

Sudan's transition

What are the chances of success?

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Peaceful mass protests led to the military ouster of Omar al-Bashir, ending his 30-year rule in 2019. A power-sharing agreement between the military and civilians has given much to hope for in ending Sudan's civil wars and ushering in democratic governance. But analysis of the achievements and challenges of the transition so far show that while noteworthy progress has been made, significant challenges remain.

Key findings

- ▶ Deep-seated political and identity-based polarisation prevents Sudan from resolving fundamental issues of citizenship and statehood.
- ▶ The ability of the current transitional process to lay the foundation for a democratic state will depend on the extent to which it is able to develop a consensus-based national constitution.
- ▶ Despite progress made during Sudan's one-year transition, significant challenges remain including the imbalance of power between military and civilian actors, disregard for provisions in the Constitutional Document which sets out the terms for the transition period, discord among the Forces for Freedom and Change alliance (FFC), and the erosion of the powers of the transitional government by the Sovereign Council.
- ▶ The exclusion of political parties and two major armed groups will make achieving sustainable peace difficult.
- ▶ The goals of Sudan's current transition are too ambitious to be completed in 39 months.

Recommendations

For the Sovereign Council and transitional government

- ▶ Initiate the constitutional dialogue process as a matter of urgency to avoid regional fragmentation and state collapse.
- ▶ Initiate an inclusive constitution drafting process.
- ▶ Respect the transitional government's mandate as laid out in the Constitutional Document.
- ▶ Establish a peace commission to help bring the different negotiation tracks under one comprehensive peace process.
- ▶ Ensure accountability and redress, and coordinate transitional justice processes with community peacebuilding and rule of law initiatives.
- ▶ Consult with the Economic Committee of the FFC and the High Committee for Economic Emergency to reconcile policy differences and develop an economic reform strategy.

For the FFC

- ▶ Reach compromise on major issues to bridge divisions based on politics and identity.

- ▶ Maintain civilian unity to ensure the military hands over power in the second half of the transition period.

For the transitional government

- ▶ Manage public expectations and regain public confidence through transparency and regular engagement.

For the security apparatus

- ▶ Regain legitimacy through credible security sector reform that places the security apparatus under democratic civilian control.

For the African Union

- ▶ Clarify the AU's role in Sudan's political transition before the end of UAMID's mandate in December 2020.
- ▶ Provide political and technical support to transitional period processes and monitor all stakeholders' commitment.

For external actors

- ▶ Refrain from exacerbating already tense relations among Sudanese political actors.
- ▶ Make concrete contributions to the revival of Sudan's economy.

Introduction

The 30-year rule of Omar al-Bashir ended when the military staged a coup d'état on 11 April 2019 and removed him from power. The coup followed months of mass protests that began in December 2018.

Sudan's Transitional Military Council (TMC), which deposed Bashir, and the Forces for Freedom and Change (FFC), the coalition of opposition groups that led the unarmed protests that ultimately led to al-Bashir's removal, signed a political agreement in August under the auspices of the African Union (AU). The agreement ushered in Sudan's 39 month-long political transition period. The transition provides an opportunity for achieving peace and democratic governance, which has eluded the country since its independence in 1956.

The 2019 revolution however is not the first in Sudan's history. Since independence, Sudan has experienced four coups. Only the October Revolution of 1964 and the April Intifada of 1985 led to democratically elected civilian governments. The two transition periods that followed never managed to respond to the issues leading to the mass protests that resulted in military takeovers. As a result, the civilian governments that took power following both transitions lost popular support and were ousted in military coups within less than four years.

The current transition could regress into military dictatorship, as happened with Sudan's two earlier attempts at democratic transition

The current transition has so far followed the same trajectory. The transition has already faced considerable challenges. The agreement reached between the TMC and FFC is fragile, with many of the factors that led to the 2018-2019 protests still at play. The military continues to wield considerable power, even as the civilian coalition that led the protest movement is fragmented and weak. The peace process with armed groups has not managed to entirely end the conflicts in different regions. Many also fear that the deep state structures that characterised al-Bashir's rule have survived his government.

Thus, while the successes registered in the past year are encouraging, as it stands now, there is a possibility that the current transition could regress into another military dictatorship, in the same way as Sudan's two earlier experiments in democratic transition. These two transitions provide concrete lessons that while the current transition may lead to a democratically elected government, the long-term success of the transition will be determined by the extent it can overcome current and historical challenges.

This report provides analyses of Sudan's transitions and provides lessons the current transition should take into consideration so as not to repeat mistakes that have led to the failure of past transitions.

The report is primarily based on field research undertaken in March 2020. Interviews were conducted with key stakeholders in Sudan's transition process

39
MONTHS

LENGTH OF SUDAN'S
TRANSITION PERIOD

including representatives from political parties, the military, the FFC, the transitional government, armed rebel groups, local women's and youth movements, Sudanese resistance committees, and local civil society organisations. Secondary research focused on a review of Sudan's past transitions.

The report is divided into five sections. The first looks at the history of democratic transitions in Sudan. The second section focuses on the circumstances that led to the 2019 coup, and subsequent transition. The third takes stock of progress made during the transition and assesses whether the transition is on track to meet its goals. The fourth part provides a comparative analysis of previous transitions and the emerging lessons that should inform the current transition going forward. The conclusion highlights key findings and suggests how lessons learned from past transitions can help overcome key challenges that stand in the way for the remaining period of Sudan's political transition.

History of democratic transitions in Sudan

The complex political situation that led to the overthrow of former President Omar al-Bashir in 2019 and the political transition period that followed is not new to Sudan. Just two years after independence, the first military coup in 1958 removed a civilian government elected in the same year. Since, Sudan has experienced revolutions and military coups d'état in 1964, 1969, 1985 and 1989, and a number of failed coup attempts. Only the transition periods following the 1964 October Revolution and the 1985 military coup led to democratically elected civilian governments.

The October Revolution of 1964 followed widespread strikes organised by the National Front for Professionals (*Jabhat al-Hayat*), as a result of poor socio-economic conditions. They formed an alliance with segments of the military and various political parties to create the United National Front (UNF) that led to the Revolution of 1964. The UNF was supported by Southern rebels, the Anyanya, who accused General Ibrahim Abboud's regime of instituting policies which suppressed freedom to express religious and cultural diversity and his attempts to 'Arabise' the country. Abboud was also criticised for his handling of the economy.

Following the successful overthrow of the government, the UNF and army leaders selected a technocrat as prime minister to head the transitional government. Inconclusive elections in 1965, however, created deep rifts among civilian actors. Within the National Assembly, parties undermined each other in the years that followed and failed to address major issues such as the economic crisis and conflict in the southern regions. This led to another military coup in 1969 that brought to power President Jafaar Muhammad Numeiri, who ruled the country until he was overthrown in a military coup in 1985.

Similarly, the military ouster of Numeiri in 1985 was preceded by mass demonstrations and popular uprisings, initially led by university students and later joined by the Sudanese professional associations and opposition parties. They demonstrated for better social conditions and against the installation of *sharia* (Islamic) law.

The complex political situation that led to the overthrow of Omar al-Bashir is not new to Sudan

Protest leaders made a deal with the leader of the Sudan Popular Liberation Movement (SPLM), John Garang de Mabior, to join their ranks in the protest against Numeiri with the promise that a new government would abolish *sharia* law. Leaders of the coalition of opposition groups adopted a National Charter, which outlined their common goals. In light of such united opposition, the military deposed Numeiri in 1985.

The coalition of opposition groups then formed the Transitional Military Council (TMC), composed of top army officers that ruled Sudan during the political transition period that lasted until 1986. Soon after the post-transition election, the coalition civilian government lost popular support in the face of infighting and factional fault-lines among political elites, inconsistent policies and corruption.

The democratically elected government, which stayed in power for less than four years, was yet again overthrown in a military coup in 1989, which brought to power Omer al-Bashir.¹

Sudan's latest political transition

On 11 April 2019, al-Bashir was overthrown in a military coup d'état ending his almost three decade hold on power. Sudan had been experiencing regular protests since 2013. A failed national dialogue, contested election results in 2015, continued armed conflict in the peripheries and austerity measures worsened the politico-economic situation. The president's bid to run in the 2020 elections despite his earlier declaration otherwise tipped the balance.

The 2019 coup followed from the latest round of demonstrations that started in December 2018 over the rising cost of bread, particularly following the devaluation of the Sudanese pound and the lifting of flour subsidies. Soon, the demand for economic reforms turned into calls for the immediate removal of not only al-Bashir but also his entire administration. The protests quickly spread across Sudan and among diverse stakeholders, including women's and youth movements.

The government's violent response to the peaceful demonstrations, declaring a state of emergency and disbanding of national and regional governments, did not abate mass protests, and the military removed al-Bashir from power. Protests continued, however, calling for the military coup leaders to hand over power to a civilian-led government.

