PA-X

SPOTLIGHT SERIES
Rapid - Reaction - Response

Sudan's Enduring Transition: Evolving Arrangements after the Fall of Bashir

Jan Pospisil

Author: Jan Pospisil

Political Settlements Research Programme (PSRP)
Global Justice Academy
School of Law
Old College
The University of Edinburgh
South Bridge
Edinburgh
EH8 9YL

Tel. +44 (0)131 651 4566
Fax. +44 (0)131 650 2005
E-mail: PoliticalSettlements@ed.ac.uk
www.politicalsettlements.org
@PolSettlements

The Sudanese uprising has reached its first goal. After four months of peaceful yet persistent protests, long-term military ruler Omar al-Bashir was ousted after over a quarter of a century in power. A broad and civil-society-based movement has triggered his downfall. The movement was, however loosely, organised by the Sudanese Professional Association (SPA), founded in 2016 as an umbrella organisation of the traditionally strong trade unions, and other hitherto little-known initiatives. The security apparatus, especially the Sudanese military, Bashir's natural home and traditional stronghold, contributed to the fall of to the regime by turning against him in the aftermath of a global action day declared by the Sudanese opposition.

Characteristics of the Sudanese uprising

The Sudanese uprising brought about new political players and a new political culture, linking classic modes of political organisation with online campaigning (the hashtag *#sudanuprising* developed into the newsfeed of the movement) and customary forms of Sudanese politics. Its success in removing Bashir from power was surprising as the new political structures, unlike many comparable movements against authoritarian regimes in recent years, lacked clearly organised political leadership.

The role of the traditional political parties in the transition was negligible, not the least due to their embeddedness in the political manoeuvring of Bashir's regime. Bashir's role as the ultimate power-broker, the spider in a complex power web he has woven over the years[1], tumbled after being challenged by new, uncontrolled and unfamiliar actors evolving on the political scene. The civil society movement managed to tip the power balance against the old guard of Bashir's National Congress Party (NCP) to the point where the military, against the resistance of other forces of the security apparatus like the presidential guard, decided to drop Bashir for good.

The movement's distinctive features offer significant opportunities for the transitional process. The situation, while being highly fluid and having faced some violent attacks by elements close to the old regime, remains relatively non-violent overall.

[1] https://www.nytimes.com/2019/04/11/world/africa/omar-bashir-sudan.html

The actors in Sudan's transition

In the first weeks after the fall of the NCP regime, the power balance seemed to shift on a daily basis. A range of actors have been engaged in a permanent sensing and testing, a process that is likely to continue for months to come.

(1) The military has taken over power and has formed a Transitional Military Council (TMC) which effectively acts as the government. However, it has – as of yet – not fulfilled the fears of many observers that it would follow the example of Egypt in exploiting the situation to work to establish a military dictatorship. The TMC is acting in a surprisingly non-violent and even insecure manner as if the events have taken them by surprise as well, which they probably have. The TMC's manoeuvring over the past weeks indicates that nobody has yet developed the will or the power to take on the role of an overarching 'strongman'. On the contrary, the TMC seems to go back and forth between moving to establish a sustainable military government to handing over power to a civilian government. Views appear to be split, with current TMC chairman Al-Burhan commonly perceived as a moderate and his deputy, Hamadan Daglo alias 'Hametti', the Darfurian commander of the notorious Rapid Support Forces and a former close ally of Bashir, taking a hard-line stance in classic 'strongman' fashion.

(2) On the side of the civilian opposition, the so-called Freedom and Change Alliance (FCA) has been formed as the main umbrella organisation, involving, among many others, the SPA, the Sudan Call, an alliance involving the Umma party, the SPLM-N and the Darfurian players, the National Consensus Alliance and the Unionist parties. The explicit aim of the FCA is the establishment of a constitutional democracy after a transitional period of interim civilian rule, and the end of Sudan's civil wars. Beyond these general goals, considerable dispute exists regarding the ways and methods of how to get there.

