

The Role of IGAD in Resolution of the Conflict of South Sudan

By

Tamene Hiboro

Advisor

Mohammed Habib (Ass. Professor)

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Declaration

The author declares that this thesis is the original work and that all sources or materials used for it has been properly acknowledged. It has not been presented in any other university as far as my knowledge is concerning. This thesis has been submitted in partial fulfillment of the requirements LL.M in Public international law at School of Law Addis Ababa University.

Name: Tamene Hiboro Hankillo

Signature

Place: Addis Ababa University

Date of submission: December 2019

Addis Ababa University
School of Law postgraduate program

Approval Sheet

This is to certify that the thesis prepared by Tamene Hiboro Hankillo, entitled: *The role of IGAD in resolution of the conflict of South Sudan* and submitted in partial fulfillment of the requirements for the Degree of Master of Laws (LL.M in Public international law) complies with the regulations of the University and meets the accepted standards with respect to originality and quality.

1. Advisor Mohammed Habib (Ass. Prof.) signature _____ date _____
2. Examiner 1 Dr Demelash Sheferaw signature _____ date _____
3. Examiner 2 Dr Wondwossen Demissie signature _____ date _____

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List of Acronyms

AEC	African Economic Community
ARCSS	Agreement on the Resolution of the Conflict in the Republic of South Sudan
APSA	African Peace and Security Architecture
AU	African Union
CCM	Chama Cha Mapinduzi
CEWARN	Conflict Early Warning and Response Mechanism
CoHA	Cessation of Hostility Agreement
CPA	Comprehensive Peace Agreement
EASBRIG	Eastern Africa Standby Brigade
GOSS	Government of the Republic of South Sudan
GRSS	Government of South Sudan
ICPAT	IGAD Capacity Building Against Terrorism
IGAD	Inter Governmental Authority on Development
IGADD	Inter Governmental Authority on Drought and Development
IMF	The International Monetary Fund
IPSS	IGAD Peace and Security Strategy
JIUs	Joint Integrated Units
JMEC	Joint Monitoring and Evaluation Commission
OAU	Organization of African Unity
RECs	Regional economic communities
RTGoNU	The revitalized transitional government of National unity
SAF	Sudanese Armed Forces
SPLM	Sudan People's Liberation Movement
SPLM – IO	Sudan People's Liberation Movement in opposition
SPLA	Sudan People's Liberation Army
SSP	South Sudanese Pound
UN	United Nations
UPDF	The Uganda People's Defense Force

Abstract

The Republic of South Sudan which has got its independence after long time civil war of Sudan faced another civil war. It only took almost two years for South Sudan to enter into another civil war after the end of the civil war of northern and southern Sudan. The hope of the people of South Sudan to have peaceful life after their independence was not realized. Conflict started in December 2013 between the soldiers of the ruling party and the supporters of the former Vice President Riech Machar after the removal of the former Vice President Riech Machar in July 2013. The main reason for the conflict was power struggle between the two rivals, President Salva Kiir and his former Vice President Riech Machar.

The power struggle soon turned into an ethnic rampage. Immediately after the beginning of the civil war the East African Regional organization, IGAD had started its mediation role to resolve the conflict. IGAD employed different mechanisms of mediation to end the civil war. However, bringing peace in the land of South Sudan has taken long time. The state was under civil war for the last five years. Within this period the conflict resulted in different crisis, such as loss of huge number of human lives, injuries, internal displacement of people, refuge of the people to the different states, destruction of different infrastructure. Despite its continuing efforts of mediation, it was not easy for IGAD to bring peace on the land of South Sudan. There are different factors behind the failure of IGAD's peace process.

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Chapter One

1. Introduction

1.1 The research background and problem

After decades of struggle by the Sudanese people liberation front/army within Sudan due to human right violation, exploitation, corruption and marginalization by the Albeshir's government, the newest nation in the world, South Sudan was born on July 9, 2011. The people of South Sudan had suffered a lot in search of peace, stability and development. Meanwhile, the referendum of South Sudan did not save the country from entering into another form of chaos and instabilities. Within two years of independence the country had got into a civil war. This has been triggered by the political division that has been erupted between President Salva Kiir and the former Vice President Riek Machar. Though the beginning of the conflict was because of the power competition between the two presidents, later it has changed into an ethnic conflict.

IGAD, the east African regional organization is established, among others, to promote peace and stability in the eastern Africa sub-region and create mechanisms within the Sub-region for the prevention, management and resolution of inter and intra-State conflicts. IGAD has better experience in resolution of the north and south Sudan conflict. It has played significant diplomatic effort in resolving the civil war of north and south Sudan which was held from 1955 to 2005.

After the failure of the effort of OAU Abuja peace talks which was aimed at finding solutions for the civil war of Sudan held in 1992-1993, the Sudanese government approached the regional body of the Inter-Government Authority on Drought and Development (IGADD) during its 1993 summit, asking its leaders to mediate in the Sudanese conflict.¹ In response, an IGAD sub-committee on conflict resolution was established and included the presidents of Kenya, Uganda, Eritrea, and Ethiopia. It was IGAD's first political mediation effort.² The Sudanese government had agreed to IGAD's diplomatic initiative.

Despite its concerns about IGAD's disposition toward the Sudanese government, the Sudan People's Liberation Movement/Army (SPLM/A; the movement that led the southern rebellion during the second phase of the civil war) participated in the mediation process. IGAD's

¹ Irit Back, 'IGAD and South Sudan: Success and Failure in Mediation' in Bruce Maddy- Weitzman (ed), *An update on middle eastern developments* , Vol. 8, No. 23 (2014)

² Ibid

active mediation, combined with the unanimous support of the AU was translated into the 2005 Comprehensive Peace agreement (CPA) between the south and the north that eventually resulted in South Sudan's declaration of independence on July 9, 2011.³ South Sudan's independence was an historic development, one that challenged the sacred African post-colonial principle of the sanctity of colonial borders.

It would not have been achieved (and certainly not with the same speed and efficiency) without the active mediation efforts of IGAD and many AU members, which largely supported the south Sudanese claim against the northern ruling elite.⁴ As an organization having experience from the conflict resolution of Sudan IGAD didn't take long time to involve in mediation after the broke out of the conflict in South Sudan. IGAD was the first regional organization to react for peaceful resolution of the conflict. Mediation efforts under the auspices of IGAD resulted in several ceasefire agreements between the warring parties of South Sudan.

IGAD involved in resolution of the conflict of south Sudan at the earliest stage of the conflict. It was the first international organization to react to the conflict of south Sudan. IGAD has prepared many mediation rounds to solve the conflict between the group supporting the government of Salva Kiir and the opposing group led by Riek Machar. Despite its continuous mediations, it has taken long time for IGAD to bring peace in south Sudan. It was common to hear violation of agreements immediately after the conclusion of agreements. The groups blame each other for the failure of respecting the agreements.

The conflict continued for the past five years and it resulted in the death of many innocent individuals, soldiers involved in the conflict, destruction of the infrastructures, refuge of many citizens to the neighboring countries, and internal displacement of many citizens. This multi-dimensional intra-state conflict calls the sub-regional, regional and the international community to play a role in resolving the conflict. The fighting between the warring parties never ceased utterly following the signing of the Cessation of Hostility Agreement (CoHA). Despite the numerous warnings from the mediation team, the fighting went on unabated.

The government forces mostly committed the violations, but IGAD did nothing to stop them. It even stated that punitive measures are unhelpful which makes one wonder how it would

³ Ibid

⁴ Ibid

put an end to the violations. To many, IGAD handling of the situation is nothing but appeasement of the government of South Sudan.

1.2 The research objective

General objective

- The general objective of this research is to examine the roles IGAD played to resolve the conflict of south Sudan.

Specific objectives

- Examine scope of mandate of IGAD regarding conflict within member states in the case of South Sudan
- Evaluate effectiveness of efforts made by IGAD to bring durable peace in south Sudan.
- Explore why the undertakings of IGAD to bring peace in south Sudan have taken long time
- Explain whether or not the legal and institutional mechanisms of IGAD prove effective for enabling IGAD to undertake its mission in South Sudan.

1.3 The literature review

Following the broke out of conflict in South Sudan in December 2013, IGAD took the lead to respond to the conflict. It dispatched a Ministerial Delegation to Juba on 19 December 2013.⁵ Starting from this very early day IGAD served as a forum for different cease fire and peace agreements of the conflicting parties of South Sudan.

Power struggle, ethnicity, natural resources and corruption are among the factors that caused the conflict of South Sudan.⁶ The struggle for political power between President Salva Kiir and his former vice, Riek Machar is at the root cause of the violent conflict of South Sudan. After the death of John Garang, the leader of SPLM in 1983, Salva Kiir became the leader of SPLM, who then led South Sudan to achieve independence in 2011.⁷ After gaining

⁵ Mehari Taddele, *Potential Causes and Consequences of South Sudan becoming a “Failed State”: Political and Legal Transformation from a Liberation Movement to a Democratic Government* (Eleven International Publishing, 2015) 32

⁶ Timothy T. Kulang, South Sudan: *The dilemma of a protracted social conflict* (2018) Journal of Economic and Social Thought Vol 5 Issue 3 268

⁷ Ibid

independence, Salva Kiir became the president, while Riek Machar became his vice. Riek Machar viewed the leadership of Salva Kiir as reckless and autocratic.⁸

Ethnicity has been the simplistic explanation of the conflict in South Sudan. Kiir who belongs to the ethnic group of Nuer and Machar who belongs to the ethnic group of Dinka has manipulated their political interest and differences and present them in favor of ethnic nationalism, mobilizing their kinsmen into participating in a violent conflict.

