The Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS)

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Executive Summary

Brief Points

- The process leading up to the signing of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) involved significant pressure put on the two main parties to the conflict, the Sudan People’s Liberation Movement (SPLM) and the Sudan People’s Liberation Movement-in-opposition (SPLM-IO).

- The two peace negotiators, Sudan’s President Omar al-Bashir and Uganda’s President Yoweri Museveni, possessed significant leverage over the main actors and used this to force an agreement.

- The negotiation process was thus not characterized by inclusiveness, but rather by pragmatic considerations such as to how to effectively halt the widespread violence and suffering. As such it represents an interesting case in the discussion of what fairness means in peace negotiations.

Only two years after South Sudan gained its independence in 2011, the power struggle between President Salva Kiir and Vice President Riek Machar resulted in an atrocious civil war. In 2015, the signing of the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS), which was brokered by the Intergovernmental Authority on Development (IGAD), led to a temporary pause in the fighting, but it was reignited within a few months. New efforts at peace negotiations followed, eventually resulting in the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS), finalized in September 2018. These latter negotiations are the topic of this case brief.
Introduction

Peace negotiations and peace agreements have been on the agenda in South Sudan since even before it became an independent state in 2011. Its independence, which was backed by overwhelming popular support (99%) in a referendum in 2011, was the culmination of a six-year-long process, set in motion by the 2005 Comprehensive Peace Agreement (CPA). The CPA was signed by the government of Sudan and the SPLM and ended a war that had spanned several decades. However, the secession from Sudan did not bring peace for South Sudan. Increasing tensions within the SPLM, which ruled the fledging state, led to an outbreak of violence in December 2013. Disagreement between President Salva Kiir, Vice-President, Riek Machar, and other senior party leaders resulted in Machar leaving the party’s National Liberation Council, which had been convened with the intention to endorse the party’s new manifesto and constitution. Subsequently, fighting broke out in the barracks of the presidential guard in Juba between elements supporting the two rival factions. The fighting spread quickly to other military installations as well as to residential areas, and later to the states of Upper Nile, Unity, Central Equatoria, and Jonglei. The fighting resulted in large-scale killings and atrocities and the displacement of millions of people. The bloody power struggle between Kiir and Machar came to a temporary halt in 2015, when the parties reached a peace agreement (Agreement on the Resolution of the Conflict in the Republic of South Sudan, ARCSS) brokered by the Intergovernmental Authority on Development (IGAD). As part of the agreement, Machar was supposed to return to Juba and his post as vice-president. When he did so in April 2016, he brought some of his own forces with him to ensure his safety and that of the other leaders of his faction. Shortly after, the fighting between the two factions reignited. This triggered new peace negotiations that eventually resulted in the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS), finalized on 12 September 2018. These negotiations are the topic of this case brief.

The R-ARCSS is a set of agreements that seeks, as the title suggests, to revitalize the ARCSS. Its provisions are very similar to those of its predecessor: a permanent ceasefire; a power-sharing transitional government; followed by elections after three years. However, compared to the ARCSS it has a more ambitious timeline for establishing a unified army, and it includes provisions to determine the country’s internal borders, which were the subject of considerable gerrymandering during the war.\(^1\)
The process leading up to the signing of the R-ARCSS was characterized by significant pressure on the two main parties to the conflict, the SPLM and the so-called SPLM-IO. Not only was IGAD, the broker of the 2015 agreement, under pressure from the EU and the so-called Troika (US, UK, and Norway) to revive the peace process, but the IGAD mediators also exerted significant pressure on the parties. The IGAD established the High-Level Revitalisation Forum, consisting of seven countries from the region: Djibouti, Ethiopia, Kenya, Somalia, Sudan, South Sudan, and Uganda, in June 2017, thus providing the formal framework for the process. The initial efforts to bring the two main parties together were led by the newly elected prime minister of Ethiopia, Abiy Ahmed. He persuaded Kiir to meet with Machar in Addis Ababa on 20 June 2018. However, these talks became stranded on disagreement around the issue of Machar’s role as first vice-president. The baton was then handed over to Sudan’s President Omar al-Bashir, who subsequently brought Uganda’s President Yoweri Museveni on board.

The mediator roles of these two heads of state were controversial and their collaboration somewhat unlikely. Both Uganda and Sudan had involved themselves in the civil war – Uganda deployed forces that prevented the rebel faction from gaining control over Juba and Museveni thus had leverage over Kiir, while Sudan had provided weapons and support to the rebels, which gave Sudan’s Bashir leverage over Machar. Historically, Uganda and Sudan were enemies that supported different factions, and one can thus expect that there would also be some degree of personal distrust between Bashir and Museveni, but in this particular moment in history their interests aligned and their past did not seem to affect their ability to mediate an end to the war. In fact, they both had strong incentives, as neighbouring countries, to succeed. Sudan would benefit economically from a stable South Sudan due to the oil pipe arrangement, which earns the country money from South Sudan’s oil export. Uganda, for its part, had longstanding and strong socio-economic and commercial ties to South Sudan due to the countries’ porous border. In addition, it would not serve Uganda’s security if South Sudan were to become “a haven for opposition forces or staging ground for foreign incursion into the fragile northern parts of Uganda”. Uganda also hosted more than a million refugees from South Sudan.