The diverse stakeholders who ended al-Bashir's rule expect to play an active role in Sudan's future

The signing of a political agreement between the military and civilians that ushered in the transitional period followed from different stages of negotiations and alliance formation. The first stage involved coordinating the demonstrations and reaching a minimal consensus among political parties, labour and trade unions, social movements, and some armed rebel groups. These groups signed the Freedom and Change Political Accord on 1 January 2019, under the FFC² coalition.³

The second stage of consensus building took place between the FFC and armed groups operating in the

Darfur, South Kordofan and Blue Nile regions, under the Sudan Revolutionary Front (SRF), an alliance of armed groups created in 2011 that are signatories to the Freedom and Change Political Accord.

The third level of alliance formation involved the Transitional Military Council (TMC) and the FFC. This was the longest and most critical negotiation in ensuring a peaceful political transition in Sudan. While the military controlled power in the aftermath of the revolution, a violent crackdown on 3 June 2019 by armed forces on protesters put extra internal and external pressure on the TMC to negotiate with civilians. On 3 August, major terms for the transitional government and key issues for the Constitutional Document were finalised.

The FFC and TMC had to make significant concessions in reaching a deal that bridged their differing political visions and goals for the revolution. In the final agreement, the FFC secured 67% of the seats in the 300-members Legislative Council, the right to choose the head of the executive, the prime minister, with a mandate to select the Cabinet of 20 ministers (with the exception of the interior and defence ministers), where the entire executive power rests. The TMC agreed for the Sovereign Council to be the Supreme Commander of the Sudanese Armed Forces, for the Rapid Support Forces (RSF) militia to come under the control of the army, to remove Islamist generals from its ranks and blanket immunity from government officials, and to support an independent legal inquiry into the 3 June attack on protesters. The TMC on the other hand secured the mandate to chair the Sovereign Council during the first 21 months of the transition period, to appoint the interior and defence ministers, and to lead the reform of military-security institutions.

The Sovereign Council was created on 20 August 2019 to act as the collective head of the state of Sudan for a 39-month transition period until scheduled elections in mid-2022. A diverse range of stakeholders including the security apparatus, the civilian coalition that led the protests, and the armed rebel groups came together to end al-Bashir's rule. They expect to play an active role in shaping the future of the country by taking part in its politics and governance. (See Annex 1 for list of major stakeholders in Sudan's current transition.)

Outstanding issues in the current transition

The Constitutional Document has listed the mandate of the transition period expected to realise the aspirations of the Sudanese people for the revolution.⁴ The first priority for the transition period according to the Constitutional Document is to conclude a just and comprehensive peace agreement with the different armed rebel movements and end Sudan's civil wars in Darfur and the two areas of the Blue Nile and South Kordofan (Nuba Mountains).

The Constitutional Document mandates the transition period to attain justice for crimes committed in the last 30 years by the former government. Specifically, it makes provision for holding accountable those involved in attacks against protestors across Sudan and especially for the 3 June 2019 killing of protestors. The transitional period is further tasked with dismantling the administrative structure and patronage system (*tamkeen*) of al-Bashir, resolving the economic crisis that triggered the protests in December 2018, and drafting a permanent constitution for the country.

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Based on the mandate of the transition period, the following section focuses on five major mandates and examines whether the transition is on track to meet its goals.

Ending civil wars and achieving sustainable peace

The Constitutional Document gave the transitional government six months from September 2019 to finalise peace agreements with all armed groups in Sudan.

Peace talks commenced in September 2019 hosted by South Sudanese President Salva Kiir in Juba and resulted in the Declaration of Principles (the Juba Declaration). Armed groups that signed the declaration include two factions of the Sudan People's Liberation Movement – North (SPLM-N led by Malik Agar, former governor of Blue Nile state) and SPLM-North (led by Abdelaziz El-Hilu, former deputy governor of South Kordofan).

Other signatories were the Justice and Equality Movement (JEM), the Sudan Liberation Movement (SLM) led by Minni Minawi, the Kush Liberation Movement (KLM), the Beja Congress and the United People's Front for Liberation and Justice (UPFLJ) from eastern Sudan.

Initial talks focused on a cessation of hostilities, exchange of prisoners, revocation of criminal charges and lifting of travel bans imposed against armed groups. Humanitarian access to rebel-controlled regions and confidence-building measures were also discussed.

Further talks identified core issues for negotiation. These include the root causes of the conflicts such as the political and socio-economic

MID-2022

TARGET DATE FOR
SUDAN'S ELECTIONS

marginalisation of some groups, a lack of freedom and justice, the hegemony of the centre over peripheral areas, and a failure to manage ethnic and religious diversity. Power and wealth sharing arrangements, modalities for disarmament, demobilisation and reintegration (DDR) of all armed groups, security sector reform (SSR) and transitional justice are additional agenda items for negotiation. Some armed groups have added specific issues such as secularism of the state, self-determination and reparations for internally displaced communities.

Peace agreements have been signed with political groups in northern,⁵ central⁶ and eastern⁷ regions, and a number of armed groups based in Darfur, Blue Nile and South Kordofan.⁸

The peace process represents a culmination of the various peace processes and agreements signed either collectively or independently by various armed groups with different governments of Sudan. The core issues for negotiation remain the same as in the past, but the current transition period provides a unique opportunity to address conflict drivers. This is because armed groups are negotiating with those they collaborated with in overthrowing al-Bashir's government and some rebel groups are signatories to the Freedom and Change Political Accord.

A comprehensive peace agreement has the potential to provide a road map for subsequent peacebuilding and statebuilding processes for Sudan. While peace agreements have been signed with various political and armed rebel groups, reaching a comprehensive peace continues to face daunting challenges.

In addition to continued sporadic fighting, a number of armed groups that have significant troops on the ground have not signed the agreements. Those holding out include El-Hilu's SPLM-North faction operating in the South Kordofan and Blue Nile regions and the Sudan Liberation Movement (SLM) led by Abdel Wahid al-Nur from Darfur.

Sporadic fighting continues and two major armed groups with significant troops on the ground have not signed the peace agreement

While El-Hilu has been part of the initial talks, he is yet to sign the peace agreement as his position on secularism, self-determination and the request to maintain his army during the transition period have been rejected by parties to the negotiations. Al-Nur, on the other hand, has maintained from the start that the current peace negotiations do not differ from several previous failed peace processes. He has excluded his faction, the SLM, from talks until the whole negotiation process has been significantly reformed.

Despite the absence of these two important armed groups that have troops in the regions of Darfur, South Kordofan and Blue Nile, peace negotiations have nonetheless been concluded for Darfur and the two regions. For example



TO ENSURE ITS IMPLEMENTATION,
THE PEACE AGREEMENT NEEDS
POLITICAL BACKING

the Sudan Liberation Front, representing Darfur in the negotiations, signed a peace agreement. However, whatever agreement was reached may need to be renegotiated if al-Nur's SLM, which is also based in Darfur, agrees to take part in the peace process.

Similarly, Yasir Arman, Malik Agar and Ismail Jalab have joined the Sudan Liberation Front and have participated in the peace process representing the Blue Nile and South Kordofan in the absence of El-Hilu, who has armed forces on the ground in these areas. This makes the peace

agreement that results from the current peace process almost impossible to implement on the ground unless some level of coordination is secured.

The credibility of the peace process was compromised when the High Council of Peace, chaired by Lt General Abdelfattah El Burhan, assumed leadership of the facilitation of peace negotiations. The leading role of the council, which consists of both military and civilian members, is contrary to provisions of the Constitutional Document that stipulates an independent national



- The Sudan People's Liberation Movement – North, Abdelaziz El-Hilu, South Kordofan state around Kauda and Nuba Mountains
- The Sudan People's Liberation Movement – North, Malik Agar, Blue Nile state around Kurmuk
- The Sudan Liberation Movement (SLM) – Minni Minnawi , North Darfur state along the border with Chad and Libya, as well as the boundary between North and South Darfur
- The Sudan Liberation Movement (SLM) – Abdel Wahid al-Nur, the area where North, West, Central and Northern Darfur regions meet, around the Jebel Marrah mountains
- Justice and Equality Movement (JEM) – Gibril Ibrahim, North Darfur along the border with Chad, and in the mountainous Jebel Mun region in West Darfur

Source: OnTheWorldMap: Sudan Political Map

peace commission lead the peace process. Putting an independent commission in charge was meant to guarantee the neutrality and inclusiveness of the process and ensure that experienced technical experts would lead the negotiations.

Instead, the role of the independent commission has been assumed by a council composed of political appointees, including representatives from the military and political parties that have a direct stake in the outcome of peace negotiations.⁹ Thus parties to the negotiation also act as facilitators of the peace process. This is a false start with serious negative implications for the success of the whole peace process.

Moreover the FFC that makes up the civilian component of the Sovereign Council has so far been marginally involved because armed rebel groups expressed reservations about their initial involvement.¹⁰ Prime Minister Abdalla Hamdok, who represents the civilian government, was likewise not at the centre of the negotiations.

The FFC and SRF militia reached an informal agreement on key issues in Addis Ababa on 25 July 2019.¹¹ Though the agreement was never made public, they announced key areas of agreement, including the prioritisation of achieving peace and power-sharing arrangements, including delaying the formation of a legislative council and the appointment of civilian state governors until the signing of a comprehensive peace agreement.

