



# THE SUDD INSTITUTE

RESEARCH FOR A PEACEFUL, JUST AND PROSPEROUS SOUTH SUDAN

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## WEEKLY REVIEW

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### The Triumph of Democratic Institutions in the US: Lessons for South Sudan

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The inauguration of President Joe Biden on the 20<sup>th</sup> of January 2021 is a triumph of democracy and democratic institutions in the United States. There were some genuine concerns that peaceful transfer of power might not happen for the first time in American history. President Trump's refusal to concede the election he had genuinely lost, and his claim of electoral fraud were at the core of this uncertainty in the United States. The mob attack on the Capitol, which was an attempt to disrupt the certification of the electoral college results, epitomizes Trump's relentless efforts to retain power. As the United States is seen as a paragon of democracy, Trump's refusal to accept the results of the election baffled the whole world and generated debates about the future of democracy, both in the US and around the world.

The debates center largely around the resilience of the US democratic institutions. For the first time in contemporary US history, such an event is unprecedented, but the manner in which the American people responded to such a dramatic challenge speaks to their commitment to democratic institutions and processes. For those who live in other democratic societies, these events were a major cause for concern about the future of democracy, even in their own countries. Perhaps some in less democratic societies may consider the hiccups in the US elections as evidence of American hypocrisy or at least, some weakness in what an impervious ideal type democracy has been in the United States. The US democratic institutions were set up purposely to protect democratic processes and people's will from being usurped by individuals with authoritarian tendencies. Institutions are built to absorb external and internal shocks and to rebound after such challenges.

This Weekly Review applauds the power of human innovation and its success. It celebrates the strength of the American democratic institutions, which has enabled the American people to weather what was a substantial threat to a long-established

institutional tradition of peaceful transfer of power. The hope is that such lessons could also help emerging countries, such as South Sudan, at the very least, to appreciate the value of rule-based institutions. Moreover, the review highlights the perils of predicating public institutions on personalities. The rest of the review revisits the definition of institutions, brief context and state of institutions in South Sudan, and concludes with some recommendations.

## What are Institutions and Why do they Matter?

In defining institutions, we take the public administration perspective. In this regard, we are interested in public institutions in particular. Public institutions can be defined by “the political bodies and administrative structures that are governing public affairs and constitutions, formal charts, procedures provide the conceptual glue which generates its unity and its limits” (Thoenig, 2012). The main contention in public administration is that public “institutions are determinants of political life” (Thoenig, 2003), as such, organizations which handle public affairs should be 'conceptualized as institutions rather than as instruments' (Brunsson and Olsen, 1997: 20) as cited in (Thoenig, 2003). The point is that these public organizations, “...generate and implement rules which define how the rules of the game have to be played, who is legitimate to participate, what are the acceptable agendas, which sanctions to apply in case of deviations, as well as the process by which changes should occur. The way people think, interpret facts, act and cope with conflicts are influenced and simplified by public administration” (Thoenig, 2003).

Hodgson (2015) defines institutions in terms of integrated systems of rules that structure social interactions. He also defines a rule as a learned and mutually understood injunction or disposition (Hodgson, 2015 p 502). Rules include norms of behavior and social conventions, as well as legal or formal regulations (Hodgson, 2015 p 503). Searle (1995, 2005) argued forcefully that institutional rules have a constitutive and deontic character, and that these particular kinds of rules are important for institutions. Searle asserts that:

“the role of human institutions and the purpose of having institutions is not to constrain people as such, but, rather, to create new sorts of power relationships. Human institutions are, above all, enabling, because they create power, but it is a special kind of power. It is the power that is marked by such terms as: rights, duties, obligations, authorizations, permissions, empowerments, requirements, and certifications” (Searle, 2005 p 10).

Rousseau, as cited in (Przeworski, 2004 p 528), stated the same that, “Institutions are established in a society that has some power relations and they must reflect the distribution of this power (Przeworski, 2004 p 529). Przeworski (2004) paraphrased Condorcet as having observed that,

“when the practice of submitting all individuals to the will of the greatest number introduced itself into societies, and when people accepted to regard the

decision of the plurality as the will of all, they did not adopt this method as means to avoid errors and to conduct themselves on the basis of decisions based on truth, but they found that, for the good of peace and general welfare, it was necessary to place authority where the force was” (Przeworski, 2004 p 531).

This observation is the essence of democracy in that it is not just the majority, it is the majority with latent power whose will must be respected. John Stuart Mills asked a rhetorical question in the same regards: ‘When do political parties obey results of elections?’ Does the constitution oblige the losers or do they accept the verdict of the polls only because they are physically weaker? I cannot competently answer these questions, but suffice to say that people respect the rules and institutions because there are sanctions and disincentives for not doing so.

The recent US elections is a clear demonstration of this principle. President Donald Trump lost an election, which most Americans believed was free and fair, yet he did not want to accept the defeat. He went as far as mobilizing his supporters, after failing to present a credible case of elections fraud in courts, to storm the US Capitol where the election certification process was taking place. Failing to stop the certification process and after backlash from the American people for the attack on the Capitol, he finally begrudgingly conceded. And he conceded because the institutions sent a signal that the costs of interfering with the majority’s will would be higher than not doing so.