As many African countries, natural resources in South Sudan resulted in high level of corruption among government officials. In South Sudan, the oil revenue constitutes 98 percent of the national budget and practically all foreign currency earning.⁹ Thus, South Sudan has the most oil-dependent budget in the world.

The literatures written yet on the subject matter relate the conflict with seek for political power by the leaders of the two conflicting groups. Following his removal from the position of Vice President by the Salva Kiir, Riek Machar organized his supporters to fight with the government. Then the conflict turned in to ethnic conflict between the ethnics of Dinka and Nuer.¹⁰ Within short time after the conflict started IGAD involved to seek solution for the conflict. IGAD has arranged different forums so that the leaders of the two conflicting groups discuss to seek solution for the conflict. At the end of the meetings the two parties agree to cease fire and continue peaceful negotiations to bring peace within the nation. But within short times after conclusion of the agreements the parties found involved in the conflict. One group accuses the other group for the violation of the agreements.¹¹

It was found difficult task for IGAD to bring peace within the land of south Sudan. Under this paper why was the efforts of IGAD to bring peace within the land of south Sudan was not successful will be examined. Within this work I will try to answer what factors contributed for the failure of IGAD to realize peace within south Sudan.

⁸ Koos, C. & Gutschke, T. (2014). *South Sudan's newest war: When two old men divide a nation*, German Institute of Global and Area Studies (GIGA), Focus No.2. 35

⁹ Wel, P. *Oil dependence is South Sudan's boon – and bane* (2013). 25

¹⁰ Muhabie Mekonnen , *The role of regional economic communities in conflict resolution in Africa: the case of IGAD's peace process in south Sudan*, Global Journal of Political Science and Administration. , Vol.6, No.1, (2018) .23

¹¹ Knopf , *Ending South Sudan's Civil War*, Council Special Report No. 77 (2016) 8

1.4 The research question

After the beginning of conflict in south Sudan, IGAD has prepared many negotiation forums to resolve the conflict. During the negotiation the parties agree to cease fire and continue peaceful negotiation. But they were found involved in the conflict after negotiation. Therefore, the following questions will be answered within this thesis.

1. What is the scope of IGAD regarding conflicts that arise within the individual member states?
2. What are the reasons that justified the intervention of IGAD in the conflict of South Sudan?
3. What specific actions did IGAD took for resolving the conflict of south Sudan?
4. Why the efforts of IGAD were not effective to ensure sustainable or durable peace in south Sudan?

1.5 The research method

In developing the thesis different books, articles, journals and international conventions are consulted. Hence the researcher employed doctrinal method of research. As this research is legal research qualitative method is used mainly. But this doesn't mean that quantitative method is employed. There are instances in which quantitative method is employed. Different internet websites are explored to access information with regard to the nature of conflict in south Sudan and the efforts of IGAD in resolving the conflict. In addition, consultation of reports of different international and regional organizations on the situations in south Sudan are made as secondary sources of data.

1.6 The thesis organization and size

The thesis is organized in five chapters. The proposal forms the first chapter in the thesis. In Chapter two deals with Inter-Governmental Authority on Development (IGAD); formation of IGAD, purpose and Functions of IGAD, its mandate in resolving conflict are discussed. In chapter three the conflict in South Sudan is discussed. Under this chapter the causes of the conflict, parties of the conflict, and the consequences of the conflict are addressed. Chapter four deals with the role of IGAD in resolution of the conflict of South Sudan. Under this chapter the mediation efforts of IGAD, analysis of the efforts of IGAD in resolution of the conflict of South Sudan are addressed. Under Chapter five conclusion and recommendation are dealt with.

Chapter Two

2. Inter-Governmental Authority on Development (IGAD)

2.1 Formation and purpose of IGAD

Intergovernmental Authority on Drought and Desertification (IGADD) was founded by the then drought afflicted eastern African countries Djibouti, Ethiopia, Kenya, Somalia, Sudan and Uganda in 1986 with its head quarter in Djibouti. The aim of IGADD was to engage in coordinated efforts managing drought and development across the eastern Africa sub-region with a focus on food security.¹² IGADD was superseded by Inter-Governmental Authority on Development (IGAD) in 1996 as one of Africa's sub-regional organizations. IGAD has an expanded mandate that included conflict resolution.¹³ After its independence, the State of Eritrea was admitted as the seventh member of IGADD at the fourth Summit of Heads of State and Government in Addis Ababa, in September 1993. South Sudan also admitted as a new member of the authority in 2011.

IGADD's aim was simply to provide coordinated efforts managing drought and development across the Eastern Africa sub-region with a focus on ensuring food security.¹⁴ After ten years, in 1996, IGADD evolved into IGAD, which produced a much broader mandate that embrace cooperation in almost all socio-economic, political and environmental fields.¹⁵ The Treaty Establishing the African Economic Community (AEC) in June 1991 (Abuja Treaty) that foresaw the formation of a common economic community for the whole of Africa had played its role in the development of IGAD.

The Abuja Treaty accorded special recognition to the role of the existing regional economic communities (RECs) and also highlighted political stability as an important component for development in the post-Cold War era. The 1992 Rio UN Summit which led to the UN Convention to Combat Desertification also contributed its role in the development of

¹²Agreement Establishing Inter-Governmental Authority on Drought and Development Eastern Africa, Preamble and art 7. 1986

¹³ Ibid, Preamble

¹⁴ Ibid, art.7

¹⁵ Isaac Weldesellassie, *IGAD as an International Organization, Its Institutional Development and Shortcomings*, Journal of African Law, (School of Oriental and African Studies, 2011), Vol. 55, No. 1, p. 1

IGAD.¹⁶ In promoting and implementing both the AEC and the convention, the sub-regional groupings were given special impetus and high priority.

However, IGADD's structure and capacity was not adequate in that it was not capable of implementing its proposed five year programme (1992-96) and its secretariat had only 12 professionals without any significant operational potential.¹⁷ At the beginning of 1995 it clear that the original IGADD mandate required revisiting to enable the organization to deal with emerging sub-regional challenges. The IGADD heads of state and governments opened an extraordinary summit on 18 April Addis Ababa, Ethiopia, and signed a declaration to revitalize and expand IGADD's mandate, taking into account both political stability and development issues.¹⁸

On 21 March 1996, at the extraordinary summit held in Nairobi, Kenya, the Assembly of the State and Government finalized the process and a new Agreement Establishing the IGAD was adopted with a new structure and an expanded mandate. The Agreement significantly upgraded IGADD's old legal status, governance structure and mandate. IGAD was established for achieving peace, prosperity and sub-regional integration.

Beginning from its inception, IGAD has assumed strong institutional frameworks so as to address inter- and intra-state conflicts in the region. In its 2003 summit, the heads of states and governments had reached a consensus to launch the Peace and Security Strategy, which aimed at resolving conflicts, maintaining peace and security and synchronizing the peace-building processes.

The IGAD's peace and security framework is based on the Peace and Security Council of the UN and the AU as well as IGAD-specific agreements and mechanisms such as the Protocol on the Conflict Early Warning and Response Mechanism (CEWARN, 2002), the policy framework for the Eastern Africa Standby Brigade (EASBRIG, 2005) and IGAD Capacity Building Against Terrorism (ICPAT). By adopting all these protocols and agreements, the Peace and Security Strategy of IGAD entails to promote collaboration in peace and security threats, strengthening the potential of member states in early warning conflicts, if not resolving them.

IGAD consists of different bodies in its institutional makeup. The first one is IGAD heads of state and government or IGAD summit which is the highest policy making body. IGAD

¹⁶ Ibid 3

¹⁷ The IGADD 5-year programme 1992-1996 (1992, IGAD)

¹⁸ Weldesellassie (n 15) 3

summit held at least once a year to pass significant political and economic decisions.¹⁹ The second body is Council of Ministers, which is composed of the ministers of the foreign affairs of and one other focal minister designated by each member state. This body is responsible for making recommendations to the Assembly on matters of policy aimed at the efficient functioning and development of the Authority.²⁰

The third body is the Committee of Ambassadors, which is composed of IGAD member states' ambassadors accredited to the IGAD headquarters in Djibouti. It is a body in which advise the Executive Secretary on the promotion of his efforts in realizing the work plan approved by the Council of Ministers.²¹ Indeed, the Committee of Ambassadors is the only standing policy making body that oversees policy-relevant initiatives that the IGAD secretariat undertakes and ensures implementation by the secretariat of the decisions of IGAD's main policy bodies.

The final standing body of IGAD is the secretariat, which is responsible for assisting member states in formulating regional projects in the priority areas, facilitating the coordination and harmonization of development policies, mobilizing resources to implement regional projects and programs approved by the council, and reinforcing national infrastructures necessary for their implementation.²² Headed by an executive secretary, the secretariat is organized into three substantive divisions: Peace and Security, Economic Cooperation and Social Development, and Agriculture and Environment. As it will be discussed in the following section, much of IGAD's visible work has been in the areas of peace and security.

