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RESEARCH REPORT

Executive Decisions: Regional Conflict Mediation by Kenya and South Sudan

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Executive Summary

Mediation has become an increasingly popular tool of conflict transformation in East Africa and the Wider Horn. In this region, mediation is operationalised in peculiar ways, usually within executive leadership ranks, with a strong role taken by the presidencies. This report examines Kenya and South Sudan's mediation experiences, profiles, and institutions at the national level. It investigates (i) the rationale, motives, and logics of mediation efforts of the two countries in the Wider Horn, and (ii) the applied processes (approaches, strategies, and tactics) and outcomes, to better understand the effects of executive-led mediation.

The comparison shows that Kenya has a stronger mediation profile and a stronger institutionalisation of conflict transformation in its governance structure than South Sudan. Kenya applies mediation experiences made in its own country to the international realm, while, at the same time, using mediation as a tool to achieve regional hegemony. South Sudan works in a less structured, more ad-hoc way focused on executive deal-making.

Experiences from both countries demonstrate that mediation is still largely a political instrument at the disposal of heads of state who principally activate or implement it through a combination of elite-led negotiations and executive decisions domiciled in the presidency. Differences notwithstanding, the mediation commissions and approaches by Kenya and South Sudan exhibit remarkable similarities. There is a strong regional embeddedness of conflict management and peace mediation in Eastern Africa. Such interest-based, often neighbourly mediation has advantages as it can lead to quick results, as seen in the successfully convened Tumaini Initiative, but it can also result in stalled processes where trust has been lost, such as in Sudan.

Western actors that once had been highly relevant in the region's conflict mediation attempts, such as the Troika countries, the United States, United Kingdom, and Norway, might still have roles to play in providing technical expertise. However, they might face a much more interest-based landscape where regional actors are both willing and able to play the stronger role when it comes to shaping the terms of a settlement.

Introduction

Provided under Chapter 6, Article 33 of the UN Charter and reaffirmed in a 2011 UN General Assembly (UNGA) resolution¹, mediation has emerged as a preferred tool of conflict resolution and peacemaking² in the Wider Horn of Africa. Africa's Regional Economic Communities (RECs) and subregional bodies, such as the Intergovernmental Authority on Development (IGAD), identify mediation as a preferable approach to conflict transformation. These efforts are characterised by a trend towards the personification of mediation efforts, especially in the Wider Horn. For instance, IGAD's mediation efforts are often led by individual member states or their heads of state. This trend reflects the particular stance of IGAD, which, to an extent, has always been an instrument of its member states.³

From a regional perspective, mediation emerges as a political instrument deployed by heads of state not only in attempts to manage or resolve conflicts within the region but also to navigate intricate political dynamics in the pursuit of their national and personal interests. Mediation is, therefore, more often than not domiciled in the presidency. Even in countries where mediation governance structures exist outside the presidency, such as Kenya, mediation processes are still under the tight grip of heads of state.

This report comprises a comparative review of mediation experiences in Kenya and South Sudan. The mediation roles played by these two neighbouring IGAD members are part of a global trend whereby mediation has increasingly turned into an interest-based instrument.⁴ The policy narrative of 'African solutions to African problems' contributes to an increased frequency of African mediators mediating conflicts on the continent. Countries such as Kenya have since established a strong mediation profile, and they are likely to continue playing a major role in managing conflicts in the region and beyond. Emerging players, such as South Sudan, have lessons to draw from at their disposal as they seek to enhance their mediation profiles and capabilities.

Proximity and economic self-interest play a major role in determining both the motivation to mediate and the levels of mediation success.⁵ This is not unique to the cases under review or to Africa as such; it is a general phenomenon. There are no guarantees for higher legitimacy or success when conflicts are mediated in and by neighbouring countries since numerous additional factors, including challenges of regional entanglements, come into play.⁶ In a world where 'conflicts are now more internationalised and exposed to geopolitical competition, and local drivers of violence are becoming more prominent and linked to transnational dynamics and proxy wars'⁷ mediation processes are increasingly complex, messy, and more difficult to handle.

This report's analysis encompasses two interlinked and overlapping thematic areas; (i) rationale, motives, and logics, and (ii) processes (approaches, strategies, and tactics) and outcomes. The report is based on desk review with lean scoping interviews and informal discussions with protagonists involved in the mediation efforts of both countries. These interviews and discussions were conducted between mid-2022 and 2024.

