

POLICY RECOMMENDATIONS

Improving Women's Inclusion in South Sudan's Draft Peace Agreement

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In December 2013, violence erupted between forces aligned with President Salva Kiir and those aligned with former Vice President Riek Machar. What started as a conflict between these two parties quickly devolved into a war pitting South Sudan's two largest tribes, the Nuer and Dinka, against each other. After seven failed ceasefires and numerous rounds of unsuccessful talks, resolution of the conflict felt unattainable. Recently, however, the Intergovernmental Authority on Development (IGAD)—which has been leading mediation efforts—released the Proposed Compromise Agreement on the Resolution of Conflict in the Republic of South Sudan. This proposed agreement presents an opportunity for South Sudan to start anew and create a viable country that is inclusive and representative of the people. Ensuring that women's needs and interests are addressed in the agreement is vital to creating a peace that will endure.

Research shows that when women are actively involved in peace processes, peace is more likely to be attained and to persist. A study of 182 peace agreements signed between 1989 and 2011 found that an agreement is 35 percent more likely to last at least 15 years if women participate in its creation.¹ Because of their unique experiences during and after conflict, women tend to shift negotiations away from who gets what position toward critical social and humanitarian needs.

Bringing women's perspectives, experiences, and needs into the drafting of an agreement is critical not only to advancing greater equality between men and women, but also to ensuring a more inclusive implementation process. Research shows that if the needs and interests of women are not specifically recognized in a peace agreement, they tend to be overlooked during post-conflict rebuilding.²

This analysis identifies major gaps related to gender in the Proposed Compromise Agreement on the Resolution of the Conflict in the Republic of South Sudan, drafted by IGAD in July 2015. It also provides recommendations for how to ensure the agreement attends equally to the needs of women, men, girls, and boys. The first section presents recommendations for improving the overall gender sensitivity of the agreement. The rest of the analysis focuses on seven of the thematic chapters in the agreement:

- I. Transitional Government of National Unity;
- II. Permanent Ceasefire and Transitional Security Arrangements;
- III. Humanitarian Assistance and Reconstruction;
- IV. Resource, Economic, and Financial Management Arrangements;
- V. Transitional Justice, Accountability, Reconciliation, and Healing;
- VI. Parameters of a Permanent Constitution; and
- VII. Joint Monitoring and Evaluation Commission.

The assessment framework used for the proposed South Sudan agreement is based on recommendations for gender sensitive peace agreements outlined in *From Clause to Effect: including women's rights and gender in peace agreements*³ and the Women's Empowerment Framework designed by Sara Hlupekile Longwe.⁴ Longwe's framework categorizes empowerment into three levels, which we have applied to the South Sudan agreement:

1. **Negative**: the absence of any mention of women and girls or their specific needs;
2. **Neutral**: some mention of women and girls or their specific needs, but still demonstrates a lack of concern for improving their position relative to men; and
3. **Positive**: the agreement is positively concerned with women and girls' needs, and gives strong attention to improving their position relative to men.

Overall, the level of gender sensitivity in this agreement is between neutral and negative. Some chapters, such as that on transitional justice, recognize critical issues that impact the social fabric of communities, including sexual violence. This chapter would be considered gender-neutral. Other chapters—like chapter two on the permanent ceasefire—are negative because the language is not inclusive and makes little to no mention of women's participation. When an agreement is gender-negative, it's more likely that women will be left worse off during and after implementation.

Recommendations

1. **Include a critical mass⁵ (at least 30-35 percent) of women in relevant bodies named throughout the agreement, including in the most male-dominated mechanisms (such as those dealing with security arrangements).** Women must be included from the beginning and have representative numbers to ensure meaningful, rather than token, participation;
2. **Ensure inclusive language is used throughout the agreement. Gender-neutral language may seem inclusive, but resultant policies often end up being exclusive.** Instead of using the word “people,” use “men and women.” Similarly, when discussing economic incentives and humanitarian aid for internally displaced persons (IDPs) or ex-combatants, specify women’s entitlements within those categories. Demonstrative language like “shall” and “must” is preferred over “should” or “where appropriate”;
3. **Characterize women in the agreement as constructive contributors to peace, not just as victims whose needs must be addressed.** For example, instead of just noting that the Commission for Truth, Reconciliation, and Healing shall “implement measures to protect victims and witnesses, in particular, youth, women, and children” it could also call for a women’s outreach committee that would go into communities to meet with victims and support them in telling their stories to the Commission; and
4. **Establish a committee with the power, funding, and technical expertise to ensure and oversee gender mainstreaming throughout the agreement and subsequent implementation.** The committee should be comprised of South Sudanese women and civil society, with at least 50 percent representing organizations that focus on gender or social inclusion.

