Salva-Bashir Summit: The Final Round of the AU Roadmap

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By Luka Biong Deng

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The African Union Roadmap and the UN Security Council Resolution 2046 will conclude on 22nd September the direct negotiations on all the pending issues between South Sudan and Sudan. This new deadline came after such negotiations were extended by 50 days when President Bashir failed to turn up for the summit scheduled on 30th July in Addis Ababa, Ethiopia. It is unlikely that such deadline will be extended again as that will tarnish the credibility of the AU and the UN.

If the two countries amicably reached solutions on all the pending issues, then the Panel will summit such agreement to the African Union Peace and Security Council for endorsement and to be forwarded to the UN Security Council for enforcement. If the parties, however, failed to agree on any of the pending issues, then the Panel will submit to the AU Council the agreed solutions and proposed solutions for issues not agreed upon for endorsement as final and binding solutions. These agreed solutions and proposed solutions will be forwarded to the UN Council for enforcement under Chapter VII of it Charter.

It is expected that the AU Council that is now chaired by Egypt will convene its next meeting immediately after the deadline date of 22nd September to receive report and proposed solutions from the Panel. Also the UN Council may convene Sudan Forum meeting on 27th September in New York to receive progress report from the Panel while waiting for the final report including the AU Council's endorsed resolutions for all the pending issues.

The Parties are still negotiating with the hope of preparing a comprehensive agreement on all the pending issues for the two Presidents to sign in the summit scheduled on 23rd September in Addis Ababa, Ethiopia. While the two Presidents seem to accept to attend the summit, one is not sure about the participation of President Bashir as the increasing call for his arrest by human rights activists is haunting him wherever he goes. Although the new leadership of Ethiopia will provide President Bashir with all necessary protection, the business will not be as usual after the death of Prime Minister Meles as there could be some discontent voices in Ethiopia questioning his visit.

While the spirit of the negotiating teams in Addis seems genuine in resolving all the pending issues before the summit, the Parties are trying to capitalize in the remaining days to maximize their gains. This last minute behavior, particularly from Sudan, produces rather erratic positions that sometimes create an environment of despair and apathy. The negotiating team of Sudan seems not only divided but also so weak, uncertain, irrational and unreasonable. On the other hand the negotiating team of the South has shown beyond any doubt that it is serious and determined to reach agreement with Sudan. One may fear that the South may concede to the level that it will make it difficult to sell such agreement to the people of South Sudan.

Generally, the Parties seem to make progress in all the pending issues and with some sticking points in oil and other payments, border, security arrangements and Abyei. On oil, Sudan unsurprisingly reneged smartly by arguing that the agreed transit fee of $1 per barrel is only for the oil entitlements of the Government of South Sudan but not for the oil companies. It has managed to set $4 per barrel as transit fee for the oil entitlements of the oil companies. This high transit fee if accepted by the oil companies may be indirectly borne by the Government of South Sudan. Also, despite the South has forgiven all its arrears and claims, Sudan refused to give back to the South its two remaining oil consignments out of the five oil shipments that Sudan commandeered. While the South, in the spirit of friendship, accepted to avail to Sudan $3 billion as assistance, Sudan indirectly filed through its oil company a legal case against the South by claiming a compensation of $1.2 billion for the loss of its shares in the oil fields in the South. Despite these artificial differences created by Sudan, one expects that the summit can easily resolve these differences.

On the border, the Parties are likely to resort to the final and binding international arbitration on the five disputed areas after having the non-binding opinion by the AU Border Team Experts on the disputed areas. However, there is a sharp difference on the claimed areas including Panthou (Hegilig). While Sudan refuses to consider these claimed areas for international arbitration, the South is adamant to take these areas for arbitration. Other sticking point on the border is whether the Parties will continue with exploration and development of natural resources in the disputed and claimed areas. The South sees it appropriate to halt such activities until the ruling of the international arbitration, while Sudan insists to continue with these activities in the disputed areas. Probably, the Panel may assist the summit to reach agreement over the issues related to the border.

On the border security arrangements, Sudan continues to reject the map provided by the AU and UN for the establishment of the Safe Demilitarized Border Zone. In particular Sudan singled out 14 miles area and proposes the forces of the South to withdraw beyond 14 miles and suggests a joint Dinka Malual-Rizeygat traditional administration of the 14 miles area. The South on the other hand maintains its unconditional acceptance of the map provided by the AU and UN. The South rejects the proposal of Sudan on 14 miles and proposes the demilitarization of all the disputed and claimed areas if Sudan continues to reject the AU/UN map. It is most likely that the Panel may propose an amicable solution to the summit to overcome the differences over the border security arrangements.

On the final status of Abyei Area, the Panel maintains its position to present to the two Presidents in the next summit its proposal on the final status of Abyei as per the provisions of Abyei June 2011 Agreement. Prior to the summit, the Panel shared with the two Presidents its analysis of the basis upon which its proposal on the final status of Abyei will be based. The analysis of the Panel about the final status of Abyei seems to clarify the issue of eligibility, the expected outcome of Abyei Referendum and the challenges for making such outcome to create as much of a win-win situation. It is worth noting that while Abyei June 2011 Agreement mandates the Panel to make a proposal on the final status of Abyei to be considered by the two Presidents, the AU Roadmap mandates the Panel to propose a final and binding solution to the final status of Abyei if the Parties failed to reach a solution.

It is most probable that the Panel may propose a referendum with only Ngok Dinka and other residents as eligible voters but not the nomads and such a referendum to be conducted within one year by a commission with a chair to be appointed by either AU or UN. Other possibility and as the outcome of the referendum is known, the Panel may propose immediate transfer of Abyei to the South with specific proposals for mitigating the consequences of such transfer. It is most likely that President Bashir may reject direct transfer and may opt for a referendum, while President Salva may go for immediate transfer and to commit himself to exert more efforts to mitigate the consequences of such transfer on the Misseriya pastoralists and Government of Sudan. The issue of the final status of Abyei may be the only issue that the two Presidents may not agree and that will force the Panel to make a final and binding proposal to the AU Council and the UN Security Council.

It is clear that the remaining issues that may require the final decisions of the two Presidents are solvable if there is a political will. The two Presidents are coming to the summit after they have experienced the economic, political and social costs of bad relations between the two countries. It would be suicidal if the two Presidents in the next summit failed to reach amicable solutions for all the pending issues.

President Bashir in particular will face enormous challenges if he continues to be intransigent as his days are counted. Even the Islamic movements worldwide see Bashir as a liability to Islam. His recent visit to Egypt might have sent him the right signals as he failed to receive due attention and courtesy even from some well-known Islamic leaders and scholars. In Sudan, the political Islamists in the NCP see Bashir as a real liability and they may work for a change from within and that may result in a miserable end to Bashir. The uncontrolled and reckless demonstration in Khartoum against US and other western countries over the unjustified film made by individuals about Prophet Mohamed and the poor containment of such demonstrations send a clear signal to the friends and sympathizers of Sudan in the western countries of the need to support the option of a regime change.

President Bashir stands only chance during this summit to cleanse his image by boldly agreeing with his Brother Salva on all the pending issues including Abyei and SPLM-North and that might give him a window of opportunity to exist peacefully from power and with a legacy of peaceful and stable Sudan with good relations with its twin country, the Republic of South Sudan.

Luka Deng Kuol is a leading member of South Sudan's governing Sudan People's Liberation Movement (SPLM). He is currently a Co- Chair of the Abyei Joint Oversight Committee representing South Sudan President Salva Kiir