

The relationship between Sudan and South Sudan after independence – Interdependences as key variables for sustainable peace

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Throughout its history Sudan has been divided between its Arab heritage, identified with northern Sudan, and its African heritages to the South. Especially since colonial times, tensions have existed between the two parts resulting in two civil wars between 1955-1972 and 1983-2005. The conflict has often been portrayed as an ethnic conflict between the largely Arab, Muslim North and the predominantly Christian, African, Animist South. However, the root causes go deeper and can best be described as conflicts between politically and economically marginalized groups in the peripheral areas of the country and the elites of the major urban centre in the capital of Sudan, Khartoum.

The Comprehensive Peace Agreement (CPA) of 2005 is the most crucial milestone in the ongoing political development of Sudan, ending Africa's bloodiest war between the northern and the southern part of the country. In fact, the agreement established a seven-year transition period, de-facto autonomy for southern Sudan, a unity government in Khartoum, and incorporated agreements on security, boundaries, revenue sharing from southern oil fields and the administration of three contested areas straddling North and South. The CPA also led to the elaboration of a new constitution foreseeing national elections to be held in 2009, followed by a referendum on independence for the South in 2011. In fact, two referenda were supposed to be held by the January 9th 2011 deadline. The first stipulated a vote on the future status of South Sudan. The second would determine whether Abyei, a region which straddles the North and South, will maintain special administra-

tive status in the North, as defined under the CPA, or become part of the South not taking into consideration the outcome of the independence referendum of South Sudan.

As foreseen by the CPA, a referendum on the independence of South Sudan was held in January 2011. With an overwhelming majority, the South Sudanese population voted in favor of separation from Sudan. It has to be noted that contrary to the outside expectations, the referendum was held in a fair and peaceful manner. Already in the forefront of the proclamation of the referendum results, Sudanese President Bashir publicly stated that he would accept the outcome of the referendum as it represented the will of the Southern people. Nonetheless, it became obvious that some important issues between the two split states had not been entirely resolved before the break-up of Sudan - to large extent leftovers of an incomplete implementation of the CPA.

While 9 July 2011 signaled the end of the CPA's interim period and brought the continent of Africa a new state, Sudan's transition to peace is still far from complete – the ongoing violence in the border areas is threatening to spiral out of control, many of Sudan's humanitarian and political problems remain unresolved and there are serious threats to civilians in both Sudan and South Sudan. After more than two decades of civil war, it was hoped that this separation would finally lead to a peaceful coexistence of the two states. Unfortunately, independence has so far not brought stability, as ongoing border clashes and internal violence continue

to cause displacement. This is very much due to the unresolved existing strong interdependences between the two states that are currently hindering melioration in the relationship. Therefore it is necessary to take a closer look on these interdependences and to analyse the possibilities and the urgent necessities for implementation of the respective agreements, including their impact on the bilateral relations as well as economic and political stability.

Oil

Oil and the oil revenues have been at the very heart of the struggle between Sudan and South Sudan. South Sudan is the most oil dependent country in the world, with oil exports accounting for almost the totality of exports, and for around 80% of GDP, directly and indirectly. For Sudan, the oil sector has been pivotal in the last decade, amounting to over half of government revenues and 95% of exports.

After the independence of South Sudan, Sudan is confronted with huge macro-economic and fiscal challenges. Although both countries are now independent, they have remained interdependent in terms of the oil industry. Being a landlocked country, South Sudan so far has the only chance of exporting all of its crude via a pipeline through Sudan to Port Sudan on the Red Sea. About 75 percent of the total oil production originates from areas in South Sudan, while the entire pipeline, refining, and export infrastructure is located in Sudan. This situation has caused contention between the two countries over the use of the pipeline infrastructure and export transit fees.

The CPA had called for the establishment of a National Petroleum Commission (NPC) to formulate public policies, approve new oil contracts and monitor the implementation of existing ones. The CPA foresaw a share of 50% of revenue from all oil produced in South Sudan for the Government of Southern Sudan, a net of 2% to the producing state and a deduction to go into the Oil Stabilization Fund, if revenues go above a certain quota. However, the CPA did not solve the interdependence issue after secession and failed to provide provisions on a post-independence oil-sharing mechanism or transit fees. In turn, following the secession, Sudan's government in Khartoum asked for transit fees of \$32-36/barrel (bbl), while South Sudan countered with less than \$1/bbl. On January 20, 2012, South Sudan announced that it would shut its production until a fair deal was reached on transit fees, or an alternative pipeline was built. The Agreement on Oil and Related Economic Matters signed in Addis Ababa in September 2012 now stipulates the formula of \$1/bbl as transit fees and \$1.60/bbl for processing fees and between \$6.50/bbl and \$8.40/bbl for transportation fees.