Instead of an independent commission, political and military appointees with a stake in the outcome are facilitating the peace process

Nevertheless, the SRF militia objected to various proposals in the Constitutional Document signed by the TMC and FFC.¹² The main points of divergence were the representation of the SRF in the Sovereign Council, the six-month duration proposed to reach a comprehensive peace agreement and the 39-month transition period, instead of the four years SRF had proposed. The FFC rejects this claim, stating that Chapter 15 of the Constitutional Document is based on the Addis Ababa agreement.¹³

The marginal involvement of political actors will be a major challenge for the implementation of the peace agreement in the post-transition period, when political actors, most of whom joined the FFC coalition, take over government. As a political process, the peace negotiations should be backed by politicians to ensure political commitment to the provisions of the peace agreement beyond the transition period.

One of the reasons transitional period peace agreements have not been implemented in the past has been due to the failure of post-transition governments to honour the agreements. By sidelining the FFC in the peace negotiation process, armed groups and the government are preparing the



PARTIES TO THE TALKS ALSO
ACT AS FACILITATORS OF THE
PEACE PROCESS

ground for the FFC to disown the agreement after the transitional period.

Without the constitutionally specified apolitical peace commission to provide expert technical support, the peace process has lacked vision and a national strategy that frames it, resulting in significant drawbacks. Instead of negotiating one comprehensive national peace strategy with recommendations for addressing common concerns raised by all warring parties, armed groups were invited to submit their own proposals to which the High Council of Peace responded.

The different proposals have led to the formation of six different negotiation tracks for each region and one separate track for el-Hilu's SPLM-North, with the likelihood of adding more tracks if other rebel groups agree to take part in the peace process. This has not taken into consideration implementation difficulties, nor outlined mechanisms for solving them.

The track system has resulted in different armed groups negotiating in multiple peace processes the same fundamental conflict drivers of a region, with the potential to result in disconnected, competing or contradictory agreements. This is especially true of divisive issues, on which different armed groups have diametrically opposing stances, such as the system of governance and the relationship between religion and the state.

As a result, further negotiations are required to agree on outstanding critical issues, delaying the signing of a nationwide comprehensive peace agreement. Without creating one comprehensive peace agreement for Sudan, peace agreements signed through different tracks will be difficult to implement.

The different tracks have in addition resulted in competition amongst rebel groups and fractured rebel alliances, with each group wanting to be represented in power and wealth sharing arrangements. It has further shifted the focus of negotiations from addressing common fundamental conflict drivers to a transactional peace-making model based on the distribution of power and wealth among those that wield arms and political capital.

This is evidenced by the delay of critical processes of the transition period such as security sector reform, formation of a legislative council and the appointment of civilian

state governors, in a bid to include armed groups in these structures of authority.

Armed rebel groups that signed the latest peace deal in August 2020 will collectively get three seats on the Sovereign Council, a quarter of the seats in the transitional legislative council, five ministries and 40% of administrative positions in their regions.

As in the past, a transactional peace agreement will not help to reach sustainable peace by addressing the root causes of conflicts. Rather than negotiating wealth and power sharing arrangements to ultimately address the systemic political and economic marginalisation of some communities in the past, the current model focuses on reaching a political settlement that is meant to appease officials of armed groups.

Lack of transparency and public buy-in is another limitation of the current peace process

The 10-month delay in appointing civilians to important decision-making positions due to the peace process has significantly skewed the power balance in favour of the military. It has also strained the unity of the FFC as some members have been calling for the formation of a legislative council and the appointment of civilian state governors without a peace agreement, which has missed the six-month deadline set by the Constitutional Document.

Following mass demonstrations and the resignation of three military governors, Prime Minister Hamdok appointed 18 civilian state governors, including two women, on 22 July,¹⁴ but the formation of the legislative council is still pending. This continues to create serious fissures between armed groups, the FFC and the transitional government. After being governed by the military for 10 months following the revolution, lacking representation in a legislative council, and with little delivery of the promised peace dividend, communities are fast losing faith in the transition period.

The power and wealth sharing approach has moreover resulted in the creation of negotiation tracks for regions where there was no armed conflict, as in the eastern, central and northern tracks. The

issues covered in negotiations were related to land rights, livelihoods and socio-economic development that could have been addressed in other national processes.

Lack of transparency is another limitation of the current peace process. As in the past, communities have very limited knowledge as to what is being negotiated on their behalf and thus feel very little ownership of the peace process. In some regions, especially in the eastern track said to represent three states comprising Gedarif, Kasala and the Red Sea, a number of tribal leaders have disowned those who are said to be negotiating on their behalf.¹⁵ Without wide public buy-in, inclusiveness and credibility of the whole process, it will be difficult to implement the peace agreements.

The process of mediation represents another weakness of the peace negotiations. While South Sudan may have led the mediation with good intentions, it lacks sufficient leverage to act as guarantor of the agreement and monitor its implementation. In the current state of affairs, the absence of an international body with a clear mandate to undertake dispute resolution will make it difficult to mediate any difference in interpreting the text of the peace agreement during implementation. This is particularly of concern in reconciling the many tracks.

Without an international body's involvement, mediating interpretations of the peace agreement during implementation will be hard

Both the United Nations and the African Union (AU) were represented in the peace process by the UN-AU Hybrid Operation in Darfur (UNAMID), its mandate limited to Darfur. While UNAMID's mandate has been extended until the end of 2020, it is expected to discontinue its role in the peace process before its conclusion with the end of its mandate in Sudan.

The UN has issued a mandate to its newly established Integrated Transition Assistance Mission in Sudan (UNITAMS), yet to be deployed, to provide technical assistance for peace negotiations, support implementation of peace agreements and peacebuilding.¹⁶ However the AU is yet to issue a mandate for the peace negotiations, despite the Juba Declaration having put forward a request especially to the AU to 'issue a new mandate on Sudan peace negotiations'. The Peace and Security Council had requested the AUC Chairperson to submit a proposal in this regard.¹⁷ The proposal should have clarified who would lead the mediation process and detail the technical support AU will provide to the peace process going forward.

Without a clear mandate, Sudanese actors claim it has been difficult to engage the AU, which had been instrumental in brokering the political agreement between the TMC and the FFC.¹⁸ AU representatives however underline their preference to support the mediation process led by South



THE PEACE AGREEMENT FOCUSES ON APPEASING ARMED GROUPS NOT SUSTAINABLE PEACE

Sudan, which was selected by Sudanese stakeholders to lead the peace negotiations, out of caution not to create competing parallel peace processes.

Regional and extra-regional competition adds another layer to the challenge facing the peace process. Negotiating parties have sought to secure political and financial backing from external actors. In attempting to increase their influence in Sudan, external actors have turned the peace process into a political marketplace.¹⁹

The impact of the Gulf crisis is evident in the peace negotiations. Emirates and Saudi Arabia want to ensure the peace agreement does not change the power balance vis-à-vis the military, who are their allies in the war in Yemen. Whatever the peace outcome, these actors do not want reversal of the power relations to be at their expense and are looking to maintain the status quo. Some armed groups on the other hand, including Darfuri rebel groups, are said to be strongly aligned to Qatar. They had insisted peace negotiations take place in Doha where the groups feel assured of support.

To gain influence in Sudan, external actors have turned the peace process into a political marketplace

Neighbouring countries have their own strategic interests to maintain in Sudan. Egypt and Ethiopia have a vested interest in the negotiations, as Sudan is the third party in the Grand Ethiopian Renaissance Dam (GERD) negotiations. Rebel groups are positioned differently on the issue. Whilst al-Bashir's government had supported Ethiopia's plans for the Dam, the stand of transitional political actors had vacillated on the issue.

Both Egypt and Ethiopia were significantly involved in the aftermath of the overthrow of al-Bashir, and have engaged both the TMC and civilian actors and will continue to closely follow developments in Sudan, including the peace negotiations.

South Sudan, the mediator of the peace process, also has a high stake in Sudan, the guarantor of its own peace accord. With the ouster of al-Bashir, South Sudan political actors will try to realign with emerging political leaders in Sudan. South Sudan also maintains close ties

with some of Sudan's armed rebel groups, who were comrades in arms against the Sudanese government and with whom it has historic and cultural ties.

The involvement of external actors that have different interests in the outcome of the peace process will continue to be a challenge in resolving Sudan's conflicts. A peace agreement signed as a result of external pressure, without adequate buy-in from negotiating parties, will lead to a lack of political will to implement what is agreed upon.

As it stands now, while the peace process has led to the signing of a peace agreement, the negotiations resemble past processes that were elite-driven and resulted in transactional peace deals. Thus, it does not seem likely that the current negotiations will be able to transform the conflicts and achieve sustained peace. A lot of work remains in aligning the various tracks and making the implementation of the peace agreements inclusive of local communities. Sustained peace will also depend on whether the transitional government is able to reach peace agreements with el-Hilu's SPLM-North and al-Nur's SLM.

Reforming Sudan's economy

Sudan's economic situation has been worsening since South Sudan's independence in 2011, resulting in the loss of substantial oil revenue for Sudan. Subsequent mismanagement of the economy that was controlled by al-Bashir's patronage network, coupled with rampant corruption, limited institutional capacity and under-investment on social development, were decisive in the overthrow of the government.

