

## **SOUTH SUDAN CONFLICT: THE NEED FOR TRANSITIONAL JUSTICE AND STRATEGIC PEACE BUILDING**

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### **Abstract**

The history of conflict is traceable to the earliest time. Men, groups, nations and states have often had one form of conflict with another in their quest to outsmart or attain and maintain a given goal as well as interest. The African continent has remained a central theatre of conflict in the twenty first century. The wind of the conflict which ravaged Sudan for decades soon spread into the independent South Sudan State. Since December 2013, South Sudan, the newest African State has been under the terrible grip of ethnic conflict. What started as a political problem soon became militarized as soldiers loyal to the Dinka ethnic group began to clash with their counterparts from Nuer. The extension of the conflicts from the barracks to the civilian milieu led to massive killings in Juba, Jonglei and other parts of the country. There were extrajudicial killings, rape, state-motivated arrests, violence against helpless civilians as well as the attack on personnel and objects used in the peace-keeping from the United Nations Missions in South Sudan (UNMISS). It should be noted that the Sudan People's Liberation Army (SPLA), which was historically an umbrella body for all the armed-groups in the country disintegrated into guerrilla groups and factors headed by warlords. This work, which adopted document analysis methodology presents a historical review of the conflict as well as the push and pull effects of the foreign influence on it. Finally, it recommends multi-dimensional peace-building and transitional justice as roadmap to peace in that state.

**Keywords:** Conflict, peace building, transitional justice and ethnicity.

### **1. INTRODUCTION**

South Sudan, which attained her independence status from Sudan in 2011, struggled for few years with the burden of state building before it collapsed into full fledged conflict. The conflict in South Sudan erupted within the period of the National Liberation Council (NLC) meeting of the Sudan People's Liberation Movement (SPLM) on 15<sup>th</sup> December, 2013. It was a meeting of the diverse power elite within the country. A day before the eruption of the conflict, the deep rooted political crisis within the elite led to the expulsion of some frontline activists from the meeting. The next day witnessed violent clashes, which started within the Sudan People's Liberation Army (SPLA) in Juba, the country's capital. President Kiir declared that the violent clash in the SPLA was a failed coup attempt on his government. He ordered General Ciennoung, the Commander of the Presidential Guard (The Tiger Battalion) to quench the mutiny. It should be noted that the Presidential Guard was previously multi-ethnic in nature before Kiir enthroned the politics of promoting Dinka supremacy within it. President Kiir accused his Vice President, Riek Machar to be the protagonist of the failed coup, which Machar immediately denied. Unfortunately, General Ciennoung's quest to strengthen the Dinka elements in the military in order to suppress the strategic coup plan of the suspected Nuer military group, led to armed conflict within the military from Sunday night till Monday afternoon, December 15-16, 2013.

Consequently, it was at that time that the military-centered ethno-political crisis was driven into the world of the civilians as top political figures were arrested and the Vice-President, Machar escaped. Machar's

loyalists as well as the supporters of the Nuer military and opposition power elite formed a new political and military oligarchy called the 'SPLM/A in Opposition'. It was generally perceived that about 70 percent of the SPLA either defected to Machar's opposition or deserted the group (Catholic Radio Network, 2014). At that point, the interpretation of the immediate cause of the conflict became highly polarized. The situation was worsened by the insistence by Kiir that Machar has carried out a coup and that those arrested were being tried for treason at a time the international community failed to support him and tend to accept the position of Machar. Their position may not be unconnected to the fact that Kiir was engaging in dictatorial power game aimed at using the Dinka people and military machinery to eliminate the Nuer and opposition voices in politics. The die-hard and divergent position of the two groups and the killings of civilians that went with it polarized the state and deepened the conflict dynamics thereby geometrically promoting the human and material lose that the world is witnessing in that country.