Before shutting down the oil production in January 2012, South Sudan was producing approximately 320,000 barrels per day, ranking the new state as the third largest producer in sub-Saharan Africa after Nigeria and Angola. After resuming oil production in April 2013, there was danger that it would be stopped again in June 2013 when Sudanese President al-Bashir threatened to halt exports within 60 days unless the south withdraws support for rebels opposed to his rule. On July 26, the order was postponed to allow the African Union to investigate the claims that South Sudan is supporting the rebels.

Border demarcation and grazing rights

Two years after South Sudan became Africa's newest nation-state its border with Sudan is neither delimited nor demarcated. There are two analytically separate issues involved in the negotiations over

the border between the two countries: where the border is, and what type of border it is. While a series of agreements were signed in Addis Ababa on 27 September 2012, the status of the contested areas of the border and the explosive question of Abyei (as described below) were left unresolved. Besides the dominating issue of oil reserves in the border region, also the fertility of the land in the so-called Tamazug border states is a confrontational issue as this region contains important grazing areas for nomads and pastoralist groups, which traditionally agreed upon flexible grazing arrangements between themselves long before discussions began about a national border dividing their territory. The Agreements of September 2012 commit both sides to a framework that looks very like the 30 July 2011 Agreement for the Border Monitoring Support Mission, a similarity which should make one pause, given the non-implementation of the prior agreement.

In Article 14 paragraph 1 of the Agreement, both sides commit to "regulate, protect and promote the livelihoods of border communities without prejudice to the rights of the host communities, and in particular those of the nomadic and pastoral communities especially their seasonal right to cross, with their livestock, the international boundaries between the Parties for access to pasture and water." This intention is in conflict with the article that follows, emphasizing that the primary interests to be considered under the agreement are those of the host communities and the security implications of such movement. By interpreting this clause, it has been made clear that the border could be shut at will by the Government of the Republic of South Sudan or the Government of Sudan in the case of 'security concerns'.

Already before independence, the idea of a demilitarized 'soft border' was brought up which nomads and the pastoralists were permitted to cross. The border is under the supervision of a Joint Border Commission, which was to be formed no

later than two weeks after the signing of the agreement. Due to the deadlock in the relationship between the two states, the implementation was delayed.

In March 2013, a security agreement was signed providing a clear timeline and framework for the establishment of the Safe Demilitarized Border Zone (SDBZ). It furthermore committed the two states to hinder groups operating in the other's territory, and to withdraw from the SDBZ, which runs 10 km north and south of the border, except in the 14-Mile Area of Northern Bahr el Ghazal/East Darfur. The agreements foresee a force of 90 officers drawn from each side, and a contingent of UNISFA observers. There are a number of formal problems with the security agreement. The border is over 2,000 km long, and thus it is simply impossible for such a small force to effectively ensure its demilitarization.

A special case – the unresolved status of Abyei

The Abyei area is an area of Southern Sudan that was transferred to Northern Sudan for administration purposes in 1905. However, the exact boundaries and size of the area transferred were never known or agreed upon, as no maps were left behind showing the area's transferral to the North. The area has been inhabited by the Ngok Dinka tribe, divided into nine chiefdoms. During the years, however, Arab tribes from the North (called Misseriya), moved southward in search for water and pasture for their livestock, and intermingled with the Ngok Dinka. The two tribes lived in peace until the outbreak of the civil war between the North and the South in 1955, when the Dinka allied with the Southern movement, while the Misseriya stood with the Government in Khartoum. The Government of Sudan and the Sudan People's Liberation Movement (SPLM) tried to resolve the Abyei dispute during the negotiations process starting in 2001, but failed to reach an agreement. The discovery and development of oil in the Abyei area, although in a relatively small quantity

compared to other areas in Sudan, has, undoubtedly, been another complicating factor. The American envoy to the negotiations process intervened and offered certain proposals to the two parties which they eventually accepted. Those proposals were reflected in one of the protocols concluded under the CPA which dealt with the "Resolution of the Abyei Conflict". The CPA's main features were as follows:

- The territory is defined as the area of the nine Ngok Dinka chiefdoms transferred to Kordofan in 1905.

- Abyei's residents will be citizens of both Western Kordofan and Bahr al-Ghazal states. Abyei will be governed by an elected Executive Council.

- Revenues from oil produced in Abyei will be divided by a set formula among the central government, the Government of Southern Sudan, Bahr al-Ghazal, Western Kordofan, the Misseriya, and the Ngok.

- At the same time in 2011 southerners will vote whether or not to become independent, Abyei's residents will vote to either retain special administrative status in the north or be part of Bahr al-Ghazal, regardless of how the southern people vote in their referendum.

- The presidency will establish an Abyei Boundaries Commission to define and demarcate the Abyei area.