Executive-led Mediation Commissions: Kenya and South Sudan

Kenya's mediation efforts and experiences

Kenya's peace interventions are a reflection or a projection of its domestic policy and forms part of the country's history and governance structure. Established in 1998, Kenya's Dispute Resolution Centre, which has since evolved into the Strathmore Dispute Resolution Centre, was the first independent organisation to promote conflict mediation in Kenya.⁸ Mediation was later anchored in the 2010 Constitution in which Article 159(2)(c) provides the framework for mediation.⁹ Kenya's institutionalisation of mediation is encompassing as it cuts across different sectors, including Parliament through Mediation Committees, the Judiciary through Alternative Dispute Resolution (ADR), and the labour sector.

Kenya has been able to establish a robust mediation profile over the last three decades, particularly within the region. Kenya played a leading role in the IGAD-led mediation in Sudan that began on 7 September 1993 with the establishment of a standing committee on peace, followed by the Declaration of Principles (DoP) in May 1994.¹⁰ In 1999, a sub-ministerial committee established a Secretariat in the Kenyan capital, Nairobi. The initial stage of the mediation was led by Daniel Mboya and, subsequently, by General Lazaro Sumbeiywo, who was to steer the mediation process¹¹ through the signing of the Machakos Protocol on 20 July 2002,¹² which ultimately resulted in the Comprehensive Peace Agreement (CPA) on 9 January 2005.¹³

Controversies notwithstanding, together with Kenya's former President Daniel arap Moi, Sumbeiywo is credited for having played a pivotal role in Sudan's protracted mediation process under the auspices of IGAD. Apuuli, for instance, contends that 'the most concrete action taken by IGAD was the appointment of President Daniel arap Moi in February 1994 to be the chair [...] Moi was able to drive the process forward.'¹⁴ Jointly with Ethiopia's Mesfin Seyoum and Sudan's Muhammad Ahmed El-Dabi, Sumbeiywo was once again among IGAD's three lead mediators in South Sudan under the leadership of Seyoum. Whilst tensions between Seyoum and Sumbeiywo¹⁵ emerged in the process, the latter brought vital and controversial yet useful experience and leverage to IGAD's peace mediation.¹⁶

Besides Sumbeiywo, Kenya's former President Uhuru Kenyatta played a critical role in South Sudan's mediation process. Other prominent Kenyans, including Kalonzo Musyoka (former Kenyan Vice President and Kenya's Special Envoy to South Sudan), Ambassador Ismail Wais (IGAD's Special Envoy to South Sudan), Ambassador Mahboub Maalim (IGAD former Executive Secretary) and former General Charles Tai Gituai (former Chair of the Revitalised Joint Monitoring and Evaluation Commission, R-JMEC) have played substantial roles in South Sudan's mediation process. The roles of these senior Kenyan mediators and process observers, individually and collectively, place Kenya at the forefront of South Sudan's mediation process. They were also instrumental in the 2018 Revitalised Agreement on the Resolution of Conflict in South Sudan (R-ACRSS),¹⁷ which represents the main framework for South Sudan's political transition.

Equally, concurrently with the Sudanese peace process, Kenya played a leading mediation role in Somalia. Reportedly, 'at the beginning of 2004 two countries in the Horn of Africa that had long been experiencing conflict, Somalia and Sudan, signed up to a peace agreement after months of negotiations at various locations in Kenya.'¹⁸ Following a rejection of Sudan by the Somali conflict parties, 'in 2002 IGAD agreed that Kenya take over responsibility for both peace initiatives'.¹⁹ Eventually, the three-phased mediation process – a ceasefire declaration, reconciliation of conflict issues, and a power-sharing agreement – led to a breakthrough in October 2004. The process culminated in a transitional charter, the formation of a Parliament and the establishment of a Transitional Federal Government (TFG) headed by President Abdullahi Yusuf.²⁰ Both the Parliament and the President of the TFG were hosted by Kenya for several years.