Reforming the economy and laying the foundations for sustainable development, as critical demands of the revolution, have thus become among the top priorities of the transition period.

Since the transitional government took power in September 2019, the economic situation has been deteriorating. Soaring inflation projected at 61.5% for 2020,²⁰ especially the price of basic commodities, the diminishing value of the Sudanese Pound, the lack of foreign currency reserves, power cuts and long bread and fuel queues have led to increased criticism of the performance of the transitional government in handling the economic crisis it inherited.

The Covid-19 pandemic and associated preventive measures have worsened Sudan's economic outlook.²¹ As a result, in September, Sudan declared a three-month economic state of emergency.

The transitional government is consequently under substantial public pressure to bring about rapid economic reform. Dealing with the decades-long economic troubles requires the transitional government to undertake a fundamental restructuring and revision of policies regulating the central bank, trade, public finances and budget allocation, regulating the export of natural resources, especially gold, regulation of the black market economy and illicit financial flows, and finding a means of increasing national income while decreasing expenditure.²²

The financial resources available to the transitional government are very limited.²³ Important economic sectors remain in the hands of those affiliated with the former government and the military-security apparatus that controls a substantial portion of the economy. Although the dismantling process is trying to regain misappropriated capital, progress is slow. The government is also trying to track and retrieve money that has been transferred by corrupt officials to banks in Europe and the Gulf. Halting the smuggling of natural resources and subsidised goods through porous borders also continues to be a challenge.²⁴

Meanwhile, the transitional government has been apprehensive about redirecting the substantial budget allocated to the security and defence sector as the military continues to wield considerable power in the transition period. The various companies that are independent income sources for the military-security apparatus are yet to be administered by the transitional government for this reason. For instance, the transitional government announced it took control of the gold mines operated by the RSF headed by General Mohamed Hamdan Dagalo, known as Hemedti, in North Darfur only in October 2020.²⁵

These factors considerably diminish the financial capability of the transitional government and its ability to invest in the development sector.

The Sovereign Council has overtaken the economic reform process that should have been the sole

responsibility of the executive as per the transitional Constitutional Document. Hemedti, who is widely perceived to have a direct interest in maintaining the status quo, heads the High Committee for Economic Emergency, the mechanism formed in March 2020 to manage the economic reform process.²⁶ Other members include those in the FFC, the prime minister and Council of Ministers.

This has hindered the transitional government from undertaking economic reform as it sees fit. While the government may propose economic reform plans, it can be overruled by either the military and/or political parties. For instance, economic reform plans by the transitional government meant to cut back on expenditures such as lifting subsidies for fuel and bread have faced immense resistance from the FFC.

The transitional government is under substantial public pressure to deliver rapid economic reform

FFC members, with diverse politico-economic outlooks, have different proposals as to how to reform the economy. While the FFC has managed to form a committee to coordinate economic reform plans and liaise with the transitional government, members continue to be divided on immediate economic reform measures. Some parties support reforms that are in line with proposals from international financial institutions such as the International Monetary Fund (IMF), while others are apprehensive of such reform measures that led to economic collapse in the 1980s.²⁷

These politico-economic differences within the FFC had already affected the formulation of the 2020 national budget and continues to hamper the transitional government's economic reform plans. The FFC Economic Committee rejected the implementation of the amended 2020 annual budget that the government had approved in response to the impact of a 40% decline in public revenues as a result of Covid-19.

The government's proposals include adjusting the official foreign exchange rate and lifting subsidies.²⁸ The FFC fears losing popular support if the economic situation continues to deteriorate, especially in light of large-

scale demonstrations on 30 June and ever since. These protests highlight the economic hardships faced by many and growing public impatience for economic reform.

The economic reform process is therefore likely to be a protracted process due to the multiple and divergent interests of the entities involved. Limited consultation between the transitional government and the FFC Economic Committee as well as strategic ideological differences among FFC members and other stakeholders will continue to pose significant challenges in reforming the economy.

The conclusion of the peace process places additional financial pressures on Sudan's economy. The peace agreement has included reparation to war-torn societies, including internally displaced communities, as well as direct financial assistance to those demobilised from armed groups.²⁹ It is yet unclear how the transitional government will finance these provisions in the peace agreement.

Armed rebel groups have negotiated in the August peace deal to receive compensation and development funds for war-torn regions in the coming decade with cash disbursement of US\$750 million per year, for the next 10 years.

Ideological differences among FFC members and other stakeholders will pose significant challenges in reforming the economy

Sudan has been cut off from international economic assistance, access to new loans and opportunities for debt relief of around US\$60 billion and foreign direct investment because the United States has Sudan on its list of state sponsors of terrorism. Sudan's delisting was granted by the US in October 2020, provided the country normalises relations with Israel.

Sudan was also required to deposit a payment amounting to US\$335 million to victims of the 1998 attacks on US embassies in Kenya and Tanzania. The US officially lifted Sudan's designation as a state sponsor of terror on 14 December 2020. This will allow Sudan to access foreign aid, loans from international financial institutions, debt relief and direct foreign investment, but success in these ventures is not guaranteed.

A High-Level Sudan Partnership (friends of Sudan) Conference was convened in Berlin in June 2020. The conference generated pledges amounting to US\$1.8 billion from 50 countries and international organisations. The World Bank further committed US\$400 million in a pre-arrears clearance grant.³⁰

While European powers had previously promised to provide financial support during the transition period, they are yet to do so. This is believed to be the result of the military's continued dominance, especially as occupying the chair of the Sovereign Council during the first phase of the transition period.³¹ The latest pledges may face similar implementation challenges for the same reasons.

REBEL GROUPS NEGOTIATED

US\$750

MILLION IN CASH PER YEAR
FOR THE NEXT 10 YEARS

Financial support from Gulf States has also stalled during the transition period. Qatar had provided substantial financial assistance to Sudan over the last two decades but has been sidelined since the fall of al-Bashir's government. Saudi Arabia and the United Arab Emirates pledged financial support amounting to US\$3 billion in April 2019 as an aid package, of which the Central Bank received US\$500 million, and around US\$1 billion was provided in the form of petroleum products and food aid.

The two countries have since refrained from providing financial assistance. Some attribute their discontinued support to pressure from the US.³² Others believe suspension of their financial support followed accusations by members of the FFC that the two countries were trying to entangle Sudan in the Gulf crisis and of axis formation in Sudan's political arena.³³ FFC members also accused the two Gulf States of supporting the military, their ally in the war in Yemen, to take over political power in Sudan. Members of the FFC have thus requested the return of Sudanese troops from Yemen.³⁴

The pledges at the 'friends of Sudan' meeting in Saudi Arabia in August 2020 have yet to translate into concrete financial support. Another conference is expected to take place at the beginning of 2021.

Some political actors criticise the transitional government for not developing economic policies and strategies that look inwards at the economic potential of the country and address structural economic bottlenecks, instead of relying on external support. The government has also been criticised for its lack of communication and failure to engage both the public and the FFC, failing not only to inform but also to get feedback on its economic reform plans, giving opponents the opportunity to misinform the public and create instability.

A national economic conference held in September recommended changing the Sudanese currency, reforming laws related to the economic sector and establishing an anti-corruption commission. While the government has criminalised trading in gold and will change the currency, additional reforms will be gradual.

Experience following the 1964 and 1985 transitions has demonstrated that failure in the economic sector contributes to the failure of post-transition elected governments. The success of the current transition is

also linked to its economic performance and its ability to adequately rehabilitate the legal economy.

Dismantling a regime

One of the key mandates of the transitional period, as defined in the transitional Constitutional Document, is to dismantle the power structures established after al-Bashir came to power in 1989, and enact laws and set up institutions to replace them.

To this effect, a law for dismantling the previous regime has been enacted by the Sovereign Council and the Council of Ministers that are temporarily acting as the legislative council. To oversee the dismantling process, the Empowerment Removal Committee was appointed by the head of the Sovereign Council, General Abdel Fattah al-Burhan, in December 2019.

Former ruling party members can't seek electoral positions in the next 10 years or engage in politics

The 18-member committee is chaired by a member of the Sovereign Council, Lieutenant General Yasser Abdul Rahman Hassan El-Atta and Military Council Spokesman Mohamed Al-Faki Suleiman as his deputy. Other members of the committee include representatives from the intelligence service, the RSF, the ministries of Finance, Justice and Labour, the head of the Central Bank, and all state governors.

Three sub-committees have been established under the committee to investigate the embezzlement of funds and other corruption cases focusing on the National Bank of Sudan, the previous ruling National Congress Party (NCP), land administration, and businesses owned by NCP-affiliated groups and individuals. An additional 24 sub-committees support the central committee in gathering information from across Sudan.

In line with the dismantling process, a national decree has dissolved the NCP and bans NCP members from seeking any electoral position in the coming 10 years or engaging in any political activity. Former parliament speaker, Ibrahim Ahmed Omar, was arrested in July for participating in demonstrations organised by Islamists in Khartoum in violation of this law.