(3) The Sudanese political parties are all fairly united behind the call for a civilian government and their support for the uprising. However, they played a rather passive role in the process which may have seriously hampered power to influence. Their role is still vital, given their long-standing tradition and influential role in the political game, which is a unique feature of the Sudanese polity in the broader region. Their current political demands differ widely, from favouring a mixed civilian-military government involving a significant role for the TMC (by the Umma party) to demanding an immediate transfer to a fully civilian government (by the Communists). However, they all seem united in not pushing for quick elections, not the least because nobody has any certainty about the outcome.

(4) The NCP party structure appears to have vanished completely. Bashir's last turn back to the NCP's old guard and the dismissal of more moderate players such as Ibrahim Ghandour in 2017 and 2018 has accelerated this downfall. However, some protagonists of the old guard are too embedded in the Sudanese power-web to remain completely out of the political picture. Sudanese politics resemble a political marketplace[2], and skilled entrepreneurs may find their way back utilising whatever new political vehicle evolves.

(5) The armed opposition, both the main armed actors in Darfur such as the JEM and the SLA and the SPLM-N in the 'new South', do not seem willing or able to exploit the current situation for armed campaigns by pressing hard for separatist demands. Overall, the Darfurian rebel groups seem more interested in enhanced political participation via the Sudan Call alliance than in accelerating an armed campaign. The SPLM-N, also a member of the Sudan Call, appears to be self-absorbed in an internal power struggle.

(6) International actors fall into three groups. The Gulf countries, especially Saudi Arabia, are the main supporters of the military government. Saudi Arabia and the UAE have provided substantial funds – apparently three billion US$ – to back the TMC and to uphold the Sudanese participation in the Saudi-led military coalition in the Yemeni civil war.

The African Union (AU) decided to turn Sudan into another test case for proving the relevance of their anti-dictatorship and coup policies. After setting tight targets for handing over the power to a civilian government, they have now announced a deadline for the end of June. If Sudan fails to comply, the AU threatens to suspend its membership. The members of the so-called Troika, the United States, the United Kingdom and Norway, currently try to identify their role, as does the European Union. While the EU has just completed an assessment mission, the US have started to engage in high-level talks with the TMC about a power-transfer to a civilian government.

[2] http://www.lse.ac.uk/internationalDevelopment/research/JSRP/downloads/JSRP-Brief-1.pdf

Transitional pathways

The first weeks of the transition have seen the emergence of a council structure aimed to develop a stable interim government. The exact form and composition of the councils, most prominently the Security and Defence Council and the Sovereign Council, have been constantly negotiated and re-negotiated, with the numbers of civilians in the Councils being the principal concern of the opposition movement. A mediation committee has been established to formalise the bargaining. This evolving shared civilian-military council structure seems to be supported or at least accepted by all major actors. Draft papers on the structure of an interim government have been exchanged, whereby the primary challenge of the opposition is to carve out a unitary agenda for negotiations. Three tasks are undisputedly agreed by all actors: getting a stable and representative interim government in place, initiating an inclusive constitutional process, and keeping the situation calm and non-violent.

On a broader level, Sudan is facing a 'twin transition' from both armed conflict and authoritarianism. The TMC as well as the FCA have declared the political goal of ending the armed conflicts as part of the transition. The FCA uses this claim in their argument for a four-year transition period before elections are held. The historical track record of such attempts is not encouraging. Of the about 35 attempts of twin transitions since 1990, one of those including Sudan after the Comprehensive Peace Agreement (CPA) , only a handful can be rated as successful in terms of at least ending conflict violence, namely Nepal, Liberia, Sierra Leone (eventually), Mozambique in the early 1990s, and Kosovo as well as Bosnia Herzegovina (the last two involving extensive international military intervention). Others have, so-far, fallen short of establishing either democracy (Rwanda, Burundi) or peace (Myanmar), or failed at both (Afghanistan).

