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Position Paper

Oil burns both Sudanese States



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Sudan's recapture of the oil-rich area of Heglig from South Sudan has restored the relations between the two states to the formerly prevailing fragile balance, one that may erupt once again into conflict. In this round of conflict, the war was waged over an issue of outstanding disagreement centring on oil. Juba is still looking for a route other than that offered by the northern state of Sudan to export its oil wealth, primarily motivated in this quest by domestic issues. Khartoum, on the other hand, has yet to regain its economic balance after the loss of most of its oil wealth in the wake of South Sudan's secession. Behind this conflict about oil revenues lie other sources of unresolved tension that are not any less important. All these issues may serve to threaten the fragile balance between the two states.

An ongoing conflict

It is clear that the Comprehensive Peace Agreement brought one chapter of the conflict between the two states to an end. It did not, however, resolve the conflict on the future of governance in Sudan because of the ongoing dialectical relationship between the hegemony of the centre and the marginalisation of the periphery. The old south seceded, and a 'new south' has emerged, invoking the entire legacy of the old conflict, including war. This has been fuelled by competition for the acquisition of economic resources, especially the oil fields which are concentrated on the frontier between the northern and southern states. Furthermore, the secession took place before a definitive agreement had been reached regarding the division of the Sudan's 'estate' and the disentanglement of overlapping interests across the new border.

Wars under the shadows of peace

The battle over Heglig, which South Sudan's army took control of on 10 April 2012, was not the first one to be waged between the two sides under the shadow of peace. The first of these major battles was fought between the Sudanese army and the Sudan People's Liberation Army/Movement (SPLA/M) just two months after the signing of the Machakos framework agreement that paved the way for the Comprehensive Peace Agreement on 20 July 2002. In that battle, rebel forces occupied the town of Torit, the capital of Eastern Equatoria in southern Sudan. The Sudanese army was later able to take back the city before the resumption of negotiations, arriving at a ceasefire agreement under the auspices of the US presidential envoy for peace, John Danforth, on 17 November 2002.

The cease-fire agreement held through the years of negotiations until the signing of the final peace agreement on 9 January 2005. It also remained in place during the following years until, half way through the transitional period, in May 2008, the first major breach of the cease-fire took place when military clashes erupted between the two sides in the disputed region of Abyei. Tensions continued as the Sudanese armed forces invaded the area on 30 May 2011, weeks before the end of the transition period and the independence of South Sudan on the 9 July 2011

In the meantime, civil war returned to the state of South Kordofan after the 6 June 2011 rebellion of forces from the northern SPLA. The rebellion had been sparked by a dispute over the results of South Kordofan state elections when the winner was announced to be ruling National Congress party candidate Ahmed Haroun, who won with a narrow margin over Abdul Aziz al-Hilu, the SPLM candidate.

In September 2011, a new round of fighting broke in Blue Nile state. Here, the Sudanese armed forces took the initiative to launch a pre-emptive war on the northern SPLM, which was led by Malek 'Aqar, the state governor who had won the general elections held in April 2010.

The wars of the 'new south'

These three military clashes – in Abyei, Southern Kordofan and Blue Nile – ushered in what has come to be known as the return of civil war to the 'new south' in northern Sudan.

It is noteworthy that these three regions are located north of the 1956 border, i.e. that of Sudan at independence; the borders used as the points of reference in the Machakos Framework Agreement in the definition of north and south. Despite this, the Sudanese government's delegation in the peace negotiations agreed to enter into separate negotiations mediated by the Inter-Governmental Authority on Development (IGAD) over the future of what has become known as the 'Three Areas'. These negotiations took place in separate tracks and were held under the auspices of Kenya in response to pressure from the SPLM leader, the late John Garang, who entered into the negotiations on condition that any comprehensive peace agreement would define the status of the three areas since a large number of SPLA fighters – as well as a number of senior SPLM leaders – hailed from these areas. This led to the extension of the civil war, previously restricted to the south, to areas in northern Sudan for the first time. Garang also demanded that the three northern areas share in the spoils of peace after their participation in the struggle against the centre.

