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PEACE NEGOTIATIONS AND AGREEMENTS IN AFRICA

– WHY THEY FAIL AND HOW TO IMPROVE THEM

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Peace Negotiations and Agreements in Africa – Why They Fail and How to Improve Them. NAI Policy Note No 8:2018

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FRONT: Malha, North Darfur, 26 september 2012. Women attend workshop on UNSC Resolution 1325, organized by UNAMID Gender Unit. This resolution reaffirms the important role of women in peace negotiations. Photo by Sojoud Elgarrai, UNAMID.

BACK: Juba, South Sudan, 21 September 2018. Hundreds of South Sudanese commemorate the International Day of Peace under the theme 'Peace is a Human Right'. Photo by Issac Billy, UN Photo.

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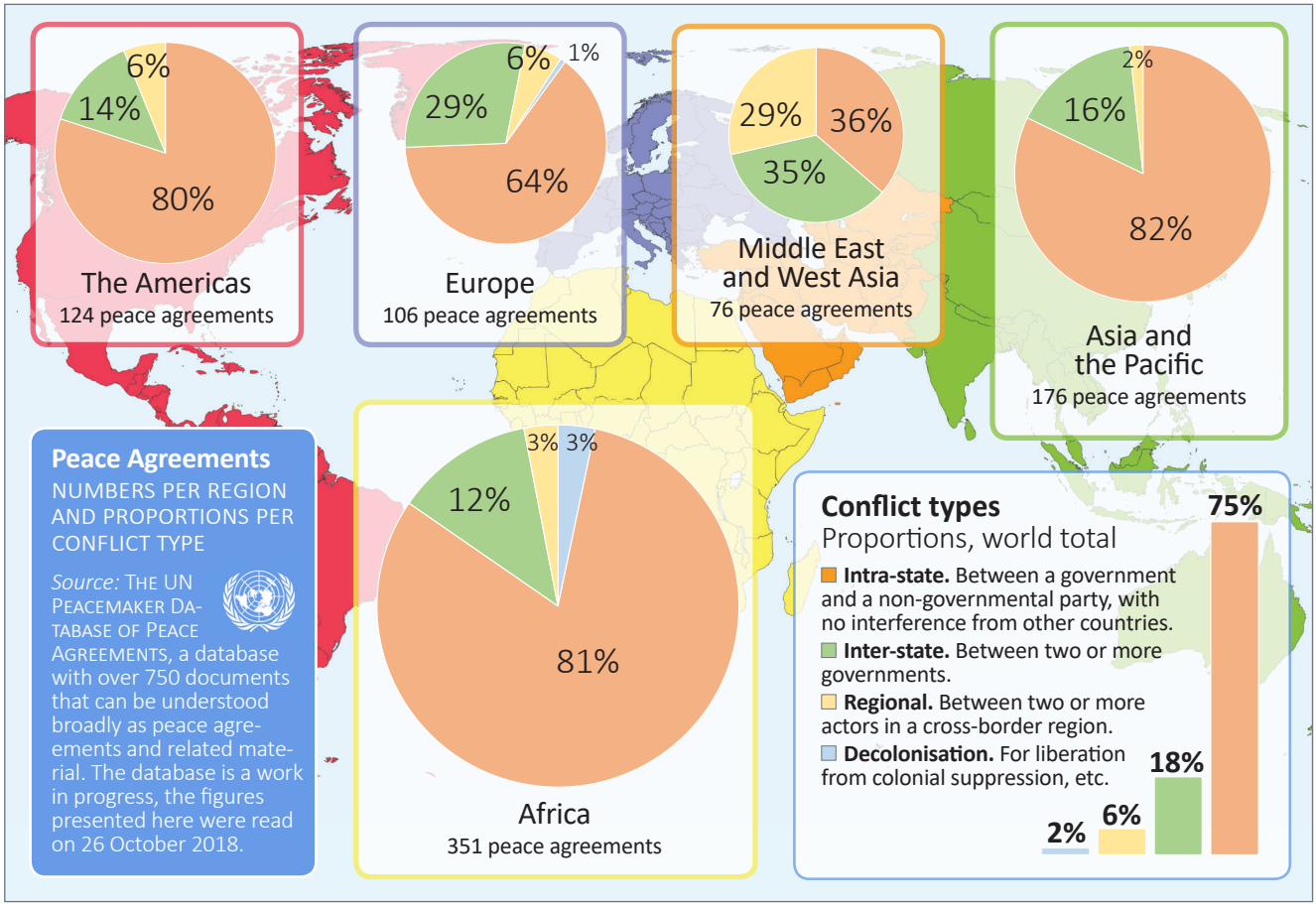
Peace Negotiations and Agreements in Africa – Why They Fail and How to Improve Them