Nevertheless, the referendum did not take place mainly due to a dispute over who will participate. A 2009 protocol establishing the conduct of the referendum defined eligible voters as all residents of Abyei, including nomadic herders. However, the SPLM claimed that all residents spending over seven months in the province should be eligible to vote – a claim strongly opposed by Khartoum. So far, it is unclear whether and when the promised referendum would take place.

Economic matters: Debts and sanctions

The secession of South Sudan was a major financial blow to Sudan, which lost 75% of its five billion barrels of known oil reserves. With separation, Sudan retained the full burden of its extant sovereign debt. Khartoum has repeatedly endeavored to link that debt, estimated at more than \$40 billion - much of it in arrears - to the oil talks. Juba has refused to assume part of the debt, arguing that the south received no benefits from the loans incurred by Khartoum during the war. Almost 90% is owed to bilateral and commercial creditors, and Khartoum is now struggling to make debt payments. Sudan's external debt is estimated to have grown by 27% since 2008 from \$32.6 billion to \$41.4 billion in 2011. The IMF forecasts that the debt level will reach \$43.7 billion in 2012 and \$45.6 billion in 2013. The latter represents 83% of Sudan's 2011 GDP, which was \$55.1 billion. According to the Agreement on certain economic matters agreed upon in Addis Ababa in September 2012, Sudan assumes all external debt, but South Sudan agrees to join an appeal for debt relief to the international community.

The second issue affecting the Sudanese economy concerns the sanctions imposed by the international community. The USA imposed economic and trade sanctions on Sudan in 1997 in response to its alleged connection to terror networks and human rights abuses. As a consequence of the deterioration of the situation in Darfur, the embargo was strengthened in 2007. In 2010, the US announced it was easing sanctions on agriculture equipment and services which allowed half a dozen companies to obtain export licenses.

On UN level, pursuant to resolution 1591 (2005) a special Security Council Committee concerning the Sudan was established on 29 March 2005 to oversee the relevant sanction measures and to undertake the tasks set out by the Security Council in sub-paragraph 3 (a) of the same resolution. With the adoption of resolution 1556 (2004), the Security Council imposed an

arms embargo on all non-governmental entities and individuals operating in Darfur. Resolution 1591 (2005) expanded the scope of the arms embargo and imposed additional measures including a travel ban and an assets freeze on individuals designated by the Committee. As a consequence of the independence of South Sudan, the UN Security Council Committee concerning Sudan has confirmed that the sanctions do not apply to the Republic of South Sudan.

On European side, in March 1994 the EU imposed an arms embargo on Sudan in response to the civil war in the southern part of the country. In January and June 2004 this embargo was modified to also cover technical and financial assistance related to arms supplies and to exempt any supplies to UN, EU and African Union institutions in Sudan and supplies related to demining operations. In May 2005, the EU implemented the UN sanctions on Sudan as a result of the conflict in Darfur by merging them with the existing EU arms embargo on Sudan. The arms embargo was also amended to allow assistance and supplies provided in support of implementation of the CPA. As a reaction to the independence of South Sudan, the EU amended the arms embargo to cover both Sudan and South Sudan in July 2011.

Expats and citizenship

As a consequence of separation, also the population of Sudan was divided. In the follow-up to secession, individuals of southern origin resident in Sudan were being deprived of their Sudanese nationality without any right to contest the decision: estimates of the number affected ranged between 500,000 and 700,000 individuals. From the Sudanese side, it was also made clear in the context of secession that no dual citizenships would be extended leading to a situation where these individuals - most of them refugees from the civil war - were technically illegal in Sudan after secession because they lacked official residency papers.

The Addis Ababa agreement on the status of nationals signed also in September 2012 now provides for the continuation of “four freedoms” – continued freedom of people to reside, move, acquire and dispose of property, and pursue economic activities on both sides of the border. A Joint High Level Committee was tasked with the implementation of the agreement.

The way ahead

Beside the existing interdependences between the two sovereign states of Sudan and South Sudan which are hindering a sound and sustainable relationship between the two entities, the internal situation in both countries is also negatively affecting the status quo and peaceful negotiations. Both countries have experienced changes in government in recent months indicating power struggles within the ruling parties of both countries in the forefront of SPLM leadership elections and presidential elections in South Sudan due in 2015 and presidential elections in Sudan to be held in the same year.

Nevertheless, the question that needs to be addressed is not whether the two countries can agree on dealing with and resolving the existing interdependences - above all, to effectively implement any of a number of signed agreements. In concrete, the acceptance of these agreements by the respective political classes and population is of key importance. As long as the internal political situation in both countries is not stabilized and the power struggles continue, it will be rather impossible to think of a solution that would lead to lasting peace and prosperity in a region strongly affected by decades of civil war. This cannot be achieved by the two countries alone; they will need the backing of the international community in order to more effectively support the development of a just and sustainable peace.

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