

# East Africa Report

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## Assessing AU mediation envoys The case of South Sudan

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### Summary

In September 2016, the African Union Commission (AUC) organised a meeting in Addis Ababa, Ethiopia to discuss how its recently established Mediation Support Unit (MSU) could be made operational. The MSU was created to support the work of AU mediators and improve the AU's ability to respond to changing demands of conflict mediation. This report highlights the factors that limited the AU's role in the South Sudanese mediation from December 2013 to August 2015. It contributes to ongoing debates on the importance of institutionalising and evaluating AU mediation activities, reducing inefficiencies and increasing the AU's impact on the ground.

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THE PROTRACTED CONFLICT in South Sudan has been well documented.<sup>1</sup> The initial conflict broke out in December 2013 in the capital, Juba, and quickly spread to three of its major states, Upper Nile, Jonglei and Unity. Among the main triggers of the conflict, which is also related to post-independence governance problems, was the dissolution of the cabinet, especially the firing of Vice-President Reik Machar Teny by South Sudanese President Salva Kiir in July 2013. This, among other factors, led to a leadership dispute in the top tier of the ruling party, the Sudan People's Liberation Movement (SPLM), which then drew in the country's army, the Sudan People's Liberation Army (SPLA).

### Humanitarian crisis

The crisis has produced one of the worst humanitarian situations in the world, with serious socioeconomic and security effects on the country and its neighbours.<sup>2</sup> In the same month the conflict broke out the Intergovernmental Authority on

Development (IGAD), comprising Djibouti, Ethiopia, Kenya, Somalia, Sudan and Uganda, appointed three special envoys (from Ethiopia, Kenya and Sudan) to mediate between the warring parties.<sup>3</sup>

The IGAD-led mediation process, which brought numerous multilateral efforts together, persuaded the South Sudanese stakeholders to sign the August 2015 Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS). One of the key structures established in terms of this agreement was the Joint Monitoring and Evaluation Commission (JMEC) chaired by the former president of Botswana, Festus Mogae, to monitor the implementation of the peace agreement.<sup>4</sup> Its work was recently complicated by a near collapse of the peace deal in July 2016; a deal which increasingly became fragile.

Konaré's mandate was to strengthen IGAD's mediation, maintain close contact with the South Sudanese parties and interact with the IGAD leaders

From the start, IGAD had played a prominent and central role in the South Sudan mediation. Its members and those who initiated the negotiations are those most affected by and closest to the conflict. IGAD's centrality also supports the subsidiarity principle promoted by the AU – that local conflicts should be dealt with by regional mechanisms.

The same principle also suggests that the AU can play a role by complementing mediation processes, but the AU's support was initially delayed, unclear and uncoordinated. Its first move was to establish a High Level Ad-hoc Committee on 5 December 2014 to support peace negotiation efforts. The committee comprised the presidents of South Africa, Algeria, Chad, Nigeria and Rwanda.<sup>5</sup> However, the committee did not meet until mid-June 2015 and its precise impact on the IGAD mediation is unclear.

Another development, which was arguably separate from the formal mediation, was the establishment of a Commission of Inquiry on South Sudan (AUCISS) chaired by former Nigerian president Olusegun Obasanjo. Its major objective was to investigate gross human rights violations, war crimes and crimes against humanity committed since fighting broke out between the two South Sudanese warring parties on 15 December 2013. Its findings were released in October 2015.<sup>6</sup>

Since the inquiry was not, strictly speaking, part of the AU's mediation process, on 2 July 2015 the AU chairperson appointed former Malian president Alpha Oumar Konaré as the AU High Representative for South Sudan. According to an AU statement, Konaré's mandate was to strengthen IGAD's mediation, maintain close contact with the South Sudanese parties and other stakeholders and interact with the IGAD leaders.<sup>7</sup> The same statement noted that Konaré was chosen because of his experience and



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commitment to pan-Africanism, which was underlined as a major asset in the search for a solution to the conflict.<sup>8</sup>

The actual impact of the AU's South Sudanese High Representative on the resolution of the conflict, and how he delivered on his mandate, is yet to be established. At the heart of it is how he complemented IGAD's work, whether the AU had leverage in the negotiations and how it used it. This report contributes to answering some of these questions. It also highlights some of the issues that made it difficult for the AU and IGAD to coordinate mediation activities effectively in South Sudan from 2013 to 2015.

