be empowered to participate actively in the design, implementation, monitoring and evaluation of transitional justice mechanisms to ensure their experiences of the conflict are mirrored, and their needs met (Global Study, 124). There are no specific mentions in the compensation and reparation section regarding women's specific needs and losses, or gender-specific barriers to reparation and compensation that need to be overcome. Yet, reparations programs can have a transformative impact on gender dynamics. Including language on gender-specific crimes, socioeconomic, civil and political violations would have provided more leverage for women to claim rights over land, houses or jobs, and to benefit from tailored financial support. Ensuring the proposed reparations mechanisms are women friendly in terms of access and outcomes could have also been part of the CTRH mandate.

Moving forward, providing gender-sensitive

training for all justice sector actors, increasing the participation of women at all levels in service delivery through quotas or scholarships, should be on the agenda of justice sector reform.

On the Permanent Constitution and the Joint Monitoring and Evaluation Commission (JMEC) (Chapter 6-7)

The Parameters of the Permanent Constitution will be based on several principles, including gender equity (1.2). The National Constitution Review Commission will include the participation of different representatives, including the Women's Bloc amongst political parties and other civil society representatives and academics. The constitution-making process is said to be "led and owned by the people of South Sudan" (Peace Agreement, Chapter 6).

The JMEC shall oversee the implementation of the agreement and the mandate of the Transitional Government. Out of the 13 members from South Sudan, one will be a representative of the Women's Bloc. However, the JMEC shall be divided into several commissions. In which commission shall the representative of the Women's Bloc sit? What will be the implications? Nineteen additional members will represent regional and international states. Providing gender expertise and training to international and regional representatives is one way of ensuring gender-sensitive monitoring, in addition to women's participation, which remains low.

Conclusion

The mandates, provisions and outcomes, exposed in the text should reflect the needs and expe-

riences of the community in its diversity, including the specific needs of women and girls. Yet, across the institutions and oversight mechanisms defined in the South Sudan Peace Agreement, women remain under-represented (25 per cent or less). Moreover, the number of women present does not always imply women will be able to effectively influence the peace process and reconstruction of their country. Half-hearted gestures towards inclusion, which in some parts of the agreement are altogether absent, may put at risk future efforts for sustainable peace in South Sudan and limit the socially transformative potential of the Agreement. This is because the Agreement may simply reproduce power-sharing between the two belligerent parties, failing to trigger significant reconciliation and social change efforts by addressing the drivers of conflict and ensuring women's full participation as agents - and not only subjects - of the post-agreement institutions and programs. More than a gender quota is needed to enable women to be effective in public decision-making areas that are already male-dominated.