What this suggests is that institutions in, and of themselves, are not sufficient. They must be respected and when violated, the greatest number of people must rise to challenge those in breach and to present credible threats and disincentives to reprimand those in violation. This is exactly what the American people did; they stood up in defense of their constitution and a culture of peaceful transfer of power which has defined American democracy for two centuries. Political and military leaders stood up to defend the will of their people and uphold democratic governance. They just don’t respect these rules and institutions when it is convenient, they live by them.

## Democratic Institutions in South Sudan

South Sudan was born aspiring to become a democratic state. Its Transitional Constitution 2011, as amended, provides the basis for decision making, power relations, and rights and obligations of individuals and entities. The Constitution provides, to some extent, constraints on the executive and some degree of checks and balance. The electoral terms were set and the rules governing elections were codified in the 2012 National Elections Act. What is practiced, however, departs by a wide margin from the written rules. As such, one can say that democratic institutions do not exist in South Sudan as of yet.

The 2013 conflict was in fact a violation of the constitutional order. Neither of the power contending parties was truly committed to a democratic process. They relied on military might to seek or retain power. The tendency to disregard democratic institutions is a direct product of a culture that had developed from the liberation war

time. The Sudan People's Liberation Movement and Army (SPLM/SPLA), beginning at its inception, was authoritarian, autocratic, and militant. Although the SPLM leaders spoke so eloquently about their aspirations to establish a secular, democratic state in the Sudan, it was, by no means, democratic in its operations. Dissent was considered treasonous and contrary views were not condoned.

A cult of personality was built around the then leader of SPLM, Dr. John Garang de Mabior and other senior commanders, who, in their own rights, were dictators of the second order. They did not discuss issues with their subordinates; they simply ordered and expected nothing less than a yes from them. There was only one smart man who sat at the top and did the thinking and the rest simply carried out his plans and this order trickled down the chain of command. This is more or less how the military functions around the world today.

Historical institutionalism posits that “political and administrative organizations, conventions, and procedures regulating relationships between economic actors and the state are therefore path-dependent” (Thoenig, 2003 p 156). In other words, institutions do not change much, they are beholden to, and are influenced largely by, the past and the context in which they were conceived. The SPLM structured itself militaristically, having learned its lessons from the anarchic relationships between military commanders and political leaders during the Anyanya. Hence, this autocracy was seen as emblematic of the bush days during the war of liberation, but it has unfortunately extended into an independence South Sudan.

The problem is that these military men and women in South Sudan took all power, political, civil, military, commerce and even informal jobs during the war of liberation and after independence. The current leaders of South Sudan apply military rules in everything they do, and this is how the democratic state to which South Sudanese aspired collapsed before their own eyes, and they are now technically under an authoritarian system. Since we were taught not to question authority, which is essentially the thing that makes democracy works, how do we expect democratic institutions to thrive in South Sudan? What is thriving now (authoritarianism and autocracy) are what we sowed during our long years of the liberation struggle and we continue to nourish them. If American the people were taught not to question authority, Trump would still be an American president today.

Questioning authority is not just for the sake of it; we question authority when fundamental values and principles are on the line. When the unity of people is at stake, we must question those who put it at risk. When public policy is endangering lives, we must question such policy. When personality is taking a center stage at the expense of public institutions, we must question and act against such a tendency. If South Sudan is to have any chance of developing democratic institutions, the citizens must question the legitimacy of those who claim power outside the ballot box. We must stand against decisions that are made outside the bounds of the law. Until we do that, we can only envy American institutions and their resilience while we sit on the sidelines watching our own institutions being mutilated with impunity.

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### About Sudd Institute

The Sudd Institute is an independent research organization that conducts and facilitates policy relevant research and training to inform public policy and practice, to create opportunities for discussion and debate, and to improve analytical capacity in South Sudan. The Sudd Institute’s intention is to significantly improve the quality, impact, and accountability of local, national, and international policy- and decision-making in South Sudan in order to promote a more peaceful, just and prosperous society.

### About the author

*Abraham Awolich* is a founding member and the Managing Director of the Sudd Institute where he is also a senior researcher and policy analyst. His research interests are in democracy and governance, public administration and international cooperation. Awolich was appointed recently as a Deputy Rapporteur for the Upper Nile Conference. He is also the Deputy Coordinator of the South Sudan National Dialogue Steering Committee Secretariat. Awolich had served as a member of the Board of Directors at the National Revenue Authority of South Sudan from 2018—2019.

He also served as a consultant for many organizations including USAID, ECHO, Saferworld, Government of South Sudan, Integrity Research, MSI, and Tetra Tech ARD. Previously Awolich was the Executive Director of the Sudan Development Foundation (SUDEF) and ex-Co-Director of New Sudan Education Initiative (NESEI).

Awolich holds a master's degree in Public Administration (MPA) from Maxwell School of Citizenship and Public Affairs at Syracuse University where he was a McNair Fellow. He graduated in 2005 from the University of Vermont where he studied Anthropology and Business Administration and became a McNair Scholar. Awolich was awarded the William A. Havilland Medal for outstanding achievement in Anthropology. In 2006, he won the prestigious national award in the United States, The Samuel Huntington Public Service Award for his commitment to public service.