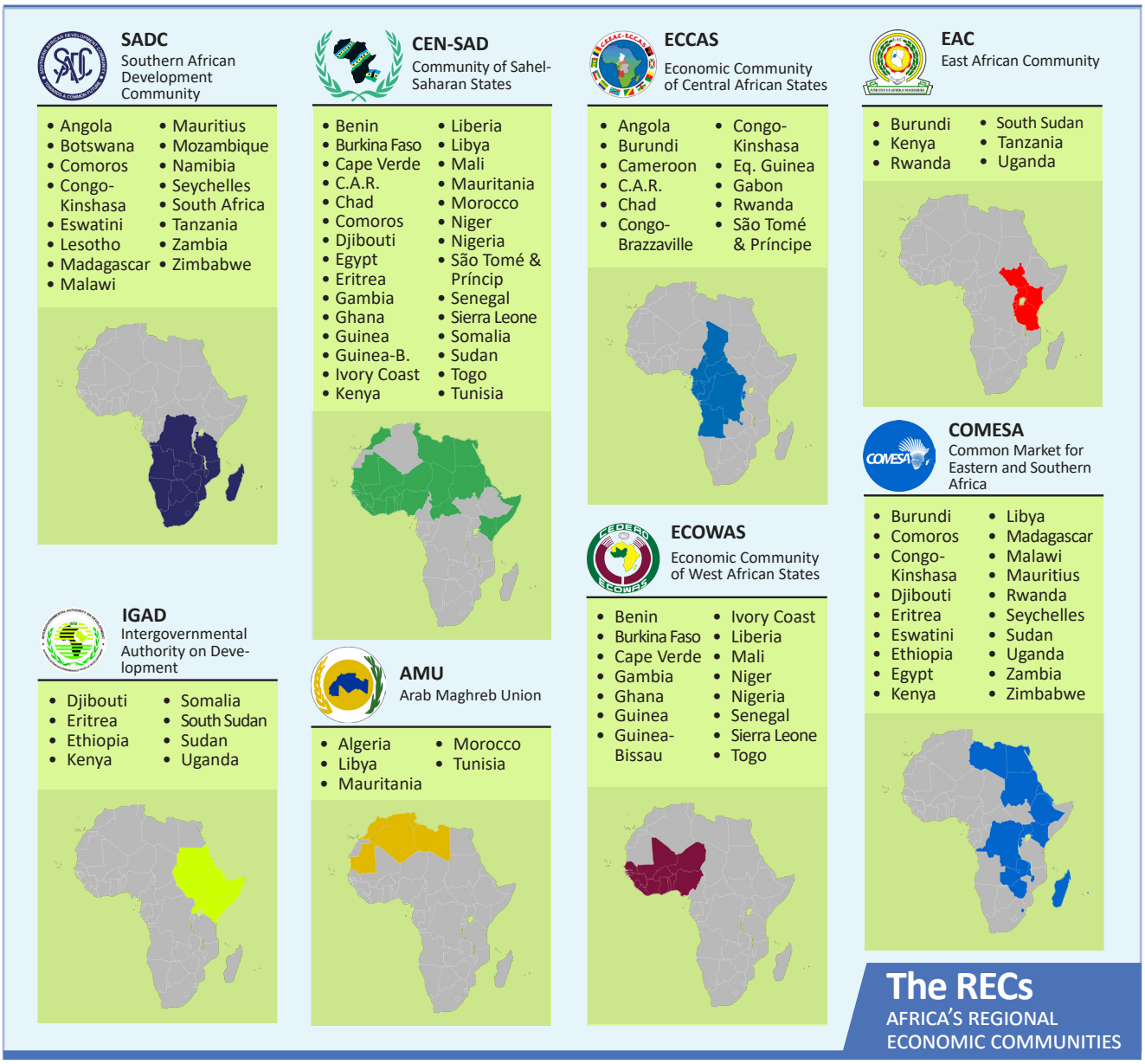
Peace is not just the absence of conflict. The self-interest lying behind external 'support' can take many shapes. The pursuit of justice can sometimes thwart peace efforts. And, last but not least, simply adding more women to peace negotiations will not break male-centric norms.