A number of high-ranking politicians have also been arrested under corruption charges including the former president. Former government officials have been dismissed from the civil service, including the attorney general, chief justice and around 109 diplomats. Critics had accused al-Bashir's government of empowering labour unions as one mechanism to espouse loyalty within his patronage network. Consequently, another decree disbanded a number of labour unions as part of the dismantling process.³⁵

All reclaimed assets previously owned by the NCP and affiliates have been handed over to the Ministry of Finance and Economic Planning for administration. Partnerships and associations the party had established with various businesses have been suspended, in a move meant to end revenue sources for the NCP and dismantle the influence the former ruling elite exerted through financial endowment.

While implementation of these laws is crucial, it will not be enough to entirely overturn the extensive patronage system established to maintain al-Bashir's 30-year rule. His patronage system went beyond the party's political wing and was also deeply entrenched in the military-security apparatus. Focus on regime security had blurred the roles between political and security institutions and expanded the powers of the security agencies. As Sudan's previous political transitions demonstrate, patronage systems cannot be undone by expelling senior officials in the civil administration alone.

Despite an announcement that the Ministry of Finance would take control of firms owned by security forces,³⁶ the military-security top command is still said to control key sectors in the economy and amasses wealth through a number of commercial endeavours. Currently, more than 200 firms are administered by the military. These companies do not pay tax,³⁷ and their income is not fully accounted for.

Hemedti is currently one of the most influential figures in Sudan's transition and the RSF he heads is said to earn substantial income from the force's involvement in the war in Yemen, gold trade, and other business ventures.³⁸ His personal contribution of US\$200 million to Sudan's 2020 national budget has raised questions about the extent of the military's economic power and unaccounted-for capital.³⁹

A major weakness of the current dismantling process is that instead of being an independent and impartial investigative body, the committee is headed by the military, with a vested interest in maintaining the status quo.

This creates serious limitations on the committee's ability to investigate the military-security apparatus and dismantle the established military-security patronage network. For instance, the brief detention in July 2020 of Salah Manna, spokesman for the Empowerment Removal Committee who accused a military owned firm, Zadna International Investment, of laundering money for the former government,⁴⁰ is testament to the challenges facing the dismantling process, including the investigation of military-operated companies.

Dismantling patronage systems takes more than expelling senior government officials

It is also an indication of the difficulty posed by separating the dismantling process of the deeply entrenched military-security patronage network from a comprehensive security sector reform that can result in the genuine transformation of the military-security sector. Independent commissions will be formed to reform most public institutions. But a power imbalance between the military and civilians during negotiations has resulted in the transitional Constitutional Document entrusting to the military the reform of military-security bodies. This will not help deliver the anticipated level of reform of the military-security apparatus that can help dismantle the old patronage system.

According to Article 34(b) of the Constitutional Document, the relationship between the military institution and executive authority is to be organised by the 'Armed Forces Law and the Rapid Support Forces Law', both yet to be enacted. This challenge could have been overcome if the prime minister could initiate the reform process as head of the Cabinet, with a mandate to oversee the work of the Ministers of Defence and Interior, entrusted to undertake security sector reform. This can be done in collaboration with the Sovereign Council, rather than leave negotiations related to security sector reform to the peace process.

Other challenges facing the dismantling process include limited coordination with other commissions, lack of transparent procedures and a strategic plan, and politicisation of the entire process.

Currently, the dismantling committee recommends to the prime minister who should be dismissed from the civil service following an investigation. However, other commissions that could have supported the dismantling process by establishing clear criteria, such as commissions of anti-corruption, civil service, and justice, are not established. Without these commissions in place, dismissal from the civil service may be on political grounds rather than on the basis of clear standards and transparent processes.

This has led to the politicisation of the dismantling process, and might hamper institution building during the transition period. It also creates a dilemma as to how to practise justice and fairness towards civil servants who had genuinely served their country during the former administration.

The legitimacy of the dismantling process is further put in question by the lack of any legal basis for dismissal from the armed forces. Yet there are a number of armed personnel who have already been relieved of their duties.

The dismantling process has very limited time until the end of the transitional period to undo Sudan's 30-year-old shadow state and patronage networks that are deeply embedded in the civil-military structures, a daunting prospect. The process requires an action plan to take it forward beyond the transition period. Replacing what has been dismantled with effective structures and experts so as to ensure irreversible reform and continued functionality of the civil-military service should also become a priority.

Transitional justice

Another mandate of the transitional period as per the transitional Constitutional Document is to implement measures to achieve transitional justice. The Constitutional Document identifies transitional justice, reconciliation and restitution to victims as core issues in the peace negotiations and fundamental for achieving comprehensive peace.

To this end, the transitional government is tasked with establishing an independent transitional justice

commission to start implementing justice and accountability measures for war crimes and crimes against humanity. Furthermore, the transitional government is also tasked with forming a national independent investigation committee to probe violations committed on 3 June 2019 against protesters.

Sudan's transitional justice process is envisaged to consist of political, legal and social components. Under the political component, mainly related to the peace negotiations, an agreement was reached in January 2020 with Darfuri armed rebels to set-up a special tribunal to prosecute those accused of war crimes in the Darfur area in western Sudan, so that people have the chance to bring forward charges against perpetrators. Another agreement in February 2020 has been reached to handover to the International Criminal Court (ICC) those with outstanding arrest warrants.

To this end, the transitional government is discussing a cooperation agreement with the ICC on the different options available for prosecuting war crimes in Darfur. An ICC Investigations team also visited Darfur in October 2020.

An agreement was reached with Darfuri armed rebels for a special tribunal on war crimes in the area

The ICC had issued arrest warrants against al-Bashir twice in 2009 and 2010 for alleged crimes against humanity, war crimes and genocide. In addition to al-Bashir, the ICC has indicted a number of former officials in his Cabinet and military-security apparatus on similar charges. These include Ahmad Muhammad Haroun, who was the minister of the interior, minister of humanitarian affairs, and acting NCP chairman; and Abdel Raheem Muhammad Hussein, who served as minister of the interior, defence minister and the president's representative in Darfur. Ali Muhammad Ali Abd-al-Rahman (Ali Kushayb) was allegedly a Janjaweed militia commander who led attacks against civilians in Darfur, has been handed over to the ICC.

The legal process that would implement the political agreements, such as enacting relevant laws and establishing capable legal institutions, is facing

challenges. al-Bashir, who has been charged with corruption and illicit possession of foreign currency, is serving a two-year term in prison. His key allies including Haroun, the leader of the National Congress Party, Nafie Ali Nafie, a former presidential adviser and Ali Osman Taha, who was al-Bashir's deputy, have been arrested though they have not been officially charged.

In addition to two of al-Bashir's brothers, more than 100 high-level officials, including former prime minister Mohamed Taher Ayala and Abdel Rahim Mohammed Hussein, former defence minister and governor of Khartoum State, have been arrested.

The transitional government is under pressure to arrest other important political figures who are said to still wield substantial political influence, including Salah Abdallah Gosh, who was the chief of intelligence and General Ibn Auf, who was the minister of defence until the 2019 revolution.

While there has been legal action against former high-level officials, the legal process is yet to hold accountable those suspected of committing genocide, war crimes, crimes against humanity and severe human rights violations. This is because legalising the transitional justice process is taking more time than expected.

Without the relevant laws, it won't be possible to implement transitional justice and create hybrid courts to prosecute grave crimes

Sudan's current penal law does not recognise human rights violations, war crimes, and crimes against humanity as punishable under the law. It was expected that Sudan would ratify international conventions and statutes, such as the Rome Statute of the ICC,⁴¹ and amend national laws to establish special tribunals as agreed in the peace process to overcome legal challenges. Without these legal provisions, it will be impossible to implement the transitional justice provisions as set in the Constitutional Document and the political agreements to create hybrid courts in Sudan to prosecute such crimes.

This process is taking longer than expected because the legislative council has still not been formed. In its absence, the Council of Ministers and the Sovereign Council are currently responsible for adopting new laws. Accommodating the wishes of divergent interest groups in the Sovereign Council that have the power to reject unfavourable laws in trying to protect themselves and their interests however delays the entire process. While the judiciary may have the mandate to prosecute those accused of war crimes, its hands are tied without the necessary laws in place.⁴²

The Judiciary Reforms Act has been submitted for approval to the two councils for adoption, but this too is taking time. In its absence, reform of the justice sector is pending. While the attorney general and the chief justice



SUDAN HAS NO LAWS TO PROSECUTE WAR CRIMES AND CRIMES AGAINST HUMANITY

have been appointed, staffing for the entire system is stalling. Similarly, the law that is to establish the transitional justice commission has been drafted but is yet to be enacted, despite the joint convening of the Sovereign Council and the Cabinet having the mandate to enact the relevant laws. As a result, formation of the commission expected to lead the transitional justice process has been delayed.

Without the required law and personnel in place, little can be done to undertake transitional justice. It is also difficult to qualify the arrest of former high-level government officials as transitional justice, as most of them were arrested under corruption charges. Rather it is a political decision, akin to the ‘justice of the victors’ meant to appease the public. This is a serious forewarning for the danger of using the transitional justice process for political revenge, which will negatively affect the legitimacy of the process, the justice system and the new government in the long term.