A comparison suggests that twin transitions are more likely to succeed if the dispute in the country was predominantly political and not territorial, which is arguably the case in Sudan after the split with South Sudan. A second lesson is that success also depends on all the new powerful actors being united in their will to get rid of the old regime, as it was the case in Nepal, instead of the old power-holders becoming an integral part of the transition, such as, for example, in Myanmar. Where Sudan is situated in respect of a consensus on the need to replace the old regime remains to be seen.

Currently, three possible pathways appear likely for the interim period.

Option one: The establishment of a mixed civilian-military government under a technocratic presidency. Such a government could develop out of the TMC and the council structure and involve a transitional legislature drawing on the existing parliamentary tradition. In order to comply with national and international expectations, this government needs to be headed by a civilian during the transitional period, whose length is currently negotiated (the TMC is opting for two years, the FCA for four years, with three years as the now likely outcome). The main task of such a government would be the organisation of a constitutional process and the preparation of elections that should be held after the transitional period. As the power-play stands, it looks unlikely that a mixed civilian-military government can be established under military leadership, although the Myanmar transition (where Aung San Suu Kyi is in the role of a de-facto president) shows that other creative options that form something of a 'half-way-house compromise' are available. Indeed, recent consensual suggestions seem to favour a presidential council in a largely symbolic role and a civilian-dominated interim government.

Option two: The sustainment of the TMC and its transformation into a military government. This is the default option for the military if no agreement on a government can be achieved. Such a regime would mainly rely on the substantial financial and political support from the Gulf states and implicit backing by the United States and China. The risk of this option is real. This fall-back could materialise because of political disagreement as to whether the president should be civilian, or it could be the result of a growing appetite by the military to stay in power. The current negotiations relating to a civilian-led government are therefore under a time pressure while also paradoxically in dire need of the political space for which taking time is an essential requirement. External support will have to find a way to exhibit political flexibility while having clear red lines in terms of objecting military rule, if it is to be effective.

Option three: The military steps aside and allows an entirely civilian caretaker government to take over. The full removal of the military from power is the demand of the opposition forces and, at least officially, the preferred option of the Troika and the AU. However, even if successful in the short term, this option is risky in terms of the overall stability of the situation. The civilian players are highly fragmented and pursue different political interests. Parts of the loose FCA lack political experience. The Sudanese political marketplace will always benefit experienced and well-networked actors, whether they are civilian or military, which makes a carefully negotiated power-balance imperative for any government to prevail.

Options for external support

External support for the Sudanese transition is as important as it is challenging. One of the main strengths of the opposition movement was its genuinely domestic character. Strong international support risks weakening its political credibility. External support does not appear to be a preferred option for the negotiators, who want to keep the outside involvement in the mediation process at a minimum, no doubt reflecting the national character of the FCA.

The transition process has already seen the emergence of a domestic institutional set-up that enables political agenda-setting and structured negotiations. Going with the grain of this institutionalisation rather than aiming for top-down institutional design is highly advisable for any external involvement. The Council structure deserves international recognition and political support. Furthermore, its fluidity opens up political space that could be further strengthened by engaging in high-level conversations with both the TMC and the civilian actors in order to support and sustain their commitment to the political transition. The US have already started such talks, the EU and some of its member states appear to be prepared to do so as well.

Inclusive dialogues are one of the most effective tools to prevent the emergence of either a non-military leader who lacks cross sectoral support, or an el-Sisi-type military strongman. A shared civilian-military caretaker government under a civilian presidency might be the preferable option from a 'transition management' perspective. It also looks like a compromise all actors are prepared to settle on. In this respect, it may be helpful that the Sudanese uprising has not been linked to the rise of a charismatic political leader, as it lowers the risk for all actors to settle on a civilian president.

As regards the substance of the twin transition, a developing a transitional role for a newly appointed Parliament and the constitutional reform process and on ending the armed conflicts in Darfur and in the South should take precedence over quick elections. To this aim, supporting the armed actors gathered in the Sudan Call in identifying their future political role might be a useful entry point for external support. For successful elections to happen, there is a need to have in place (1) a stable interim government, (2) a plan for including the armed actors in a political process, and (3) a credible constitutional reform process ongoing. Moreover, the new political players need sufficient time to establish the political structures required to contest elections in the complex, diverse and intense context of Sudanese national politics.