## 2. BACKGROUND CAUSES OF THE CONFLICT

The background to the conflict is a long and complex one. It would be recalled that in July 2013, President Kiir dismissed the Vice-President and suspended many top political leaders for corruption related offences. However, most of the dismissed politicians formed themselves into a powerful opposition and engaged in progressive press conference in Juba criticizing Kiir administration and accusing him of democratic dictatorship. The increasing democratic dictatorship of Kiir reduced his political legitimacy both among the power elite and the NLC, leading to the continuous delay of the NLC meeting. On 14<sup>th</sup> December 2013, when the NLC meeting started, Pagan Amum was relieved of his political portfolio. Amum's supporters and other dismissed politicians boycotted the 15<sup>th</sup> December, 2013 meeting and by the time conflict broke out in SPLA these politicians and other opposition voices were accused to be the protagonists, leading to their arrest and imprisonment. Thus, the dynamics of the conflict began to widen following massive ethno-centric civilian killings and arrest of opposition elites. Among those arrested include suspended SPLM Secretary General, Pagan Amum Okech and former Ministers like Oyay Deng Ajak (Investment), Gier Choung Aloung (Internal Affairs), Majak D' Agoot (Deputy Defence), John Luk Jok (Justice), Cirino Hiteng (Culture), Deng Alor Koul (Foreign Affairs), Madut Biar (Telecommunications) and Kostu Manibe (Finance). Others include Ezekiel Lol Gatkuoth, the former Ambassador to United States of America and Chol Tong Mayay, the former Governor of Lake States (Radio Tamazuj, 2013; International Crisis Group, 2014, p. 1). The attack on the Nuer civilians and the political arrests weakened nation building process in the new sovereign state that is battling with the challenge of multiple national questions. The retaliatory response of the Nuer White Army in other parts of the country led to the rain of ethnic-based killings in the country.

However, such a mono-causal interpretation of the South Sudan conflict can never give a true picture of the causes of the conflict. This is because other topical issues in the national question of the new state include weak party structure, lack of unity and cohesion, division among the power elite, the sense of marginalization of minority groups on one hand and the perceived Dinka hegemony in government and resource control issues. Again, the challenge in South Sudan include that the state inherited many of the tribal tentacles of conflict that was found in the former Sudanese parent-state. This tribal dynamics of conflict has remained a fundamental problem and cause of conflict in many African countries. This was widely experienced in Nigeria and led to the Nigerian civil war (Nwanaju and Ani, 2011: 145-151; Ani and Aro, 2013: 274-280). It was also widely practiced in Chad (Ani, 2009: 79-83) and Cote d' Ivore (Nweke and Ani, 2011: 32-45) as well as Sudan that gave birth to South Sudan (Mohammed, 1998).

The Nuer and Dinka ethnic groups had a history of deep cleavages, which reached its zenith in the 1991 Bor Massacre. At that time, the White Army, co-founded by Machar clashed with opposition group leading to the death of over 2,000 Dinka civilians in Bor (Amnesty International, 1992, p. 17). At the end of the Bor Massacre, *Gelweng*, an armed Western Dinka youth group that initially evolved in cattle camps and traditionally engaged in the defence of their neighborhood immediately began to raid other groups. They emerged as a strong force in the 1990s (Nyaba, 2001) and has continued to be real actors in both Sudan and the new South Sudan State. The aftermath of the Bor massacre and the poor structure as well as implementation of the Addis Ababa Agreement allowed for the rise of a psychology of ethnic warfare amongst the people of Sudan in general and South Sudan in particular (Johnson 2003, pp. 114-118). It was probably a combination of the historic flames of violence from the Bor Massacre, the *Gelweng*, and the failure of Nuer-Dinka Peace Agreement of 1999 that allowed for the emergence of deep divide between the Nuer and the Dinka. Consequently, the fact that conflicts memory promotes a circle of violence could be used to understand the flame of ethnic chauvinism in the new South Sudan State.

The history of mobilization of a tribe to fight another had been popular in the history of the area since Mahdi used it in the 19<sup>th</sup> century. But more recently, President Numayri mobilized Murahaleen militias, who were armed Baggara Rizeigat from Southern Darfur and Southern Kordofan to fight Southern Sudanese rebels (Obadiah, 2009, p. 27). The Sudan in general and South Sudan in particular revealed that the crisis in Darfur was to a large extent blamed on the North/ South dichotomy, especially the recruitment of militias from the South to fight in the North.

