



THE SUDD INSTITUTE

RESEARCH FOR A PEACEFUL, JUST AND PROSPEROUS SOUTH SUDAN

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Weekly Review

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Endless Presidential Summits and Negotiations in Addis Ababa

Can African Union Help South Sudan Resolve Post Independence Issues with Sudan?

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It is exactly nineteen (19) months now since South Sudan gained her hard earned independence from the Republic of Sudan. It was breath-taking to see the number of people who came out to celebrate the day for which the South Sudanese have been waiting after having paid the ultimate price—the blood of millions of relatives, colleagues, and countrymen and women. In the minds of the celebrating South Sudanese was one thing - freedom from the oppression of the northern Islamist regime of the National Islamic Front (NIF) and that they were going to live a peaceful life at last. But the celebrations were short-lived when Khartoum government started bombing deep inside South Sudan, particularly in Upper Nile State, under the pretext that they were fighting rebels in Southern Blue Nile. The hostilities increased in Unity State, Abyei, and Northern and Western Bahr el Ghazal States, creating serious insecurity there. In most of these attacks, the Sudan People's Liberation Army (SPLA) did not respond by launching a retaliatory attack to the apparent violation of the territorial integrity of the Republic of South Sudan. But the instance in which the SPLA attacked in kind stands out. The SPLA overran the oil-rich, Panthou (Heglig) briefly and pulled out few days later. These hostilities and other post-independence issues invoked bilateral negotiations between the two Sudans, with support from the African Union. In September 2012, the two countries signed nine (9) agreements popularly known as cooperation agreements (Sudd Institute Policy Brief # 2). The new agreements were aimed at effectively paving the way for peaceful co-existence and good neighborliness. But barely four (4) months after the signing of these agreements, the two countries are yet again at the brink of sliding back into an all out war as Khartoum continues to bomb South Sudan's towns and villages along the borders and has, adamantly, refused to pull its troops out of South Sudanese territories.

The Sudd Institute this week reviews the stalled implementation of the African Union (AU) mediated cooperation agreements signed under the auspices of the African Union High Implementation Panel (AUHIP) headed by former South African President Thabo Mbeki. The implementation of the cooperation agreements is necessary for the security of the two countries, their economic viability, and it goes a long way in making the two countries avoid going back to war. The review will also examine the courses of action that South Sudan needs to take in order to implement the cooperation agreements.

The general feeling in South Sudan is that Khartoum is, as usual, playing delaying tactics in implementing these signed agreements between the two countries. The cooperation agreements brought hopes to citizens of Sudan and South Sudan. This enabled the presidents of both countries to issue directives to resume trade at the borders, and to begin carrying out a comprehensive assessment of the oil wells and pipes in readiness for the resumption of oil production. Optimism was running high at the Ministry of Petroleum and Mining in Juba and a deadline of November 2012 was set as the time the pumping of the oil will start.

While Juba was enthusiastically going about with preparations for the resumption of oil flow after agreeing what it said was a very reasonable transportation fees, Khartoum was busy working out obstacles so that these agreements were not implemented. Sudan's apparent obstructive behavior does not suggest that the agreements were bad or have fallen short in terms of meeting its strategic interest. What Khartoum has been doing is to further maximize its advantages. Under the deal, Sudan stands to gain three and half billion dollars free money over a period of three years from South Sudan as part of transitional arrangements, in addition to transit and processing fees ranging from \$9.5 – 11 a barrel. It too has been forgiven for "stealing" South Sudanese oil worth over 800 million dollars and guaranteed huge market for their goods and services in South Sudan to re-energize their critically ailing economy yet Khartoum came up with roadblocks to make the implementation of the cooperation agreements difficult.

Some of the strange, almost bizarre, requests that Khartoum tabled as pre-conditions for the implementation of the cooperation agreements were that South Sudan should disarm the SPLA-N – a Sudanese rebel group fighting against the government. Though this force was part of the SPLA before the independence of South Sudan, these were Sudanese citizens from Southern Kordofan and Southern Blue Nile regions of the Sudan whose grievances were supposed to be handled through popular consultations as specified in the Comprehensive Peace Agreement. However, Khartoum failed to make the consultations operational and effective.