Kiir was in a stronger position but needed to solidify his regional legitimacy and secure oil revenues and donor support. Although the relations between Sudan and South Sudan had steadily improved, Kiir was well aware that...
Bashir had engaged both sides of the conflict and regularly welcomed former and current militia leaders in Khartoum. In addition, Museveni could use his leverage with Kiir, who had remained in power after 2015 thanks, in part, to his Ugandan ally’s defence of Juba, as well as his political support when US President Obama had initiated an attempt to get Kiir to step down.6

The negotiations in Khartoum led to the signing of the Declaration of Agreement on a Permanent Ceasefire, the so-called Khartoum Declaration on 27 June 2018; the Agreement on Outstanding Issues on Security Agreements on 6 July 2018; the Agreement on Outstanding Issues of Governance on 6 August 2018; and, finally, the R-ARCSS on 12 September. The latter was signed by nine political signatories and 16 civil society stakeholders, which would suggest an inclusive process. However, this was not the case.

The mediation process can be described as coercive. There were several instances when Bashir, Museveni, Kiir, and Machar were the only people in the room. Moreover, the mediation team met with the parties separately on several occasions. In these instances, the parties were presented with the mediation team’s proposed language and attempts were made to force an agreement on those terms. On another occasion, when the Opposition Alliance refused to sign one of the agreements, the mediators approached one of the representatives and made him/her sign on behalf of the group anyway, which in turn fractioned the Opposition Alliance. The choice of location for the talks was also a show of force. While the IGAD had initially agreed that the final talks should move to Nairobi, Bashir insisted that they be held in Khartoum.7

While the pressure applied may well have made sure that an agreement was possible, it also meant that it would be weaker and harder to implement. The lack of real inclusivity, the involvement of Sudan and Uganda, as well as the pressure applied in forging the peace agreement, led Thomas Cirillo, a former deputy chief of the South Sudan army and leader of the Opposition Alliance, to abandon the talks and refuse to sign the accord. Cirillo also leads a large group of rebel forces, the National Salvation Front. His withdrawal from the peace process has had considerable security implications. Cirillo’s group operates in the Central and Western Equatoria regions, where it clashes regularly with the South Sudan People’s Defence Forces. This unrest has resulted in the displacement of thousands of people and is now regarded as a significant threat to the implementation of the R-ARCSS.
Pressure or coercion is not unknown in such circumstances. Indeed, coercive or “power” mediation is a strategy that is thoroughly addressed in the mediation literature. The associated mediation style of “manipulation” is seen to be particularly effective when the aim is to secure formal agreements and overall crisis abatement. Here, a combination of “carrots” and “sticks” is utilized in order to expand the set of alternatives that are preferable to fighting. Such coercive mediation may also have some advantages for the coerced parties vis-à-vis their domestic audiences, as “some degree of coercion can provide welcome cover for what is often a controversial decision.”

“Manipulative” mediation was used, together with elements of “facilitative” and “formulative” mediation, during the three-year-long process that led to the Comprehensive Peace Agreement in 2005 and ended the two-decades-long civil war between the north and the south of Sudan. “Without some degree of pressure, it is very unlikely that the parties would ever have come to the negotiation table.” What was different in the context of the R-ARCSS, however, was the bluntness of the pressure. The principal mediators, Presidents Museveni and Bashir, did not hesitate to use their leverage on the two main factions, including the key personalities, by threatening their personal interests. The mediators “were willing to twist arms to get what they wanted,” in order to achieve their primary goal, namely, to bring an end to the atrocities and killings. In this context, where political and personal interests were so intertwined, it appeared to be an effective strategy.

Figure 1: Republic of South Sudan. Source: Shutterstock
Although both Sudan and Uganda had self-interested reasons for wanting to end the war, it seems as though their interests aligned when it came to applying pressure on both sides to put politics aside and negotiate an end to the fighting. The IGAD, the Troika, and the international community, not to mention the people of South Sudan, had no sympathy for the leaders of the parties of the conflict and supported the mediation process, even if they may not have been aware of the details of how it was managed. Ethical issues of fairness, such as voluntary consent and inclusivity, within the mediation process itself were therefore not high on the agenda of the mediators or the international observers, not even at the rhetorical level. With that amount of violence, disruption, and suffering, ending, or even temporarily halting, the fighting was of higher ethical concern for the mediators and key stakeholders than the perceived fairness of the negotiation process. This may explain why it was felt justified to place this degree of pressure on the parties to the conflict.14

While the 2015 ARCSS agreement broke down soon after it was signed, the 2018 agreement seems to be holding, even if its implementation is delayed. Thus, the perceived unfairness of the way pressure was used in the mediation processes to produce an agreement does not seem to have been so severe that it discredited the agreement or undermined its implementation. Perhaps this is because the perceived unfairness of the coercive aspects of the mediation process pales in comparison to the seriousness of the various ethical considerations related to the civil war. Both sides committed war crimes and significant abuses of human rights during the civil war and the government can, in addition, be held responsible for significant corruption and mismanagement, which caused additional harm and suffering. From an ethical perspective one can ask whether an unethical, or unfair, mediation process can still result in an outcome that is perceived to serve the greater good – namely, bringing an end to the civil war. The R-ARCSS may serve as an example of the claim that, in some circumstances, the end justifies the means. It could even be argued that this represents a different position on fairness.
Notes