2.2 The mandate of IGAD to resolve conflict under the frameworks of UN and AU

The main purpose of establishment of UN is to maintain international peace and security, and to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace.²³ As the purpose of UN is protection of peace and security of the globe it encourages the efforts made by regional organizations to maintain peace and security in their respective region. That is why the Charter

¹⁹Agreement Establishing Inter-Governmental Authority on Development, Art 9, 1996

²⁰Ibid Art 10

²¹Ibid Art 11

²²Ibid Art 12

²³ United Nations Charter, Art1 (1), 1945

clearly stipulates that regional arrangements or agencies can deal with matters relating to the maintenance of international peace and security as are appropriate for regional action.²⁴

UN Charter doesn't preclude the action of regional organizations made for the purpose of protection of peace and security of the region. IGAD, as east African regional mechanism established for, among others, promotion and protection of peace and security in the region have lawful mandate to intervene in when peace and security of its member states is under threat.

When we come to the AU continental system, the legal basis and instruments that define the relationship between the AU and its RECs include the Constitutive Act, the Protocol Relating to the Establishment of the AU Peace and Security Council and the Protocol on Relations between the African Union and the Regional Economic Communities.

The Protocol on Relations between the African Union and the Regional Economic Communities sets out the objectives as to: formalize, consolidate and promote close cooperation among the RECs and between them and the Union through the coordination and the harmonization of their policies, measures, programs and activities in all fields and sectors and to establish a framework for coordination of the activities of the Regional Economic Communities. Article 16 of the Protocol Relating to the Establishment of the AU Peace and Security Council provides for the relationship with regional mechanisms for conflict prevention, management and resolution. It states that the Regional Mechanisms are part of the overall security architecture of the Union, which has the primary responsibility for promoting peace, security and stability in Africa. From this provision of the protocol one can understand that the AU continental system empowered the IGAD, the East African regional economic community to respond on violations of peace and security in the region.

2.3 The mandate of IGAD to resolve interstate and intra state conflict in the region

History of the Eastern African region shows that the region is highly exposed to conflict. The causes of conflicts and insecurity in the region are external and internal factors. They include the legacies of colonial rule and the Cold War, the International Monetary Fund structural adjustment policies, and continuing superpower interference in the region including the war on terror) to structural factors such as socio economic deprivation and inequalities, lack of democratic governance and rule of law, and the non-inclusive organization and control of state

²⁴Ibid Art 52 (1)

power heavily reliant on force.²⁵ According to the IGAD Peace and Security Strategy (IPSS), all major conflicts in the region ... emanate from factors associated with gaps in democratic governance, poverty and low levels of development, a political culture of intolerance and lack of respect for the rule of law.²⁶ Other factors it identified are the colonial and Cold War legacies including lack of trust and rivalry among countries of the region, low penetration of state institutions in peripheral areas, and communal struggle over access to resources such as land and water.²⁷

As the problem of peace and security is prevalent in the IGAD region, the main reason for transforming IGADD to IGAD was the need for addressing conflict within regional cooperative frame work. IGAD member states at the extra ordinary summit held in April 1995 at Addis Ababa decided to invest the regional body with peace and security mandate. The 1996 IGAD Agreement gave significant space to peace and security. The agreement has the principles of peaceful settlement of inter- and intra-state conflicts through dialogue and maintenance of regional peace and security.²⁸

Among the objectives of the regional body was “to promote peace and security in the region and create mechanisms within the sub-region for the prevention, management, and resolution of inter and intra-state conflicts through dialogue.”²⁹ Conflict resolution was given an important place under article 18 of the agreement providing that member states shall take effective collective measures to eliminate threats to regional co-operation, peace and security; establish an effective collective mechanism for consultation and co-operation for the pacific settlement of differences and disputes; and deal with disputes between member states within this sub-regional mechanism before they are referred to other regional or international organizations.”³⁰

IGAD is one of the eight regional bodies recognized by the African Union (AU) as building blocks for continental integration, including in the areas of peace and security. The African Peace and Security Architecture (APSA) of the AU as a comprehensive mechanism for

²⁵Solomon Ayele, *East Africa and the Intergovernmental Authority on Development, Mapping multilateralism in transition* (International peace institute, 2014) 8

²⁶Intergovernmental Authority on Development, Peace and Security Strategy 2010–2014, January 19, 2010.

²⁷Ayele (n 22) 9

²⁸IGAD agreement (n 19) Art. 7(g)

²⁹Ibid Art 7(d)

³⁰Ibid Art 18

conflict prevention, management, and resolution offers a useful lens for assessing the peace and security mechanisms envisaged within the IGAD Agreement.³¹

APSA is the policy and institutional framework that the AU established as “an operational structure for the effective implementation of the decisions taken in the areas of conflict prevention, peacemaking, peace support operations and intervention, as well as peace-building and post-conflict reconstruction.”³² The APSA as elaborated in the protocol establishing the Peace and Security Council (PSC) consists of mechanisms that are designed for conflict prevention, management, and resolution.³³ The institutional mechanisms constituting the APSA principally include the PSC, the continental early warning system, a panel of the wise, and the African Standby Force.³⁴

While the PSC serves as the principal decision-making body on matters of peace and security, the other components provide early warning and analysis; implement peacemaking and mediation; and undertake peace support operations and intervention. If the IGAD framework is analyzed using the APSA lens, then it becomes clear that IGAD has not fully implemented the provisions of its agreement stipulating the creation of mechanisms “for the prevention, management, and resolution of inter- and intra-state conflicts.” IGAD does not have a body comparable to the AU PSC that is principally designed for taking decisions on peace and security matters in the region. There is no indication that IGAD will have any similar structure. In practice, this responsibility is undertaken by the principal policy body of IGAD, namely the IGAD Assembly of Heads of State and Government (with the support of the Council of Ministers).

In terms of early warning and response, similar to the AU, IGAD has developed an early warning system known as the Conflict Early Warning and Response Mechanism (CEWARN). CEWARN was established in 2002 by a protocol signed and later on ratified by the IGAD member states. According to the protocol establishing CEWARN, the mandate of IGAD includes

³¹Solomon Ayele, ‘The African Peace and Security Architecture,’ in Tim Murithi (ed), *Handbook of Africa’s International Relations* (New York: Routledge, 2014), 8

³²*African Union, Protocol relating to the establishment of the Peace and Security Council of the African Union*, para. 17, July 9, 2002

³³Ayele (n 31) 51

³⁴*Ibid*

providing “credible, evidence-based early warning information and analysis in a fashion that would inform timely action to prevent or mitigate violent conflict.”³⁵

IGAD does not have a body or mechanism that is dedicated to mediation and peacemaking roles. However, it has been engaged in peacemaking and mediation efforts throughout its existence. This is perhaps the area that IGAD is considered to have made its most notable achievements,³⁶ although initiatives in this area have been dependent on the political and diplomatic role of individual member states and the support or push of external partners.

The lack of an institutional framework and the ad hoc nature that characterizes IGAD’s work in this area continue to undermine the building of institutional memory and development of institutionalized capacity and expertise by the regional body. As the IPSS itself admitted, IGAD’s efforts “have been reactive [and] lack continuity and institutional memory due to the ad hoc approach [...] pursued so far.”³⁷

While it is clear that IGAD has not achieved the same level of progress in its three areas of engagement, its role has received increasing recognition both from member states and external actors. It is one of the eight regional economic communities recognized by the AU as the building blocks for continental integration. Forming part of the APSA and establishing itself over the years as the platform for regional action in dealing with peace and security challenges of its member countries, IGAD’s role in peace and security is well established and continues to receive continental and international support including from the AU and the UN.

The AU’s peace and security architecture provides the broader institutional setting within which IGAD and Africa’s other regional organizations operate. The regional mechanisms are formally recognized as part of this architecture and the PSC is required to harmonize its activities with them.³⁸ In practice the AU looks to the sub-regional organizations to lead on crisis management within their own regions. This has certainly been the case in the Horn of Africa, where the PSC has consistently endorsed all the initiatives emanating from IGAD.³⁹

³⁵Ayele (n 31) 8

³⁶Ibid 9

³⁷Ayele (n 25) 8

³⁸African Union, Protocol relating to the establishment of the Peace and Security Council of the African Union (n 23) Art 16

³⁹Healy, *Peacemaking in the midst of war: An assessment of IGAD’s contribution to regional security in the Horn of Africa, Regional and Global Axes of Conflict*, Working Paper no. 59 (Royal Institute of International Affairs, 2009),

The African Peace and Security Architecture is composed of various sub regional elements and structures. The future potential for these African partners may get ground to act effectively in peace and both geographically and functionally. Establishing EASBRIG one; making EASBRIG operational and building the necessary capacity for it to achieve the final scenario capacities, involving AU regional peacekeeping forces is another matter. In this regard, one of the priorities for peace and security in the IGAD sub-region in particular, and in Africa in general, is creating synergy between these existing organizations, enabling them to complement and support one another.

It has already been noted that the IGAD region is primarily known for the short supply of peace and security within and among its member states. There are different types of conflict in the region. These are interstate conflicts, intrastate conflicts involving armed insurgency and terrorism, the protracted violence and insecurities affecting Somalia and its neighboring countries arising from years of state collapse and intra-Somalia and regional violent rivalry, and trans boundary inter communal resource conflicts aggravated by food insecurity and environmental degradation.

The security challenges of the countries of the region are deeply interconnected. There are no major conflicts in these countries that are ordinarily confined to national borders. Instead, such conflicts often both spill over into neighboring countries and tend to draw countries in the region into the fray, particularly if they are not settled in a short period of time. The conflict that erupted in South Sudan in December 2013 serves as the latest illustration of this phenomenon. Given that peace and security are generally in short supply in the region, it was no surprise that peace and security came to take center stage in IGAD's integration agenda.