The report also reflects on the institutional context of the AU mediation. It has been argued that the AU's system for appointing its envoys is ad hoc and that inadequate support is provided for mediators. The AU's most recent effort to address some of these challenges was in September 2016, when it organised a meeting with its staff, AU special envoys, regional economic communities (RECs), the United Nations (UN), the European Union (EU) and civil society organisations (CSOs) to discuss how best to structure and operationalise the MSU.<sup>9</sup> The operationalisation is a work in progress.

The report, which is based on field research conducted with the help of various policy makers in Addis Ababa, is divided into five parts. The first discusses the AU mediation system as a whole, how mediators are supported and how they account to the AU. The second reflects on how the South Sudanese mediation evolved, with emphasis on the role of its special representative, Konaré. The third part discusses the strengths and weaknesses of the mediation system generally and with respect to its special representative in South Sudan. The fourth discusses ongoing efforts to improve the AU mediation system and the final section provides a synthesis of findings and the conclusion.

## The AU mediation system

The AU's efforts to set up a mediation unit began in 2009, when it developed a strategy called the Plan of Action to Build the AU's mediation capacity.<sup>10</sup> Among other things, guidelines were developed for strengthening mediation processes, including studying the experiences of past mediations to improve on future ones. This was followed

by the development of standard operating procedures (SOPs) in 2012, to support a more systematic approach to mediation.<sup>11</sup>

It was then recommended that a mediation support structure be created to fulfil this function, but it took time to establish it because of differences within the commission on where to locate it. The MSU was finally established in 2016 and is located in the AU's Peace and Security Division, which is in charge of Crisis Management and Post-Conflict Reconstruction and Development.<sup>12</sup> Its mandate is to provide support to all AU mediators.

At the time of writing, the AU had approximately 20 special envoys, representatives and mediators deployed to conflict and post-conflict countries across the continent.<sup>13</sup> AU mediation takes different forms and has included efforts led by a special envoy, ad hoc high-level mechanisms and the Panel of the Wise. Consistent with the different mediation categories is the way in which the mediators are appointed. Some appointments are made by the AU Summit, which is its highest decision-making structure, others by the PSC and the AU Commission. Their powers are enshrined in the AU PSC Protocol, one of whose roles is to anticipate and prevent conflicts and to undertake peace-making and peace-building functions when there have already been conflicts.<sup>14</sup>

## The AU's efforts to set up a mediation unit began in 2009

Article 10 of the PSC Protocol gives the chairperson of the AU the power to appoint mediators, stipulating that the chairperson, 'under the authority of the Peace and Security Council and in consultation with all parties involved in a conflict, deploy efforts and take all initiatives deemed appropriate to prevent, manage and resolve conflicts'.<sup>15</sup> The provision suggests that the chairperson may also make discretionary appointments. The chairperson ...

... may, at his/her own initiative or when so requested by the Peace and Security Council, use his/her good offices, either personally or through special envoys, special representatives, the Panel of the Wise or the Regional Mechanisms, to prevent

potential conflicts, resolve actual conflicts and promote peace-building and post-conflict reconstruction.<sup>16</sup>

The AU deploys four categories of mediators:

- *Special Envoys*, such as Dr Salim Ahmed Salim, for Darfur and former Mozambican President Joaquim Chissano, for Western Sahara;
- *High Representatives of the Chairperson*, who are also sometimes referred to as 'special envoys', making it difficult to distinguish them from the first category. They are not country based;
- *Special Representatives of the Chairperson (SRCC)*, such as Ambassador Francisco Madeiro, the AU's Somali SRCC, Niger's Ambassador Abdou Abarry, who also heads the AU Office in the Democratic Republic of Congo, and the late Margaret Voigt, who was the SRCC in the Central Africa Republic. SRCCs are normally based in the country, with their own staff, security and other logistics; and
- *High Level Ad Hoc Committees*: Although not explicitly mentioned in the PSC Protocol, these can be set up as needed and normally comprise sitting heads of state. These committees are created to ensure that governments bring the necessary support to the process. Examples include the High-Level Ad hoc Committee on Libya, established in 2011; the High-Level Ad hoc Committee on Ivory Coast, established in the aftermath of the 2010 elections and the AU High level Ad hoc Committee on South Sudan, appointed in 2015.