Kenya was also leading the efforts in mediating the conflict between the Oromo Liberation Front (OLF) and the Ethiopian federal government in the Oromo region. Whilst the process was not successful, the OLF sought Kenya's support in mediating the conflict based on the country's mediation reputation within the region.²¹ Speaking on this, Fido Ebba, OLF's head of diplomacy, observed that 'we have asked the Kenyan government to help us resolve this as they did with Sudan. They have the experience to help with mediation'.²²

Through its former President Uhuru Kenyatta, Kenya has been leading peace mediation efforts in Ethiopia's Tigray conflict as well as in eastern Democratic Republic of Congo (DRC)'s protracted conflict. Markedly, 'during his inauguration in 2022, President William Ruto appointed his predecessor Kenyatta as his peace envoy for Ethiopia and the Great Lakes Region and the Horn of Africa'.²³ This move enabled Kenyatta, who had been playing a vital role in regional peace efforts during his presidency, to 'continue chairing regional peace efforts representing the Kenyan government'.²⁴ Whilst the longer-term outcomes of Kenyatta's mediation efforts in Ethiopia and eastern DRC are yet to be determined, observers contend that Kenyatta has continued to work diligently, with close support from President Ruto, in leading and supporting peace efforts. Kenyatta's ongoing efforts accentuate Kenya's pivotal role in peace mediation across the region and enhances the country's mediation profile and reputation.

In more recent developments, Kenya has assumed the role of facilitating talks between the government of South Sudan and non-signatories to the R-ARCSS, otherwise referred to as the holdout groups.²⁵ Originally these holdout groups were under the umbrella body of the South Sudan Opposition Movements Alliance (SSOMA) which has since diversified into a number of sub-groupings. Frustrated by the slow progress in the negotiations – and recent freezing – of the Rome talks, President Kiir asked Kenya's William Ruto if he would be willing to take over hosting and mediating these negotiations. Underscoring the presidential dominance in mediating conflict in the region, President Kiir is said to have unilaterally made this decision without informing the holdout groups who had to learn about the change of mandates from media reports.²⁶

The parties to the talks were not formally involved in this decision, leading to split opinions on whether to comply with the move.²⁷ Meanwhile, President Ruto, who held some behind-the-scenes discussions with President Kiir, appointed the seasoned mediator in South Sudanese affairs, Lazaro Sumbeiywo, as the chief mediator and the talks have since commenced. The Tumaini Peace Initiative was launched on 16 May 2024 and is currently underway. Whilst it is too early to tell how this process will impact the political setting in South Sudan, two important factors are notable.

Firstly, the boycott by Thomas Cirillo and his National Salvation Army (NAS) is a major setback considering NAS' current influence. The second factor concerns the participation of Stephen Buay, who leads another important holdout group – South Sudan's People's Movement/Army (SSPM/A) – which is also active in the Sudan war on the side of the Rapid Support Forces (RSF). His signature, therefore, might not only influence subnational conflict settings in Unity and Warrap in South Sudan, but also South Sudan's involvement in the Sudanese conflict.

At the same time, Ruto plays an active role in the mediation around the Sudanese ceasefire and peace negotiations. Ruto met RSF commander Mohamed Hamdan Dagalo, 'Hemedti', in early January 2024.²⁸ He also met several Sudanese opposition figures, among them representatives of the SLM/A Mainstream headed by Abdul Wahid al-Nur, in attempts to foster the delivery of humanitarian aid and explore avenues of possible transitional structures that could facilitate a way out of the ongoing war. Ruto's attempts have not yet yielded tangible results, partly because he is considered partial towards the RSF by the Sudanese Armed Forces (SAF) and, therefore, not in a position to host direct talks between the two conflict parties.

Nevertheless, Ruto's efforts show Kenya's ambition to engage in presidency-led mediation in Sudan. Equally, it is a clear strategy of Kenya's to use mediation as an instrument for regional hegemony, especially in competition with Ethiopia. At the same time, Kenya's geostrategic efforts can rely on solid underpinnings drawing on local and international experience. Indeed, Kenya has had considerable success in addressing internal conflicts, especially election-related ethnopolitical violence. The country has equally accumulated experience from its intra-state mediation commissions and committees as well as from external peace-making efforts.²⁹

In terms of internal structures, Kenya has in place the National Policy on Peacebuilding and Conflict Management³⁰ stemming from the so-termed Sessional Paper No. 5 of 2014.³¹ This policy features six pillars, including 'mediation and preventive diplomacy, capacity building, post-conflict recovery and stabilisation, institutional frameworks, traditional conflict prevention and mitigation'.³² Structures of conflict resolution such as the National Steering Committee (NSC) on Peacebuilding and Conflict Management have since been established. Founded in 2001, the NSC was anchored within the Office of the President and has now been re-designated to the Ministry of Interior and Coordination of National Government. It became operational in November 2002 with the placement of a Secretariat and is currently administratively provided for. The NSC is an interagency framework that brings together peace stakeholders in a bid to co-ordinate and consolidate efforts geared towards peacebuilding and conflict management in Kenya as well as cross-border disputes.

