



مركز الجزيرة للدراسات
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Position Paper

Al-Bashir and Kiir's Mutual Rescue Agreement

Al Jazeera Center for Studies



The cooperation agreement signed by Sudanese President Omar al-Bashir and South Sudanese President Salva Kiir on 27 September 2012 has received widespread attention and has been welcomed locally, regionally and internationally. The agreement, however, is not devoid of criticism. Essentially, the agreement does not cover all of the disputed issues that were under negotiation and there are concerns that the agreement will not be fully implemented considering the long history of revoked agreements between the two parties.

What is the importance of this agreement and why did it get such great attention? What are the challenges facing its implementation and what are the chances of its success? To what extent will this agreement affect the future relationship between the two countries?

UN and AU Pressure

Presidents al-Bashir and Kiir signed the cooperation agreement after a series of negotiations that lasted for about two years. The African-brokered process was supported by a highly acclaimed team led by former South African President Thabo Mbeki, former Nigerian president Abdulsalami Abubakar, and former Burundian president Pierre Buyoya.

It was surprising that the two parties finally reached an agreement as the continued differences between the two parties relating to certain issues had not been resolved until right before the final signing. This is an indication of the extent of the negotiations required despite both parties' attempts to control the process and ensure as many gains as possible prior to the signing. After facing intense pressure, both in the country and abroad, signing the agreement seemed like the only possible means to avoid major losses for either party.

It was clear that both al-Bashir and Kiir arrived in Addis Ababa to comply with and avoid the backlash of ignoring United Nations Security Council (UNSC) Resolution No. 2046 of May 2012. The resolution gave the two parties three months to resolve their disagreements peacefully under the UN Chapter VII provision that allows for international sanctions to be imposed on either party, or both parties, if found violating the resolution to delay the agreement which, according to the resolution itself, must be reached strictly within the three month timeframe.

Due to the limited advancement, and the recommendation of its African sponsors, the deadline was extended to 22 September 2012. One of the most significant gains during this first period of negotiation was that the two parties had agreed on the resumption of oil production and pumping after it had stopped in early 2012, a unilateral decision made by the government of South Sudan. The decision received heavy criticism and international opposition as it will cause, and has caused, severe damage to the economies of both countries and consequently financial losses for key trade partners, particularly China. Reaching this oil deal was necessary to get an extension of the negotiation period as the resumption of oil production had been a priority to the international community. It was also the first significant indication that this round of negotiations could lead to a final agreement.

It is important here to mention that the pressure of the UNSC's decision to adopt Resolution No. 2046 unanimously came after the council fully adopted the road map created by the African Union's Peace and Security Council (AU-PSC) back in April 2012 to end the conflict between the two countries. The road map emerged from fears of an almost full blown war between the countries after the South Sudanese forces' occupation of the oil-rich Heglig area and the subsequent recovery by Sudanese forces.

The AU-PSC's road map was unusually strict in addressing the roots of the crisis, and important for finding a solution after years of prolonged crisis in Sudan. The UNSC's adoption of the resolution provided the last push and necessary pressure on the two resistant African leaders to end the crisis.

Neither of the two parties was willing to risk losing International and African support, which was guaranteed had they refused to cooperate with the road map. Juba welcomed the map from the beginning, seeing a way out of the impasse of the suspended oil production that had caused a deep crisis with its allies on the international front, particularly the United States and the United Kingdom (who both fiercely opposed the decision and even requested that it be suspended). This was in addition to the pressure of these two donor countries' refusal to assist in bridging the financial gap caused by the loss of oil revenue. Furthermore, the South Sudanese government received unprecedented international condemnation for occupying Heglig in the first place.

The Sudanese government was forced to withdraw its initial criticism of the road map, i.e. that it was imposed by foreign forces on the African Union. It claimed that it was being unfairly targeted and that Washington had imposed the road map on the AU-PSC to ensure that it would be seen as an African initiative before it was adopted by the UNSC.

Therefore, the Sudanese government was forced to cooperate with the decision after it turned into an enforceable international decision under the risk of painful sanctions. This was particularly alarming after having suffered two decades of international sanctions in addition to unilateral U.S. sanctions. It was also compelled to accept the decision as further litigation with the international community risked the escalation of the International Criminal Court (ICC) charges against al-Bashir and his defence minister, Abdulrahim Hussein, and more criticism of Khartoum.

Domestic Factors

The intensity of regional and international pressure on Khartoum and Juba undoubtedly played a major role in their agreement. The domestic pressures that the two ruling parties face in Sudan and South Sudan in the backdrop of their unfinished conflict are no less, if not more, important in the making of a decision toward resolving the conflict. Experimenting in the last fifteen months, since Sudan split, proved that the cost of prolonging the conflict was heavier when it returned to South Kordofan and Blue Nile, and became an all-out war in Heglig. The mutual desire to cause the most damage possible to the other party and the eventual split were made even more difficult due to the series of vital, inseparable and complex businesses and interests shared by the two states. This led to severe financial crisis for both states; the mutual use of oil as a weapon led to the halt of its production, practically killing both economies simply because oil revenue provides 98% and 50% of the incomes of South Sudan and Sudan respectively. The cost of war itself dominated the scarce financial resources available to the two countries and led to a dramatic fall of economic performance indicators. On the ground, the economic conditions of the people was described as "living in hell," especially in Sudan where protests launched against austerity measures in June 2012 constituted the most serious challenge to the authority of the government.

