



# The Revitalized Agreement for Resolution of Conflict in South Sudan (R-ARCSS): Addressing the Challenges to Power Sharing

## Executive Summary

This brief critically analyses the R-ARCSS (signed on September 12, 2018 to 'end' the 2013-2018 South Sudanese civil war) and explores options for finding enduring peace in the country. Being a power sharing arrangement, the R-ARCSS might lead to a top-heavy complex, face a territorial trap, and entice further factionalisation, hence reproduction of insurgent violence. On the other hand, R-ARCSS does not adequately address the post-transition stability, and its provision for transitional justice might be undermined by alleged offenders being in shared government. Therefore, establishment of permanent and constitutional consociational democracy after the transitional period, adequate political will for implementation of the R-ARCSS, observance of the principles of proportionality for power sharing at the state and local level and minority or mutual veto across executive levels of power, and international development support during the reconstruction phase, are likely to safeguard the country's stability.

## Background

The R-ARCSS agreement was signed between the government side - the Transitional

Government of National Unity (TGoNU), the main opposition (South Sudanese People's Liberation Movement/Army-In Opposition – SPLM/A-IO), the South Sudan Opposition Alliance (SSOA), Former Detainees (FD), and Other Opposition Parties (OPP). The agreement lays out power sharing in the national legislature in the ratio 60:23:9:6:2 respectively (332, 128, 50, 30, and 10 members respectively, totalling 550 members), and in the ministerial council, positions are shared 20 to TGoNU, 9 to SPLM/A-IO, 2 to FD, and 1 to OPP.

At the level of state and local councils, power sharing across state governors, speakers of state legislatures, state councils of ministers, state legislatures, county commissioners, and county councils allocates 55 per cent for TGoNU, 27 per cent for SPLM/A-IO, 10 per cent for SSOA, and 8 per cent for OPP, while the FDs will choose three ministers from states of their choice. However, regional ethnic composition or political influence of the signatory parties at these levels are loosely regarded, thus working against the principle of proportionality proposed by Lijphart (1997). Such disregard, might lead to aggressive ethnic power competition at the state and

council levels, and disenfranchise ethnic majorities in such cases, if not promote indirect territorialisation by dominant regional political parties.

The R-ARCSS further provides for the unification, training and redeployment of forces to be done within the first eight months (pre-transition), upon which the tenure of the transitional government would start for a period of 36 months, constitutional review, and elections for the next government coming at least 60 days before the end of the transitional period. Lastly, Article 1.15 of the R-ARCSS provides for redistricting according to 1956 tribal boundaries, and a path to federalism, and while chapter 5 of the document provides for transitional justice, reconciliation and healing under Chapter 5.

## Key Findings

The stability of South Sudan in long term may encounter several challenges emanating from certain elements of the approach designed by the R-ARCSS. For instance, Engel et al (2018) warn that military unification under power sharing arrangements does not necessarily lead to a newly ordered and functioning army, as it may lead to top-heavy complex, making it difficult for the army to function (in terms of structure and command). They further observe that such approach might lead to mutiny or further factionalisation as parallel hierarchies get established and loyalty retained for former rebel commanders. This proved true with the initial power sharing agreement, the ARCSS, which collapsed in July 2016, with the unified army going back to their original allegiance to former commanders.

Further, Engel et al (2018) opine that territorial power sharing risks creating the 'territorial trap' through decentralization and federalism, in which political agents might adapt power sharing schemes to their advantage through personal claim to specific spaces. The ethno-federal structure, most likely to be adopted in South Sudan, and the tribal reconstitution of administrative districts in the country as provided by Article 1.15.18.1 of the R-ARCSS, might not guarantee stability due to inherent ethno-nationalist passions and territorial trap.

Much as justice for the victims of violence during the civil war and protection of human rights, in the transition

and post-transition eras, is central to the stability of post-conflict societies as argues Kioko (2013), it is an intricate component of power sharing agreements such as R-ARCSS. This is because former combatants could be accommodated together in the transitory peace arrangements, and punishment of certain crimes or violations of human rights might reignite pre-conflict sensibilities along ethnic or political lines. It therefore demands collective political good will on all warring sides to secure transitional justice.

Thus, the promotion of personnel sanctioned by the United Nations, by South Sudanese president (Salva Kiir), is an indicator of selective if not lack of sufficient political will for transitional justice. The sanctioned individuals (for human rights abuses) include: Marial Chanuong as the new head of army operations, training and intelligence, Santino Deng Wol as the head of ground forces, Gabriel Jok Riak as the deputy chief of defence, and army commander Reuben Malek as new deputy Defence minister.

On the other hand, Mehler (2008) warns that allowing non-state groups or rebels a share of state power, power sharing creates an incentive structure for would-be leaders to embark on insurgent pathways to power, thereby reproducing insurgent violence. Already, the initial ARCSS faced this challenge, leading to more contenders for state power in the R-ARCSS (from initial four to five, and still more who are yet to subscribe the R-ARCSS).

Besides, the SSOA has already experienced splintering as the initial alliance of nine political parties, has been reduced to seven, thus two emergent factions. One faction of SSOA, led by General Thomas Cirilo, has even rejected the R-ARCSS, and the remaining faction, led by Gabriel Changson, (signatory to R-ARCSS) is also experiencing leadership wrangles since the November 30, 2018 election of Peter Gadet Yaka as his successor was contested on grounds of him being 'sanctioned' by the United Nations. Therefore, peace guarantors need to protect the R-ARCSS from factionalisation that might recreate insurgent groups and violence, and bring on board non-signatory parties such as the Cirilo-led SSOA faction.

## Conclusion

The R-ARCSS is a promising peace settlement and has transformative elements, such as institutional and constitutional reforms, which if faithfully implemented, South Sudan might achieve peace and stability, and embark stably on economic recovery and development.

## Recommendations

For long term political stability in South Sudan, the following options should be explored by political players in the country:

1. Adoption of a consociational parliamentary democracy through constitutional review, in which certain executive powers can be shared to constituent ethnic groups in the country (for instance positions of President, Vice President, Prime Minister, Deputy Prime Minister, and Speaker of National Legislature can be established).
2. Review the formula of power sharing at state and local levels as provided in the R-ARCSS, and base it on the principle of proportionality.
3. Establishment of a permanent ethnic power sharing equation in the security sector, with clear command and structure, after the unification and regularization process.
4. Adoption of the principle of minority veto or mutual veto, to protect ethnic minorities from disenfranchisement.
5. Marshalling of political good will for observance of ceasefire and humanitarian access agreements of December 2017, the implementation of the peace agreement, and transitional justice, for long-term peace and stability. Non-signatory parties should be encouraged to subscribe, and inimical factionalisation which might trigger more insurgent groups coming up or such violence, be adequately prevented through various peace enforcement measures by guarantors of the peace.
6. Reduction of the number of legislative positions, the size of the public service and state boundaries, and decisive action against corruption to help ease economic recovery.
7. Entrenching the principles of constitutionalism, rule of law, equality and justice, and establishing presidential term limits as defining features of South Sudan's democracy.

## Sources

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