Chapter I: Transitional Government of National Unity of the Republic of South Sudan

Chapter I describes the establishment, seat, term, mandate, composition, structure, and selection of the transitional government. It also more clearly defines the roles of the President, First Vice President, and the Vice President, and details how the parties will share power.

For the Council of Ministers, the ratio is as follows:

- Government of the Republic of South Sudan (GRSS): 53 percent
- SPLM/A-In Opposition (SPLM/A-IO): 33 percent
- SPLM leaders (former detainees): 7 percent
- Other political parties: 7 percent

For the state governments in Jonglei, Unity, and Upper Nile, the ratio is as follows:

- GRSS: 46 percent
- SPLM/A-IO: 40 percent
- SPLM leaders: 7 percent
- Other political parties: 7 percent

The chapter also establishes the Transitional National Legislative Assembly (TNLA). The TNLA functions and mandate will remain as agreed in the transitional constitution unless specified differently by the final agreement. The TNLA will include 400 members, comprising the existing 332 members plus an additional 68 representatives appointed according to the following criteria:

- SPLM/A-IO: 50 members
- SPLM leaders (FDs): 1 member
- Other political parties: 17 members

Although the chapter references 25 percent participation of women in the executive and calls upon the government and SPLM-IO to nominate women to the Council of Ministries, it does not go far enough. For instance, it does not mandate a quota for the composition of state governments. In addition, the chapter does not incorporate inclusive language. The mandate of the transitional government is very broad and aggregates victims into “IDPs and returnees” instead of specifying “women, men, boys, and girls.”

Recommendations

1. **Mandate that the parties and the IGAD mediation team** ensure the representation of women in the TNLA, the National Constitutional Committee, and state governments;
2. **Identify election measures that ensure greater representation** of women in the transitional government, such as targeted civic education for women; and
3. **Ensure that parties appoint a percentage of representatives** in the Council of Ministers and Deputy Ministers from civil society, particularly women’s organizations, to ensure broad-based participation.

Chapter II: Permanent Ceasefire and Transitional Security Arrangements

This chapter calls for the implementation of a permanent ceasefire, as well as transitional security arrangements. It mandates a number of structures to oversee these processes. Only two of these bodies—the Ceasefire and Transitional Security Arrangements Monitoring Mechanism (CTSAMM) and the Strategic Defence and Security Review (SDSR) Board—specifically call for women’s participation by way of one representative from the Women’s Bloc⁶

Women are frequently overlooked when it comes to “hard” security issues, yet they bring a breadth of knowledge, expertise, and access that would lend credibility to these bodies and processes.

The CTSAMM will be built from the existing IGAD Monitoring and Verification Mechanism, which is responsible for monitoring the Cessation of Hostilities Agreement. Among other things, the CTSAMM will monitor “acts and forms of sexual and gender-based violence, including sexual exploitation and harassment”—an important step in guaranteeing those violations are weighted equally with others.

Mandating only one position on both the CTSAMM and SDSR Board does not go far enough to guarantee women’s meaningful participation. Women can help these bodies gain critical access to communities. They can gather information on violations of the ceasefire that may not get reported otherwise. The current IGAD monitoring mechanism includes community liaisons whose role is to link the monitors with communities and gather information about human rights abuses. These positions—which will continue in the CTSAMM—should be filled equally by men and women.

Other bodies set out in Chapter II make no mention of including women. For example, the Temporary National Architecture for the Implementation for Permanent Ceasefire (TNAIPC) is a joint mechanism which will oversee and coordinate the actions of all security forces and operationalize the permanent ceasefire. This body is made up only of military personnel, predominantly men. It is critical that if the TNAIPC does not include women in its official structure, it should ensure the needs of women and communities are heard and addressed via a gender advisor who actively consults with the communities.