Although it did not face the same popular protests as the northern state, the government of South Sudan found the majority of its citizens were active outside of the official economy and faced a different kind of pressure: the fear that the new born state could fail under the leadership of the ruling party that had already made a number of risky moves, surprised with the refusal of its western allies to offer any financial support, having to face the gap caused by the loss of oil revenue, and subject to IMF warnings of potential collapse.

Therefore, the accelerated pressures in the two states played a major role in convincing the two presidents to turn the page on the conflict, face their challenges, move to a new level of cooperation at least in a sector significant to both Khartoum and Juba, and give up the threatening strategies that make them appear weak while facing critical internal pressures.

Lost Agreements

Nine agreements were signed in Addis Ababa, and most importantly the cooperation agreement between the two countries – a framework promising to establish a peaceful relationship that achieves security and stability and denounces war to establish two countries capable of living side-by-side and with their regional neighbours peacefully – was finalised. A significant point, aside from cooperation in general, is agreement on mutual interests. What is mention-worthy is that the main contents of the cooperation agreement between the two countries is based on U.S. president Barack Obama's strategy towards Sudan - issued on 19 October 2010 - that emphasised the importance of guaranteeing the existence of both countries should the separation bring viable and sustainable peace.

The eight other subsidiary agreements addressed key issues such as security, oil and economic affairs, trade-related matters, a framework agreement for cooperation between the two central banks, agreement on specific economic issues related to the sharing of assets and foreign debt and joint action toward the international community to exempt two of them, a framework agreement for the provision of pensions, an agreement on the status of citizenship in the two countries (including the guarantee of the four basic freedoms), and finally, agreement on border demarcation.

The framework agreement includes the implementation of all agreements within 40 days of signing. It also requires the two parties to establish effective mechanisms to ensure the monitoring of the implementation. Fundamentally, the framework agreement contained a pledge by both parties to continue negotiations to resolve all outstanding issues, such as disputed border points and territories. In addition, the African sponsors of the negotiation process promised to continue their work toward finalising the status of the disputed Abyei territory in consultation with the AU's Peace and Security Council.

It is apparent that the agreements that were established addressed the crisis between the two countries in three courses:

1. Addressing the remaining issues not included in the Comprehensive Peace Agreement such as outstanding questions concerning post-secession division of the formerly-centralised economic arrangements and assets. This involves a number of critical issues such as the substantial debt of 45 billion dollars, and the financial costs of the transition such as the three billion dollars South Sudan paid to Sudan as compensation for its loss of oil resources.
2. Adopting a peaceful approach to resolving current and future conflicts between the two countries by negotiation and thereby renouncing the use of violence and military force in such matters. This course concentrated on resolving the effects of direct and indirect war between the two countries by implementing security arrangements such as creating an internationally monitored buffer zone, and an agreement for each party to cease supporting armed opposition to the other. This would mean military disengagement between the Sudan People's Liberation Army of South Sudan and Sudan People's Liberation Movement fighters in the north who have waged an insurgency against Khartoum in South Kordofan and the Blue Nile.
3. Establishing bases for future strategic cooperation between the two countries, concentrating on encouraging mutual economic interests and shared commercial interests, and guaranteeing the promotion of social interaction and more flexible movement of goods, cattle and human from one state to another in addition to providing a framework for economic cooperation through institutional coordination of fiscal and monetary policies. The final component of this course regards the freedom of movement, legal residency, property ownership, and employment for citizens of both countries.

Achilles' Heel: Abyei and the Border

Despite the progress achieved by the Addis Ababa agreement in terms of the resolution of many of the long-standing contentions between Sudan and South Sudan, the agreement is in no way comprehensive. For instance, it does not address the dispute over the border area. While most of the 2,000-kilometre border line between the two countries has been agreed upon, five disputed border areas remain. These areas have been described as ticking time bombs that may explode at any time and there is little information on the potential damage that the dispute could cause or the effect that it could have on the current efforts of normalising relations between the two countries and the current state of peace.

The other, more complex issue that remains unresolved is the final status of Abyei. African brokers and the mediating team have pledged to continue negotiations regarding its final status. However, the Abyei issue is more like the Achilles heel of the entire peace process. As an indication of how difficult it has been to find a solution to the dispute, the six scenarios proposed by the sponsors have failed, including the proposal to divide it. Furthermore, although Juba agreed to the last resolution offer made by the mediators, Khartoum did not because it was understood that resolving that issue by accepting a solution not agreed to by the local tribes, particularly the nomadic Misseriya tribe, will not be enforceable. The Sudanese government is well aware that the risk of alienating these tribes could expose it to more risk with groups that were raised with war traditions, creating the potential for more conflict that could lead to an unwanted war between local tribes but that is likely to force the two states back into a state of conflict as a result.