Victor Adetula, Tim Murithi and Stephen Buchanan-Clarke

According to the UN Peace Agreements Database, 42 per cent of all peace agreements relate to Africa. However, several of these have failed to lay the foundations for sustainable peace. It is important to investigate why this is the case and why countries fall into the conflict trap, where societies that have suffered civil war later relapse into violence. The cyclical nature of African conflict is partly attributable to weak political institutions and structures.

Peace negotiations can falter if parties feel coerced into accepting an outcome. And agreements may collapse if the parties involved do not implement them in good faith. This non-acceptance and non-compliance with peace accords is perhaps best exemplified by the current crisis facing the agreement to end the South Sudanese civil war, signed in August 2015 in the face of threatened UN sanctions against both warring sides. The culture of non-compliance fuels political instability and societal tension, as





can also be seen in ongoing conflicts in Mali, the Central African Republic, Burundi, Zimbabwe and Kenya.

The foundations of peace and the potential for socio-economic and political transformation depend on vital decisions made at the negotiating table, as well as the dynamics of the peace talks, including their traditionally gendered nature. The role of moral guarantor of a peace agreement – such as that undertaken by the African Union (AU) and the regional economic communities (RECs) – is important in supporting peacebuilding and stabilisation initiatives across the continent.

Peace is not the absence of conflict

The way in which peace and conflict are conceptualised has a profound effect on peace negotiations. Too often, peace is seen simply as the absence of conflict, and the success of a peace agreement is measured by whether it results in the cessation of hostilities. There are numerous examples of peace agreements in Africa that have brought temporary peace, but have failed to address the structural violence present in societies, which breeds discontent and leads to future conflict. If peace agreements do not deal with how people are going to live in the future and do not promote 'positive peace', they will continue to fail to end suffering and prevent future conflict.

For peace agreements and negotiations to be effective, there needs to be a paradigm shift in the understanding of peace and conflict. Rather than the absence of conflict, peace needs to be understood as a combination of factors, such as economic opportunity, access to justice and the degree of gender equality. Similarly, conflict should be seen not just as open violence, but as a result of the systemic oppression inherent in a society's cultural, economic

and political structures. This paradigm shift will require peace agreements to tackle the socio-economic drivers of conflict – for example, corruption, gender inequality and the unequal distribution of resources.

Regional context of conflicts

Today more than ever before, conflict in Africa is regional in nature. Wars tend to be fought on the peripheries of states by non-state actors. Regional webs of interlocking conflicts facilitate the flow of arms, fighters, finances and populations across increasingly porous borders and add to the complexity of peace negotiations. Linkages between sites of instability are multifaceted and are sustained by socio-economic, political and cultural factors that often spill across national boundaries and have their roots deep in pre-colonial and colonial history. This can be seen in places such as Darfur, South Sudan, the Central African Republic, Eastern DRC and Northern Mali. Failure to appreciate the interconnectedness of conflict systems and a tendency to prioritise national over regional reconciliation and peacebuilding initiatives have led many peace agreements in Africa to fail.

There is an increasing acknowledgement by both states and international institutions that seemingly localised conflicts should be analysed through a regional lens. This has been motivated in part by the rapid rise of violent extremism and transnational terrorism in recent years, especially in states that were formerly perceived as insulated from such forms of conflict.