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It has become common practice for the AU to appoint as mediators former presidents or high-profile politicians perceived to have political gravitas. But whether they are good mediators is debatable. The AU is yet to develop more technical criteria for selecting its mediators aside from relying on their political clout.<sup>17</sup> It is important to acknowledge, however, the work it has done in defining these criteria, as reflected in its 2012 SOPs. The SOPs state that mediators should, as far as possible, meet criteria, including experience and competence in mediation; credibility among the parties in conflict (stature, seniority and experience, integrity and impartiality); knowledge of the country, region and parties to the conflict, proficiency in at least one of the languages spoken by the parties, availability for full-time deployment and possession of the personal attributes of a peacemaker.<sup>18</sup> These criteria are yet to be rigorously applied.

The AU chairperson can also decide to deploy mediators from the AU Panel of the Wise. The panel, which has five members, is a structure intended to support the PSC and the AU chairperson in the promotion and maintenance



THE AU PANEL OF THE WISE SUPPORTS THE PSC AND AU CHAIRPERSON IN PROMOTING PEACE, SECURITY AND STABILITY

of peace, security and stability.<sup>19</sup> In terms of Article 11(2) of the PSC Protocol, members are required to be

highly respected African personalities of high integrity and independence ... and cannot hold political office at the time of their appointment or during their term on the Panel. The Panel's functions also include facilitating channels of communication between the PSC or the Chairperson of the Commission and parties involved in conflict; carrying out fact-finding missions; and assisting and advising mediation teams.<sup>20</sup>

Essentially the members of the panel should advise and support the PSC and the AU Commission about conflict prevention and management. But they are under-utilised<sup>21</sup> because the chairperson 'has the option of bringing conflict situations to the attention of the Panel of the Wise'. An excellent review of the Panel of the Wise written in 2015 by Porto and Kapinga,<sup>22</sup> who have worked with it, concluded that its effectiveness was hampered by its lack of autonomy, despite the fact that PSC protocol grants it the power either to initiate actions to support the work of the PSC or to do so at the request of the PSC. However, support from the AU and its structures is necessary if the panel is to fulfil its mandate fully and effectively.

## IGAD mediation and interface with the AU

In 2005, Southern Sudan attained semi-autonomous status through a Comprehensive Peace Agreement (CPA) reached between the Sudanese government and the South Sudanese People's Liberation Movement/Army (SPLM/A). Six years later a new republic was born, following a referendum in which the majority of Southern Sudanese voted for secession from the rest of the country.

However, the newly independent state was confronted by old and new tensions on all fronts. For instance, the conflict between the Sudanese government and the SPLM/A during the civil wars, which masked longstanding ethnic tensions and hostilities, was never completely resolved. Old tensions began to manifest themselves in the political fabric of the new nation and were not adequately addressed during the pre- and post-referendum phases.<sup>23</sup>

As the state was in the process of construction, the AU opened a Liaison Office in Juba in 2008 with the

intention of supporting the implementation of the CPA. Among other tasks, it facilitated the observation missions of the AU during the 2010 elections and the 2011 South Sudanese referendum, which were the two major benchmarks of the CPA.<sup>24</sup> The mandate of the Juba office was also to facilitate the work of the AU Ministerial Committee on Post-Conflict Reconstruction and Development and other fact-finding missions to South Sudan.<sup>25</sup>

Old tensions began to manifest in the political fabric of the new nation, and were not adequately addressed

In 2009, the AU appointed a High Level Implementation Panel on Sudan (AUHIP), chaired by former presidents Thabo Mbeki of South Africa, Pierre Buyoya of Burundi and Abdulsalami Abubakar of Nigeria, to assist with the implementation of the CPA and the recommendations of the AU High-Level Panel on Darfur (AUPD).<sup>26</sup> Following the secession of South Sudan, the AUHIP's mandate became largely the promotion of peaceful relations between the two states. It facilitated the signing of the 2012 Cooperation Agreement intended to promote peace and security between them.