Similarly, President Kiir's ethno-centric high-handedness in the military became pronounced in January and February 2013, when he replaced the Deputy Chiefs of General Staff and sentenced 35 senior officers to the reserve list in the first month and 118 Brigadier Generals joined the list of retiring officers in the following month. That coercive executive action was taking place simultaneously with his supervision of the graduation of *Gelweng* and *Titweng* Dinka youths into the Presidential Guards. Ironically, thousands of the members of *Gelweng* and *Titweng* served first as armed forces for South Sudan during the 2012 South Sudan conflict with Sudan over the oil-rich Heglig (or Hejlijj) area (International Crisis Group Conflict Alert, 2012). The Nuer has the *Bunam*, which is a Nuer word for youth that is used to represent the White Army. It is noteworthy that the promotion of Dinka oligarchy in the Presidential Guard that was traditionally multi-ethnic in membership laid a potential time-bomb for the state.

In addition, there was the problem of how to manage armed groups and militias that fought in South Sudan's struggle for sovereignty. The armed groups and militias include the South Sudan Democratic Movement/ Army-Cobra, South Sudan Democratic Movement/ Army-Upper Nile, South Sudan Defence Forces, South Sudan Defence Forces Affiliates and the South Sudan Liberation Movement/ Army (HSBA Issue Brief, 2013; International Crisis Group, 2014 p. 2). Some of these armed groups/ militias that have been part of the historic conflict in Sudan and South Sudan saw the new state of South Sudan as a place to exhibit their influence and power base in order to attain their goals and get the needed national recognition. Ironically, among the traditional armed groups that fought in Sudan for the South Sudan side, the Comprehensive Peace Agreement (CPA) of 2005 that ended the second Sudanese Civil War of 1983-2005 only recognized Sudan Armed Forces (SAF) and SPLA as the legitimate force in South Sudan while neglecting others. The South Sudan Democratic Movement-Cobra Faction (SSDM), on their side has been protecting the interest of Murle civilians against SPLA abuses and marginalization. The clashes between SSDM and government forces led to the agreement on Cessation of Hostilities between the Government of Republic of South Sudan and the SSDM in January 2014, which allows in principle for greater representation of the Murle people in government. These armed groups saw the new conflict in South Sudan as a new platform to form a formidable alliance and become influential actors in South Sudan affairs.

The economics of oil-wealth for arms is another indirect cause of the conflict in South Sudan. This is because since 1969-1985, the government of Colonel Jaafar Numayri, which came to power through a coup, after sacking Mohammed Ahmed Maghoub strengthened his grip on power in the united Sudanese State as both military and civilian Head of State through massive acquisition of arms from China and the empowerment of militia men. The Revolutionary Command Council led by Brigadier Umar Hasan Ahmed al-Bashir that took over from him promoted unlimited purchase of arms from China and other parts of the world since 1995 (Human Rights Watch, 1998, p. 20; Human Rights Watch, 2003; McDoom 2005; Swan, 2007). Unfortunately, some of the ammunition that was purchased has left the formal constituency of the military into the hands of militia groups in South Sudan thereby empowering the ability to sustain the conflict.

### 3. IMPACTS OF THE CONFLICT

In February, 2014, the United Nations in their assessment of the impact of the conflict on the state designated South Sudan a Level 3 Humanitarian Emergency. This status is what they currently share with the states of Syria and Central African Republic that have been run-down by civil wars (OCHA, 2014). The nature of the killings that followed political, military and ethnic dichotomy in the country led to the butchering of defenseless citizenry on the road, in the churches, hospitals etc. thereby creating massive humanitarian crisis. The members of the President's Dinka group were said to have started a well organized house to house raid and killing of Nuer men and women, leading to Nuer reprisal attacks. In one incident, at least 300 men of Nuer origin were rounded-up from the Gudele neighborhood, detained and then killed in a facility used by several security forces as a joint operation centre (United Nations, 2014). There were extrajudicial killings, rape, state-motivated arrests, violence against helpless civilians as well as the attack on personnel

and objects used in the peace-keeping from the United Nations Missions in South Sudan (UNMISS). In the course of the conflict that have ravaged South Sudan for months now, more than 10,000 people have been killed while over 1,000,000 people have been displaced (International Crisis Group, 2014, p. 1).

