



SUDAN PEOPLES' LIBERATION MOVEMENT GENERAL HEADQUARTERS



SPLM LEADERS (FPD)

A NEW ROADMAP TO RESCUE AND RESTORE HOPE IN SOUTH SUDAN

Chapter One: Historical Background

1. Following the efforts to democratize the SPLM Party and subsequently, the state after South Sudan attained independence in July, 2011, two ideological trends emerged. One trend advocated for reforms and the other opposed any changes, insisting on maintaining the status quo. This led to the crisis of 15 December, 2013. The faction led by the SPLM Chairman who is also president of the Republic of South Sudan, Cde Salva Kiir Mayardit, used the coercive instruments of state power to crack down on the reformists and to monopolize the SPLM brand-name in order to claim the historical legacy of the SPLM as a tool of legitimizing itself.
2. The two ideological trends subsequently split into three: the first faction kept the reins of state power while the second faction led by Dr. Riek Machar was forced to arms. It unsuccessfully contested the SPLM brand-name, in the end being labeled as SPLM-in-Opposition. The third group got rounded up, detained, later tried, acquitted and forcibly exiled. This group was variously labeled as G11, G10+, Former Detainees (FDs). In response, the group chose to call themselves the SPLM Leaders – Former Political Detainees. That was part of the SPLM brand contest.
3. In an attempt to re-unite the three groups an intra-SPLM dialogue was convened in Arusha, Tanzania, brokered by the African National Congress (ANC) of South Africa and Chama Cha Mapinduzi (CCM) of Tanzania. As a result, the SPLM Re-unification Agreement was concluded on 21 January, 2015, witnessed by Presidents Kikwete, Museveni and Kenyatta; and Deputy President Ramaphosa. The common belief across the factions and the Region was that SPLM re-unification would be a precursor to re-establishment of national unity and resolution of the crisis including the war that had raged on since December, 2013.

4. In efforts to implement the Arusha Agreement, members of the FDs moved to Juba in May, 2015. These efforts were, however, met with stiff resistance by those whose understanding of the Arusha Agreement was a simple return to the fold and maintenance of the status quo pre-crisis.
5. At the same time that Arusha was being negotiated, a parallel process aimed at resolving the armed conflict was taking place in Addis Ababa, under the auspices of the Inter-Governmental Authority for Development (IGAD). This culminated in the signing of the Agreement on the Resolution of the Conflict in South Sudan (ARCISS) in August, 2015. It is noteworthy that President Salva Kiir grudgingly signed ARCISS in Juba ten days later, with a catalogue of reservations. These reservations sowed the seeds of distrust and failure. The introduction of the 28 states, contrary to stipulations of the Agreement and the Constitution, undermined trust, as well as the letter and the spirit of the Agreement.
6. It was indicative of President Kiir's reluctance not only to observe the terms of the ceasefire but also to reject calls for the promulgation of the Interim National Constitution that would incorporate the text of the Agreement. Despite these flagrant violations and lack of political will, the Transitional Government of National Unity (TGoNU) was inaugurated in April, 2016. Unsurprisingly, conflict resumed in July, 2016, which led to the forcible ejection of the First Vice President (FVP) Dr. Riek Machar Teny from Juba and indeed from South Sudan; leading to the eventual collapse of the Agreement.
7. As things stand, South Sudan is on the brink of collapse and disintegration, as its social fabric has been severely fractured and society's harmony is dangerously compromised. The United Nations has repeatedly reported continuing deterioration of the humanitarian situation. The Special Advisor on the Prevention of Genocide has documented evidence of mass atrocities, ethnic cleansing, widespread displacement of the population, and warned that the country is accelerating towards genocide. Service delivery activities have ground to a halt, with the little that remains being undertaken and financed by the international community and Non-governmental Organizations. The economy is in tatters, with runaway inflation and weakening South Sudanese Pound.
8. The dire humanitarian situation and countrywide insecurity characterized by the "Unknown Gunmen" phenomenon, mass atrocities, ethnic cleansing, rampant corruption, increasing intolerance and shrinking political space

and the sorry state of the economy - appear to have pricked the conscience of the region and the international community. This has led to different responses, including calls for quick fixes without due regard and attention to addressing complexities of the South Sudanese crisis and its root causes. Fixing South Sudan hinges on tackling simultaneously both the unfolding humanitarian emergency and the intractable politics of state formation and nation building that caused the crisis in the first place. In our view a new approach should be adopted that would critique and review ARCISS, and chart a new roadmap for a workable political configuration, harmony, stability and sustainable peace.