Strengthening regional institutions

In January 2017, Ecowas, the regional economic community of West Africa, played a decisive role in dealing with the post-election instability and attempted coup in the Gambia. Through successful mediation, it ensured the accession of democratically elected President Adama Barrow and the departure of former President Yahya Jammeh, thus averting a potential crisis without resort to gunfire. Africa's other regional bodies have much to learn from Ecowas's peacebuilding capacities; yet Ecowas also has room for improvement.

The regional bodies need a standing mandate, adequate capacity and the legitimacy to intervene. There needs to be a permanent regional mediation structure and a clear division of responsibility between the RECs and the AU. Moreover, in both the AU and the RECs, rather than cooperating in pursuit of peace, the governance, security and peacebuilding divisions remain largely separate. There is also a general lack of capacity and sustained funding for regional mediation and peacebuilding mechanisms, and there are few experts available who possess the requisite analytical tools or mediation experience.

External interests muddying the waters

Developing countries have always had to deal with the influence wielded by external powers – today more than ever. The notion of the autonomous state as an independent entity is crumbling in the face of increased migration, integrated global financial markets, foreign

Juba, South Sudan, 21 September 2018. Hundreds of South Sudanese commemorate the International Day of Peace under the theme 'Peace is a Human Right'.

Photo: Issac Billy, UN Photo

direct investment, climate change, the internet and social media. As conflicts cross more regional borders and become more interconnected, the desire of (and need for) external actors to become involved in peace negotiations increases. When a country is in a state of flux, conflict also offers opportunities for external actors to secure, protect or advance their own interests. Mediators must therefore learn to navigate competing national, regional and international interests on the road to a peace accord. External support for peace negotiations, whether at the regional or the international level, can prove beneficial: international cultural and economic sanctions, for example, brought the National Party in South Africa to the negotiating table. However, there are several instances where sanctions and other external interventions have only hardened the positions of one or other opposing party.

As in the case of the Ecowas intervention in the 2016/17 Gambian constitutional crisis, regional bodies may be well suited to serve as mediators. But if the regional body's member states are in competition or have historical grievances against one another, they may adversely affect the peace negotiations. One such example is highlighted in a 2015 study of the South Sudanese peace process by Aleu Garang, head of the mediation support unit of Intergovernmental Authority on Development (IGAD). IGAD initially endorsed Uganda's early intervention to 'protect vital installations', but later reversed its position to be more amenable to Ethiopia and Sudan. Similarly, there are several instances of conflicts becoming internationalised: Syria today offers perhaps the clearest example of how a local conflict between the state and an armed opposition can evolve into a geopolitical storm.

External actors may also 'muddy the waters' by developing overlapping or competing peace processes. For example, in the Central African Republic three national-level peace processes – backed by Angola, the Vatican and, most recently, the African Union – have been undertaken since the outbreak of conflict between ex-Seleka and anti-Balaka armed groups in 2013. Not only has this immeasurably complicated the negotiations, but it has created a situation whereby armed groups are able to play mediators off against one another for political and financial gain. Ultimately, responsibility for navigating and managing external influences on the peace process falls to the mediator, who must also remain impartial and work towards peace. Currently, neither the AU nor the RECs possess a sufficiently large pool of trained, experienced and impartial mediators to handle the growing number of conflicts on the continent. They also lack an established set of norms and best practices for peace negotiators.

Increased role for civil society

Peace negotiations are often limited to armed parties and leading statesmen. It is a common perception that secret negotiations and back-door diplomacy are essential to a peace agreement. However, while agreements reached thus may lead to a short-term cessation of hostilities, in the long term they tend to fail due to lack of credibility and legitimacy. This is especially true in Afric, where public support for governments tends to be low. Moreover, armed groups often do not actually represent the citizens they claim to speak for; instead they pursue their own selfish economic and political ambitions.

A strong civil society that represents the interests of ordinary citizens and that has a nuanced understanding of the relevant issues can come up with solutions for a more sustainable peace. The inclusion of civil society organisations in peace talks would bolster the legitimacy of the negotiations and improve public buy-in: if citizens feel that their interests have been properly represented, they are more likely to feel a sense of responsibility to maintain the peace.