AUHIP worked closely with the Special Envoy of the UN Secretary General for Sudan and South Sudan, the IGAD representative in Sudan and the Joint Special Representative and Head of the AU-UN Hybrid operation in Darfur (UNAMID). The AU initially played its role in Sudan mainly through the AUPD and then AUHIP. While the AUPD only focused on Darfur, the AUHIP was also mandated to engage in mediating internal issues in South Sudan.

Despite these mediation efforts, the legacy of underlying tensions, alongside the challenges of building a new state in South Sudan converged to generate an outbreak of conflict in December 2013. There were indications that a crisis could be looming in July 2013 when the country's president, Salva Kiir, dissolved his entire cabinet, including firing Vice-President Riek Machar. At the time there were growing calls for internal reforms within the ruling SPLM. The armed conflict that ensued in

December 2013, explained as both a failed coup and an outcome of a democratic deficit in the country, was predictable.

South Sudan's neighbours individually engaged the country's leadership to forestall the crisis and to address the tensions in a conciliatory way. From 17 to 19 December the IGAD Council of Ministers along with the AU Commissioner for Peace and Security Ambassador, Ramtane Lamamra, and the UN Special envoy to the AU, Haile Menkerios, undertook a two-day fact-finding mission to Juba to assess the situation at first hand and to urge President Kiir and other parties to consider announcing an immediate cessation of hostilities and commencing peace negotiations.

On 26 December 2013, Ethiopian Prime Minister Hailemariam Dessalegn, who chairs IGAD, visited Juba with Kenyan President Uhuru Kenyatta to meet with Kiir, members of the cabinet and some detained leaders of the SPLM. As a result of these meetings IGAD convened an emergency summit on 27 December 2013.<sup>27</sup>

On 27 December the summit issued a communiqué announcing the establishment of the Office of IGAD Special Envoys for South Sudan. After considerable conflict over the choice of envoys and the focus of the mediation, as the various parties within IGAD attempted to protect vested interests, the summit appointed three special envoys from three of the main power brokers in the organisation. They were Ambassador Seyoum Mesfin of Ethiopia, which chaired the organisation and hosted the peace talks; General Lazaro Sumbeiywo of Kenya and General General Mohammed Ahmed Mustafa al-Dabi of the Sudan.<sup>28</sup>

The IGAD mediation evolved steadily and the special envoys recommended that it be expanded to include other key actors on the continent and globally

Their mandate, as outlined in the communiqué, was to urge the parties to move towards a speedy and peaceful resolution of the conflict through constructive dialogue. They were also mandated to review the status of detained SPLM leaders and engage the warring parties to reach an all-inclusive and fair peace agreement.

Tensions in the oil-rich country had pitted neighbours and IGAD members against each other. Some analysts have argued that Uganda and Sudan, Ethiopia and Eritrea, Kenya and Egypt supported different sides in the conflict and that this competition was reflected in the internal processes of constituting the IGAD envoy team.<sup>29</sup>

The scope of the mediation was another source of conflict and in order to resolve differences in approach, the mediation team detailed a strategic plan as a basis for its work. An important component of this plan was that the envoys, with the assistance of the IGAD Secretariat based in Djibouti, should

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27 December 2013

IGAD CONVENES AN  
EMERGENCY SUMMIT

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establish a mediation secretariat staffed by individual from Ethiopia, Kenya and Sudan to assist with the administrative and logistical arrangements. This was done in January 2014.

The mediation team also formed committees to expedite the process. These were divided into themes, which included the permanent ceasefire and security arrangements, resources and financial management and transitional justice.<sup>30</sup> The committees were comprised of representatives of political parties and CSO stakeholders who were to debate contentious issues and generate consensus that would later form the substance of the 2015 Peace Agreement.

