

Explaining the Darfur Peace Agreement

Part 13

Rebuilding Darfur

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This is number thirteen in a series of articles concerning the Darfur Peace Agreement (DPA), explaining how different parts were negotiated, what the paragraphs mean, and how they should be implemented. This article focuses on the question of rebuilding Darfur.

The Movements' negotiators had two main worries in the talks. One was that Darfur is shattered and needs both immediate and long-term assistance to rebuild. More than two million refugees and IDPs need urgent assistance to return home; there are many areas that have been entirely cut off due to the war; and the basic infrastructure and livelihoods of the people of Darfur are devastated.

The second worry was that one historical reason Darfur's regional and state governments was because those governments rarely if ever received their fair share of funds from Khartoum. Almost as soon as a regional government was set up for Darfur in 1981, it was bankrupt. The story hardly changed over the following two decades. The amount due from the centre was small and what was actually delivered was always a fraction of what was due. Without any money, Darfur's governors and ministers were powerless to determine the fate of Darfur, and they were always prone to manipulation from Khartoum. The Movements' negotiators—led by Abu al Bashir Abbaker and Jibreel Khalil—insisted that this should never be allowed to happen again. On the GoS side, the negotiating team was led by Dr Lual Deng, who shared the same concerns. Dr Lual had also been closely engaged in negotiating similar provisions in the CPA and was therefore ideally placed to help craft the right mechanisms.

Darfur has immediate needs. The DPA has provisions for protecting humanitarian relief including the demilitarization of humanitarian supply routes (Paragraphs 282-286). Urgent programmes for return of IDPs and refugees are laid out in Paragraphs 176-213, which include the provisions for restitution and compensation (see articles 2 and 3 in this series). The Darfur Rehabilitation and Resettlement Commission is set up to implement this, with its tasks detailed in Paragraphs 182-197. The DRRC falls under the TDRA and will be headed by an appointee of the Movements. Paragraph 369 also calls for immediate measures to restore essential services to areas controlled by the Movements. Each of the Movements' negotiators can see their own handiwork in these paragraphs.

This article focuses on the longer-term rehabilitation and development provisions for Darfur. The overall aim is specified in Paragraph 104, which is the achievement of the Millennium Development Goals (MDGs). The GoS and its international partners have pledged to achieve these goals by 2015. Goal 1 is to reduce by half the number of people living in extreme poverty and suffering hunger, compared to a baseline of 1990. We

should underline that this is half the number in this condition in 1990, not the number today—Darfur must catch up on what it has lost before proceeding towards the goal. MDG 2 is achieving universal primary education for boys and girls. Number 3 is achieving equality between girls and boys in education. Goal 4 is reducing child deaths by two thirds compared to the level in 1990. MDG 5 is cutting by three quarters the number of women who die in childbirth. Number 6 is rolling back malaria and reducing the spread of HIV and AIDS. Goal 7 is ensuring environmental sustainability, and the final goal is building a partnership for development.

These details are not listed one by one in the DPA. But the MDGs are mentioned several times and this is what the GoS and the SLM of Minni Minawi have signed on to.

In the same way, the DPA does not provide a detailed blueprint for Darfur's infrastructural development. All Darfurians know that their region needs electricity, clean water and better roads. All Darfurians recall the promise of the Salvation Road—and the fact that it was never built. Darfurians anticipate that when Darfur is properly linked to the rest of Sudan, many social and economic benefits will follow. These details are not included in the DPA, but Paragraph 104 states that “A program for development of basic infrastructure shall be formulated to integrate Darfur with the rest of the economy.” The DPA does not specify who must formulate the plan, but there is an underlying principle throughout the Agreement that the responsibility for implementing the DPA falls upon the Transitional Darfur Regional Authority, its institutions, and its Chairperson, who is also Senior Assistant to the President. It is fair to assume that this infrastructural programme should be formulated by the TDRA. As in so many aspects of the DPA, the crux is the implementation.

The key institution set up by the DPA is the Darfur Reconstruction and Development Fund (DRDF). This also falls under the TDRA and will be headed by a nominee of the Movements. Paragraph 153 provides seed money from central government of \$300 million for 2006 and \$200 million for each of 2007 and 2008. This amount is to be adjusted in accordance with the assessment of the Joint Assessment Mission (specified in Paragraph 103). The Movements' negotiators then raised the concern that they needed guarantees that the money would not dry up as soon as short-term donor projects were complete. Sub-paragraph (c) was therefore added, which commits the GoS to allocating enough funds to the DRDF to complete all the projects identified, until the end of 2015.

According to the DPA, Darfur's Joint Assessment Mission (D-JAM) is supposed to be set up and report to a donor conference within three months (i.e. by mid-August). At the Abuja talks, the Netherlands Government (represented by its Minister for International Cooperation and Development, Agnes Van Ardenne) offered to host this donor conference. The dates have slipped somewhat: the D-JAM began its work only in late June and the donor conference is now scheduled for October.