Chapter Two: Critique of the ARCISS and the Status Quo Ante

9. What is the current status of the Agreement? How severely has it been damaged? To arrive at clear understanding of the current situation as well as reaching a viable solution, a deep critique and analysis of ARCISS and the status quo ante is required. By answering the above questions, an analytical point of entry to review the challenges and failures of the Agreement is provided.
10. It is common knowledge that President Kiir and SPLM IG signed ARCISS reluctantly. Since then, he and SPLM- IG have made no secret of their disdain for, and indeed rejection of ARCISS. The President and SPLM IG have consistently maintained that the Agreement was imposed on them. They have gone to great lengths and brazenly undertaken actions and decisions to frustrate and/or undermine implementation of ARCISS. Cynically though, Kiir and his group 'promised' to 'implement the Agreement fully, in both letter and spirit,' while continuing violating it with impunity.
11. In this vein the President had consciously and deliberately violated the Agreement in the following areas:
 - a. **Creation of 28 states:** ARCISS provided for 10 states in the country, with two of the 10 governors to be nominees of SPLM-IO. In contravention of this provision of ARCISS, President Kiir dismantled the ten (10) states and created 28 new states vide Decree No. 36/2015 soon after signing ARCISS. He also appointed all the 28 governors from among his group without reference to stakeholders as required by the Agreement.
 - b. Following the ruling by IGAD that creation of 28 states was a violation of ARCISS, President Kiir tactically agreed to freeze further action to operationalize implementation of the newly created states till the matter is resolved. However, he went ahead to do exactly the opposite of what he promised. He operationalized implementation of his new states anyway.
 - c. A Constitution Amendment Committee was mandated to incorporate the Agreement into the Transitional Constitution of South Sudan, 2011. ARCISS was explicit that in the event that any provision of the Constitution contradicted that of the Agreement, the terms of the Agreement will prevail. The President and SPLM-IG frustrated the work of the Constitution Amendment Committee by insisting that the newly created 28 states be incorporated in the Constitution. As a result of disagreement over this issue, work of the committee ground

- to a halt and the Transitional Constitution of South Sudan, 2011 failed to be amended. As of now it is the Transitional Constitution of South Sudan pre-ARCISS which is still the supreme law of the land. Therefore, there is no wonder that ARCISS is inoperable.
- d. The President dismisses and replaces Ministers of TGoNU as he pleases, without reference to the nominating Party, contrary to provisions of ARCISS. The case in point is the arbitrary dismissal of the Deputy Minister of Foreign Affairs and International Cooperation.
 - e. The President and SPLM-IG refused to redeploy SPLA outside Juba as per terms of ARCISS, thus contributing directly to the fighting in Juba in July, 2016. Instead of standing down, the President and his group continued to mobilize, recruit, train, rearm and raise troop levels in the Capital.
 - f. Refusal to unify and deploy the joint army units and police for the security of Juba as stipulated in the Agreement.
 - g. Refusal to accept cantonment areas in Equatoria and Bahr el Ghazal and reluctance to observe the ceasefire and cessation of hostilities in those areas.
 - h. Obstruction of CTSAMM mandate which is to ascertain presence of troops or forces, designate sites for cantonment, receive and verify complaints of violations, and undertake all other tasks necessary for successful implementation of the security arrangements.
 - i. Frustration of the work of Strategic Defence and Security Review Board (SDSR) without which there would be no security sector reform and transformation.
 - j. Replacement of the First Vice President Dr Riek Machar, and appointment of Taban Deng Gai without following the procedures laid out in ARCISS. The Agreement requires that such a replacement be done ***“by the top leadership body of the South Sudan Armed Opposition (SPLM/A –IO) as at the time of this Agreement.”*** The President and SPLM-IG misleadingly quote the first part of this provision only, leaving out the part underlined (as at the time of the Agreement), so as to justify replacement of Dr. Machar as First Vice President.