The success that IGAD registered in the peace processes on Sudan and Somalia and the opportunity it presented for member states to push for a regional effort for addressing conflicts prevalent in the region were the major factors for the prominence that peace and security received in IGAD. Indeed, as noted previously, one of the major factors behind the transformation of IGADD into IGAD with an expanded mandate was the need for addressing conflicts within a regional cooperative framework.

It was at the extraordinary summit held in Addis Ababa in April 1995 that the decision to invest the regional body with a peace and security mandate was adopted. The 1996 IGAD

Agreement gave significant space to peace and security. Two of the principles of the agreement are “the peaceful settlement of inter- and intra-state conflicts through dialogue” and “maintenance of regional peace and security.”⁴⁰

One of the objectives of the regional body was “to promote peace and security in the region and create mechanisms within the sub-region for the prevention, management, and resolution of inter and intra-state conflicts through dialogue.”⁴¹

Conflict resolution was given a primary place with a dedicated article and agreement among member states to (a) take effective collective measures to eliminate threats to regional co-operation, peace and security; (b) establish an effective collective mechanism for consultation and co-operation for the pacific settlement of differences and disputes; and (c) deal with disputes between member states within this sub-regional mechanism before they are referred to other regional or international organizations.⁴²

2.4 Intervention of IGAD in South Sudan intra state conflict

This section addresses the justifications for the intervention of IGAD in the intra state conflict of South Sudan. Under this section what stage of conflict would warrant the intervention of IGAD are discussed. The fighting initially caused by the power struggle between President Salva Kiir and Dr. Riek Machar broke out on the evening of 15 December 2013 and soon spread throughout Juba city over the next couple of days. On 19 December 2013, the Heads of State and Government of the Intergovernmental Authority on Development (IGAD) rushed to Juba, South Sudan, for an emergency three-day intervention to stop what has become accepted as the “ethnic cleansing” of Nuers by mainly Dinka armed elements associated with the Government of the Republic of South Sudan (GOSS).⁴³

IGAD’s intervention also confirmed the structural integration with the characteristics of the conflict as well as demonstrating the organization’s sub-regional mandate to maintain peace and security contained in the regional founding documents and inherent mandate. It is also true that the intervention by IGAD member states was at each country’s expense including subsequent support from the existing peace fund. The priority for IGAD was, therefore, to

⁴⁰Agreement Establishing the Inter-Governmental Authority on Development (n 19) Art. 6

⁴¹Ibid Art. 7(g)

⁴² Ibid Art. 18

⁴³Journal of African centered solutions in peace and security, Vol. 1(1), issue 1 (Addis Ababa University institute for peace and security, 2016), 3

restore the stability of the collapsing central government while responding to humanitarian distress as it sought to curb the ethnic massacre between the Dinkas and the Neur that had the potential to engulf not only the country but also the sub-region.

Such interventions would be guided by the responsibility to protect and prevent genocides. According to this doctrine, countries have a responsibility to intervene in other countries when crimes against humanity or genocides are being perpetrated.

Therefore, the intervention of IGAD in the intra state conflict of South Sudan can be justified by the above reasons. The responsibility to protect civilians lies with the government of South Sudan, but if the state fails to protect its civil population, it should seek assistance from the international community, neighbors and the region to discharge its role of civilian protection.

It is in this context that the IGAD is assisting South Sudan to end the conflict and protect its citizens. However, if a state is unwilling to protect its citizens and the state is complicit in committing crimes against humanity, genocide and ethnic cleansing, the international community has the responsibility to protect civilians.⁴⁴

⁴⁴<<https://www.voanews.com/archive/un-official-peacekeepers-south-sudan-not-intervention-force>>accessed 10 December 2019

Chapter Three

3. The conflict in the Republic of South Sudan

3.1 Birth of South Sudan as an independent state

Prior to 9 July 2011, the territory that now comprises South Sudan was the sovereign territory of Sudan. Security forces operating in South Sudan were composed of both the Sudanese Armed Forces (SAF) - the armed forces of Sudan and the Sudan People's Liberation Army (SPLA) - the armed forces of South Sudan which were combined in 2007 to form the Joint Integrated Units (JIUs) under the joint control of the governments of Sudan and South Sudan. The Republic of South Sudan became an independent state on 9 July 2011 when it completed its secession from the Republic of Sudan. The creation of the new country followed a referendum held in January in which citizens of Southern origin voted in favor of independence. Power sharing arrangement was made by the 2005 Comprehensive Peace Agreement (CPA).

On Independence Day July 9 the president signed into law the transitional constitution, which provides for an executive branch headed by a president, a bicameral national legislature, and an independent judiciary. After independence the SPLA became the national defense force of South Sudan and continued to be composed of various ethnic groups. Indeed, independence was the only way to liberate the country from decades of human right violation, exploitation, corruption and marginalization by the Albeshir's government.⁴⁵ Meanwhile, the referendum of South Sudan did not save the country from entering into another form of chaos and instabilities. Within two years of independence the country had got into a civil war.

3.2 Causes of the conflict

After South Sudan seceded from Sudan, there was a power sharing between the two largest ethnic groups of South Sudan - Nuer and Dinka wherein Salva Kiir who belongs the ethnic Dinka has been appointed as a President of the country and Reik Machar from the ethnic Nuer appointed as a vice president. Nevertheless, members of the Sudan People's Liberation Movement (SPLM) party had blamed Kiir of dictatorial and ethnic tendencies. As a result, President Kiir dismissed the entire cabinet and Vice-President Riek Machar. This was the

⁴⁵ Mekonnen, (n 10) 22

fundamental cause for the eruption of the civil war between Nuer and Dinka members of the presidential guard. Then after, the fighting spreads all over the country.

The leaders of the ruling party – SPLM that call for reforms were fired by chairman of the party –Salva Kiir from both the party leadership and the government. Many of the party officials had been demanding that President Kiir, himself the chairman of the party, convenes a meeting of the Political Bureau to sort out the differences between the chairman and over two thirds of its members. These leaders held a press conference on December 6th, 2013 in which they accused the president of running the party in ways that violated the party constitution.⁴⁶ In December 15th, 2013 fighting broke out within the presidential guard in Juba and had spread to Greater Upper Nile within two days.⁴⁷

The violence that was begun within a single military unit rapidly spread to other branches of the armed forces in other states. Though the beginning of the conflict was because of the power competition between the two presidents, later it has changed into an ethnic conflict. As a response to the dispute, a number of peace talks and ceasefires were put into place to curb the disputes. The conflict resulted in a killing of thousands of peoples and displacement of millions of peoples and almost half of the population of the country let to rely on aid.

3.3 The Transitional Constitution of the Republic of South Sudan

On 9 July 2011, the independence day of South Sudan, the president signed the transitional constitution that established the presidential system of government. The constitution established the decentralized system of government that consists of national level of government, state level of government and local level of government.⁴⁸ The National level exercise authority in respect of the people and the states; the state level of government, exercise authority within a state, and render public services through the closest level to the people–the local government. The National Government shall have the National Legislature composed of the National Legislative Assembly and the Council of States, Executive; and the independent Judiciary organs. The constitution empowers the president to remove any time the vice president from power.⁴⁹

⁴⁶Jok MadutJok, *South Sudan and the Prospects for Peace Amidst Violent Political Wrangling*, policy brief, (The Sudd Institute, 2014) 13

⁴⁷ Ibid 12

⁴⁸ Transitional Constitution of South Sudan, Art.47, 2011

⁴⁹ Ibid Art 105(2)

Starting from the secession of South Sudan Kiir and Machar were competing for the position of presidency. Finally Kiir was appointed as president and Machar as Vice president. It was based on the constitutional power that Kiir removed Machar and other high political officials. The decision of Kiir to remove his vice President can be related with his fear of losing the presidency which was an issue since the formation of the new state. Machar and other political officials were challenging the actions of Kiir as dictatorial and in favor of his ethnic. However, Kiir was claiming that Machar and his supporters were attempting to conduct coup d'etat.

3.4 Consequences of the conflict

Under this subsection some consequences that the conflict of South Sudan brought are discussed. The consequences are diverse. But only few are discussed here below as discussing all of the consequences exhaustively needs developing specific work on the subject matter and will be out of the scope of this thesis.

Starting from December 15th of 2013, the day when conflict was broke out the people of South Sudan has faced many crisis. The crisis extend from lose of food stuffs for daily consumptions to lose of life and lose of shelter to live in. The consequence was seriously bad on children and women that were naturally vulnerable for attack. The consequences can be viewed in terms of economic crisis in the state, humanitarian crisis and political instability. Under this section brief will be made on the bad consequences of the conflict in South Sudan.

3.4.1 Humanitarian crisis

The outbreak of the conflict in South Sudan has brought huge humanitarian crisis. Violence and displacement of civilians has become common phenomena in the land of South Sudan because of the Conflict. According to the 2019 Human Rights Watch report the conflict in South Sudan resulted in death of an estimated 400,000 people and left more than 60 percent of the population food insecure, more than 4 million people have fled their homes; seven million people need humanitarian assistance, most of whom faced acute food shortage.⁵⁰ Among those who fled their homes 2.47 million taking refuge in neighboring countries, close to 200,000

⁵⁰<<https://www.hrw.org/world-report/2019/country-chapters/south-sudan>> accessed 28 Dec 2019

people are living in six UN “protection of civilians” sites across the country.⁵¹ Many civilians of the South Sudan including those not directly implicated in the primary political or tribal cleavages that sparked the conflict were victims of the civil war.

