

Article 47 on South Sudan

Developments in South Sudan Conflict: Stalling Talks and Moving Delegates back to Addis to go home

Our Articles 1 to 3 and 5 to 46 were situation analyses of the conflict in South Sudan. Our articles 4 (A), 4 (B) and 4 (C) were the first of our series on “Who is Who”. This article 47 is dedicated to stalling the talks in Bahir Dar and transporting delegates back to Addis and back home until October 16th for them to reassemble this time in Addis Ababa and not Bahir Dar (not very clear to us). It also deals with “Is there really a “mandate” for the Envoys?

Through our investigation and communication with various stakeholders and actors during the past 48 hours, we have come to know the following facts:

1. The call to adjourn the current talks in order to consult with the principals of the main two primary parties to talks did not come from the mediations/Envoys.
2. It first came from the SPLM/A-IO and then it gained steam with time. In the meeting in which the call was first made, the SPLM/A-IO argued that they needed to consult their principals on the issue of power-sharing and to share some of the ideas that were being presented by the GRSS. This may have been prompted by the fact that Dr. Riek and some of his top men are now in South Africa and will be there until next Friday October 10th. If Gen Taban, Dr. Dhieu, Hussein...are not in Addis, resolutions by the SPLM/A-IO may be difficult to reach.
3. On the other hand, we learned from very high ranking officials in the SPLM/A-IO that they are not at all convinced of the priority of “Government” over substantive issues.
4. The GRSS on the other hand said they had full mandate to negotiate all issues and therefore saw no reason to consult so early in time. The contradiction between what Nhial Deng said in Bahir Dar and what Michael Makwei said to the BBC is puzzling.
5. The irony is that the GRSS is not producing any documents and does not intend to produce any other than the short-worded positions we have in the consolidated document of IGAD of Sept 22nd. They wish to look at what the opposition is proposing and discuss that, but for them the Status Quo is an option.
6. The assessment of objective observers is that while some positions are apart on two key issues, progress was also made on other fronts. However we saw no agreements or part of on any issue. We also assume they are talking about the issue of “Government” and not other substantive root-causes issues.
7. The idea circulating of an upcoming Summit was discussed by the negotiating parties [GRSS, SPLM-FD and SPLM/A-IO] among themselves (and not with Mediation). This issue started to surface at the end of week 40 (Sept 29th-Oct 4th).
8. By then, the Mediation was not even aware that a Summit was brewing. The parties seemed to have more information on this than anyone else. That calls for deep worry of the internal lines of communication within IGAD apparatus or indeed “Apparatuses”
9. However we have confirmation from some circles of authority that there is no official talk of another summit.

10. The GRSS' demand through Maulana/Michael Makwei to move the talks to Nairobi was made way after the demand to adjourn.
11. It seems that the general atmosphere in Bahir Dar/Addis was to treat Makuei's radio broadcast as a "spur of the moment" "impromptu" talk. But the reactions of the opposition parties including the SPLM/A-IO indicate to the contrary. The volatile reactions may be more tactical to embarrass Makuei and Juba. Our sources inside South Sudan as well tell us that this is "Juba" and not "Makuei".
12. We need to wait and see if the GRSS and/or the SPLM/A-IO will make an official call to IGAD. (We have written proof from the SPLM/A-IO that they concur with Makuei on the futility of the talks in Ethiopia). But probably only on that!
13. We are informed that neither shortage of funding nor the Muslim holidays of the Hajj are a reason for the adjournment.

The Puzzle of the mandate and/or Terms of Reference (ToR) - A Treasure Hunt.

Please read to the end

1. We have looked all over the net and our archives to see if we can locate a "mandate"/ToR for the 3 envoys: Nothing! Not a trace. Neither the GRSS nor the SPLM/A-IO we able to give us a clear answer if they do have written and "Bona Fide" document spelling out what the Mediation Mandate was.
2. One person within IGAD told us that "Mediation has a ToR" but he/she did not share it with us.
3. Some close observers have indicated that there is "Quasi" Mandate but between the lines of so many documents. That will NOT be a mandate. We need dos and don'ts.
4. Why is that important for all of us? It is only that mandate that can tell us ALL that the trio of envoys are doing what they are supposed to do. For some stakeholders' understanding, Mediation is there to do "State Building" for South Sudan. Revamp the whole state. For us, the mandate is for "Mediation ONLY". Are they wrong? Are we right? We will never know until we lay our hands on a document spelling out, crystal clearly, and legally the mandate.
5. So that we all understand what we are after, let us take UNSC Resolution # 1996 of July 11th 2011 establishing UNMISS (double S) to replace UNMIS (one S) and we quote:

Excerpts from Security Council Resolution 1996 of July 8th 2011 extracting only the "Mandate"

"Decides that the mandate of UNMISS shall be:

to consolidate peace and security, and to help establish the conditions for development in the Republic of South Sudan, with a view to strengthening the capacity of the Government of the Republic of South Sudan to govern effectively and democratically and establish good relations with its neighbours, and *accordingly authorizes* UNMISS to perform the following tasks;

- (a) Support for peace consolidation and thereby fostering longer-term statebuilding and economic development, through:
 - (i) Providing good offices, advice, and support to the Government of the Republic of South Sudan on political transition, governance, and establishment of state authority, including formulation of national policies in this regard;