The National Assembly, located in the Parliament in Khartoum's twin city of Omdurman, has the potential to play a pivotal role in the transitional process. Recent reform demands of the FCA have already focused on reviving its role and suggested that a representative Parliament of 300 members is created with a 40% women's quota. Even the NCP-dominated last Parliament has shown remarkable resistance vis-à-vis Bashir in the final months of his rule, rejecting or watering down several of his demands in the context of the state of emergency several times. Drawing on this tradition and even on the expertise of former members, the Parliament could turn into the stronghold of civilian rule and the nucleus of a constitutional assembly.

The upcoming constitutional process, demanded by all parties after the removal of the 2005 constitution during the uprising (it was formally abrogated), is an incredibly complex task. The old constitution was a direct outcome of the CPA with the South Sudanese SPLA and meant to be transitional in any case. The character and composition of Sudanese politics that needs to be reflected in the constitutional process are highly peculiar and not directly comparable to any other country. Long-standing political parties, ranging from communists to liberals and Islamists, have lived through decades of dictatorships and short democratic episodes, with their protagonists facing not just with being in and out of government, but in and out of jail in rapid succession. The political game is both highly informal and highly institutionalised and tough to change in its character.

Relevant international examples which could give more guidance are rare. Recent successful constitutional processes in situations at least loosely comparable have taken place in Myanmar, Nepal, and Zimbabwe (but are in a sense still in train or stalled) – other examples, such as in the neighbouring countries of South Sudan or the Central African Republic, have experienced substantial challenges. Myanmar and Zimbabwe have experienced reform processes relying on existing political structures and constitutional traction has remained somewhat frustrated. Nepal remains as the only recent example of constitutional renewal after the complete breakdown of the previous political order, but came at a price of some exclusion of the broad range of inclusion demands that had been placed at the centre of the peace process.[3] While having taken place in a structurally different power setting, the interchangeable role of parliament and constitutional assembly in the first phase of the transition may hold lessons for the Sudanese process.

[3] Deepak Thapa and Alexander Ramsbotham, 2017: Two Steps Forward, One Step Back: The Nepali Peace Process. Accord 26. PSRP/Conciliation Resources.

Any suggestion regarding the design of the interim institutions needs to be handled with great care. Good governance and political decision making reflecting the vast regional diversity will not evolve overnight. Sudanese politics traditionally includes the state's administration, with administration a task that has always been inherently political. Against this background, it is not advisable to overburden the transitional process, and research indicates that interim arrangements often become 'sticky' and last well past their sell-by date.[4]

A careful approach in assisting the transitional process is advisable at present. The Sudanese have not only achieved Bashir's downfall, but also to quickly establish what appears to be a relatively functional structure for political negotiations and bargaining in the circumstances. If we add-in the persistence and political creativity of the opposition movement, there is certainly the potential for Sudan to enter a sustainable democratic transition.

[4] Christine Bell and Kimana Zulueta-Fülscher, 2016: Sequencing Peace Agreements and Constitutions in the Political Settlements Process. PSRP/IDEA report. University of Edinburgh.

About Us

The Political Settlements Research Programme (PSRP) is centrally concerned with how political settlements can be made both more stable, and more inclusive of those affected by them beyond political elites. In particular, the programme examines the relationship between stability and inclusion, sometimes understood as a relationship between peace-making and justice.

The programme is addressing three broad research questions relating to political settlements:

1. How do different types of political settlements emerge, and what are the actors, institutions, resources, and practices that shape them?

2. How can political settlements be improved by internally-driven initiatives, including the impact of gender-inclusive processes and the rule of law institutions?

3. How, and with what interventions, can external actors change political settlements?

The Global Justice Academy at The University of Edinburgh is the lead organisation. PSRP partners include: Conciliation Resources (CR), The Institute for Security Studies (ISS), The Rift Valley Institute (RVI), and the Transitional Justice Institute (TJI, Ulster University).

Find out more at: www.politicalsettlements.org