Most of the negotiations about the text of the final agreement were done face to face, either in committees or in plenary sessions. The IGAD mediation team also organised a number of workshops and symposiums to assist the negotiating parties. One of these was a symposium on the restoration of peace in South Sudan. It was attended by key South Sudanese stakeholders and IGAD labelled it a success because it brought CSOs and government to a negotiation platform.

The AU's approach was starkly different. On 5 December 2014 it established an ad hoc High Level Committee comprising the sitting presidents of Algeria, Chad, Nigeria, Rwanda and South Africa, to support the IGAD mediation. Six months later, in June 2015, the AU chairperson appointed the former president of Mali, Alpha Oumar Konaré, as the AU High Representative for South Sudan. This was done, the AU said, to strengthen its contribution towards ending the conflict.

The appointment of the high representative and the ad hoc committee was also intended to help overcome differences that might emerge among the members of IGAD during its mediation.<sup>31</sup> The extent to which the AU mechanisms helped IGAD find consensus within the mediation is debatable. In essence, the committee never really functioned and Konaré's involvement in the mediation was delayed.

Meanwhile, the IGAD mediation evolved steadily and the special envoys recommended that it be expanded to include other key actors on the continent and globally to add leverage. This led to 'IGAD Plus', a platform comprising IGAD member states, the AU ad hoc

committee, the AU Commission, the UN, the EU, the Troika (the United States, United Kingdom and Norway) and China and the IGAD Partners Forum. Given that most players did not clearly understand the role of the high representatives, most respondents interviewed for this report believe that it was through IGAD Plus that Konaré's role became more visible because he engaged key heads of states of the IGAD countries involved in the mediation process.

### The AU's behind-the-scenes role in South Sudan may also be understood in the context of subsidiarity

The impetus given by IGAD Plus resulted in the presentation in July 2015 of a compromise agreement drafted on behalf of the South Sudanese parties. The group, along with Konaré, put a significant amount of pressure on South Sudanese parties to sign the agreement. But Konaré's role at this point had to be nuanced as the report of the AU Commission of Inquiry on Human Rights Abuses in South Sudan was about to be released. The AU initially dithered over releasing the report, ostensibly because its release might jeopardise the negotiations, but it did so eventually.

The AU's behind-the-scenes role in South Sudan may also be understood in the context of subsidiarity, whereby RECs lead and the AU supports. Subsidiarity, which is one of the central concepts underlying the African Peace and Security architecture (APSA), entails three elements: decision-making, division of labour and burden-sharing. This may partly explain the AU's delayed role in the process. What it does not explain is how the work was divided between Konaré and the IGAD envoys.

Also unclear is Konaré's coordination with AU structures, in particular, the extent to which he strengthened the work of the AU liaison office in Juba, his briefings of the PSC that could inform key AU interventions and his diplomatic influence. Of the three, the report found that he was mostly lauded for his diplomatic influence, specifically his engagement during the signing of the 2015 Addis Agreement.

He was reportedly instrumental in encouraging South Sudanese President Kiir to sign the agreement, which he

initially rejected.<sup>32</sup> Konaré was also reported to be instrumental in engaging the leaders of Uganda and Sudan to resolve their differences over how the mediation should be handled and the issues of priority. It should be recalled that the government of Uganda deployed its troops to South Sudan shortly after the conflict broke out. Meanwhile, the Sudanese government has a longstanding relationship with Reik Machar and reports indicated that he was receiving support from Khartoum. The differences between Sudan and Uganda played themselves out in the IGAD mediation.

Some argued that the ad hoc nature of the process made it more flexible, enabling mediators to adapt their approaches to changing realities

A key observation is that the AU had given Konaré a broad mandate for his work and the organisation had not established specific deliverables that could help in gauging the success of his mediation efforts. While some successes were noted along the way, there is no standard criterion with which to evaluate the work of AU mediators.