Food security crisis in South Sudan had rapidly reached worsening level. In addition abduction of women and children, deaths of many civilians, arms trafficking, robbery by the gang groups as the government structure was not in a position to prevent such crimes and looting of Natural Resources were prevalent problems in South Sudan. Total civilian deaths in South Sudan may already exceed those in Syria, out of a population roughly half that of Syria’s.⁵² Conservative estimates have placed mortality rates in some areas at two to three times the internationally accepted emergency threshold of one death per ten thousand people per day.⁵³

3.4.2 Economic Crisis

The economic situation in South Sudan has reached a crisis level and analysts in South Sudan do not see a reversal in the near term. The International Monetary Fund (IMF) warned in June 2016 of “a risk of total economic collapse” and a macroeconomic situation in which “imbalances are large and economic buffers are exhausted.”⁵⁴ Foreign exchange receipts and government revenues, over 98 percent of which come from oil sales have plummeted as the war has disrupted oil production. With government expenditures, primarily on security budgets, outstripping revenues by significant proportions, a lack of foreign exchange has put South Sudan on course for a possible economic collapse.

Such an event could have disastrous implications for the central government leading to a variety of unknown political and military outcomes. International lenders are reticent to support the government of South Sudan under existing policies and in the context of civil war. With less cash distributed from government salaries to ‘trickle down’ to social dependents, and a

⁵¹ Ibid

⁵² Knopf (n 11) 15

⁵³ Office of the Deputy Humanitarian Coordinator for South Sudan, “Crisis Impacts on Households in Unity State, South Sudan, 2014–2015: Initial Results of a Survey,” 2016, 21–23

⁵⁴ Aide-Memoire, ‘International Monetary Fund 2016 Article IV Consultation with the Government of the Republic of South Sudan’ 2016

generalized reduced purchasing power of the South Sudanese Pound (SSP), already struggling urbanites will be thrust deeper into poverty and food insecurity.⁵⁵

3.4.3 Political Instability

The economic crisis places extreme pressures on the stability of the central government, and associated patronage networks in South Sudan, as less cash is available for political allegiance and basic functioning of government.⁵⁶

Despite a constitutional amendment extending the President's term of office to 2017, the suspension of elections in 2015 has raised questions about the legitimacy of the state governors.

A legal 'solution' will certainly be created to solve this constitutional challenge, but as the conflict continues to preoccupy the central government and presidency, the powers of state governors are likely to rise: consolidation of state-level power giving rise to a de facto decentralization process. Indeed, a number of governors already openly challenge policies of the President and central government and an ongoing trend in this direction could lead to unpredictability of organized forces within the various states among other outcomes. Conversely, states with weak or politically opposed governors may not find easy solutions to the question of legitimacy, which could increase instability.

3.4.4 Threat to regional stability

South Sudan's civil war poses an increasingly significant threat to the stability of the Horn of Africa and to the security of strategic U.S. partners in the region, particularly given these partner states' propensity to undertake unilateral military interventions, with unpredictable consequences.⁵⁷ The United States has substantial political, financial, and military investments in the states most affected by South Sudan's war, such as Ethiopia, Uganda, and Kenya. These and other states are already wrestling with crises of their own: the ongoing conflict in Somalia, the escalating war in Yemen, increased volatility in Kenya preceding the 2017 presidential elections, the internal conflicts in Sudan, and deadly political protests as well as devastating drought in

⁵⁵*South Sudan Macro-Conflict Analysis: Informing Operating Assumptions of Humanitarian Action Workshop Outcome Paper*: (South Sudan humanitarian project, 2015) 21

⁵⁶*Ibid* 23

⁵⁷The Uganda People's Defense Force (UPDF) was deployed to South Sudan in the early days of the war and was instrumental in preventing an opposition attack on Juba in January 2014 until its withdrawal in October 2015 as part of the August 2015

Ethiopia. Inter-regional tensions such as the long standing rivalry between Sudan and Uganda and the competition for regional hegemony between Uganda and Ethiopia. Therefore, in addition to the problems of their own, the conflict of South Sudan worsened these problems of states of the region. The war has also stimulated simmering ethnic rivalries in the states where the South Sudanese have sought refuge. Communal fighting broke out on Ethiopia's side of the border with South Sudan in early 2016, and Ethiopian troops were deployed into South Sudan's Jonglei State in April 2016 following intrusion of South Sudanese tribal militia into Gambella region of Ethiopia.

3.4.5 Threats to Humanitarian Protection actors

Humanitarian Protection actors have been operating in an increasingly challenging environment that will likely worsen. There is an alarming trend of insecurity of humanitarian and protection actors in Juba and beyond. A steady increase in car-jacking incidents in Juba has occurred, with very little recourse for victim NGOs, and in the field numerous NGO workers have been detained and mistreated. Most alarmingly, there are clear incidents of killing of South Sudanese national staff. Measures need to be taken and efforts redoubled to advocate for and ensure the safety of humanitarians and ensure their safe access to populations in need.

All sides in the conflict have adopted an increasingly hostile posture to humanitarian presence. The pressure to provide balanced assistance to all communities or in both government and opposition controlled areas has remained a challenge with both parties to the conflict readily accusing the humanitarian community of bias and calling for more assistance to their own communities, whilst at the same time, humanitarian access is routinely blocked by both government and opposition aligned forces.

The tensions between local systems of governance and national political actors has been evident throughout 2015 with all parties to the conflict at local levels behaving contrary to commitments made at more senior levels on issues relating to access, coordination and taxation.⁵⁸ With changing power dynamics, emboldened localized armed actors and the emergence of new power alignments that may seek to exert authority on the humanitarian community, it will be more difficult to balance appropriate engagement with the various

⁵⁸South Sudan Macro-Conflict Analysis (n 55) 25

authorities to ensure integrity of humanitarian action and continuity of operational presence. Potential break downs in the core periphery relationship between the central and state/local governments in GRSS areas will be an issue to increasingly navigate as needs emerge in areas that had previously been considered less affected in the conflict. The expulsion of the UN Humanitarian Coordinator Toby Lanzer on 1 June 2015 for reportedly raising the prospect of economic collapse in South Sudan leaves the humanitarian community in an all too familiar dilemma.⁵⁹

⁵⁹ Ibid

Chapter Four

4. The role of IGAD in resolution of the conflict of South Sudan

4.1 Mediations of IGAD

As an organization having experience from the conflict resolution of Sudan IGAD didn't take long time to involve in mediation after the broke out of the conflict in South Sudan. IGAD was the first regional organization to react for peaceful resolution of the conflict. Mediation efforts under the auspices of IGAD resulted in several ceasefire agreements between the warring parties of South Sudan. The IGAD-led peace process for South Sudan took place in Ethiopia from January 2014 to the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS) was signed in September 2018.

A team of three mediators from IGAD countries (Ethiopia, Kenya, and Sudan) was selected to lead the process. Most negotiating rounds took place in Ethiopia's capital city, Addis Ababa. The mediation process made in January 2014 focused on a cessation of hostilities agreement and the release of a group of high-profile SPLM leaders who had been arrested and remained in government custody. The participating stakeholders were the two main warring parties: the government of President Salva Kiir and the SPLM/A-IO led by Riek Machar.

The agreements held from February 2014 to August 2015 attempted to expand the peace process and its agenda, with the goal of a comprehensive political settlement and structural reforms. In addition to the government and opposition, other stakeholder groups including a group of high-profile SPLM leaders known as "the former detainees, other political parties, civil society, faith leaders, and women's organizations were involved at various stages."⁶⁰ The process took place for more than a year while fighting continued. Neither incentives nor pressure were employed to stop the warring parties from their deadly conflict. After its failure to bring peace by its efforts IGAD decided that international community must involve in the process.

New mechanism of mediation employed and the IGAD mediation was officially reconfigured as "IGAD Plus" in 2015. The "IGAD Plus"—forum includes IGAD members as well as five African Union member states, the United Nations, the Troika (US, UK, Norway), the European Union, and China. But this attempt to expand the forum did little to mitigate the problems at the core of IGAD's mediation effort.

⁶⁰Vertin, *A Poisoned Well: Lessons in Mediation from South Sudan's Troubled Peace Process*(2018).3

Regional heads of state convened six extraordinary IGAD summits during Phase II of the peace process, and US President Barack Obama convened his own in July 2015. After continuous deal of IGAD- plus with the stake holders of South Sudan, an agreement on the resolution of the conflict in the Republic of South Sudan was signed at Addis Ababa, Ethiopia in 17 august 2015.

A Joint Monitoring and Evaluation Commission (JMEC) was established in October 2015 to oversee implementation of the agreement. The JMEC's members included the South Sudanese stakeholders, IGAD member states, the African Union (AU), the United Nations, and the wider set of nations that had formed IGAD Plus. However, implementation of the agreement was slow and become difficult for JMEC to enforce the deal or hold the parties accountable as IGAD heads of state were reluctant to relinquish authority to the oversight body.⁶¹

The UN Mission in South Sudan (UNMISS), with 12,000 troops in South Sudan having a mandate to support for implementation of the peace agreement was to be an important implementing partner.⁶² As per to the power-sharing terms of the agreement Machar returned to Juba in April 2016 but tensions started. Just three months later, the conflict resumed and the capital again descended into violence.