12. It is clear that President Kiir is implementing the reservations he presented to the IGAD Heads of State and Government on 27 August, 2015. Therefore with ARCISS comatose at best, or actually dead there is need for a clean break with ARCISS and chart a new roadmap to rescue the country and restore hope to its citizens.

13. Based on the foregoing, what do we do? Where do we go from here, can ARCISS be revived, revised, or resuscitated? If not, what else? Restoring the Status quo ante will not work. The rationale behind UNSC Resolution 2304 (2016) and the Communique of IGAD Council of Ministers of 10 July, 2016 was to restore the Kiir/Machar coalition. The question is: can ARCISS be made to succeed and get implemented in letter and spirit in an arrangement in which President Salva Kiir and Dr. Riek Machar are forced to cooperate and work together in a re-constituted transitional government? The answer is No!
14. It has been proven time and again in the recent past that the two men cannot cordially work together. In reference to the relations between President Kiir and Dr. Riek, Former President and Chairman of JMEC, Festus Mogae, used language that aptly captures the deplorable state of the interpersonal relations between the two, stating that "... the mere sight of each other is sufficient to provoke war/conflict." It does not require much imagination for one to conclude that the two men cannot cooperate, put the interest of the country above their own and work for success of any government.
15. Retaining only one of the two - either Kiir or Machar - in the Transitional Government and leaving out the other, is unlikely to work. If one is left out he will likely resort to violence, to make himself relevant. After all what will be the basis of including one while leaving out the other?
16. **Continuation of Kiir/ Taban status quo (i.e. Pax Salvatica):** Inordinate delays and procrastination in the implementation of UNSC Resolution 2304 (2016) and the Communique of IGAD Council of Minister cited above led to Kiir establishing new facts on the ground including the forcible expulsion of FVP, Riek Machar Teny from Juba, the Capital, and the subsequent appointment of Taban Deng Gai as replacement. Just like restoration of the status ante in paragraph 13 above, the Kiir/Taban formula has not worked and stands no chance of delivering in the future. Taban Deng Gai does not command the support or even the respect of the Nuer constituency which is the stronghold of SPLM (IO). This include the Nuer population in Greater Upper Nile, SPLM (IO) armed men, the POC camps or the influential Nuer Diaspora. Therefore, Kiir/Taban formula cannot deliver peace no matter how much time you give them.
17. **Change of Guards Scenario:** Ideas have been floated around about possible change of guards within IG and IO that will exclude both

Kiir and Machar from power, through some form of take-over using the force of persuasion or otherwise. Would this stand any better chance of success than those options discussed above? Can ARCISS be implemented by IG and IG teams less Kiir and Machar? The answer is another No!

18. ARCISS without Kiir and Machar and without fundamental change in the structure of the State, the two groups will continue the rivalry as they seek to secure positions of advantage in the coming election and the post transition period. Implementing ARCISS is unlikely to be their priority or even concern. Rather, competition and brinksmanship in trying to undermine each other in and outside the Government will most likely be the order of the day. Each will continue to maneuver in order to assume a vantage point over the other in any future arrangements. Therefore, change of guards in IG and IO will simply amount to no more than the perpetuation of failed transitions and institutionalizing *Permanence of the Temporary*, as is the case in Somalia. Even looking at other possible scenarios as outlined below, the prospects of attaining peace remain bleak.

Chapter Three: Other Possible Scenarios

19. With a failed ARCISS and without conducting any meaningful political discourse involving a wide cross section of South Sudanese society, the country will continue descending in a downward spiral to abyss. Given the present trend and in absence of change of course, some of the scenarios that pundits are tempted to conjure are in the domain of “Giving War a Chance” which include:-

(i) **President Salva Kiir wins the war and imposes his will:** Other than the case of the Tamil Tigers in Sri Lanka, (and may be Angola’s UNITA to a lesser extent) all guerilla wars are not settled on the battle ground. Rather, agreements are concluded on the negotiation table and the conflict is then wound up. As things stand now, it is most unlikely that Salva Kiir’s forces will defeat and eliminate the various rebellions that have proliferated in the country.