Using the transitional justice process for political revenge will negatively affect the legitimacy of the justice system

Another major challenge for the full implementation of transitional justice provisions is that it requires the military component of the Sovereign Council to go after its own, which will be difficult to achieve.⁴³ Some within the military and paramilitary forces such as the RSF, which is currently part of the Sovereign Council, are suspected of violence against civilians, especially in the war-torn regions. The role of the RSF in the June 3 crackdown on protesters may also be investigated, though the accusation is entirely rejected by the forces.⁴⁴ Ultimately, there is fear the military would interfere and ensure those amongst its ranks have a soft landing during legal proceedings.

This is further complicated by the provision of immunity from prosecution for military leaders, which was included in the agreement between the FFC and TMC. Either the constitutional court or the legislative council, yet to be formed, have to lift their immunity if military leaders are to be put on trial. This process might prove too much for the fragile truce between the FFC, currently in a weakened position without a legislative council, and the military.

The issue has created debate on whether transitional justice should be fully implemented irrespective of how it might affect the political transition or whether to give the military top command amnesty for the sake of stability during this period.

The justice-peace dilemma⁴⁵ similarly applies to armed rebel groups, especially for those for whom the ICC has issued an arrest warrant such as Abdallah Banda Abakaer Nourain, former JEM commander-in-chief. This has been further complicated by the announcement in November 2020 of a decree by Lt Gen Abdelfattah El Burhan granting general amnesty to ‘those



MILITARY LEADERS HAVE IMMUNITY
FROM PROSECUTION

who carried weapons or participated in any military operation, war operation, or any act or statement related to combat operations.¹⁴⁶

Some argue that peace and reconciliation should be prioritised over retribution, thus giving all armed groups immunity. Others are demanding retributive justice for all accused of war crimes and crimes against humanity, which is in line with the decree.

The social or community-level reconciliation and restitution for victims of violence and millions of internally displaced people is yet to begin. Communities have high expectations of the transitional justice process. Many expect to see those who have committed war crimes to be legally prosecuted. They also expect the transitional justice process to result in repatriation, the restoration of land, compensation for livestock and livelihoods lost when displaced and assurances for their security by the government. There is also provision for inter-community reconciliation, as in the case of Darfur, where many claim to have suffered at the hands of other communities.

For such massive undertaking with high expectations in the procedures, the transitional justice process is lagging far behind. The transitional justice process has been deprioritised in the face of other priorities such as the peace process, dismantling the former regime, and the economy.

Consensus based national constitution

Sudan's transition followed a popular uprising under a broad theme of justice, equality and freedom. While different groups were united in revolt against the government, their vision for a post-revolution Sudan is very diverse, in some cases diametrically opposite.

For the purpose of reaching common ground among these different interest groups, and developing a national constitution based on consensus, the transitional period has been mandated to hold a national constitutional conference. The Sovereign Council is tasked with establishing the constitutional drafting and the constitutional conference commission.

The national constitutional conference is expected to address major divisive issues that have hindered the country from developing a permanent national constitution since its independence in 1956. Some

of these contentious issues include the system of governance, issues of identity, citizenship, the nature of the state, and the relationship between the state and religion.

These issues have polarised Sudanese society since independence and failure to reach consensus has led to multiple civil wars, the secession of South Sudan, multiple coups and failed political transitions. Brief democratic experiments in the past could never succeed because these fundamental issues were not resolved and a consensus based national constitution was not formed.

Issues that prevented Sudan from developing a national constitution since 1956 must be resolved

Sudan's current transition faces the same challenges, such as issues of self-determination that led to South Sudan's independence and still shakes the country's territorial integrity. A number of social groups still do not feel they belong in the cultural, legal and structural system established since independence. Identity-based violence of successive governments against certain ethnic and religious groups has led to armed resistance movements that continue to raise questions related to citizenship rights.

Unless these fundamental questions are addressed in a permanent constitution, they will continue to play a destabilising role beyond the current transition period. If this is to be a historic transition for Sudan – succeeding where previous transition periods had failed – it has to address these core issues that define Sudan's statehood, taking into account the whole genesis of Sudan and its troubles.

The current transition therefore presents an opportunity not only to transition the country from military to civilian rule, from authoritarian to democratic governance, and from war to peace. It also presents an opportunity to establish the foundations of state and nation building in the country.

There are, however, a number of challenges facing a national constitution-drafting process based on national consensus. The primary challenge is the diverse stand of the FFC on these issues. Members of the FFC

hail from different political schools, history, different relationships with the previous government, leading to polarisation on core issues. Fundamental political and ideological differences from right, centre and left will become a hindrance in reaching national consensus on critical issues while drafting a constitution. It might also prove to be the biggest test of the FFC's ability to stay united.

Another challenge is that some issues that the country as a whole should have discussed and resolved are being negotiated among armed rebel groups, the military and political parties. Issues that have been discussed during peace negotiations include whether to have a unitary state or federal government, to adopt the current state structure or merge states to form autonomous regions, and whether to form a secular state or one based on *sharia* law. The problem is that different armed groups have different positions on these issues and may reach conflicting agreements. This will create a major obstacle in reaching national consensus.

The peace negotiations that primarily focus on power and wealth sharing arrangements will also not adequately solve the issues that have created discontent and driven conflict in Sudan. Efforts to resolve these fundamental issues through peace processes have also not succeeded in the past, as peace agreements have almost never been implemented by post-transition governments.

Political parties and governments have in the past controlled and co-opted constitution-making processes for political gain

The third challenge is that opposition political parties that were part of the previous government following the signing of the Naivasha peace agreement in 2005, and did not sign the Freedom and Change Political Accord of the FFC, have so far been excluded from the transitional process. If these groups are likewise sidelined from the constitution-making process, they will become spoilers in reaching the level of general consensus, ideal for a legitimate national constitution drafting process.

Another major challenge for addressing these issues in post-transitional periods in the past has been opting to base constitutional provisions on simple majoritarian democracy. Political parties and governments have in the past controlled and co-opted previous constitution-making processes for political gain. Such processes will not be acceptable to segments of society that find themselves constantly in the minority or on the margins of power.

This will especially be of concern to smaller ethnic groups, historically marginalised groups including women,⁴⁷ non-Muslims,⁴⁸ non-religious groups, and non-Arab tribes⁴⁹ in Darfur and southern regions, and especially those that find themselves in the intersection of these identities.



FOR THE TRANSITION TO SUCCEED THIS TIME, ISSUES DEFINING SUDAN'S STATEHOOD MUST BE ADDRESSED

The constitution-making process will also face significant challenges from time constraint. The process is to start at the end of the transition period according to the Constitutional Document, with very limited time to address fundamental issues. In addition, as things stand now, the national constitutional conference is meant to start after the conclusion of the peace agreement, which is ongoing with armed groups that did not sign the latest peace agreement.

Emerging patterns of Sudan's political transitions

The current transition has so far followed more or less a similar trajectory to that of the 1964-1965 and 1985-1986 transitions, which followed from mass protests that led to military coups d'état. The opportunities the current transition presents and the significant challenges it faces can be better understood from lessons drawn from these two transitions.

Four similar features underpin the success registered by the popular uprisings of 1964, 1985, and 2019 in toppling sitting governments and reaching a power-sharing arrangement during a transitional period. (See Annex 2: Chronology of main political events in Sudan.)

The current transition has followed a similar trajectory to that of the 1964–1965 and 1985–1986 transitions

The first is the driving force behind these political transitions. Years of armed conflict, economic mismanagement and political suppression create an environment of general dissatisfaction with those in power in the years preceding the revolutions. Such dissatisfaction has, as was the case in 1964, 1985 and the 2019, transformed into countrywide mass protests led by youth, disparaging the economic situation and galvanising other loosely organised groups such as professional unions and other community-based social movements. Widespread mass uprisings thus underlay the successful overthrow of Sudanese governments in 1964, 1985 and 2019.

The second feature is the ability of elites, representing political parties, professional associations and loosely coordinated youth movements, to bargain and reach consensus on the modus operandi of mass protests meant to topple the government. They have also managed to reach a political agreement with regards to the priorities of the political transition period, in most cases formalised in a transitional charter.

The third important feature has been the ability of civilian protest leaders to strike a deal with armed rebel groups that have been fighting the government, thereby eliminating a major destabilising factor during the transition and gaining important allies with constituents of their own.

The fourth recipe for success has been the ability of protest movements to convince the military to support them. This has been done once protests have gained momentum and the leaders have forged an alliance recognised



PAST TRANSITIONS FAILED BECAUSE
THEY LACKED A COMMON VISION
FOR SUDAN

by the protesting masses, which compels the military to end the rule of unpopular governments, ushering in transition periods.

However, while these features have led to the election of democratic civilian governments following the 1964-65 and 1985-86 political transition periods, neither of these governments lasted in power more than four years.

There are four major missteps during and in the months following political transition periods of 1964-1965 and 1985-1986 that defined their ultimate failure, leading to military coups that removed the civilian governments and established military dictatorships. These were circumstances that brought to power President Jafaar Muhammad Numeiri in 1969 and President Omer al-Bashir in 1989.