Furthermore, the conflict has shattered the temporal unity of the South Sudan people, which was located traditionally within the SPLM. Today, the SPLM has given birth to a number of groups thereby weakening the chances of ideological reconciliation and unity among the power elite and the country's party structure. The humanitarian operation of the United Nations Mission in South Sudan (UNMISS) is increasingly crippled by the continuous attack on their institution, personnel and the civilian population that they are protecting in their bases, especially in Jonglei. The conflict has also crippled the economy of the country. It has weakened oil production by the Chinese oil companies. The volume of formal and informal trade in South Sudan has reduced dramatically. Bilateral and multilateral trade from neighboring Uganda, Kenya, Ethiopia and Sudan has being equally weakened. The conflict has equally generated different forms of reactions from sovereign actors around South Sudan. The position of regional interests in the conflict tends to promote conflict sustenance than conflict reduction. President Bashir of Sudan has publicly and openly supported President Kiir and his Dinka forces. Uganda sent the Ugandan Peoples Defence Force (UPDF) to assist SPLA and defend the government of Kiir from been totally over-ran by the opposition forces. Rwanda on the other hand aligned with the UN by sending troops to UNMISS. It is worthy of note that Kiir has erroneously accused UNMISS of undermining his government through their activities.

#### 4. THE IDEA OF TRANSITIONAL JUSTICE

The idea of transitional justice focus of justice is not primarily on punishment for past crimes but also on cooperation towards a future of 'political stability and socio-economic transformation' (Heyns and Stefiszyn 2006, p. 363). Crocker (1998, p. 1&4) showed that traditionally, civil society groups used transitional justice to move democratic systems within a state from unjust system of governance to a new democratic dispensation that empowers the people. The ideological approach used to ensure transitional justice in a post-conflict situation is different from the one usually adopted in day to day conventional judicial approach. Ugwuliri (2005, p. 251) wrote that the focus of conventional justice is "to identify the individual or group that are guilty and administer the punishment that the law requires with little attention to healing the bitterness and resentment that exist between the parties in the conflict". However, the transitional justice position is primary targeted at uprooting the psychology of injustice and heal the inherent bitterness in order to move the people and their society forward. The transitional justice program could be organized like the traditional Gacaca Court that ended the Rwanda conflict or as an assemblage of thousands of peace ambassadors, whose primary aim would be to move the South Sudan State away from the valley of conflict that has swallowed it. Transitional Justice will find a way to promote a balance between justice and reconciliation as well as promote a balance between retribution and forgiveness. The Gacaca court could be termed an African modelled success story of transitional justice (Okoro, 2014, pp. 280; Sebarenzi, 2009).

The need for transitional justice in South Sudan has become very imperative because the efforts of Seyoum Mesfin of Ethiopia, Lazarus Sumbeiywo of Kenya and Mohammed Ahmed Mustafa al-Dhabi of Sudan, who were peace ambassadors of the Inter-Governmental Authority on Development (IGAD) could not switch-off the fire of conflict in the country. All their efforts to shuttle from Juba to Addis Ababa, the venue of the peace talks produced minimal results. Thus, the road to transitional justice would allow for progressive amnesty and behavioral shift that would encourage some armed groups and militia leaders to lay their arsenals and promote faster mediation with other war lords and hardliners, who are gaining from the local and international economies of the conflict.