### Progress in establishing the mediation support unit

The idea of establishing an AU mediation support unit within the commission was mooted from 2008. It was envisaged that such a unit would assume responsibility for providing the necessary technical, logistical and organisational support to the work of AU-designated mediators.<sup>33</sup> The unit would also provide advice; facilitate the development of policy guidelines; support the development of mediation plans; oversee rosters of experts; support envoys in the field; evaluate, conduct and disseminate relevant research; liaise with staff from the continental early warning system and support the RECs.<sup>34</sup> There were debates within the AU Commission about whether the unit should be in the conflict management division, the office of the AUC chairperson, the office of the commissioner for peace and security or the political affairs department. It was eventually established in 2016 and located in the PSD Division.

The politics around its establishment have affected the AU's ability to strengthen its mediation processes. As discussed above, the 2012 AU SOPs for Mediation Support, which were issued by the Peace Support Division, are intended 'to enable envoys/special representatives and those who support their efforts to function at the highest and most effective levels'. The SOPs provide guidelines for the appointment and hiring of lead mediators. They also have a strong evaluation component. They provide for mediator pre-deployment briefings, the design of mediation strategies and operational plans, the review and evaluation of progress made during mediation processes and the evaluation of concluded mediations. Currently, these are

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THE AU MEDIATION SUPPORT  
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not comprehensively institutionalised and consistently applied. It is anticipated that this will happen once the Mediation Unit is set up.

## Strengths and weaknesses of the AU system

The strengths of the AU's mediation system can also be identified as its weaknesses. For instance, experts interviewed for this report labelled the appointment and hiring of mediators as ad hoc and opaque and believed that special envoys and high representatives in particular lacked sustained engagement and that their efforts were often merely a form of firefighting. But some argued that the ad hoc nature of the process made it more flexible, enabling mediators to adapt their approaches to changing realities without too much bureaucracy and that the appointment of the same group of high profile individuals could build confidence in a mediation as 'there is need to send people Africans are comfortable with'.

However, the mediation framework has clear institutional shortfalls. The first and most frequently cited has to do with how mediators are selected. This is an old criticism, highlighted by AU mediation experts, who conclude that the appointment of high-level mediators has not always taken their specific peacemaking abilities and experience into consideration.<sup>35</sup> Linked to this is the way in which the mandates of mediators are renewed. Most observers believed that renewals were either discretionary or automatic, without any assessment made of the impact of the mediator and his or her relevance to future processes.

Mandates that are unclear and too broad were also flagged as problematic in guiding the work of mediators. In such cases, the interpretation of the mandate becomes subjective, which also has an impact on reporting procedures.

Commentators were also concerned that mediators do not report to the PSC regularly and do not always adhere to deadlines. The fact that they are not strictly obliged to report to AU structures weakens the AU's ability to monitor and evaluate their work.

The lack of thorough training of mediators has been raised too, which speaks to the lack of technical support

for mediators, an issue that the operationalisation of the MSU may resolve.

Because monitoring and evaluation has not been a strong feature of AU mediation processes there are no strict rules governing it. A practice that has helped in recent years is seminars, during which a wide range of mediators discuss challenges and lessons learnt from the mediation activities. While these are not institutionalised reviews, they will have a place in future evaluations of mediation activities and may also contribute to refining a framework for evaluating various mediation engagements.

The AU's liaison with RECs has emerged as a key weakness. The complex nature of conflict situations and the fluidity of mediation processes require the best coordination of efforts at regional and international levels. While this is stipulated in communiqués establishing the mandate of mediators, as was the case in South Sudan, it is not clear how the AU sets about achieving effective coordination.

Commentators were also concerned that mediators do not report to the PSC regularly nor always adhere to deadlines

The UN Office to the AU (UNOAU) was established in 2011 to strengthen collaboration between the two bodies. According to the Joint UN-AU framework for An Enhanced Partnership in Peace and Security a provision for cooperation in mediation stipulates that both organisations 'will review the draft AU-UN mediation Guidelines and adopt a strategy for cooperation in mediation'. The guidelines were developed in 2012 and are yet to be formally adopted. They focus on the establishment of mediation teams and the development of joint mediation plans. The UN-AU framework also states that the UNOAU and the AU PSD will organise periodic discussions on forms of cooperation in mediation, such as that between the Panel of the Wise and UN mediation teams or between UN and AU special envoys. This partnership and collaboration is evolving slowly. At the time of writing, the two organisations were developing a Programme of Cooperation in Mediation as well as an AU Mediation Framework.<sup>36</sup>