Exporting the crisis of the south to the north

The protocol 'to resolve the conflict in Southern Kordofan / Nuba Mountains and Blue Nile State' were concluded along the lines of the peace agreement, and included vague provisions that called for 'popular consultation', in parallel with the right to self-determination granted to the south. These arrangements were to be carried out through two elected legislative authorities to approve the 'constitutional, political and administrative arrangements adopted in the agreements, or to correct any deficiencies in them through negotiation with the national government with a view to fill any gaps.' A further task for these authorities was the demobilisation and reintegration of SPLA fighters in the two regions with the assistance of the international community. Neither task had been accomplished by the end of the transition period, especially the question of the status of former SPLA guerrillas in the two states, estimated at about 30, 000 fighters. The resulting lack of clarity and resolution served to create justifications for the return of civil war.

Complicating matters was that the secession of the south did not automatically lead to an end of the conflict between north and south because a segment of the SPLM leadership from the north had joined the movement on the basis of the vision of its late leader, Garang, which opposed secession and called instead for the ushering in of a unified 'New Sudan'. In Garang's view, this new Sudan would be rejuvenated on the basis of the reformation of the imbalance of the dysfunctional power relations between the 'hegemonic centre and the marginalised periphery'. These northern SPLM leaders took the view that the secession of the south did not strip them of their right to call for a 'New Sudan' within what was left of northern Sudan after the secession. Indeed, they continued to push the concept of 'New South' to suggest that Sudan's national crisis persisted in the relationship between the centre and the new periphery and that the independence of the south did not mean that the issue had been resolved. These leaders were quick to form an alliance between the Revolutionary Front of Sudan and the armed movements in Darfur that rejected the Doha peace agreement, bringing a national dimension to the forces of the new periphery. These leaders also benefited from the fighting forces of the SPLA, particularly those in the Nuba Mountains whose demobilisation and reintegration had not been resolved. The new alliance was thus able to set up their fighters' bases in the Nuba Mountains region, taking advantage of that area's topography to wage a guerrilla war with the support of rear bases in the state of South Sudan.

Abyei: fire under the ashes of the International Tribunal

The third area, Abyei, has been the site of a dispute between the pastoral Misseriya tribe and the southern Dinka Ngok tribe, with implications for the question of whether the

area should belong to the north or to the south. Indeed, this area has been widely compared to a ticking time bomb, akin to the conflict between India and Pakistan over Kashmir.

A protocol for the resolution of the conflict between north and south over Abyei was put forward in a proposal by U.S. envoy Danforth and was accepted by both sides as the basis for a settlement. It was then entrusted to a committee of experts who were tasked with defining the borders of the region which would be followed by a referendum to determine whether the territory would go to the north or south. Khartoum rejected the experts' report, which it considered to be biased in favour of South Sudan's perspective and the issue was thus transferred to the Permanent Court of Arbitration in The Hague. In July 2009, an international tribunal operating according to the rules of the Permanent Court ruled that the boundaries of the Abyei territory should be redrawn. Despite both Khartoum and Juba agreeing in advance to be bound by the tribunal's ruling, both parties have failed to adhere to it.

Judge Awn Al-Khasawneh, the current prime minister of Jordan who in 2009 was a member of the five-judge panel of the tribunal, opposed the majority ruling of his four colleagues. He described their judgment as 'unconvincing, full of contradictions and driven by the [four judges'] desire to reach a compromise that gives northern Sudan some of its oil rights, but without taking into account the rights of the Arab tribes in South Kordofan.' Khasawneh warned that the consequences of the tribunal's attempt to arrive at a compromise judgment would lead to the outbreak of armed conflict in the region.

Less than a year after the tribunal's ruling on Abyei Khasawneh's predictions came to pass: armed conflict erupted between the two sides with the Sudanese army's invasion of the area before an agreement was reached to deploy Ethiopian troops as a peace-keeping force on behalf of the United Nations.

The struggle over Heglig

The experts' report that was rejected by Khartoum had included the oil-rich area of Heglig within the borders of Abyei. The international tribunal's attempt at a compromise ruling, however, redrew the map of the area reducing the territory that would go to the south, thereby giving Heglig to the north. The current vice-president of South Sudan, Riek Machar, declared, however, a reservation to the awarding of the Heglig oil region to the north, stating that it was under the jurisdiction of the South Sudanese state of al-Wihdeh within which the major oil fields were located and that the SPLM would demand that Heglig be included as part of the south at the time of the demarcation of the border.

Heglig was not the subject of controversy during the negotiations between the parties in the committee responsible for drawing the borders. This committee reached an agreement regarding eighty per cent of the border; the remaining twenty per cent comprising five areas of about 1,800 kilometres along the north-south frontier.