These popular consultations were never held, the result of which became the SPLA-N, a military organization that is fighting for justice and equality in Sudan.

Of late, Khartoum has also figured out another obstacle to throw into the mix and that is the sharing of the position on the Abyei Area Administration and Council on 50/50 basis—a demand that has never been on any prior agreement. The CPA said the administration and council of Abyei should be shared on 60/40 Republic of South Sudan and Government of Sudan respectively. The justification that Khartoum gave was that it agreed on the first arrangement to make unity attractive and since South Sudanese decided to go for the separation of the country it is not going to accept the 60/40 arrangement. If this condition is not met, the Abyei referendum would not be conducted and South Sudan's oil would not flow through Sudan's territory. This is another clear illustration that Khartoum is trying to maximize its supposedly comparative advantage over South Sudan. It is also possible that Khartoum is under the impression that South Sudan is bound to collapse under the weight of her economic woes, if Khartoum can just hold out for a little longer.

When faced with this never-ending game of goal-post changing by Khartoum, the South Sudan negotiating team decided that Presidential summit could be a good strategy to use to force implementation of the signed cooperation agreements. Since then, there has been presidential summit in Addis Ababa almost on monthly basis. These summits have not gone beyond the roadblocks that Khartoum has managed to put in place to stop the implementation of the agreements. Just like the team of negotiators meeting endlessly in Addis Ababa at a high cost with little or no results so have the summits become. The endless presidential summits are seen by Khartoum as a diplomatic tactic that is working very well in draining Juba's resources as well as putting pressure on the latter to resort to other means of resolving this impasse. By behaving this way, Sudan does not necessary think that South Sudan will seek another channel through which the post independence issues can be addressed other than through the African Union High Implementation Panel. Khartoum is sitting comfortably fully assured of the backing of the African countries not to refer the case to the United Nations Security Council. Sudan refused referral to the Security Council under the pretext that this is an African problem that needs an African solution. Khartoum is becoming so selective in the practice of Africanizing its problems/conflicts as manifested in sticking to the African Union (AU) to solve its disputes with Juba and going to Doha to resolve its disputes with Africans in Darfur.

In his address to African heads of states in the January 2013, President Salva Kiir, said that Juba has run out of patience and energy to entertain fruitless presidential summits with Sudan. He went further by requesting that the issue of stalled implementation should immediately be referred to the UN Security Council for the sake of security and peace in South Sudan and Sudan. This is a very strong policy statement that if followed to the letter will presumably bring out the desired results. The ineffectiveness of the agreements also means that South Sudan needs to re-evaluate the effectiveness of the African Union mediation team and process as a whole. It is true that South Sudan has not exhausted the African channel in resolving its problems with Khartoum. The CPA, one of the most effective Sudanese agreements, was signed through a protracted African peace initiative led by Inter-Governmental Authority for Development (IGAD). This makes it logical to refer teething problems such as the unresolved issues that are coming out of such agreement back to the original forum where it was negotiated and signed. Within the IGAD framework there could be a chance and mechanisms including referral of the South Sudan and Sudan to the UN Security Council.

Juba has to step up its efforts to convince African heads of States that the pressure on Khartoum can produce results if there is an additional pressure from without. What is happening now is that Khartoum is making a mockery of an African institution (the AU) tasked with maintaining peace and security on the continent and by so doing effectively puts itself above it. And with relentless diplomatic efforts across Africa, the government of Sudan has somehow managed to make African countries believe that they need to give more time to Khartoum and Juba to discuss and reach agreement to their unresolved issues within the African dispute resolution context.

In conclusion, technically, South Sudan and Sudan have reached a deadlock on resolving the post-independence issues. The continuation of negotiating the implementation of the cooperation agreements signed in Addis Ababa is now a mere diplomatic exercise that is expensive and will not bring about any fruitful results. The delay in referring the case of South Sudan and Sudan to the UN Security Council is edging the two neighboring countries closer to an all out war that can cost a lot of lives. It would be in the best interest of the AU not to be seen as weak and open to manipulations by a negotiating partner who is not committed to implementing an agreement it has signed. South Sudan should seek IGAD's intervention as well as pursuing referral to the UNSC.