The road to transitional justice equally include institutional changes and transformation that would make many of those who feel marginalized to believe that social justice and equity has come to their door-step. The things that could enhance that road-map are acts of constitutional reforms, national reform, and referendum as well as constituency delineation. The idea of constitutional reforms would be aimed at removing impediments to transitional justice and allowing for the rise of the people's constitution. Such people's constitution can easily be gotten if the current leadership in their efforts to end the conflict sponsors a national conference before the next election of the state, where people will elect and nominate the representatives of groups and ethnic groups that would be part of the discussion of the future of South Sudan. The topical issues that would be raised from such a conference would be further tested or confirmed through the people's referendum. It would be recalled that the culture of referendum is not new to the people of South Sudan as it was part of the principal democratic tools that paved way for the emergence of the new

state. The national electoral body needs to be truly independent and must have the target of conducting credible elections that would lead to the emergence of a new crop of leaders, who would fight the increasing absolute corruption of power among the current power elite that are fanning the embers of conflict in the state.

## 5. THE PLACE OF STRATEGIC PEACE BUILDING

The concept of strategic peace building is a multi-dimensional approach to peace in order to win multiple advantages over a conflict situation. Boutros-Ghali (1995) spoke of “peace building” as the “creation of a new environment” and not merely as the cessation of hostilities. Ani and Nweke (2014, pp. 111-133) have stated that it is this new environment of peace that is needed in the day-to-day nation building craft amongst sovereign states. When a new environment is consistently being created for peace by individuals and the leadership hierarchy of nations, then individual states, down to the global village would begin to march towards the existential El-Dorado of a peaceful country and globe at large. It is when peace has become a norm in the hearts of men that the culture of durable peace can be enshrined in our society (Ani and Nweke, 2014, pp. 111-133).

The primary goal of strategic peace building option in South Sudan would be to reduce and ultimately eliminate all forms of attacks on the civilian populace of both sides of the ethnic divide in South Sudan and ultimately end the civil war through dialogue. To attain this goal, the leaders of the different ethnic groups need to be mobilized by the international and domestic civil society groups operating in South Sudan and be trained on the need for peace education to their citizenry on one hand, while negotiations and dialogue would continue on the part of the conflict protagonists. There is the need to bring all the major and minor militia and armed groups to a peace talk. This can only be attained through open invitation that would allow for smaller groups to participate.

The multi-track approach to peace in South Sudan could be said to be another strategic road to peace in that country because the peace loving countrymen and women tends to live above ethnic and political sentiments even in the time of conflict. International Crisis Group (2014, p.11) has shown that Senior Dinka leaders from Lakes State engaged in the protection of some Nuer residents in the wake of this conflict. Similarly, Nuer SPLA in Opposition commanders engaged in the transit protection of their friends from Dinka in order to enable them to escape from Nuer areas. More interesting is the fact that the Murle within the SSDM-Cobra faction protected many Dinka and Nuer SPLA troops when both groups were in dire need of crossing the area under their control in Pibor. It is this universal love for human safety and psychology of peace that needs to be promoted in the strategic road to peace in South Sudan.

The government of South Sudan must begin to sensitize the masses through all the agents of socialization on the need to accommodate the inherent diversity in their society. The agenda setting role of the media is vital in passing the message of unity in diversity to the citizenry. Religious leaders need to sensitize their flock on the sacrilegious and sinful implications of killing innocent people on the ground of ethnic affiliation.

More still, the strategic intervention of Uganda helped the SPLA to recapture Juba, the country's capital from the coalition of opposition forces. Paradoxically, the military support from Uganda to the South Sudan government as well as the support from the Justice and Equality Movement, a traditional opposition armed group in Sudan generated massive international criticism and heightened the suspicion that the Sudanese government is contributing in making the conflict more intractable and undermining the peace-keeping role of UNMISS. Strategic peace building could be achieved if IGAD, African Union and the United Nations Security Council take a firm and united position that multi-dimensional sanctions would be unleashed on any group or state that undermines the part to peace and civilian protection in the country. It would be recalled that President Kiir and Vice President Machar sent delegations to Addis Ababa for the IGAD peace talk which agreed that hostilities and attacks by both groups would cease on January 23, 2014 but the conflict has not only continued but the nature of humanitarian crisis emanating from the conflict has worsened. The IGAD peace talks and international pressure pressed for the release of leading seven arrested politicians. They include Gier Choung Aloung, John Luk Jok, Cirino Hitteng, Deng Alor Koul, Madut Biar, Kostu Manibe and Chol Tong Mayay, while others were still held in detention (Citizen News, 2014).