The international donors are well aware that Darfur's farming cycle places a severe time constraint on them. The 2006 rainy season has been lost and it is essential that Darfur's farmers return home to plant for the 2007 season. If the seeds are to be in the ground by

May or June of next year, then people will need to return to their homes several months before that, so that they can rebuild their houses, clear the fields, and resolve any disputes over ownership. Large-scale return of refugees and IDPs should therefore begin in about six months' time—which means that the funds for rehabilitation and the implementation mechanisms need to be in place within weeks of the October donors' conference.

In addition to the specific funds for rehabilitation and development, the DPA provides some details for how Darfur's State Governments are to be financed by central government. If the people of Darfur should choose to create a Region in the 2010 Referendum, then the same principles will apply to that Region. Paragraph 113 lays out the principles of fiscal federalism, namely that each expenditure function is assigned to the level of government that most closely corresponds with the area served by the function.

The DPA chapter on wealth-sharing does not give a figure for the percentage of the national budget that should be provided to Darfur. Critics of the DPA have fastened on to this, demanding that the figure should be there. The reason why no figure is provided is that there is a national mechanism for generating that figure, provided for in the CPA, and the negotiators in Abuja agreed not to prejudge what that figure might be. Instead, the GoS and Movements agreed on the mechanism, and agreed on the seed money for the DRDF—a total of \$700 million over three years.

The relevant parts of the CPA are those that establish a National Revenue Fund (NRF) and a Fiscal and Financial Allocation and Monitoring Commission (FFAMC). It is the FFAMC that should come with the figure for Darfur's share. Because the establishment and functioning of these national institutions has fallen behind schedule, the Movements' negotiators insisted that the details of how the NRF and FFAMC should function should be spelled out in some detail in the DPA. The GoS chief negotiator for wealth-sharing, Dr Lual Deng, brought experts from Khartoum to explain why the Naivasha negotiations had reached the formula that is found in the CPA, and to ensure that the provisions of the DPA are fully consistent with the CPA, as well as being fair and workable.

Paragraph 121 requires the appointment of an independent Panel of Experts, recommended by the FFAMC, to propose formulae for how to allocate resources between the central government and the states, and allocation between different states according to their respective needs. The FFAMC must be independent and have the capacity to perform its functions. Perhaps most importantly, the Panel of Experts is to be established immediately, the FFAMC must become operational in the Fiscal Year 2006, and the recommendations for the allocation of funds must be submitted and approved by the Government in time for inclusion in the 2007 national budget. Paragraph 126 further stipulates that the FFAMC must institute a transparent and consistent formula for transferring funds to all states, with guarantees that these funds should not be withheld.

Some of those experts have already made their opinions known. In a background paper prepared for the African Union Mediation, Dr Adam Azzain Mohammed, of the Institute for the Study of Public Administration and Federal Governance, University of Khartoum,

argued that the current level of transfers from centre to state government is far too low (about 7% of total allocations), and should preferably exceed the Nigerian level (40%) and approach the level achieved in Ethiopia (65% of the total). Dr Adam noted that the CPA's provisions for fiscal federalism were sound enough to satisfy the demands of Darfurians. In line with his analysis, the DPA complements and expands upon the CPA.

These special provisions detailed in the DPA apply not just to Darfur but to all of Sudan's states. They show how the negotiators in Abuja—both for the GoS and the Movements—had learned from the experience of the CPA, including both its fine principles and its lagging implementation, and designed an agreement that strengthens the CPA to the benefit of all. Now the challenge is to make it work: to assign the right experts to produce fair figures for how revenue should be allocated to Sudan's states.

The Movements' negotiators, however, still insisted that Darfur still demanded special treatment. Paragraph 129 details Darfur's specific fiscal entitlements, repeating that it is entitled to resources from the National Reconstruction and Development Fund and the Multi Donor Trust Fund (established by the CPA) in addition to the allocations spelled out earlier. The DPA also provides for Darfur states to have access to international loans and grants. Another guarantee is provided in Paragraph 127: Darfur States can initiate proceedings in the Constitutional Court if they do not receive the funds they are due.

No guarantees are completely foolproof. But these are about as strong as it gets. Let us recall, again, that for the first time ever, the DPA allows Darfur State Governments, the Transitional Darfur Regional Authority, and institutions under the TDRA such as the DRDF, to receive funds directly from international donors.

Overall, the negotiators on both sides in Abuja agreed fully on the DPA's provisions for reconstructing Darfur and for fiscal federalism and the allocation of enough money to cover Darfur's budgetary needs. Even the negotiators for the Movements that rejected the DPA agreed on this section, which they regarded as one of the strongest and most technically sound parts of the Agreement. It is also one of the most important, because the failure of successive central governments to provide sufficient money to Darfur's states has been at the root of both Darfur's developmental neglect and its political crisis too. The DPA has been designed to give Darfurians the funds they need and the guarantees of those funds. What is needed now is the technical capacity and expertise to ensure that the institutions established by the DPA can exist in reality as well as on paper, and the goodwill to make sure they can function.