The first failure of these two transitions and post-transition governments has been their inability to respond to economic crises as urgently as expected by the masses and provide relief to those experiencing economic hardships. In an effort to consolidate their shaky grip on power, political actors de-prioritise reforming the economy and addressing the socio-economic needs of communities. Thus, civilian political leaders quickly lose mass support and the populace soon after starts to agitate for yet another political change.

Political parties and civilian governments have in the past failed to implement deals with armed groups

The second major failure is to bring about consolidated, sustained peace. Armed rebel groups have been part of the alliances formed to overthrow incumbents and have supported efforts that bring about political transitions in Sudan. Though political understanding is reached with armed rebel groups during transition periods, political parties and post-transition civilian governments have consistently failed to implement transition-period deals reached with armed groups.

This is for the most part due to the lack of a national process for consensus building to help reconcile fundamental differences on issues regarding citizenship rights and nationhood among contending social and

political forces. Without popular support for peace accords forged through consensus building, political parties, who are often marginally involved in peace processes and thus lack sufficient buy-in, rescind from or undermine peace agreements during election campaigns or soon after taking power.

For example, the civilian government that came to power following the October revolution of 1964 failed to implement the peace agreement reached with southern rebels, the Anyanya, resulting in the resumption of armed conflict in the south.

Similarly, the civilian government that came to power following the 1985-86 transitional period led by Sadiq al-Mahdi as prime minister withdrew from yet another deal reached during the transition period with the Sudan Popular Liberation Movement/Army (SPLM/A), led by John Garang.⁵⁰ The promise to revoke *sharia* law and give autonomy to the southern regions was never implemented, leading to the continuation of the second civil war.

The third reason for the failure of political transitions in the past has been the lack of a common vision for Sudan among political elites beyond their commitment to overthrow sitting governments. Their alliance, based on short-term immediate concerns, becomes mired in rivalry and deep-rooted ideological and political cleavages. Competition for power undermines the unity and strength of civilian actors vis-à-vis the military. This unsurprisingly hinders the adoption of policies and strategies in responding to drivers of popular protests with serious consequences for the implementation of transition period goals.

Due to their mutual mistrust,⁵¹ political parties jointly appoint 'neutral' technocratic transitional governments. Having to cater to the interests of several political groups, and lacking the political clout to implement transitional period political agreements, transitional governments ultimately fail in delivering on transitional period goals. Rivalry among political parties during election campaigns further polarises the country, making it impossible to forge a national constitution based on broad-based consensus.

The fourth failure by political actors is that while striking a deal with the military to support them in bringing

down political leaders, they make major concessions that ultimately disempower civilian governments. The bargains are usually related to security sector reform and civilian oversight of the military.

The ultimate failure of past transitions to reach their stated goals offers valuable lessons that stakeholders in Sudan's current transition can draw from. These lessons show that failure to achieve tangible and incremental progress in reforming the economy, laying a strong foundation for sustainable peace, reconciliation, justice, and the reform of public-military institutions led to a loss of popular support for democratically elected civilian governments. That was soon followed by their removal from power in military coups.

This serves as a lesson that while Sudan's current transition may lead to a democratically elected government, the ability of such a government to stay in power and consolidate democratic governance will be determined by the extent to which transition-period goals are met in the remaining months of the transition, thereby sustaining public support.

Conclusion

The outcomes of past political transitions in Sudan offer invaluable lessons for the current transition process. In the past, political change brought about by mass protests has been misappropriated by political elites and the military to fulfil their narrow political ambitions. Consequently, transitional periods have been unable to address critical issues that have put Sudan in a vicious cycle of instability. Numerous opportunities to bring about lasting peace, economic and social development and national reconciliation have been squandered.

While Sudan's 2019 revolution and subsequent political transition provide much to hope for, the road from transition to peace, development and democratic consolidation will be long and arduous. Analysis of the achievements and challenges registered so far shows that while noteworthy progress has been made in the peace process and reforming public institutions, significant challenges remain that could derail transitional period aspirations.

A lack of significant economic reform, failure to finalise the peace process with all armed groups and the absence of a national transitional justice strategy have

been the biggest disappointments of the political transition period for ordinary citizens. The different states (*wilāyat*) are yet to experience the fruits of the transition as they were under military administration until July 2020, and various peripheral regions continue to experience sporadic conflict.

As a result, many are losing confidence in the ability of the transitional government and the FFC to bring about tangible reform, putting the legitimacy of civilian actors at serious risk. Popular support for the FFC was the main reason the military accepted a power-sharing deal for the transition period. Continued lack of significant achievement and declining public support may embolden those who are against the vision of the transition period to stage counter-reform movements.

The military is prominent in many important areas including the peace process and economic reform

Growing polarisation amongst political parties, discord between the FFC and the transitional government as well as an inability to follow the provisions of the Constitutional Document are skewing the delicate balance of power between the military and the FFC in favour of the former who, significantly, are currently heading the Sovereign Council. As a result, the military is prominent in many important areas, including the peace process, the dismantling of al-Bashir's patronage system and the economic reform process.

In light of past transitions that have ended in coups d'état followed by decades of military rule, infighting amongst political actors could derail the aspirations of the revolution. Continued external support to the military, seen as a reliable partner especially in stemming off Islamist political influence, also adds to the odds against civilians.

The exclusion of political actors that did not advocate mainstream policies has in the past derailed transition processes. Currently, while the FFC has gone to significant lengths to be inclusive of grassroots movements, radical right Islamist parties and secularists, besides the Sudanese Communist Party, have been

sidelined from political processes during the transition period. This is an indication that while calling for democratic civilian rule, the FFC needs to develop the democratic culture required to form inclusive institutions and processes that accommodate political and ideological stands that deviate from the mainstream.

These challenges indicate that the current political transition is in danger of repeating similar missteps that have in the past led to military dictatorships and renewed civil wars in post-transition periods. Both have the potential to render Sudan a source of instability for the region and beyond.

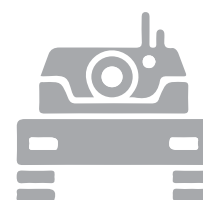
Many are losing confidence in the ability of the transitional government and the FFC to bring about tangible reform

It is in the interest of all stakeholders to resolve major challenges facing the transition period and ensure Sudan's stability. In light of lessons from past political transitions in Sudan, the current political transition will have to deliver on key issues if it is to succeed in overcoming historical challenges.

Recommendations

For the Sovereign Council and transitional government

- Initiate an inclusive constitutional drafting process that garners wider buy-in and lays the foundation for democratic institutions.
- Uphold principles of inclusivity and participation of all communities, regions, and marginalised groups in the peace negotiations, constitutional drafting process, transitional justice and other political transition processes.
- Implement the mandate of the transition period according to the provisions of the Constitutional Document so as to maintain the legitimacy of major transition processes.
- Respect the mandate of the transitional government as laid out in the Constitutional Document, which represents the aspirations of the revolution.
- Initiate the constitutional dialogue process as a matter of urgency to avoid regional fragmentation and state collapse.
- Establish a peace commission as per the Constitutional Document to help bring the different negotiation tracks under one comprehensive peace process for Sudan and address major issues that have hindered other armed groups from taking part in negotiations.
- Align community level peacebuilding, national reconciliation, transitional justice and the constitution-making processes.



POLITICAL DISCORD IS TIPPING
THE BALANCE OF POWER IN
FAVOUR OF THE MILITARY

- Ensure accountability and redress, and that the transitional justice processes are coordinated with broader reconciliation, community-level peacebuilding and rule of law initiatives.
- Have ongoing consultations between the FFC Economic Committee and the High Committee for Economic Emergency, in order to reconcile policy differences and develop an economic reform strategy and economic policy.
- Ensure that the dismantling process of the patronage system of al-Bashir's administration and the reforming of national institutions adheres to provisions in the Constitutional Document, so that it neither diminishes the legitimacy of the process nor weakens the operational effectiveness of national institutions.

For the FFC

- Make significant concessions and reach compromise on major issues so as to bridge the fault line created by the current political and identity-based polarisation, negatively impacting social cohesion and reconciliation at political and community levels.
- Maintain civilian unity so as to ensure that the military hands over power in the second half of the transition period.

For the transitional government

- Manage public expectations and regain public confidence, especially of grassroots political movements through transparency and regular public engagement.

For the security apparatus

- Sudan's security agencies should regain their legitimacy through credible security sector reform that creates an efficient security apparatus under democratic civilian control.

For the African Union

- Clarify the AU's role in Sudan's political transition before the end of UNAMID's mandate in December 2020.
- Provide political and technical support to important transitional period processes such as the constitution-making process, transitional justice, the peace process, and in monitoring continued commitment to the transition period goals by all stakeholders.

For external actors

- Refrain from further polarising already tense relations among Sudanese political actors.
- Make concrete contributions to the revival of Sudan's economy, which is at the centre of public discontent during the transition period.