Machar was driven out of the country and the deal was suspended. The fighting continued for more than a year until the next peace deal which as usual couldn't result in peace. IGAD and the wider international community would attempt to "revitalize" the peace process. The revitalization initiative was endorsed by IGAD in June 2017, and a new team of special envoys began consultations in August 2017. However, in the meantime, conflict evolved and fighting spread to new parts of the country areas that had not been directly impacted by the violence.

4.2 The revitalized agreement on the resolution of the conflict in the Republic of South Sudan

Under the auspices of IGAD the revitalized agreement on the resolution of the conflict in the Republic of South Sudan was finally signed in 12 Sep 2018 in Addis Ababa.

⁶¹ Ibid 4

⁶² *In October 2015, the UN Security Council revised UNMISS's mandate to include support for implementation of the peace agreement. UN Security Council Resolution 2241 (October 9, 2015), UN Doc. S/RES/2241*

The peace deal was signed by leaders of the different political groups and by representatives of the IGAD region and the body's secretariat.⁶³ The IGAD leader of the season Ethiopian Prime Minister, Dr. Abiy Ahmed, delivered a stern warning to the parties to ensure that the deal would not fail.

The main actors in the country's politics, incumbent President Salva Kiir and his main opponent former Vice-President Riek Machar, were present at the ceremony. The revitalized transitional government of National unity (RTGoNU) is to be based in the capital of South Sudan, Juba and will be expected to steer affairs of Africa's youngest nation for a period of thirty-six months. The transitional period is expected to commence eight months after the signing of the agreement. The term and mandate of the RTGoNU shall be for the duration of the transitional Period, until such time that elections are held, except as provided for in this Agreement.

The RTGoNU shall hold elections sixty (60) days before the end of the Transitional Period in order to establish a democratically elected government.⁶⁴

When we see the current status of peace in South Sudan after the revitalized agreement on resolution of conflict in the South Sudan, there are improvements though peace is not fully recovered. Even though the conflicting parties signed cessation of hostility and the revitalized peace agreement, the security situation for civilian in South Sudan remains problematic especially for women and children as more than 150 women and girls were raped and suffer other forms of sexual violence within 12 days near northern city of Benitu by armed men wearing uniform.⁶⁵

On Thursday 10 Jan 2019, Gen. Abdullah Ujang, SPLA-IO commander visited Wau state with his accompanying team and told to the Local Eye radio peace has come and that internally displaced persons should return to their homes.⁶⁶ The head of UNMISS, David Sharer told that he believes militia groups are still forcibly recruiting child soldiers. He warned the armed group

⁶³<<http://www.africanews.com/2018/09/12/south-sudan-factions-sign-final-peace-deal-under-igad-supervision/>>accessed 22 December 2018

⁶⁴The revitalized agreement on the resolution of the conflict in the Republic of South Sudan, 28 Aug 2018, Art 1.1

⁶⁵“South Sudan: UN says over 150 women, girls raped in 12 days” ALJAZEERA, (accessed 4 Dec 2018)<<https://www.aljazeera.com/news/2018/12/south-sudan-150-women-girls-raped-12-days-181204074727376.html>>accessed on 29 Dec 2019

⁶⁶ Ibid

to stop recruiting of child soldiers and further added that if we find we will name you and shame you and take an action.⁶⁷

4.3 Analysis of factors for the success and failure of IGAD to bring sustainable peace in South Sudan

So far, IGAD has brokered various ceasefire and conflict resolution agreements between the warring parties. Among all agreements signed by the conflicting parties the latest agreement which was signed in Addis Ababa in September 2018 was relatively effective than the previous agreements. After the conclusion of the latest agreement the conflicting parties are showing their commitment to the agreement except there are some sort of attacks on women and children by militias. South Sudan's peace process is not an easy task. It requires the collaborative effort of the IGAD member states, strong and vibrant institutional frameworks and well-thought out decision making processes. Despite the seriousness of the problem, IGAD's peace process in South Sudan is critically challenged by the following factors, among others.

In general- not specific with the mediation of South Sudan, there are various structural and political challenges those IGAD experiences which contribute for the failure of its mediation process. Such factors adversely affected the efforts of IGAD in the conflict resolution in the region. They include: historical rivalry and continuing antagonism as well as lack of trust among IGAD countries; the proneness of the region to intrastate as well as interstate tensions and conflicts, as the recent outbreak of civil war in South Sudan illustrated; the dependence of IGAD on individual member countries for driving key aspects of its agenda and the resultant lack of institutional autonomy; the limited institutional capacity of IGAD; the absence of a clear regional hegemon, and the poor democratic record of member states and the contested legitimacy of many states and their governments.⁶⁸

IGAD's role in regional economic integration and peace and security in the region will remain weak until these major challenges facing it are addressed.

Therefore, under this section analysis of success and failure of IGAD in resolution of conflict in South Sudan will be made.

When we examine the factors that limited the conflict resolution efforts of IGAD in South Sudan a number of factors account for the inability of IGAD to bring a solution to the conflict.

⁶⁷Alex Crawford, *South Sudan: World's youngest nation struggles to overcome five-year-long civil war*, Sky news, (13 Jan 2019)

⁶⁸Ayele (n 25) 15

Some are deeply rooted in history, culture and political rivalries, and they drive the parties to push for military solutions and to accept ineffective mediation out of self-interest. Another reason is IGAD's incapacity to address the root causes of the conflict; external interference; and the international community's disinclination to become seriously involved. The parties have signed several hostility cessation agreements, which they repeatedly violate.

The competing interests among IGAD member states can be put as a reason for the failure of the peace process of IGAD in South Sudan. The deep-rooted causes of the conflict which IGAD didn't address especially at the earliest rounds of mediation could be mentioned as another factor for the failure of IGAD to bring peace in South Sudan.

Regarding the factor related to history, culture and political rivalries mentioned above, it is possible to identify two interest constellations. One is the rivalry between Kampala and Khartoum. Kampala has invested heavily in the person of Salva Kiir, and will do anything to keep him in power. When the war broke out on 15 December 2013, Museveni wasted no time in sending troops to save his friend; Salva Kiir. Museveni strongly suspects that Machar is being supported by Khartoum. Victory for Machar is seen as a huge security risk by Museveni, who perceives the government in Khartoum as an enemy.⁶⁹ Economically, Uganda has invested heavily in South Sudan since the signing of the Comprehensive Peace Agreement (CPA) in 2005. Uganda is probably South Sudan's most important trading partner. Ugandans work and live in South Sudan in great numbers, so Museveni claimed that sending troops was also to protect its economic interests and citizens.

The rivalry between Uganda and Sudan goes way back to the 1950s.⁷⁰ When the first rebellion in South Sudan began in 1955, it was supported by Uganda. Responding in kind, Sudan supported any Ugandan opposition movement. So it was a common for Khartoum to see Uganda's involvement in the civil war in South Sudan as a great security threat and its strong reaction was hardly unexpected. Not surprisingly, Sudan and Uganda brought their rivalry to IGAD for mediation. Indeed, at the IGAD mediation meeting held on 29 January 2015, it was reported that Kampala and Khartoum had virtually threatened one another. The factors that contributed for the failure of IGAD in bringing sustainable peace in South Sudan will be discussed in the following section.

⁶⁹Redie Bereketeab, 'Why South Sudan conflict is Proving Intractable', The Nordic Africa Institute Policy Note 4, (2015), 2

⁷⁰Ibid 3

4.3.1 Military involvement

Uganda, as a member of IGAD, was confusing whether she is pushing the confronting parties to reach agreement or assisting the Kiir's government on the battlefield. Since the eruption of the civil war in South Sudan, Kampala deployed a military force in Juba. At the outset, the deployment had a cover to deter the escalation of the conflicts in the country. Meanwhile, the long-time operation of the defense force is unclear for most stakeholders of the peace process. But in general, one can estimate that it is one of the hindrances for the IGAD peace process in South Sudan. The rebels and the IGAD member countries except Uganda are continuously requesting to withdraw the force from the country. But Uganda is rejecting their questions for its own self-interests.

Museveni's intervention in South Sudan can be observed from different angles. But most of analysts associate the intervention as strategically designed by Kampala to meet its economic and political interests. Economically, the two countries have a trading partnership and Uganda has a comparative advantage in supplying staples, vegetables, fruits and construction materials. Furthermore, since Museveni has hostility towards Sudan and a long contest with Dr. Machar, he is siding with the South Sudan's government though it is controversial and a hidden mission.⁷¹ Whatever interest Uganda has in South Sudan, but she should not have been poisoned the peace deals extended by IGAD.

The conflict in Sudan has a huge impact on the course of the conflict in South Sudan. Various Sudanese armed opposition groups are accused of involvement in the civil war South Sudan in support of the government against the opposition. Indeed, they are implicated in some of the atrocities committed in Unity State of South Sudan.⁷²

4.3.2 Various interests of IGAD member states

The impartiality of IGAD is seriously questioned not only by the warring parties but also by various communities in South Sudanese society. This is hardly surprising given the vested interests of IGAD member states in South Sudan as well as the historical enmities. Following the peace proposal of 2015, the Nuer Council of Elders reportedly issued a statement criticizing

⁷¹ Mekonnen (n 10) 26

⁷² Bereketab (n 69) 2

IGAD and calling on it to be impartial.⁷³ IGAD was accused of playing three roles: mediator, imposer and party to the war. Governors of the three Equatoria states also paid a visit to Addis Ababa to express their dissatisfaction with the proposal to replace the current vice president with the SPLM-IO leader, Riek Machar. They accused IGAD of siding with Machar.