Kenya has also developed Mediation Guidelines based on five steps – assessment of the conflict; ensuring mediator readiness; ensuring conflict ripeness; conducting the mediation; and constructing a peace agreement. These Guidelines 'encompass the wealth of experience of mediators working at the international, national, and local levels. Past experiences of mediation processes around the world have also enriched these Guidelines',³³ which are aligned with UN Guidance.³⁴ The Guidelines ensure the structural institutionalisation of the mediation initiatives, and legal and policy frameworks which provide its leaders and mediators with guidelines during interventions.³⁵

In practice, Kenya does not necessarily stick to these Guidelines, but rather takes a more flexible approach to mediation. Nevertheless, the Guidelines ensure that the country has established legal and policy frameworks which provide its leaders and mediators with clear guidelines during interventions.³⁶ Kenya's mediation commissions and individual mediators, such as President Kenyatta, continue to leverage these frameworks in their mediation efforts. As such, drawing on accumulated internal and external experiences, Kenya benefits from the expertise of technical teams in a more coherent and predictable manner, boosting its mediation profile within the region.³⁷

South Sudan's emerging role as a mediator

South Sudan's stint in mediating conflicts in the region is traceable to its pre-independence period. Southern Sudan (by then in the CPA interim period, a quasi-autonomous region within Sudan) engaged in mediating between the Ugandan government and the Lord's Resistance Army (LRA) in the mid-2000s. This mediation was led by Riek Machar (then Vice President of the Southern Sudanese regional government). The Government of Uganda was represented by Ruhakana Rugunda (then Minister of Internal Affairs) while the LRA delegation comprised of representatives of the group's political wing, led by David Matsanga.³⁸ Based on general observation, this mediation was unsuccessful since Machar failed to persuade the LRA to end its insurgency against the government of Uganda, despite offering monetary incentives.³⁹ A major stumbling block was an arrest warrant issued by the International Criminal Court against the LRA leadership, against which the group wanted safeguards. The mediation process also encountered other challenges, including Machar's perceived distractions.⁴⁰ Nevertheless, the attempts thrust South Sudan (then southern Sudan) into the foray of regional mediation efforts.

The South Sudanese civil war, which took place in two phases from 2013 to 2018, however, severely hampered further mediation efforts. Right after the formation of the transitional government, now the Revitalized Transitional Government of National Unity (R-TGoNU), regional conflict mediation again became a prominent part of executive politics in South Sudan. Tut Kew Gatluak, Presidential Advisor on National Security Affairs and Chairman of the National Transitional Committee (NTC) has since emerged as a key figure in these efforts. In addition to his critical roles close to President Salva Kiir, Gatluak heads a newly established Mediation Commission. Dhiue Mathok Diing Wol, the Minister of Investment, acts as his deputy, representing the oppositional SPLM-IO ('in opposition'). Ramadan Mohamed Abdallah Goch, at the time of writing freshly appointed Minister of Foreign Affairs, has been named as the third leading member of the commission.

The role of the commission has been twofold: first, to get directly involved in the Sudanese peace negotiations, initially focusing on engaging with the armed opposition movements after the Sudanese revolution in April 2019. The second role has been regional engagement, predominantly with the Gulf, the United Arab Emirates in particular, with which Tut Kew had previously established good contacts. The relationship-building with the Gulf, both with regards to Sudan and regionally, has paid off for South Sudan, as it continues to offer a financial lifeline for a government in dire need of funds.