(ii) **Riek Machar and other rebellions storm Juba and wrest control from Salva Kiir:** Again, this is very unlikely to happen even if rebel forces were to overrun Juba as this will not be the end of the story. Kiir’s group, who are already talking the language of an existential threat staring them in the face will continue to feel insecure than ever. As a result they reverse roles – becoming themselves the guerillas this time around. Therefore a political solution, in our view, will be the answer if we are to avoid the possibility of disintegration of South Sudan and the emergence of more states. Already some voices in Greater Equatoria are beginning to mull such an idea as a possible solution to an apparently intractable problem of senseless violence at the slightest provocation.

20. The scenario of intervention as stipulated in the UNSC Resolution 2304 (2016) may take any of the following trajectories:

(i) **No External Intervention or only an expanded UNMISS (status quo continues):** Continuation of the *status quo* in the current conflict in South Sudan will be probably the worst possible thing that can happen. Unfortunately, it is also the most probable because President Kiir’s forces are unlikely to steam-roll over the various rebellions, most of them ethnically based. The

Government's counter insurgency entailing indiscriminate attacks on civilians, burning of villages, plunder and looting; destruction of property burning of crops, and deliberate destruction sources of livelihood; intimidation, harassment, rape and killings; has created a sense of seething resentment and a yearning for vengeance amongst many communities. These actions will continue to provide grounds for new insurgencies.

- (ii) **Deployment of the Regional Protection Force with a robust mandate:** An inclusive National Dialogue in an environment free of fear and intimidation will likely ensue. Such political engagement may lead to resuscitation of ARCISS, with modifications, restore stability and allow for a new political process. A new political deal could be worked out, retaining the reform agenda of ARCISS but fundamentally overhauling the security arrangements and structure of the State. As a caveat, deployment of the Regional Protection Force lacking in political strategy as outlined above risks consolidating *Pax Salvatica* and exacerbating the crisis.

21. With the increasing sense of resentment and proliferation of insurgencies, and given the posture of the current ruling elite in Juba, the Government will get more and more desperate and repressive. It will use ethnicity more extensively for keeping itself in power, narrowing its support base to parts of Northern Barh el Ghazal only. The mantra of 'the Dinka facing an existential threat' will become more and more pronounced and marginalization or even elimination of other ethnicities may be pursued openly as 'state policy', thereby propelling South Sudan irreversibly towards the graveyard of genocide, and total disintegration.
22. As things stand now, the country is between a rock and hard place. While the stalemate in implementation of ARCISS persists, South Sudan has not stopped staggering towards certain catastrophe and even total collapse. There are already warnings about possible genocide, anarchy and disintegration from many quarters, yet nothing meaningful is happening to forestall it. Humankind may once again come to the scene to swear "Never Again" one more time after catastrophe has struck and genocide has fully unfolded.
23. Given the above scenarios and the dim prospects of any resolution on the horizon, the questions to be asked are: is it still possible to 'save South Sudan from itself'? Are there any alternative ideas to explore,

however far-fetched they may appear? It is our considered opinion that with sobriety, and through honest and informed dialogue, workable solutions can be crafted for resolving South Sudan's apparently intractable conflict and restoring normalcy. Such a solution/ formula must, of necessity, be found somewhere between the two extremes of what would look like inevitable: (a) the descent to genocide, anarchy and disintegration, at one end of a continuum and (b) trusteeship (by the United Nations or an appointee of UNSC) at the other end. In-between are a wide variety of options ranging from a return to the Status Quo ante, to revised ARCISS, to new ARCISS, to *Pax Salvatica*, etc, etc.

24. The violations cited under paragraph 11(a – j) and the scenarios above, in our view, calls for a fresh start. This new beginning would need to be agreed by all stakeholders of ARCISS including those who felt excluded initially from the previous peace process.

Chapter Four: Crafting a New Dispensation

25. Given the above scenarios and the dim prospects of any resolution on the horizon, it is our considered opinion that with sobriety, and through honest and informed dialogue, workable solutions can be crafted for resolving South Sudan's apparently intractable conflict and restoring normalcy. Such a solution/ formula must, of necessity, be found somewhere between the two extremes of what would look like inevitable: (a) the descent to genocide, anarchy and disintegration, at one end of a continuum and (b) trusteeship (by the United Nations or an appointee of UNSC) at the other end. In-between are a wide variety of options ranging from a return to the Status Quo Ante, to revised ARCISS, to new ARCISS, to *Pax Salvatica*, etc, etc. To find the right formula that will not only resolve the conflict but also be acceptable to South Sudanese across board, we propose that an all inclusive dialogue be initiated to critique ARCISS and to chart the way forward. The purpose of the all-inclusive roundtable is to build consensus for a new transition. We envision and suggest a two-stage process for moving the idea forward:

- i. **First Phase:** Convene a consultative assembly of a group of experts who are knowledgeable about the crisis and political, social and economic context of South Sudan. Such consultation can start outside South Sudan until an environment conducive for free dialogue has been created inside the country.
- ii. **Second phase:** Convene an all-stakeholders Roundtable in Juba after the deployment of the proposed Regional Protection Force (RPF) which will create conducive environment in South Sudan for free, open and honest discussion without fear or intimidation. The Roundtable should involve a wide cross section of South Sudanese society, with the participation of regional and international partners such as IGAD+ plus, AU, UN, Troika etc. This will require not only financial, logistical and administrative but also assistance with facilitation and technical backstopping. These steps, in our view, would produce a consensus that will lift South Sudan out of the current crisis and lead to the establishment of a new transitional care-taker administration, acceptable to all/ across board.

26. **The Nature of Care-taker Hybrid Administration:** To put an end to the current cycle of violence and misgovernment by the political elite there is urgent need to establish a hybrid care-taker administration. The mandate, tasks, composition, criteria for selection and duration of the hybrid administration will be agreed at the roundtable.
27. Content of Care-taker Administration of technocrats will be two-fold: a local content and an international content.
- (1) Local content of Transitional Government:
- i. An Executive of technocrats and eminent personalities, selected through consultation based on defined and agreed criteria;
 - ii. Legislature of 200 in Lower House and 30 in Upper House, also selected through consultation based on defined and agreed criteria.
 - iii. Regional and International content comprising:
 - iv. JMEC+ (Plus) with enhanced role;
- (2) Enhanced and proactive/ robust role (for peace partners) in capacity building and institution strengthening in following fields:-
- i. Judiciary;
 - ii. Public Financial Management, e.g. the Bank of South Sudan, Revenue Authority, Oil Revenue Management;
 - iii. Security sector reforms, restructuring and training to be lead by:
 - iv. US and Ethiopia for the creation of a new army;
 - v. UK and Rwanda for the reformation and re-organization of the Police, National Security and other organized forces;
 - vi. UN for DDR.
 - vii. Institution and Capacity Building with the assistance and support of:
 - (a) Region and African countries: Kenya, Ethiopia, South Africa, Nigeria, Egypt, Rwanda,
 - (b) International organizations and partners: IGAD, AU, EU, UN, East African Community, Troika, China, etc.
28. The Transition Programme: The literature of the Agreement (ARCISS) remains largely relevant with all the reform agenda contained therein. If re-prioritize, sequenced and trimmed to realistic and manageable size that can be implemented during the 3 – 5 year transition period, it can constitute the basis for the new transition programme.

29. For the proposed process to succeed, South Sudanese and their friends and sympathizers in the international community may need to contribute ideas, expertise and specialist knowledge, undertake process facilitation and find a convener (to lead)/ for the process.

Chapter Five: Conclusions

30. South Sudan is on the edge of the precipice heading to anarchy and fragmentation despite the efforts of the Region and the international community to rescue the country by urging the parties to implement the Agreement in good faith.
31. Though the literature of ARCISS remains largely relevant it has been severely fractured as a deal and does not any longer serve as an effective vehicle for resolving the crisis and restoring peace in the country. The collapse of the permanent ceasefire in July, 2016 meant that the political deal that ARCISS was has equally fallen through the cracks. As the war continues the humanitarian, political, economic and social conditions in the country have deteriorated.
32. The call for a new approach to resolve the conflict has become all the more imperative. The SPLM Leaders (Former Political Detainees) call upon the other patriotic forces and stakeholders who are committed to re-engineer a turn-around for a peaceful, united, harmonious and prosperous South Sudan to join us in this endeavor. This new process requires a radical paradigm shift and a clean break from all forms of status quo.
33. As a way forward, we propose an inclusive Roundtable Conference to critique and review the past dispensations and chart an alternative approach to resolving the crisis and managing the transition to peace and democratic governance. Given the escalating situation in the country, there is no time to lose but to move expeditiously with this new roadmap.

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