Ethiopia and Kenya also have strong economic interests in South Sudan, which may be reflected in their mediation calculations. Concerning Ethiopia, there is an additional element that further complicates the situation. The ethnic Nuer Ethiopians support Machar, and this makes Ethiopia's role very sensitive. On various occasions, the Kiir government has accused Ethiopia of supporting Machar.⁷⁴ The two IGAD member countries likely to be impartial are Somalia and Djibouti, but their influence in IGAD is very weak.

Therefore, IGAD is not able to act boldly and firmly, and its mediation has been weak. So, external involvement in the combat has complicated the search for a solution. Ugandan and Sudanese opposition forces are openly fighting on the side of the government, which would explain the intransigence of the government. There are also allegations that Sudan is supporting the opposition.

4.3.3 Lack of trust among the conflicting parties

The deep suspicions and mistrust between the warring parties, particularly between Kiir and Machar, constitute a serious obstacle to finding a peaceful solution to the conflict. In addition to ethnicity, there is also history that goes back to the liberation struggle. This suspicion and mistrust is colossally evident in the negotiation strategies of the parties. It has become abundantly clear that Kiir is adamantly opposed to reinstating Machar, whom he accuses of plotting a coup, as vice president, while Machar, who accuses his ex-boss of committing crimes against the Nuer people in Juba, is not prepared to accept Kiir as president. Deep-seated mutual distrust and suspicion of the warring parties make it difficult for mediators to find middle ground.

The conflicting parties were far apart in what they want to achieve in their negotiations, a reflection of their mutual mistrust and suspicion. A profound difference exists in their goals. The SPLM-IO is aiming at bringing fundamental change to the SPLM and structures of state. They

⁷³ Ibid

⁷⁴ Ibid

thus demand a federal state system; separate armed forces; transitional security; equal power-sharing at all levels; wealth sharing; and dissolving the legislative, judiciary, constitutional review commission and election commission; transitional justice; and a constitution-making process. The Kiir government, on the other hand, opposes these changes and just wants to incorporate the opposition into the existing structure of the SPLM and the state. These fundamental points of difference make the conflict intractable.

4.3.4 Risks of parallel mediation

A simultaneous mediation process has begun in Arusha, Tanzania, under the auspices of the ruling CCM (Chama Cha Mapinduzi). The Arusha process focuses on uniting the SPLM factions, while the Addis Ababa process under the auspices of IGAD focuses on the state of South Sudan. The three SPLM groups (SPLM government, SPLM-IO and SPLM-G11) have agreed to reform the SPLM.⁷⁵ Internal reform of the SPLM was what the opposition was demanding. Although the two mediations focus on two different institutions, there are those who fear that this approach might derail the conflict-resolution.

Two parallel processes of peace mediation carry risks. Unless both mediations are properly coordinated, made complementary, there is the danger that the warring parties will hide behind them or, worse, try to manipulate them. This has been observed in how the parties interpret the Arusha agreement and try to score points off one another. SPLM-IO, for instance, referring to Salve Kiir's admission of responsibility for what happened in Juba in December 2013, demanded his resignation, thereby contradicting the spirit of the IGAD negotiation process. The Kiir government also interpreted the agreement as simple incorporation of the opposition into existing structures, thereby reverting to the pre-July 2013 situation when Kiir dismissed his opponents from the government and SPLM.

4.3.5 The rivalry and internal division among the IGAD member states

Given the fact that there is no regional power in the horn, the South Sudan peace process is suffering from a deep regional division among member states of IGAD. The historical animosity between Sudan and Uganda and the rivalry between Uganda and Ethiopia for leading the deal in front and many uncooperative inter-state relations of the horn are some of the cases that hinder

⁷⁵Ibid 4

the effectiveness of the prior peace agreements. It is also a fundamental cause for member states not to have a common position in the settlement process. Sudan is one of countries that can determine the fate of South Sudan from its geographic proximity, a huge interest of the Albeshir's government on the country and deeply rooted people to people connections. Even though Sudan can work with both the government and the rebels, the support that it provides to the SPLM/A-IO is not accepted by the Kiir's government. But still Sudan will continue to maintain its support for the IGAD mediation process.

The Kenya's longing for the peace deal is to protect its wide-range of economic interests and mounting diplomatic relations in the region and ahead of the region. Most case scenarios indicate that Uhuru Kenyatta has a strategic interest in South Sudan in which he wants to meet that by assisting the country's government than the oppositions and the former dittanies. The other regional power in the region is Ethiopia. With a huge number of population and military power, Ethiopia is acting as a regional power in the Horn of Africa.

Since 2008, Ethiopia is chairing IGAD and leading the peace envoy of South Sudan by its diplomat, Seyoum Mesfin. By deploying a military force in Somalia's and Sudan's civil war, Ethiopia had played a crucial role in the IGAD region. Though Ethiopia is following a neutrality policy, but it has been benefited from securing its western region, which is adjacent to South Sudan. IGAD member states have diverging interests in South Sudan. This self-interest affects IGAD's unity of purpose and ability to take firm and bold actions in the mediation efforts.

From the above analysis, one can understand that the different interests and the competition of member states of IGAD have ruthlessly affected the peace deal in South Sudan.

4.3.6 Violation of the peace agreements by the warring parties

Lack of commitment on the part of the warring parties to adhere to the agreements is the reason South Sudan stays in conflict. For the six years, considerable political capital and economic resource were invested on South Sudan. However, the mission is unsuccessful. The lack of commitment and dwarfed political devotion of the warring parties is the major factor for the fragmentation of the agreement. If these parties worry about their people, who suffered a lot without their sins, even hours are enough to end up the crisis that has engulfed the country since four years ago. IGAD has made many trials to bring South Sudan into peace; however, without

an earnest dedication of the parties in war, bringing sustainable peace in the country may still be challenging.

IGAD's partnership with various stakeholders in the South Sudanese peace process is crucial to influence the warring parties to respect the signed agreements.

4.3.7 Poor Institutionalization of IGAD

It is known that IGAD has established a special envoy for South Sudan to mediate the peace process whereby it is made to be responsible for the Heads of the States. The envoy has shown a good progress in bringing the country into the peace track. However, as soon as the one talk is ended, the envoy is apt to left Addis Ababa. This indirectly means that the peace process stops at that point until the envoy re-assumed in the next time. At this time, the parties in conflict will go for war rather than peace. Furthermore, the International Crisis Group in 2015 identified that the sidebar negotiation of Uganda in South Sudan seriously deters the effective functioning of the special envoys, especially its potential for convincing the warring parties.

At times when the Envoy's relations were strained, the conflicting parties assumed that they would go to the Heads of States, which could by any means undermine the IGAD's capacity to take institutional positions.

4.3.8 The involvement of International community was weak

IGAD is important as a forum to regulate the regional balance of power, but it needs high-level support from the international community if the region is to reach a unified position on peace. IGAD-PLUS is the proposed bridge between an "African solution" approach and concerted high-level, wider international engagement. If it is to overcome the challenges that faced IGAD, its efforts must be based upon regional agreement and directly engage the South Sudanese leaders with greatest influence through both pressure and inducements.

IGAD-PLUS should become a unifying vehicle to engage the ever-shifting internal dynamics in South Sudan more effectively and address the divisions among IGAD members that enable the parties to prolong the war. In particular, the AU high representative might lead shuttle diplomacy within the region to gain consensus on the way forward. A dedicated UN envoy for

South Sudan and Sudan should represent the UN in IGAD-PLUS and coordinate the various UN components' support to the process.⁷⁶

To end this war, a process is needed that seeks common ground, firmly pushes the parties to reasonable compromises. Failure to do so will lead to further violence and fracturing in South Sudan and leave the region without an effective mechanism to mediate its own internal divisions, with devastating consequences for the people of South Sudan and the region.

4.4 Impacts of IGAD's intervention in the conflict of South Sudan

Under this sub section, the impacts brought by the intervention of IGAD in the conflict of South Sudan are discussed. The efforts made by IGAD to resolve the conflict are addressed. As discussed under Chapter two, no one preceded IGAD to involve in resolution of the conflict of South Sudan. Under the mediation of IGAD different agreements were made by the conflicting parties of South Sudan. One can definitely say that IGAD took the lead in the resolution of the conflict of South Sudan. Despite the factors discussed in previous sub section that contributed for its limitations, the current promising peace conditions are the achievements of IGAD. It is clear that currently peace and security is not fully recovered in South Sudan. But the consequences of the conflict of South Sudan would have been worsened had IGAD not involved in the resolution.

Among the agreements signed by the conflicting parties under the mediation of IGAD the peace agreement which was signed in September 2018 has significantly improved the security situation in the country. Political violence was reduced and it has contributed to the return of displaced people, increased food production, enhanced humanitarian access, and increased commerce among communities.

According to the report of International Crisis Group, the warring forces "have largely stopped fighting" and " South Sudanese people seem to enjoy more freedom of movement and better access to their fields and humanitarian aid" since the signing of the accord last year. The Revitalized Agreement on the Resolution of the Conflict in South Sudan Signed in Addis Ababa, in September 2018, provided for the rebels to join the transitional government and the settling of a number of disputes, including the number of regional states the country should have and their boundaries.