## Findings and recommendations

- When it comes to conducting mediation initiatives, RECs lead and the AU follows. This is referred to as the subsidiarity principle and, while it was applied in the South Sudanese mediation process, there was no consensus between the AU and IGAD on how it should be coordinated.<sup>37</sup> The wider framework for AU-REC relations is still under development. The AU should put more efforts into refining the exact nature of cooperation and coordination between itself and RECs more broadly; and specifically on mediation.
- The institutional collaboration between the office of the IGAD special envoys and the AU office coordinating the work of the High Representative in South Sudan would have benefited from greater sharing of information, analysis and reviews of the peace process. This was not the case.<sup>38</sup> To overcome the occasional friction surrounding the application of subsidiarity, it would be useful to develop a joint coordination plan as soon as mediation envoys and teams are set up. The plan could be revised periodically.
- There is a general view that special representatives or envoys can and have become bureaucracies of their own in the absence of a functional system within the AU to regulate their work. This can lead to a waste of resources. The AU should develop clearer accountability procedures for mediators. It could also insist that mediators develop action plans, aligned to mediation objectives and activities – that are costed.
- Without a predictable and structured system defining criteria, there are perceptions that some envoys take advantage of the system and focus more on raising their personal political profiles than on delivering results. This issue will be resolved when the AU develops specific criteria for the appointment of mediators.
- The funding model for mediators is not sustainable. As it currently stands, the work of AU mediators relies heavily on donor funding, which can affect the predictability and sustainability of their work. The MSU is contemplating a mediation fund financed by contributions from AU member states. As the fund is being set up and the AU contemplates alternative

resourcing, conversations between AU and RECs on sharing resources in mediation could also be useful.

## Conclusions

Subsidiarity is difficult to implement in practice. While it will remain one of the central concepts underlying APSA, the South Sudan experience demonstrates that defining it concretely is one of the neglected aspects of AU-REC relations when it comes to conflict mediation.

While IGAD played a robust role in mediating the South Sudanese conflict from the beginning, the AU arguably missed several opportunities to advance the application of the subsidiarity principle and improve coordination and cooperation in the process. There could also be conflicting interpretations of the principle from different actors for different reasons and because of different interests. This makes it difficult for the AU to intervene or help in cases where there are conflicts of interest between competing states involved in a mediation process.

The AU arguably missed several opportunities to advance the application of the subsidiarity principle

The appointment of mediation structures that mirror one another needs to be rethought. For instance, the Ad hoc Panel's contribution to the IGAD mediation was unclear, as was its connection to Konaré's work.

Finally, it is clear that the AU is yet to develop a culture of systematising and institutionalising its mediation practices. It is believed that some mediators have become too independent or become their own bureaucracies. In such instances, they can operate like a parallel civil service that duplicates the AU's work. The operationalisation of the MSU is an important milestone for the AU in helping to address these concerns. But change will take time as it requires a fundamental shift in the way mediators are managed by the organisation. It will also require more rigour in systematising the work of mediators, strengthening coordination between AU envoys and those from RECs and enhancing day-to-day institutional collaboration between itself and RECs in early warning and conflict resolution.