In addition, this chapter does not effectively outline how to ensure a sustainable ceasefire. While it calls for the creation of safety and security for civilians, it is unclear how this will be achieved beyond demilitarizing certain areas. It also does not require liaising with community organizations to design and implement disarmament, demobilization, and reintegration of ex-combatants, even though civil society will assume responsibility for much of this process.

Recommendations

1. **Mandate a greater number of women** be included in the CTSAMM and SDSR Board;
2. **Ensure implementation arrangements spell out how** monitoring and verification bodies will consult with women, youth, and other civil society organizations to guarantee their participation in decision making;
3. **Ensure the monitoring and verification teams under the CTSAMM** are equipped with training on how to engage with the communities and that at least 50 percent of the community liaison positions within the structure are women;
4. **Include women in the design and implementation of any disarmament, demobilization, and reintegration and security sector reform programs.** These programs must also recognize both male and female ex-combatants and make provisions for their specific needs;
5. **Mandate a gender adviser to the TNAIPC** to ensure that the separation, assembly, and cantonment of forces takes into consideration accommodations for female fighters and female support roles such as cooks and nurses;
6. **Provide continuous training for all personnel in the various security mechanisms** on how to engage women in the communities, what the differing needs of female combatants are, and how to integrate gender considerations into the security sector; and
7. **Require the SDSR Board to liaise with women's organizations** in their comprehensive assessment of the military and non-military security challenges to reflect women's experience of security and safety in the eventual Security Sector Transformation Roadmap.

Chapter III: Humanitarian Assistance and Reconstruction

This chapter outlines the humanitarian assistance and reconstruction principles for the pre-transition phase. There is only one mention of women in this chapter—in section 1.2.2 it lists women as part of those who will be offered “special consideration to conflict-affected persons.” The particular needs of women are not differentiated within any of the cited populations, such as refugees, internally displaced persons (IDPs), civilians in need of emergency humanitarian assistance and protection, and families. Furthermore, there are no specified confidence-building measures to encourage the return of women, IDPs, prisoners of war, or child soldiers.

The agreement does not call for women to be part of the Board of Special Reconstruction Fund, which will determine the priorities for reconstruction of infrastructure in conflict-affected states and areas. The program will also include assistance and protection to IDPs, returnees, and families, the provision of which will inevitably fall unofficially to women’s and other civil society organizations.

Recommendations

1. **Ensure donors leverage their role to promote women’s inclusion** in the reconstruction of South Sudan by funding capacity building programs for women’s organizations, supporting the widespread dissemination of the agreement to all ten states, and advocating to key stakeholders about the importance of women’s inclusion in the process ;
2. **Ensure at least 35 percent women’s representation** on the Board of Special Reconstruction Fund;
3. **Specify provisions for women’s assistance**, such as psychosocial support for victims of sexual violence and accompaniment of female returnees to ensure safe passage; and
4. **Establish a relief committee** with a mandate to ensure that programs for relief, protection, repatriation, resettlement, reintegration, and rehabilitation of IDPs and returnees are instituted in cooperation with community-based, women’s, and civil society organizations. This committee must also acknowledge the varying needs of men and women by conducting consistent and broad community consultations.

Chapter IV: Resource, Economic, and Financial Management Arrangements

This chapter outlines the principles for ensuring transparent, effective, and accountable systems for managing resources, economics, and finances during the transitional period and beyond. At least five new institutions will be created as a result of this agreement; however, not one mandates women’s participation. While this chapter does make a number of calls for the participation of communities and land owners in various capacities, such as deciding contracts and mechanisms for resource extraction, there is no language explicitly referencing the participation of women. This could be particularly problematic for single women and widow landowners who will not have protection based on the principles outlined.

It is unclear whether or not there will be a body dedicated to monitoring oil revenue. While it might be controversial to require the government to establish such a body, the agreement could set up an impartial civil society-led body⁷ made up of men and women to monitor contracts and revenue distribution.