⁷⁶<<https://www.crisisgroup.org/africa/horn-africa/south-sudan/south-sudan-keeping-faith-igad-peace-process>>accessed 3 Sept 2018

Kiir and Machar signed this peace agreement that requires all parties, including rebel groups, to become part of a unity government. The treaty was agreed upon under pressure from IGAD, the United Nations and United States. The main goal was to end a five-year civil war that has devastated the world's youngest country. The creation of a unity government had already been delayed once in May 2019. South Sudan's rival leaders have once again missed a deadline to form a transitional unity government, raising new concerns for a fragile peace process in a country devastated by years of ruinous civil war.

The eagerly anticipated unity government of South Sudan is not yet established. In the beginning of November 2019, South Sudan's President Salva Kiir and opposition leader Riek Machar have agreed to delay the forming of a power-sharing government for another 100 days.⁷⁷ Uganda's presidency said the postponement would help buy time following concerns that war could be reignited if the two sides were pushed. Machar, who lives in exile in Khartoum, asked for more time to discuss security and state boundary arrangements. Both Kiir and Machar later agreed that there were "critical tasks" related to the deal that were still incomplete.⁷⁸

To sum up, this research has shown that IGAD suffers from lack of commitment of member states in terms of compliance and collective action, as was evident in South Sudan conflict resolution process. On the one hand there are some member states that show their own special interests. On the other there are others that do not show at least minimum level of commitment expected from any member state. This indicates that the member states don't show uniform level of compliance to IGAD's regional leadership.

Moreover some IGAD member states have pursued their own positions not based on consultation with IGAD leadership. Consequently, there seem to be parallel interventions of individual countries and IGAD. Such approach couldn't lead effective IGAD regional leadership. One of the reasons for the above stated limitations seems to be lack of compliance mechanism with the IGAD overall system. In order to have such a mechanism, IGAD member states have to reach agreement to that effect. Without such agreement, IGAD can't unilaterally establish a compliance mechanism.

⁷⁷ <<https://www.aljazeera.com/news/2019/11/south-sudan-causing-delay-forming-unity-government-191110072933497.html>> accessed 14 December 2019

⁷⁸ Ibid

The existing failure to deploy collective action of all member states in south Sudan seems to be at least partly caused by absence of such compliance mechanism ratified by prior agreement of the member states.

Chapter Five

5. Conclusion and Recommendations

5.1 Conclusion

The UN Charter under its Art 52 allows regional organizations to deal with maintenance of international peace and security. Under this provision of UN Charter the regional organizations like IGAD are empowered to peacefully settle both inter and intra state conflicts arising within its member states. IGAD is empowered with the mandate to peaceful settlement of inter- and intra-State conflicts arising within its member states and maintenance of regional peace, stability and security under Art 6 and 7 of agreement establishing IGAD. The regional mechanisms operating in Africa are made part and parcel of the African Union peace and security architecture under Art 16 of the Protocol Establishing African Peace and Security Council. For peaceful settlement of inter and intra state conflicts arising in its member states the AUPSC utilizes the sub regional mechanisms.

IGAD, having legal mandate under UN Charter, legal framework of AU and the constituent document of IGAD to involved in resolution of the conflict of South Sudan within short time after the beginning of the conflict. The conflict of South Sudan started in December 2013 after President Salva Kiir fired the then Vice President Reich Machar from his position. The conflict later converted in to ethnic conflict between Dinka and Nuer ethnics. It resulted in death, displacement and hunger of many those involved in the conflict and civilians.

Through mediation of IGAD, Kiir and Machar have signed several ceasefire agreements, including some lasting for just a few days. Among the efforts of IGAD the most fruitful agreement by mitigating the war, though not fully respected, was the revitalized agreement on the resolution of the conflict in the Republic of South Sudan signed in September 2018 in Addis Ababa. The agreement provided for the establishment of revitalized transitional government of National unity for a period of thirty-six months within eight months after the signing of the agreement. After the signing of this agreement the conflict in South Sudan was mitigated significantly but the expected unity government was not established yet.

From the IGAD mediation process in the conflict of South Sudan one can understand that IGAD played a significant role for South Sudan arrive the current better stage. Currently there is no active conflict in South Sudan but this doesn't mean that the peace is totally restored. IGAD

accompanied with the support of international actors played significant role in resolution process of the conflict of South Sudan. This doesn't mean that IGAD is successful in bringing peace within the reasonable period of time in South Sudan.

The limitations of IGAD in resolving the conflict of South Sudan can be explained by different factors. These factors include military involvement, various interests of IGAD member states and lack of trust among the conflicting parties, risks of parallel mediation, Uganda's Military Deployment in South Sudan, the rivalry and internal division among the IGAD member states, violation of the peace agreements by the warring parties and poor Institutionalization of IGAD. These limitations can be categorized as limitations associated with the conflicting parties-lack of commitment of conflicting parties and deficiencies of IGAD.

5.2 Recommendations

Even though IGAD invested its human power and material resources it couldn't brought full peace in the land of South Sudan yet. But no one can deny that IGAD played significant role in bringing the current better status of peace in South Sudan. This doesn't mean that IGAD is fully successful in its mediation process of the conflict of South Sudan. It is obvious that bringing peace in South Sudan needs the contributions of the conflicting parties and other international actors.

As discussed above the failure of IGAD to bring sustainable peace in South Sudan can be associated with lack of commitment on the part of the conflicting parties, lack of active involvement of international community and deficiencies related with IGAD. Therefore, for IGAD to become successful in bringing sustainable peace in South Sudan problems related with these three organs must be solved. Hence here below some recommendations for the three organs are forwarded.

5.2.1 Recommendations for IGAD

The conflicting parties signed different peace agreements under the auspices of IGAD but none of the agreements were fully respected. One of the reasons for continuous violations of the agreements is absence of sanctions on for violation of the agreements from the part of IGAD. From the past experience of IGAD on its endeavor to resolve the conflict of South Sudan we can learn that there shall be some sanction mechanisms for enforcement of the agreements. So, IGAD should enhance its capacity to impose economic sanctions, embargo and other punitive measures on individuals and groups that breach the peace agreement.

IGAD also is should convince its member states to have common stand on South Sudan's peace and influence the African Union to prioritize South Sudan's conflict and play meaningful role in the peace process.

IGAD negotiation process should involve non-armed stakeholders. This concept seeks to address the issue of exclusion, whether competitively or systematically, of non-armed stakeholders in mediation and negotiation peace processes. Current practice reveals that the grassroots organizations and civil society organizations are not empowered to participate meaningfully in peace processes. The IGAD-PLUS-led mediation revealed this injustice, when

the warring parties blocked the participation of non-armed stakeholders. Some ended lobbying these parties because they lacked the legitimacy to participate independently. This recommendation seeks to create room at the regional level for the voice of the non-armed stakeholders to be heard without being at the mercy of the belligerents, who at times choose not to invite grassroots organizations to participate. Involving non armed stake holders embodies the values of ownership, justice, and fair representation, and is a reliable way to promote the participation of local communities in regional initiatives.

Addis Ababa peace process showed that armed parties can manipulate mediators into downplaying the importance of non-armed stakeholders. Involving non armed parties gives the non-armed stakeholders a legitimate character, this ensures that they are not manipulated or co-opted or pushed about by belligerent parties; or limited to observer status in peace processes that have a great impact on the well-being of local populations in any given conflict situation. It would compel mediators and belligerent parties to accommodate non-armed stakeholders as a requirement to establish peace talks; the warring parties would have no influence on which actors are selected to participate; mechanisms would be employed to ensure transparency and accountability. This mechanism would provide a feasible framework that authorizes non-armed stakeholders to demand for official participation in peace talks and monitoring the implementation of peace agreements.

5.2.2 Recommendations for International Community

To bring sustainable peace in South Sudan active engagement by the international community would be decisive. In particular, those who were the midwives of the secession of South Sudan should reengage themselves. The dispute between Sudan and South Sudan needs to be part of the long-term solution. The border-region conflicts, unless addressed, have the potential to become intra-state and interstate conflicts.

Governments should target the leaders of South Sudan's warring factions with painful financial measures and other actions to persuade them to change the behavior that has plunged their country into a state of perpetual conflict and suffering.

5.2.3 Recommendations for Conflicting Parties of South Sudan

It has to be taken note that achieving sustainable peace in South Sudan will be a long-term endeavor. The short-term emphasis should be on building trust and confidence-building and ensuring that any unity government formed is inclusive. Involving communities ensures that indigenous resources are strategically employed to find solutions for durable peace. These resources are not limited to finances; they include indigenous knowledge of conflict resolution mechanisms and cultural practices.

Thus it needs to promote multi-stakeholder approaches, and enhance the capacity of local communities to work together with formal and informal institutions to generate innovative solutions. This calls for access to information about peace building processes. People have to be availed with information in local languages and there should be media freedom to facilitate the flow of information between government and society. Having access to information relating to issues like transitional justice, and to resources like land can promote constructive engagement with affected communities and ensure accountability of leaders. Truth and Reconciliation Commission, for instance, depends on access to information on the role played by different conflicting parties and their interpretation.

In order to promote home-grown peace initiatives that take into account local values, resources of South Sudan, the ownership of ideas, processes, strategies and outcomes should be emphasized by external and local actors. This is important for the sustainability of peace building efforts in communities affected by the conflict. The capacity of civil society organizations should be enhanced to engage the government during the national transitional phase. The civil society should be well positioned to monitor the reforms, for instance, in the security sector and hold the government accountable during the transition period.

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