It is perfectly feasible to broaden participation in negotiations to civil society without reducing their effectiveness. Peace researcher Thania Paffenholz, who has advised on many African peace processes over the past two decades, has developed a conceptual model for the inclusion of civil society organisations. The model presents steps that range from more direct forms of participation (such as formal negotiations, observer status and official consultative forums) to more indirect forms (such as informal consultations, public platforms and the development of inclusive post-agreement peacebuilding mechanisms).

Gender considerations

Across the continent, women are conspicuous by their underrepresentation in peace negotiations and agreements. In 2012, UN Women carried out a review of 32 major peace processes: it found that on average, in the peace processes reviewed, women made up just 9 per cent of the negotiating delegations, 4 per cent of signatories and only 2 per cent of chief negotiators. The solution is not simply to include more women: rather, women need to take ownership of the peace processes and to make a substantive input in an environment

where they do not feel pressured to comply with a patriarchal status quo.

Leaving aside for a moment the actual physical representation of women, peace negotiations must take into consideration all aspects of gender – including how African societies have constructed the notions of masculinity and femininity, and the power dynamics that underlie these relationships. This will require not just the presence of women at peace negotiations, but also the inclusion of a gender 'prism' with the tools needed to provide requisite analysis and recommendations.

The role of indigenous justice systems

Peace agreements also fail due to lack of emphasis on justice. Those involved in peace-making processes often see an inherent conflict between evolving international norms of justice and their primary objective of negotiating a settlement to halt violence. For example, there are numerous cases where peace has been achieved on the basis of injustice, and where the pursuit of justice has thwarted peace.

While building just societies in Africa and ending impunity for perpetrators is an important endeavour, peace negotiations often fail if they emphasise idealism over pragmatism. Nonetheless, international norms today dictate that peace agreements must stress the role of justice: failure to do so often results in a lack of multilateral and international recognition and support.

However, indigenous notions of justice are often overlooked or disregarded by local governments and international institutions alike, in favour of evolving norms of international justice. As former UN Chief Prosecutor Richard Goldstone and leading international law expert Adam M. Smith argue in a 2009 study on international judicial institutions: 'one of the paradoxes of the twenty-first century's movements toward universal justice is that criminal law is being simultaneously internationalized and localized'. While examples do exist of indigenous justice systems playing a significant role in peacebuilding (such as Rwanda's Gacaca courts), more space needs to be created for these initiatives, as well as increased support to ensure their sustainability. Peace agreements in Africa may well prove more durable and effective if they are built on indigenous justice systems, which are culturally relevant and enjoy popular support.

Photo: Elisa Finocchiaro

Rwanda's gacaca courts serve as an examples of indigenous justice systems playing a significant role in peacebuilding.

Policy Recommendations

- Ensure that the degree and form that justice plays in peace negotiations is pragmatic, locally relevant and culturally embedded – not dictated by external actors.
- Explore a conflict's cultural environment and local justice philosophies when deciding on the role that justice should play in peace negotiations and agreements.
- Look at peace as the result of a combination of factors, such as gender equality, economic opportunity and access to justice.
- Develop and support regional conflict resolutions early on and ensure that they have a clear mandate and the capacity to mediate regional conflict.
- Evaluate whether a regional organisation is in fact best suited to guide peace agreements, by examining the diplomatic and political relationships between its member states.
- Develop sets of norms and guidelines to ensure that civil society organisations are involved, directly or indirectly, in mediation and peacebuilding.
- Train mediators to recognise and navigate the interests and influence of external actors in peace negotiations and to ensure impartiality.
- Recognise the importance of keeping peace processes locally owned.
- Avoid politicising the role of chief mediator and draw on fresh faces to lead peace negotiations.
- Vastly improve the representation of women in all facets of peace negotiations, including as signatories and chief mediators.
- Assess the training needs and build institutional capacity among regional and continental peacebuilding mechanisms in terms of the role of women in mediation processes.
- Ensure that mediation teams include not only female representation, but also qualified gender specialists who possess the tools to provide the requisite analysis and recommendations.

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