Recommendations

1. **Replace language identifying groups of people**—including, but not limited to, “communities,” “displaced persons,” and “people”—with “women and men.” Alternatively, state “women and men” after each group of persons to guarantee the representation and participation of all South Sudanese citizens;
2. **Mandate a critical mass of women in all commissions** established under this section of the agreement;
3. **Allocate 35 percent of the oil revenue** to the establishment of the Women Enterprise Development Fund, as laid out in this section, to ensure that it is operational and effective; and
4. **Ensure the voices of the community are heard** during the in-depth national debate to review the current national land policy and the Land Act by enlisting prominent members of the community, particularly women, to participate in the debate. They should also conduct extensive consultations with communities prior to the debate to understand the needs and interests of the people.

Chapter V: Transitional Justice, Accountability, Reconciliation, and Healing

This chapter establishes three mechanisms to implement transitional justice, accountability, reconciliation, and healing programs:

1. Commission for Truth, Reconciliation, and Healing (CTRH);
2. Hybrid Court for South Sudan (HCSS);
3. Compensation and Reparation Authority (CRA).

The CTRH will address the “legacy of conflicts, promote peace, national reconciliation, and healing.” It will create a historical narrative of grievances since the Comprehensive Peace Accord was signed in 2005. It is also responsible for educating, consulting, and informing the public of its work and soliciting continuous feedback. The HCSS will “investigate and prosecute individuals bearing the responsibility for violations of international law and/or applicable South Sudanese law, committed from 15 December 2013 through the end of the transition period” (30 months after the signing of the agreement). Finally, the CRA will “provide material and financial support to citizens whose property was destroyed by the conflict and help them to rebuild their livelihoods.”

This chapter does incorporate inclusive terminology by making note of women. For instance, regarding the CTRH the agreement states that “such consultations shall ensure that the experiences of women, men, girls, and boys are sufficiently documented and the findings of such consultations incorporated in the resultant legislation.” It also references gender-based crimes and sexual violence. However, it does not guarantee sufficient women’s participation beyond being beneficiaries of these mechanisms.

Three out of seven positions on the CTRH are designated for women; two of them are South Sudanese nationals who are determined by the transitional government. There must be clear criteria for selecting those positions to ensure appointees have the technical expertise to adequately implement the Commission and are representative of the people they are serving.

Regarding participation in the HCSS however, there is no language mandating the appointment of women as judges or prosecutors. Additionally, the chapter does not call for members of the three bodies to be trained on how to ensure gender considerations are integrated into the structure.

Recommendations

1. **Ensure all bodies tasked with justice and accountability** in South Sudan mandate equal representation from each sex and are appointed, where possible, by an impartial committee;
2. **Require training for all members** within these bodies on how to mainstream gender into all programs;
3. **Reference international humanitarian, human rights, and criminal law** regarding women, including UN Security Council Resolution (UNSCR) 1325⁸ and related resolutions⁹, as well as the Convention on the Elimination of all Forms of Discrimination Against Women¹⁰ in the final agreement; and
4. **Create a steering committee comprised of prominent South Sudanese, international, and regional leaders** with expertise in incorporating gender into all of the processes related to justice, accountability, reconciliation, and healing.

Chapter VI: Parameters of Permanent Constitution

Chapter VI details the process for drafting a permanent constitution during the transition period and lays out the principles upon which the constitution will be based. The chapter also calls for the reconstituted National Constitution Review Commission (NCRC) to consult with all key stakeholders in drafting the constitution.

Although extensive consultations are mentioned, the list of key stakeholders does not specifically include women. The language in this chapter is not inclusive, using “people” instead of “men and women” throughout. It does not specify how many women will be included in the NCRC, the National Constitutional Conference, and the Constituent Assembly. The chapter makes note of including representatives from the Women’s Bloc in the NCRC, but does not specify how many and does not require the other groups to include women in their delegations.

Recommendations

1. **Require commitment from the executive** to consult with ethnic and regionally diverse women’s organizations and women leaders prior to appointing the NCRC;
2. **Ensure that the NCRC’s consultations and civic education programs prioritize participation of women** and take into account social and cultural factors that may impede women’s access to these programs (e.g., domestic responsibilities, child care, freedom of movement);
3. **Mandate at least 35 percent women’s representation** in the NCRC and the National Constitutional Conference (NCC);
4. **Ensure the legislation or policy governing the constitutional process requires the NCRC, the NCC, and the Constituent Assembly to consider the impact of the draft text on women.** This should include training for these bodies on how to integrate gender throughout the text and establishing a unit to ensure attention to gender throughout the process;
5. **Commit the NCRC, NCC, and the Constituent Assembly to incorporating the principles of UNSCR 1325** and other key resolutions in the draft constitution text, as aligned with the principles listed in Chapter VI, Article 1 (1.2) and (1.4); and
6. **Obtain commitment from the transitional government** to include a gender advisor among the regional and international experts supporting the constitution drafting process.