Abortive hopes for peace

In late March 2012, hopes were raised as leaders approached ways of overcoming the impasses that they had faced over some of the key outstanding issues, manifested in the framework agreement signed by the negotiators in Addis Ababa and mediated by African Union representative and former South African president Thabo Mbeki. The two sides had also signed a non-aggression treaty in February 2012. A summit was supposed to have been held between Presidents Omar al-Bashir and Salva Kiir in Juba at the beginning of April 2012 to pave the way for a final settlement. As preparations were under way for the summit, Kiir suddenly announced on 26 March that the SPLA had retaken Heglig by force, stating that he would have preferred that the transfer had taken place through negotiations. It later became clear that limited clashes had indeed taken place but that the SPLA had not taken full control of Heglig. This was enough to strengthen the position of those opposing the Addis Ababa agreement in Khartoum.

As a result of these developments, military clashes and mutual accusations escalated between the two sides, reaching a climax with the SPLA's invasion of Heglig.

Heglig: the heart of the Sudanese oil industry

Heglig is the main centre of the oil industry in Sudan. This area produces approximately 60,000 barrels of oil per day, accounting for more than half of Sudan's oil production after the secession, the total of which is estimated at 115,000 barrels. This area, however, gains additional importance because it is also the site of much of the basic facilities of the Sudanese oil industry's infrastructure, such as the country's main oil treatment plant and the primary oil pumping plant that pumps the oil through a pipeline to the export ports on the Red Sea that are 2,560 kilometres away. These facilities are equally important for the state of South Sudan which uses them to treat and transport the oil produced in the adjacent state of al-Wihdeh and which is estimated at 350,000 barrels per day.

The worst case scenario of the war over Heglig was that one of the parties would destroy the oil industry facilities in the area, as this would have entailed severe economic consequences for both sides. These negative consequences would also have affected China, Malaysia and India – countries that had invested 14 billion dollars in Sudan's oil industry. Beijing, the largest investor from this group, would have lost seven per cent of its daily supply of imported oil.

Overturning the balance of power

The government of South Sudan used two arguments to justify its resort to the use of military force to control Heglig. The first of these was that the area belongs to the South and is called Banthao and that its army's action was no more than the reclamation of this area as per its constitutional responsibility to protect its national territory and defend its borders. The second argument was its accusation that the Sudanese army had used Heglig as a military base from which it had launched aerial and ground attacks upon South Sudan's territory. As such, South Sudan argued, its control of the area was necessary to prevent the use of the territory by the Sudanese army in its attacks on the southern oil-rich state of al-Wihdeh.

Furthermore, the subsequent declaration by the government of South Sudan that it was willing conditionally to withdraw from Heglig and then its actual withdrawal makes it seem likely that it had escalated the situation by military means and pushed it to the brink of disaster in order to break the current deadlock in its negotiations with Khartoum and to precipitate international intervention to push towards the resolution of outstanding issues. This was especially so after economic pressure on Juba had increased following its decision to halt the oil production that accounts for ninety-eight per cent of the income into its public purse. Juba's decision was taken against the backdrop of a failure to reach agreement on the transfer fees for oil through Sudan's territory, a decision criticised by Washington, Juba's main ally. Despite the expectations South Sudan had of its friends, its government did not find their financial support forthcoming. This was what drove it to raise the stakes in an attempt to find a way out of the impasse. Juba failed in achieving its aims after northern Sudan unconditionally took back the Heglig area.

The shocked north and the isolated south

The SPLA's occupation of Heglig led to reactions in the north that could be characterised as shock because of the ease with which the area fell to the southern forces – despite the strategic and economic importance of the territory. This deeply embarrassed the leadership of the government and the armed forces, shaking public confidence in both institutions and adding to the pressure created by the severe economic crisis faced by Khartoum in light of its loss of about seventy per cent of its oil reserves after the south's secession. But this situation changed somewhat after the success of the northern Sudanese leadership in recovering Heglig through military action. This development

strengthened the position of President Omar Bashir and the current leadership in the north that had placed its bets on escalation in the confrontation with South Sudan. The pressure stemming from the economic crisis is still, however, unresolved and will pose many challenges to the leaderships of the north and south in the future, as the stability of their rule will largely be determined by their ability to face their domestic economic problems. Indeed, they are not likely to resolve these issues without arriving at a common formula for north-south cooperation in the matter of oil.