## Notes

- 1 See, among others, B Mesfin, The regionalisation of the South Sudanese crisis, *East Africa Report* 4, 10 June 2015, Institute for Security Studies; International Crisis Group, South Sudan, A civil war by any other name, *Africa Report* 217, 10 April 2014, at [www.crisisgroup.org/~media/Files/africa/horn-of-africa/south%20sudan/217-south-sudan-a-civil-war-by-any-other-name.pdf](http://www.crisisgroup.org/~media/Files/africa/horn-of-africa/south%20sudan/217-south-sudan-a-civil-war-by-any-other-name.pdf); J Astil Brown, *South Sudan's slide into conflict: revisiting the past and reassessing partnerships*, Chatham House, December 2014, at [www.chathamhouse.org/sites/files/chathamhouse/field/field\\_document/20141203SouthSudanConflictAstilBrown.pdf](http://www.chathamhouse.org/sites/files/chathamhouse/field/field_document/20141203SouthSudanConflictAstilBrown.pdf).
- 2 These are reflected in the United Nations Human Rights Office of the High Commissioner, State of Human Rights in the Protracted Conflict in South Sudan, 4 December 2015, at [www.ohchr.org/Documents/Countries/SS/UNMISS\\_HRD4December2015.pdf](http://www.ohchr.org/Documents/Countries/SS/UNMISS_HRD4December2015.pdf).
- 3 IGAD Communique of the 23rd Extraordinary session of the IGAD Assembly of Heads of State and Government on the situation in South Sudan, 27 December 2013, Nairobi, Kenya, at [http://igad.int/attachments/725\\_Communique%20of%20the%2023rd%20IGAD%20Extraordinary%20Summit.pdf](http://igad.int/attachments/725_Communique%20of%20the%2023rd%20IGAD%20Extraordinary%20Summit.pdf).
- 4 *Sudan Tribune*, IGAD appoints former Botswana president to head monitoring commission on South Sudan, 20 October 2015 <http://www.sudantribune.com/spip.php?article56773>.
- 5 See, Report of the Chairperson of the Commission on the Situation In South Sudan – Peace and Security Council 515th Meeting at the level of the Heads of State and Government, at: [www.peaceau.org/en/article/report-of-the-chairperson-of-the-commission-on-the-situation-in-south-sudan-peace-and-security-council-515th-meeting-at-the-level-of-the-heads-of-state-and-government#sthash.bDhCco5L.dpuf](http://www.peaceau.org/en/article/report-of-the-chairperson-of-the-commission-on-the-situation-in-south-sudan-peace-and-security-council-515th-meeting-at-the-level-of-the-heads-of-state-and-government#sthash.bDhCco5L.dpuf).
- 6 The African Union released the report of the AU Commission of Inquiry on South Sudan, at: [www.peaceau.org/en/article/abc#sthash.z4x5U6yE.dpuf](http://www.peaceau.org/en/article/abc#sthash.z4x5U6yE.dpuf) 27 October 2015.
- 7 Ibid.
- 8 Ibid.
- 9 See the Report of the Meeting on the Operationalization of the African Union Mediation Support Unit (AU MSU), held at the AU Headquarters in Addis Ababa from 6-8 September 2016.
- 10 See J Gomes Porto Kapinga Yvette Ngandu. The African Union Panel of the wise, A concise history, ACCORD 2015, at <http://www.peaceau.org/uploads/aupow-book2-.pdf?>
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- 12 See remarks from Ambassador Smail Chergui, Commissioner for Peace and Security, on the inauguration of the MSU at [www.peaceau.org/en/page/107-au-mediation-support-unit](http://www.peaceau.org/en/page/107-au-mediation-support-unit).
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- 18 Criteria cited in, J Gomes Porto and Y Ngandu Kapinga, *The African Union's Panel of the Wise, a concise history*, ACCORD/AUC, 2007, p146.
- 19 Members are appointed by the AU Assembly on the recommendation of the chairperson of the commission, for three calendar years. Each member is drawn from one of the AU's five regional groups. Currently the members are Mozambique's former prime minister, Luisa Diogo; former Organisation for African Unity secretary general and former Togolese prime minister, Edem Kodjo (from West Africa); former Algerian foreign minister and former United Nations and Arab League Special Envoy for Syria, Lakhdar Brahimi (from North Africa); former Ugandan vice-president, Dr Specioza Wandira Kazibwe, and Special Advisor to President Jose Eduardo dos Santos and former oil minister for Angola, Dr Albina Faria de Assis Pereira Africano, representing Central Africa.
- 20 *AU handbook 2014*, p 146.
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- 35 Views from experts on AU mediation are well captured in J Gomes Porto and Y Ngandu Kapinga, The African Union's Panel of the Wise, A Concise History, ACCORD/AUC, 2007, at <http://www.peaceau.org/uploads/aupow-book2-.pdf>.
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