(ii) Promoting popular participation in political processes, including through advising and supporting the Government of the Republic of South Sudan on an inclusive constitutional process; the holding of elections in accordance with the constitution; promoting the establishment of an independent media; and ensuring the participation of women in decision-making forums;

(b) Support the Government of the Republic of South Sudan in exercising its responsibilities for conflict prevention, mitigation, and resolution and protect civilians through:

(i) Exercising good offices, confidence-building, and facilitation at the national, state, and county levels within capabilities to anticipate, prevent, mitigate, and resolve conflict;

(ii) Establishment and implementation of a mission-wide early warning capacity, with an integrated approach to information gathering, monitoring, verification, early warning and dissemination, and follow-up mechanisms;

(iii) Monitoring, investigating, verifying, and reporting regularly on human rights and potential threats against the civilian population as well as actual and potential violations of international humanitarian and human rights law, working as appropriate with the Office of the High Commissioner for Human Rights, bringing these to the attention of the authorities as necessary, and immediately reporting gross violations of human rights to the UN Security Council;

(iv) Advising and assisting the Government of the Republic of South Sudan, including military and police at national and local levels as appropriate, in fulfilling its responsibility to protect civilians, in compliance with international humanitarian, human rights, and refugee law;

(v) Deterring violence including through proactive deployment and patrols in areas at high risk of conflict, within its capabilities and in its areas of deployment, protecting civilians under imminent threat of physical violence, in particular when the Government of the Republic of South Sudan is not providing such security;

(vi) Providing security for United Nations and humanitarian personnel, installations and equipment necessary for implementation of mandated tasks, bearing in mind the importance of mission mobility, and contributing to the creation of security conditions conducive to safe, timely, and unimpeded humanitarian assistance;

(c) Support the Government of the Republic of South Sudan, in accordance with the principles of national ownership, and in cooperation with the UN Country Team and other international partners, in developing its capacity to provide security, to establish rule of law, and to strengthen the security and justice sectors through:

(i) Supporting the development of strategies for security sector reform, rule of law, and justice sector development, including human rights capacities and institutions;

(ii) Supporting the Government of the Republic of South Sudan in developing and implementing a national disarmament, demobilization and reintegration strategy, in cooperation with international partners with particular attention to the special needs of women and child combatants;

(iii) Strengthening the capacity of the Republic of South Sudan Police Services through advice on policy, planning, and legislative development, as well as training and mentoring in key areas;

(iv) Supporting the Government of the Republic of South Sudan in developing a military justice system that is complementary to the civil justice system;

(v) Facilitating a protective environment for children affected by armed conflict, through implementation of a monitoring and reporting mechanism;

(vi) Supporting the Government of the Republic of South Sudan in conducting de-mining activities within available resources and strengthening the capacity of the Republic of South Sudan Demining Authority to conduct mine action in accordance with International Mine Action Standards;

4. *Authorizes* UNMISS to use all necessary means, within the limits of its capacity and in the areas where its units are deployed, to carry out its protection mandate as set out in paragraphs 3 (b) (iv), 3 (b) (v), and 3 (b) (vi);

5. *Requests* the Government of Sudan and the Government of the Republic of South Sudan to propose by 20 July modalities for implementation of the 29 June agreement on border monitoring, and in case the parties fail to do so, *requests* UNMISS to observe and report on any flow of personnel, arms, and related materiel across the border with Sudan;

6. *Demands* that the Government of the Republic of South Sudan and all relevant parties cooperate fully in the deployment, operations, and monitoring, verification, and reporting functions of UNMISS, in particular by guaranteeing the safety, security and unrestricted freedom of movement of United Nations personnel, as well as of associated personnel throughout the territory of the Republic of South Sudan;

7. *Calls upon* all Member States to ensure the free, unhindered and expeditious movement to and from the Republic of South Sudan of all personnel, as well as equipment, provisions, supplies and other goods, including vehicles and spare parts, which are for the exclusive and official use of UNMISS;

8. *Calls upon* all parties to allow, in accordance with relevant provisions of international law, the full, safe and unhindered access of relief personnel to all those in need and delivery of humanitarian assistance, in particular to internally displaced persons and refugees;

9. *Demands* that all parties, in particular rebel militias and the LRA, immediately cease all forms of violence and human rights abuses against the civilian population in South Sudan, in particular gender-based violence, including rape and other forms of sexual abuse as well as all violations and abuses against children in violation of applicable international law such as their recruitment and use, killing and maiming and abduction with a view to specific and time-bound commitments to combat sexual violence in accordance with resolution 1960 and violence and abuses against children;”And it goes on

We apologise for the length of the excerpt but we want to demonstrate how precise and comprehensive and crystal clear mandates need to be.

Now THAT is a mandate that has teeth. Anything short of that from IGAD is a joke.

The question to all is: Do the 3 envoys have or do not they have a Mandate that is crystal clear, coherent and binding? If there is: IGAD should not hide it. If there is none: IGAD needs to seek one.

Until then, we assume that there is no mandate and we have a “Jambalaya” of activities in Addis/Bahir

Subsahara Centre
Ottawa, Canada