Regionally, South Sudan established its mediator role by playing a considerable, yet behind-the-scenes role, in backdoor negotiations between Egypt and Ethiopia on the Grand Ethiopian Renaissance Dam (GERD). It leveraged its role as a Nile riparian state for facilitating contacts and backroom talks. In doing so, South Sudan managed to strengthen its regional role and improve its diplomatic channels with Egypt and Ethiopia. After Ethiopia played a decisive role in the South Sudanese peace negotiations in Addis Ababa in 2015 and 2018, South Sudan aims to emancipate itself from Ethiopia and to elevate its bilateral relationship to an eye-to-eye level.

More recently, South Sudan has assumed an active role on the conflict in eastern DRC. Its army, the South Sudan People's Defence Forces (SSPDF), contributed a contingent to the East African Community Regional Force (EACRF) for deployment in eastern DRC. Whilst this undertaking was short-lived, troop contribution to the EACRF is a remarkable step in boosting South Sudan's role in regional peace efforts. Furthermore, as the chairman of the East African Community (EAC), a rotational role that President Kiir assumed in December 2023, the country has demonstrated the ambition to play a political role in the ongoing peace initiatives in DRC. Kiir revealed as much by conducting state visits – which he rarely does – to both the DRC and Angola in March 2024. Angola itself is a trusted partner of the DRC government and Kiir's visits are part of the efforts to mitigate tensions between the DRC and Rwanda.⁴¹

The main focus of South Sudan's mediation experience, however, relates to Sudan, and in particular to its role in hosting and leading the Sudanese peace process with the armed opposition movements. These efforts culminated in the signing of the Juba Agreement for Peace in Sudan, popularly referred to as the Juba Peace Agreement (JPA), on 3 October 2020.⁴² The South Sudanese mediation commission played a pivotal role in forging this agreement, with Dhiue Mathok leading the technical parts while Tut Kew used his political influence and leverage to iron out more severe barriers to the process. The negotiations around the JPA, however, remained short-sighted since the agreement produced a second power-sharing layer on top of the already fragile power-sharing framework of the Sudanese transitional government. The ensuing power tussles saw Sudan unravel, starting with a military coup in 2021 followed by the outbreak of a full-blown civil war between the SAF and the RSF in April 2023. Most of the JPA signatories decided to take sides with the SAF.

Following the disastrous developments in Sudan, South Sudan is engaged both bilaterally and multilaterally in attempts to resolve the conflict in Sudan. On the regional front, South Sudan, together with Djibouti, Ethiopia, and Kenya, is part of IGAD's so-called Quartet, tasked with the responsibility of leading regional mediation efforts in Sudan. To bolster its regional role, South Sudan has since nominated the former legal advisor to the President, Lawrence Korbandy, as the IGAD Special Envoy to the Sudanese peace process.⁴³

South Sudan hosts the two main JPA holdout groups, the SPLM-N under Abdelaziz al-Hilu and the SLM/A under Abdul Wahid al-Nur. South Sudan has also been taking advantage of its contacts with the UAE to push for conflict mitigation at the regional level. South Sudan was perceived as leaning towards the RSF at the beginning of the conflict, largely due to Tut Kew's contacts with both the RSF leadership and their international supporters. Nevertheless, the South Sudanese presidency has made strong efforts to be seen as an equidistant player, which has paid off as the country's peace efforts are now recognised and accepted by the formal Sudanese government and the SAF.

Speaking to the Sudan Tribune, the Deputy Minister of Foreign Affairs, Ramadan Mohamed Abdallah Goch confirmed that 'President Salva Kiir is actively engaging with Sudanese leaders, including Transitional Sovereign Council President Abdel Fattah al-Burhan and Mohamed Hamdan Daglo, to promote a ceasefire and peace dialogue'.⁴⁴ Whilst the outcomes of this process remain to be seen, South Sudan's efforts affirm the country's increasingly important role in peace-making, both through the presidency and through the Mediation Commission. The longer-term implications of South Sudan's peace role within the region are yet to be seen. What is obvious is the emergence of mediation as tool to gain political legitimacy for the South Sudanese leadership.

Executive Peace-making: Insights from the Case Studies

Comparatively, Kenya has a superior mediation profile and reputation, which have been built over the years and bolstered by its remarkably successful efforts to subdue internal conflicts around elections. South Sudan is now emerging as a mediator within the deeply troubled Horn of Africa region. Nonetheless, it has shown its capacity and willingness to deploy its resources, most prominently the presidency's good offices, to its advantage. Kenya is equally more advanced in its institutional governance compared to South Sudan. This is understandably the case given that Kenya has been a republic since 1963 while South Sudan has only been in existence since 2011. The identified variations between Kenya and South Sudan's mediation experiences underscore the important role that institutional governance plays in mediation efforts.