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Annex 1: Major stakeholders in Sudan's current transition

| Key stakeholders | Role in the revolution and transition |
|--|---|
| Forces of Freedom and Change (FFC) | <p>The FFC is an alliance of 22 social, political and armed movements and organisations. It is currently the civilian component of the Sovereign Council, following its power-sharing agreement with the Transitional Military Council (TMC) in July 2019.</p> <p>Members of the FFC, including the Sudanese Professionals Association (SPA) and the resistance committees, were instrumental in galvanising nationwide support for the months-long mass protests against former President Omar al-Bashir and civil disobedience following the military takeover.</p> |
| Transitional Military Council (TMC) | <p>The TMC was established in April 2019 by the military junta that toppled al-Bashir in a coup d'état. The TMC ruled Sudan until August 2019 and officially handed over power to the Sovereign Council following the announcement of the Draft Constitutional Document (<i>Al-Wathiga al-Dastouriyya</i>) on 17 August 2019, marking the start of Sudan's political transition period.</p> |
| The Sovereign Council | <p>According to the Draft Constitutional Document, the Sovereign Council will be the 'collective head of state' of Sudan for 39 months.</p> <p>The 11-member council consists of five representatives from both the FFC and TMC. The two sides selected a civilian as the 11th member of the council, which is chaired by the military for the first 21 months of the transition period, while the FFC will take over in the second half.</p> <p>Armed rebel groups that signed peace agreements during the transition will be represented in the council.</p> |
| Other Sudanese stakeholders | <p>A number of influential stakeholders have been excluded from taking part in transition period political processes. These include members of the former ruling National Congress Party (NCP) and various political parties that did not sign the Charter of Freedom and Change by 4 April.</p> <p>Armed groups that have significant troops on the ground, such as the SPLM-North led by Abdelaziz El-Hilu operating in the two areas (the South Kordofan and Blue Nile regions) and Sudan Liberation Movement (SLM) led by Abdelwahid Nur from the Darfur region are also not part of the latest peace agreements.</p> |
| External actors | <p>A number of external stakeholders, some with competing interests, have intervened in Sudan's internal politics. Members of the 'Friends of Sudan' group, including Britain, the United States, France, Germany, Saudi Arabia, the United Arab Emirates, Egypt, and Ethiopia, as collective members and individually, wield significant political and/or economic influence in Sudan's internal politics.</p> |

Annex 2: Chronology of main political events in Sudan⁵²

| Year | Event |
|------|---|
| 1955 | War begins in Southern Sudan. |
| 1956 | Sudan achieves independence. |
| 1958 | General Ibrahim Abboud leads the first military coup against the civilian government. |
| 1962 | The start of the first civil war, led by the Anya Nya movement. |
| 1964 | The 'October Revolution' overthrows Abboud and an Islamist national government is elected. |
| 1969 | Gaafar Mohamed El-Nimeiri leads the 'May Revolution' military coup and becomes president. |
| 1971 | The Sudanese Communist Party carries out a failed coup attempt, aiming at ousting President Numeiri. The Communist party leader is executed soon after. |

| Year | Event |
|------|---|
| 1972 | Peace agreement is signed in Addis Ababa between the government and the Anyanya, which achieves partial self-governance. This leads to 10 years of peace in the South. |
| 1976 | National Front carries out an attempted coup aiming at ousting the Sudanese government led by Numeiri. |
| 1983 | Numeiri declares the introduction of <i>sharia</i> Islamic law. |
| 1983 | The second Sudanese civil war breaks out involving government forces and the Sudan People's Liberation Movement (SPLM), led by John Garang. |
| 1985 | After widespread popular unrest Numeiri is deposed from the presidency by a group of officers. A Transitional Military Council is set up to rule the country. |
| 1986 | Post-transition elections see the formation of a coalition government, with Sadiq al-Mahdi as prime minister. |
| 1986 | Representatives of the NAS (National Alliance for National Salvation) led by Awad el Karim Mohammed and the SPLM/A led by Garang, signed the 'Koka Dam declaration'. The SPLM/A representatives state that the movement would participate in a national constitutional conference in Khartoum, if the government agreed to its conditions. |
| 1988 | The Democratic Unionist Party (DUP), one of three parties in Khartoum's ruling coalition, and SPLM/A sign a political agreement, later rescinded by the opposition in the coalition government. The National Islamic Front (NIF) and the Prime Minister Sadiq al-Mahdi voted down a DUP amendment to recognise the terms of the SPLM/A – DUP accord resulting in the DUP resignation from government as of 27 December. |
| 1989 | National Salvation Revolution (NSR) takes over in a military coup. |
| 1993 | After another military coup the Revolution Command Council is dissolved and Omar al-Bashir is appointed president. |
| 1998 | A new constitution is endorsed in a referendum. |
| 1999 | Following a power struggle with Hassan al-Turabi, the parliamentary speaker, al-Bashir dissolves the National Assembly and declares a state of emergency. |
| 2000 | al-Bashir is re-elected president after all other political parties boycott elections. |
| 2002 | Talks in Kenya lead to the Memorandum of Understanding on Cessation of Hostilities (Machakos Protocol), a breakthrough agreement with the Sudan People's Liberation Movement/Army on ending the second civil war. |
| 2003 | Two new rebel groups based in Darfur, the Sudan Liberation Movement/Army (SLM/A) and Justice and Equality Movement (JEM), start a military confrontation against the Sudanese government. |
| 2004 | Army officers and opposition politicians, including Islamist leader Hassan al-Turabi, are detained over an alleged coup plot. |
| 2004 | The Sudanese government agrees to the African Union (AU) sending in a protection force. |
| 2005 | Government and Southern rebels sign the Sudan Comprehensive Peace Agreement and an autonomous government is formed in the South. |
| 2005 | Government and exiled opposition grouping, the National Democratic Alliance (NDA), sign a reconciliation deal allowing the NDA into power-sharing administration. |
| 2006 | The government and the Sudan Liberation Movement led by Minni Mannawi in Darfur sign a peace accord. SLM/AW and JEM refuse to sign the agreement. |
| 2007 | The International Criminal Court (ICC) in the Hague issues its first arrest warrants for a Sudanese minister and a Janjaweed militia leader. |

| Year | Event |
|------|---|
| 2007 | Sudan accepts the deployment of a 26 000 strong AU-UN force to Darfur – UNAMID. |
| 2008 | UNAMID officially takes over from the AU peacekeeping force in Darfur. |
| 2009 | The ICC issues an arrest warrant for al-Bashir on charges of war crimes and crimes against humanity in Darfur. |
| 2010 | JEM, based in Darfur, signs the Doha Agreement peace accord with the government. JEM leaves negotiations in January 2011 after the assassination of its leader, Khalil Ibrahim. |
| 2010 | al-Bashir gains a new term in the first contested presidential polls since 1986. Salva Kiir becomes president of South Sudan. |
| 2010 | The ICC issues a second arrest warrant against al-Bashir on charges of genocide. |
| 2010 | Ceasefire between the SLA and the government breaks down. |
| 2011 | South Sudan becomes independent. |
| 2011 | State of emergency is declared in Blue Nile state and elected SPLM-N governor Malik Agar is fired. |
| 2011 | Fighting erupts between the government and the SPLM/A-North in the contested areas of South Kordofan and Blue Nile because 'popular consultations' about security arrangements were not held and an ICC-indicted governor has been appointed. |
| 2011 | In November a new coalition group, SRF (Sudanese Revolutionary Front) is formed. The group fights to topple the government and consists of four groups (JEM, SLM/A, SLM/A-MM and SPLM/A-North). |
| 2011 | The government of Sudan and SPLM/A-North sign a framework agreement on political and security arrangements in Blue Nile and Southern Kordofan States. The agreement is not implemented and fighting continues. |
| 2012 | Anti-austerity protests break out in Khartoum after government cuts fuel and other subsidies in response to the drop in oil revenue after the independence of South Sudan. |
| 2013 | Another wave of demonstrations takes place over subsidies cuts. |
| 2013 | al- Bashir undertakes a major Cabinet shake-up. |
| 2014 | An agreement on national dialogue and constitutional process is signed between the Government of Sudan and the SRF. The National Dialogue in Sudan will be officially concluded in 2016. It is continuously boycotted by rebel groups. |
| 2015 | al-Bashir is re-elected for another five-year term. The election is boycotted by most opposition parties. |
| 2016 | Protests erupt against price hikes of basic goods. |
| 2016 | The government signs a road map agreement for peace and national dialogue with JEM, SLM/A-MM, SPLM-North, and the National UMMA Party. Two-track peace process in Darfur with the two SRF members SLM-M and JEM, and in the Two Areas of South Kordofan and Blue Nile start but soon the peace talks break down. |
| 2017 | The US announces partial lifting of sanctions against Sudan. |
| 2018 | Anti-austerity protests against the rising cost of bread following the removal of subsidies escalate into mass protests in December. |
| 2019 | In February, al-Bashir declares a state of emergency, dissolves his Cabinet and sacks regional governors in bid to end protests against his rule. |
| 2019 | In April, the military topples al-Bashir in a coup. |
| 2019 | In September, a new government takes office under Prime Minister Abdalla Hamdok as part of a three-year power-sharing agreement between the military, civilian representatives and protest groups. |

Notes

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