Opportunities and Challenges

The most glaring question over this latest agreement between Sudan and South Sudan is whether it will in fact materialise. Will it last or will it face the same fate as the tens of previous agreements between the north and the south in the last 60 years that have fostered a culture of manipulation? What are the factors of success and failure?

Chances of success:

Many believe that the agreement has a high chance of success as it was reached after lengthy negotiations and bitter experience from a historically deteriorating relationship. Therefore, signing this agreement reflects, to a certain degree, a change with both parties agreeing that the agreement is the only way to face the internal threats challenging both ruling parties. This implies that any manipulation from this point onwards will hurt the party that conducts it first and foremost.

The existence of the political will to go forward with executing the agreement is demonstrated in the change in the political discourse of both countries' leadership. So far, they have shown commitment, unexpected adherence to the spirit and content of the agreement, protection and defence thereof, and determination to ensure that their respective interests are achieved. As a result of these factors, and others, the agreement was authorised by the prime ministers of both countries prior to the introduction of the agreement to their respective parliaments, which altogether reflects a serious step toward implementation.

Postponing the issues of borders and Abyei also increases the chances of success in that the current agreements reached have already achieved a sense of cooperation and successful execution that may potentially create an atmosphere of trust and positive spirit that could defuse the pressure regarding the remaining disputed. It may also offer alternative, less extreme, and more acceptable solutions when it comes to the local tribal communities that will have seen the benefits of the new agreement on the ground.

Challenges:

Adherence to and implementation of the agreement remain the biggest concerns in the light of several influential active forces in Juba and Khartoum that have publicly

expressed their concerns regarding some aspects of the agreement, although none have rejected the agreement as a whole. It is also evident that the circle of concern in Juba is broader than that in Khartoum – particularly in Abyei, the area that enjoys considerable influence over the ruling party in South Sudan as well as in Northern Bahr el Ghazal. Residents of Northern Bahr el Ghazal publicly opposed the governor on the eve of the agreement signing due to the provision that requires them to withdraw from the Mile 14 area.

In Khartoum, the opposition was limited to the Just Peace Forum (JPF) led by Al Tayeb Mustafa, a close friend of al-Bashir. This party played a major role in promoting the South's separation and then supported the complete isolation of the area. Considering the influence that it has and the support it receives from within the ruling party, it is very likely that JPF will play a role in disabling the execution of the agreement. This will probably be achieved through conflict between different wings within the ruling party itself despite al-Bashir's personal involvement in the negotiations, signature, and first agreement relating to the South ever.

Perhaps, the greatest guarantee of Sudan's seriousness about the agreement this time around is the fact that it is a personal bet to al-Bashir. Also, he has the support of the military where his defence minister, Abdulrahim Hussein, was the principal negotiator in the Political and Security Committee. This is particularly important considering the military's veto was one of the most significant reasons behind the abortion of previous agreements.

In addition, there is the challenge of the opposition and the revolutionary front whose wings including the armed opposition that has been an ally of the SPLM-North and Darfur movements were quick to welcome the agreement under the condition that each party be ensured a way out.

The position of the revolutionary front will perhaps be one of the most important measures of the agreement's success or failure as it is considered the biggest loser with the significant reduction of military support. The front's first response did not appear to be affected by the agreement and the front released a statement welcoming the agreement, assuring it remained committed to its strategy of toppling the regime. In a meeting at a later date, its leaders released a "document for the restructuring of the Sudanese state" to reconfirm its aim to change the ruling regime in Khartoum through "mass struggle and armed force," indicating that the security arrangements mentioned in the agreement may not be effective, particularly with regards to the armed opposition. What enforces this possibility is the fact that to naturalise the relations between Sudan and Chad, Khartoum was hoping to contain the rebellion in Darfur. However, this has not been effective in terminating the violence in the area even after the Doha Peace Agreement was signed.

Possible Scenarios

Scenario One:

The agreement is effective in the face of all the challenges discussed above, its provisions are implemented, and it eases the international economic and political pressure on both states. However, the problem of security and sustained stability remain mainly due to continuing tensions with armed opposition and its continued activities.

Scenario Two:

With the promotion of the opportunities of the agreement, the government moves away from relying on security arrangements alone. Negotiations aim to find a peaceful solution for the crises in rebel areas such as South Kordofan, Blue Nile, and Darfur in accordance with the decisions of the UNSC.

Scenario Three:

The failure to reach a peaceful settlement that addresses the root causes of the crisis leads to an increase in the activity of the armed opposition to the extent that the implementation of the agreement is impossible. This may also contribute to the return of tension between the two states and a return to war through proxies, or even direct war with incalculable repercussions.

Scenario Four:

The outstanding dispute over Abyei and the border areas remains an important challenge in deciding the future of the agreement. The development of agreements in this regard that are acceptable to all parties leads to strategic and positive relations between the countries. However, if a solution is not found, everything may return to square one.

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