On the other side of the border, the SPLA's action to seize control of Heglig strengthened the leadership of President Salva Kiir, mobilising popular support for his rule and promoting South Sudanese patriotism, riding on the momentum of the country's post-independence euphoria. This is an important factor that has helped to alleviate pressure on the government of South Sudan as it confronted the challenges of building a new state, especially in light of the economic crisis that has resulted from its decision to halt oil production. The situation of the leadership in the south will, however, be somewhat shaken after the withdrawal of its troops from Heglig, as its rhetoric about the justice of the southern occupation of the area and the subsequent clashes will appear lacking in credibility. The focus of the South Sudan population will thus shift to domestic matters, particularly socio-economic issues that the leaders of South Sudan will be unable to effectively address without solving the problems of oil revenue.

The war over Heglig has also resulted in a situation in which South Sudan has become somewhat isolated internationally. At one level, the war aborted the African mediation attempts, led by Thabo Mbeki, to salvage the negotiations which had stalled because Khartoum had refused to negotiate before the return of Heglig to northern control. At another level, the South Sudanese action to seize Heglig did not garner any international support. Instead, all the relevant international actors – including the United States, European Union and the UN Security Council – took quick action by demanding South Sudan's unconditional withdrawal. Khartoum had previously accused all these actors of being biased towards Juba. Indeed, this was the first time that Bashir's government had faced an international context in which the position of the international community supported Khartoum with regard to its relationship with the south.

The future: a comprehensive agreement or permanent attrition

In light of these reactions, the future of the conflict between the two states of Sudan can be understood in terms of three possible scenarios.

Return to negotiations

The first and most likely scenario is a return to the negotiating table in order to resolve the outstanding issues. This, however, will depend on several factors:

1. First: The restoration of Khartoum's control over Heglig – which has already been realised – because the reclamation of the area by Sudan is of critical importance for the Bashir government. Its importance is not only in order to restore the balance in its negotiating position and the pressing economic considerations associated with the area and its oil but also for considerations relating to the domestic political situation and how it might affect the control of the government. Bashir's authority, which is reliant on the armed forces, requires a military victory with which the army would regain its weight in the power games in Khartoum, weight that was shaken because of the military's inability to protect the most strategically important area in the country.
2. Second: The declaration by South Sudan's government that it would withdraw from Heglig under international pressure, an announcement that has already been made by Juba.
3. Third: the return to negotiations will not necessarily mean the realisation of automatic and rapid solutions to the unresolved issues unless there is a

change in the approach to the negotiations and a change in the mediators. It is clear that the approach of splitting up the issues under negotiations is no longer a fruitful approach and that what is required is a comprehensive approach to the settlement of all outstanding issues in a manner that incorporates the totality of the balance of power and the losses and the benefits of the two parties. After African mediation came to a standstill, the involvement of a mediation team backed by the international community has become a critical factor in bringing the negotiations to a point where they might result in effective solutions.

What makes this scenario the most likely is that China – Khartoum's ally – sees its oil interests as being best secured through a north-south agreement. Furthermore, both Sudans have a vested interest in giving the oil issue their top priority in the relations between the two countries and to reach an agreement on how they will cooperate in this regard. The United States also attaches importance to cooperation between the two countries in this regard because of its interest in South Sudan's revenue independence to ensure the new state's internal security.

Continued hostility

The second scenario is one where there will be an emergence of a situation that is neither peace nor war but is characterised by continued hostility and limited clashes. This scenario recalls the conflict between Ethiopia and Eritrea – a war of secession followed by more than a decade of unresolved conflict.

All-out war

The third scenario is a descent into an all-out war between the two states. While there are indeed factors that can lead to such an uncontrolled situation, it remains an unlikely scenario since both sides realise that the cost of a total war is more than they can bear and that their deteriorating economic situations means this option is suicidal, especially given that this option enjoys neither domestic support on either side of the border nor external support from the regional or international powers that would be able to underwrite such an endeavour.

In conclusion, the balance between the two states of Sudan remains fragile and has the potential to explode at any moment. There are, however, several factors that suggest either cooperation between the two parties or that, at least, limit the possibility of a large-scale escalation of military conflict between them. Both regimes are presently seeking to consolidate their authority domestically and each requires the cooperation of the other to bring in enough oil revenues to effect such consolidation. The major powers concerned with relations between the two states are China and the United States, each of which has an interest in pushing the two parties to cooperate, albeit for different reasons: China in order to preserve its oil interests and the United States for the protection of the fledgling state of South Sudan.

** Translated by Afro-Middle East Centre*

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