Intention, rationale, logics

Based on the stated objectives, mediation efforts and experiences by Kenya and South Sudan, to a significant extent, reflect similar intentions, similar rationales, and similar logics. Kenya and South Sudan agree on the stated aims of their peace interventions, whether the engagement is bilateral or multilateral. The aim of peace-making efforts, as contained in official communications, is to attain much more than a mere cessation of hostilities. In this respect, agreements are seen to act as bridges in transitioning towards addressing underlying issues, including establishing or strengthening institutions of the state to consolidate declared visions of peace and enhance stability, democracy, and prosperity. Stating these liberal objectives upfront, both countries are using their mediation initiatives to reshape their international image, which have suffered significantly because of civil wars and violent conflict.

Regionalism is an important element in both Kenya and South Sudan's mediation efforts. Both countries have shown their eagerness to associate their peace efforts, even when they are bilateral, with the region. They also claim to conduct mediation within the aegis of regional bodies and mechanisms, in particular IGAD, and with support from other stakeholders. This underscores the centrality of proximity under the principle of subsidiarity. The logic underlying subsidiarity is that countries within the same geographical location are better positioned for timelier responses to conflicts within their respective regions.⁴⁵

By embedding their peace efforts within regional mechanisms and by emphasising aspects such as good neighbourliness, Kenya and South Sudan's mediation experiences not only accentuate the normative shifts from non-interference to non-indifference, but also affirm the centrality of proximity in mediation,⁴⁶ highlighting the important role of Africa's subregional bodies and mechanisms at a time when global multilateralism is under increased strain.

Closely related to the foregoing is that mediation processes by Kenya and South Sudan reveal a prioritisation of African mediators within African mechanisms, especially the AU and RECs. Whether it is South Sudan's involvement in Sudan, or Kenya's involvement in Ethiopia – without prejudice to the fact that such processes are supported by international actors and donors – the preferred mediation teams are led by African personalities. Kenyan and South Sudanese mediation teams are often formally led by their heads of state, and being seen to play visible leading roles is significant in boosting their image. It demonstrates the willingness of African leaders to address conflicts within their neighbouring regions and on the continent more broadly. Such a stance does not imply that power exercised during mediation processes and commissions in Kenya and South Sudan is limited to Africa's agency. Nonetheless, such a posture portrays the image of a region searching for solutions to its challenges, hence feeding into the broad policy visions of 'African solutions to African problems'.

There is, however, a discrepancy between claims to collective approaches to peacemaking by governments of IGAD member states and their respective executives, and processes of mediation in practice. Kenya and South Sudan's mediation teams, as is the case with leaders of IGAD's other members, pursue their efforts as part of their respective governments' foreign policies under the grip of the presidency. This underscores the fact that governments tend to engage in mediation in pursuit of national interests or even personal interests of concerned leaders. Personal interests include access to and control of political power such as regional influence, economic interests, and reputation.

Direct interests, including threats to their own security, are a key motivation for any country's involvement in mediating conflicts, especially within its vicinity.⁴⁷ For instance, both Gambia and Guinea-Bissau offered to mediate in Senegal because of the threat of conflict spill-over and the possible burden of refugees.⁴⁸ Algeria's interest in mediating in Mali⁴⁹ and Kazakhstan and Turkmenistan's mediation in the conflict between Russia and Iran⁵⁰ were driven by the security and stability of the intervening nations.

The factors motivating Kenya or South Sudan to take a lead in mediating vary at different levels. These differences are equally determined by contextual factors. Kenya's motivation for engaging in mediation across the region is first and foremost a self-help venture.⁵¹ Its peace mediation interventions entail activities and regulatory frameworks driven by a belief that regional security stability is vital to its own national security and development agenda.⁵² The self-help motivation underlying Kenya's mediation interventions resembles South Sudan's. Broader interests, however, differ.