The strategic peace process would equally target to positively influence the armed communal groups that are not directly linked to the central conflict in the state but manipulates the dynamics of the conflict to promote the attainment of their interests like gaining more fire power and recruiting more forces to fight for

them in inter-communal disputes. A very good example of this form of conflict is found amongst the Ma'adi, who displaced parts of Dinka after series of conflict over Nimule. The Ma'adi has accused the Dinka of killing their paramount chief, who was an ardent defendant of their contested piece of land thereby leading to the eruption of the 2013 conflict between both groups (Small Arms Survey, 2013).

China is a vital actor in the roadmap to strategic peace building in South Sudan. Historically, China is a major investor in the Sudan oil sector, while the Sudanese government traditionally depended on China as a major source of arms. This strategic history between the two countries was inherited and shared by South Sudan and China when South Sudan became a sovereign state and the base for the concentration of large quantity of oil in what was formerly a united Sudanese state. Hence, China should willingly or be lobbied-to engage in total suspension of arms trade to both South Sudan and Sudan. The extension of the arms trade reduction policy to Sudan is rooted on the fact that the borders between Sudan and South Sudan remains very porous and allows for the easy movement of arms and ammunition by the different warlords in both countries. The arms trade reduction policy to Sudan and South Sudan from all parts of the world is vital because the more South Sudan State, arms herself with firearm, the more the government and military would utilize them directly and indirectly against opposition civilians and groups thereby sustaining the conflict.

## 6. CONCLUSION

This work has presented a historical review of the conflict in South Sudan. It revealed that the dynamics of the conflict is fueled by a lot of factors. There is the problem of very tiny line of division between the perception of the conflict as principally political and fundamentally ethnic in nature. Ironically, the government's policy of divide and rule tends to support aggressive and ethnic-based micro-nationalism than a peaceful national macro-nationalism. For instance, even amongst the Dinka ethnic group, some Jonglei Dinka strongly perceive themselves as the sacrificial lamb in the hands of the opposition simply because the Bahr el Ghazal Dinka has sworn to do everything imaginable to sustain their son, Salva Kiir in the presidency (International Crisis Group, 2014, p.11). The government of Kiir engaged in mass recruitment and armed empowerment of some opposition militias as a means to lobby them to their side. Many government officials opposed the practice, recognizing the dangers it presents, particularly in areas of the Equatorias, Unity, Jonglei and Upper Nile, where historic grievances could push them to use the arms against the government (International Crisis Group, 2014, p.10). This was at a time he admitted forming private army (Sudan Tribune, 2014). The admittance of the president that he has formed private army remained a fundamental insight to the fact that he has assumed the peak state of dictatorship and would use such private army to engage in all forms of illegal violence against any opposition to his government.

Finally, the circle of reprisals generated by the killings and the sense of revenge in South Sudan needs to be checked through multidimensional peace-building approaches. "To prevent further catastrophe, the country's leaders and its international partners need to consider a radical restructuring of the state. Propping up the government in Juba and polishing its legitimacy with a dose of political dialogue and a dash of power sharing will not end the conflict. New constituencies have to be admitted to the national dialogue and their perspectives respected, including armed groups and disaffected communities that go beyond the contending forces within the SPLM/A as well as women and civil society more generally" (International Crisis Group, 2014, p. ii). The message of forgiveness, reconciliation and reconstruction in South Sudan needs to be championed by the masses. This can only happen when informal peace education brings the need for peace and progressive nation building to the consciousness of the masses. It is only then that the leadership of SPLM, SPLA, other militia groups, the ethno-based military oligarchy as well as other religious and communal leaders would begin to be conscious that they are all tied-up in a mutual network of destiny to salvage South Sudan from conflict and work towards sustainable national peace.

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