Chapter VII: Joint Monitoring and Evaluation Commission

Chapter VII describes the Joint Monitoring and Evaluation Commission (JMEC), which will oversee and monitor the “implementation of the agreement and the mandate and tasks of the TGoNU, including the adherence of the Parties to the agreed timelines and implementation schedule.”

The chapter notes that the composition of the JMEC will include one representative from the Women’s Bloc under section 2.2, but does not require that women be included as representatives of the parties or other regional and international guarantors and partners of South Sudan.

Recommendations

1. **Mandate women’s representation** in the JMEC including as Chair and Deputy Chairs and within the quorum;
2. **Train all members of the JMEC on gender awareness** and how to incorporate that into their monitoring of the implementation of the agreement; and
3. **Include in JMEC’s terms of reference that it must regularly inform and consult** with the people of South Sudan, particularly women, to accurately monitor implementation.

Endnotes

- 1 Statistical analysis by Laurel Stone, as featured in Marie O'Reilly, Andrea Ó Súilleabháin, and Thania Paffenholz, "Reimagining Peacemaking: Women's Roles in Peace Processes," (New York, June 2015), 12-13.
- 2 Christine Chinkin, "Peace Agreements as a means for promoting gender equality and securing the participation of women," Background paper for the UN Division for the Advancement of Women meeting of experts in Ottawa, Canada, 10-13 November 2003. Available at www.un.org/womenwatch/daw/egm/peace2003/reports/BPChinkin.PDF
- 3 Cate Buchanan et al., "From Clause to Effect: including women's rights and gender in peace agreements," Centre for Humanitarian Dialogue (Geneva, 2012), www.hdcentre.org/uploads/tx_news/24ClausereportwebFINAL.pdf.
- 4 Candida March; Ines Smyth; Maitrayee Mukhopadhyay, "A Guide to Gender-Analysis Frameworks." Oxfam (UK, 1999), 92-101.
- 5 Critical mass refers to the minimum number of people needed to create change. Women's meaningful representation will grow when the few token individuals grow into a considerable minority. Christopher F. Karpowitz, Tali Mendelberg, *The Silent Sex: Gender, Deliberation, and Institutions* (New Jersey, 2014) www.scholar.princeton.edu/sites/default/files/talim/files/Gender%20Inequality%20in%20Deliberation%20-%20PDF.pdf
- 6 The IGAD mediation provided observer status to a small group of women (which became known as the Women's Bloc) who were also signatories on the peace agreement.
- 7 In Ghana, 120 organizations and professional bodies—including community-based organizations, faith-based groups, research institutions, gender groups, and trade unions— as well as individuals came together to form the Ghana Civil Society Platform on Oil and Gas. The platform strengthens civil society to advocate on oil and gas legislation, revenue collection, and environmental protection to ensure transparency and accountability in the oil and gas industry in Ghana. Coordination Team, "Civil Society and Oil and Gas Governance in Ghana," European Commission, 26 April 2013, capacity4dev.ec.europa.eu/article/civil-society-and-oil-and-gas-governance-ghana
- 8 "Security Council Resolution 1325 (SCR1325) was unanimously adopted by United Nations Security Council on 31 October 2000. SCR1325 marked the first time the Security Council addressed the disproportionate and unique impact of armed conflict on women; recognized the under-valued and under-utilized contributions women make to conflict prevention, peacekeeping, conflict resolution, and peace-building. It also stressed the importance of women's equal and full participation as active agents in peace and security." www.peacewomen.org/security_council_monitor/about-women-peace-and-security-agenda.
- 9 The Security Council adopted seven resolutions on Women, Peace and Security: Security Council Resolutions 1325 (2000), 1820 (2008), 1888 (2008), 1889 (2009), 1960 (2010), 2106 (2013), and 2122 (2013).
- 10 "The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination." www.un.org/womenwatch/daw/cedaw/.



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