Whilst Kenya's interests in mediation may be, in part, driven by factors such as geopolitical positionality, a commitment to non-military responses to conflict, and its belief in regional solutions based on the principle of good neighbourliness, South Sudan's motivations are rooted in its interest of regime stability, which can also be achieved through regional embeddedness. Lessons from both Kenya and South Sudan, therefore, confirm that executive peace-making, primarily pursued through elite-led mediation efforts, are a product of what is commonly called 'enlightened self-interest'. Yet, whereas national and personal interests play a motivating role, the nature of the state and level of institutionalisation of governance have a major impact on the variance observable in Kenya and South Sudan.

Processes (strategies, approaches, and tactics) and outcomes

Whilst strategies, approaches and tactics may vary according to the context, both countries show a striking similarity in their overall design of mediation processes in terms of engaging in structured talks over set agenda items. Thus, in both Kenya and South Sudan, mediators employ already established strategies of mediation, such as facilitations, summit and shuttle diplomacy, single text negotiations, power mediation (both persuasive and coercive) and even manipulation and imposition where necessary.⁵³ More importantly, in both Kenya and South Sudan, mediation processes are heavily top-down-led processes patronised by the presidency.

As highlighted above, Kenya and South Sudan exhibit variations in terms of processes and procedures of mediating. The nature of the state plays a fundamental role in influencing or determining the trajectory of a mediation process, including approaches, strategies and tactics employed, and their levels of effectiveness. In South Sudan, the political influence of Tut Kew Gatluak notwithstanding, President Kiir plays a crucial role. Both Gatluak and the Mediation Commission act under the instructions of the President and directly report to him, underpinning the extent to which South Sudan's mediation attempts are an executive endeavour. On other occasions, Kiir directly engages with the conflict parties.

As highlighted above, mediation processes in and by Kenya are comparatively better structured and more institutionalised. In Kenya, the practice of mediation is comparatively more independent and often led by a person other than the president. Former President Kenyatta has been leading mediation efforts in Ethiopia and DRC and his mediation teams, while taking instructions from and reporting to President Ruto, are working independently. Whilst Kenya's process is relatively more autonomous, Ruto still supports his predecessor with requisite resources, his good offices, and keenly follows and influences the processes. While both might substantially differ on domestic issues, they are able to generate a consensus on matters of regional peace and security. This is because those issues touch on elements of Kenya's national interests, such as national security and economic prospects, but also the two leaders' personal political and economic interests.⁵⁴

Conclusions

There are advantages and disadvantages in mediation approaches embraced by Kenya and South Sudan, whether undertaken by their respective Mediation Commissions or directly led by their presidents. In relation to Sudan, South Sudan's approach, led by President Kiir, may benefit from his personal knowledge of and longstanding relationships with Sudan's feuding generals. On the other hand, Kenya's relatively autonomous process is more likely to be professionalised, hence benefitting from technical expertise.

Two key similarities are notable regarding intended mediation outcomes by Kenya and South Sudan. The first is securing a political settlement often around power-sharing and political deal-making, with considerable components remaining informal and subject to back-door deals. To this end, both Kenya and South Sudan exhibit the power politics based on elite bargains whose pros and cons have been extensively discussed.⁵⁵ Such minimalist approaches are increasingly gaining traction. Stabilisation-focused approaches are currently experiencing a remarkable revival at the international level, especially in fragile regions such as the wider Horn of Africa. Secondly, there is the more ambitious claim that mediation outcomes, such as peace agreements, are mere steps towards robust institutionalisation, entrenching stability, sustaining peace, and fostering prosperity in post-conflict countries. The extent to which either Kenya or South Sudan can substantially contribute to the latter is debatable.

Kenya and South Sudan can rely on unique and interesting scenarios to help them appraise mediation as a tool of managing armed conflicts and political transitions in the Horn of Africa and beyond. Mediation is simultaneously a conflict resolution tool and a self-help mechanism. Despite the executive-heavy approach applied by both, practices differ significantly due to the dissimilar nature of the state and level of institutionalisation of governance in each country. Compared to South Sudan, Kenya boasts relatively advanced legal, policy and institutional frameworks on which its mediation guidelines are based. This has implications on mediation processes and outcomes, which, arguably, give processes more traction and a stronger trajectory towards institutionalisation.

Endnotes

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About Us

PeaceRep is a research consortium based at Edinburgh Law School. Our research is rethinking peace and transition processes in the light of changing conflict dynamics, changing demands of inclusion, and changes in patterns of global intervention in conflict and peace/mediation/transition management processes.

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