

PROSPECTS FOR PEACE IN SUDAN

BRIEFING

SEPTEMBER 2002

Overview

1. The withdrawal of the GoS delegation from the IGAD forum on 2 September marked the most serious crisis in the peace talks to date. It reflected the inability of President Bashir to command a united position within the government. Three forces are opposed to the next stage of the peace negotiations: some army officers, a spectrum of Islamists, and Egypt. Moving beyond the 20 July Protocol to a full agreement required both Bashir and Garang to move simultaneously, arriving at an agreement that would dramatically reconfigure the political landscape. However, the failure to move decisively left open the possibility of those within the GoS opposed to the agreement making their counter-move to derail it. This is what duly occurred.

2. As every day passes, the momentum for war grows stronger. However, the mediators are very active in persuading the parties to resume, and both Bashir and Garang are ready to do so. Most probably, the parties will reconvene at Machakos during October or November. However, the prospects of compromise on key issues do not appear good. This means that the IGAD deadline of late December, imposed by Kenya's electoral timetable, is unlikely to be met. Should the U.S. government launch a war with Iraq, further complications will be added. The endgame of the war and culmination of the peace process may yet be a very long-drawn out affair.

The GoS Withdrawal from Machakos

3. The GoS withdrawal from the Machakos peace talks, took place for a number of reasons. It is interesting to note that the announcement was first made by the Foreign Minister, Mustafa Ismail, who was in Cairo at the time, and then by President Bashir, attending a funeral for a young officer killed in the fighting near Torit. The funeral was a 'martyr's wedding' in the jihad-ist tradition. The symbolism of the places of the two announcements will not be lost on Sudanese: the message was meant first and foremost for the Islamist hardliners in the army and the Egyptians. Calls for jihad and mass military mobilisation over the following days, redolent of the worst days of the war, confirmed this.

4. The SPLA had been in a position to attack Torit ever since the capture of Kapoeta in June. Aware of this, the GoS had relocated the Sudan-Uganda liaison unit (for the Ugandan offensive against the LRA) to Torit. At the request of the Ugandan authorities, the SPLA postponed its attack on Torit. When the attack finally came, it was not unexpected, but the timing was unfortunate. Torit is symbolically important as the location of the 1955 Mutiny, that sparked the first civil war. It was John Garang's headquarters in the early 1990s. For the North, the fact that Northern officers were killed in Torit is significant, which contrasts with the GoS's use of overwhelmingly Southern troops in its recent offensives on Gogrial, Mankien and Tam.

5. In the last week of August, events in Khartoum and Machakos had already made President Bashir decide to suspend GoS participation in Machakos, pending 'clarifications' made by the mediators. In Khartoum, there was unrest orchestrated by the Turabi faction of the Islamists. Bashir feared senior members of Turabi's faction allying themselves with Ali Osman Mohamed Taha. In response, Turabi's detention was extended, he was moved to prison, and other Turabi followers were arrested.

6. In Machakos, the GoS was unhappy about what it saw as additional demands being made by the SPLA. The GoS regarded the 20 July Protocol as having solved the issues, and wanted no new agenda items. But the SPLA raised, first, the status of the Nuba Mountains and Southern Blue Nile, and second, the status of the national/federal capital, specifically with respect to whether it would be subject to shari'a or not. Nafie Ali Nafie was chosen as head of the delegation to Machakos in late August. He went with the authority to suspend GoS participation, should the mediators include either of these items on the agenda. The mediators were due to present their decision on the Nuba Mountains and Southern Blue Nile (to include them) on Monday 2 September. Their position was that these areas should be included.

7. Torit fell on 1 September. That evening, a delegation headed by Ali Osman Mohamed Taha and including senior army officers presented President Bashir with an ultimatum. Suspension was not enough: the GoS should withdraw. Bashir asked for time to consider. They refused. Bashir went along with them.

8. The aims of the possible palace coup were not to replace President Bashir as such, but to make it impossible for him to pursue the Machakos agenda any further. The group includes Vice President Ali Osman Mohamed Taha (who would be the main loser in any deal), Foreign Minister Mustafa Ismail (whose 'moderate' image has long been distrusted by many Sudanese), and Mutrif Sadiq. Neither Ali Osman nor Mustafa were consulted in advance of the signing of the Machakos Protocol. For Mustafa in particular, it was an embarrassment as he had been consulting closely with the Egyptian government, and had assured them that the GoS would not sign any agreement that included self-determination. Others who objected to the Protocol included some army and security officers. Egypt was ready to work with this coalition, although it prefers some members (e.g. Mustafa) to others (e.g. Ali Osman). The agenda of this group is chiefly survival.

9. A palace coup was foreseeable. Possibly, Bashir could have moved decisively in the other direction, by accelerating the peace process. But Bashir is not a risk-taker. He prefers to wait and gather his forces, rather than forcing the pace by taking a bold leadership action. He is uncertain of the extent of his support within the army (as indeed is Ali Osman). And he did not have the confidence that Garang would reciprocate such a move.

10. The disruption to the Machakos talks is unfortunate. However, the GoS has not repudiated the 20 July Machakos Protocol, which remains the framework for any deal reached in the foreseeable future. The walk-out is a lesser evil than the possibility of a coup being launched after a peace agreement had been reached. The anti-peace groups in the GoS are now no longer in a position to object to the provisions of the Machakos as it stands. The Protocol was so popular nationally and internationally, and its key clauses reflect long-standing commitments made over the years, that there is no going back on it.

11. It is very likely that President Bashir sees an agreement with the SPLA along the lines of Machakos not only as the best chance for peace and unity, but also for his own survival. Having promised to talk to John Garang, 'soldier to soldier' thirteen years ago, on the morning of 1 July 1989, Bashir finally did so in Uganda after Machakos, and was reportedly impressed with the clarity of Garang's position and claims, and also by Garang's personal commitment to a united Sudan. Bashir and some other senior members of the GoS are aware that there is no other Southern leader, with credentials, who is so genuinely unionist. Despite feelings of personal distrust, the two need one another. If the two recognise each other as their joint best chance for survival, there may be rapid moves towards peace. It is possible that the SPLA will save Bashir.

12. The 'peace camp' in the GoS is led by Ghazi Salah el Din, who has insisted that the Government clarify whether it is for peace, or not. Ghazi reportedly submitted his resignation to the President, who refused to accept it. Whether Ghazi remains as head of the GoS delegation to Machakos or not is a strong indicator of whether agreement will be reached.

Obtaining a Ceasefire

13. The GoS has demanded a ceasefire as a precondition for the talks to resume. The SPLA has long objected to this, saying that a ceasefire should be the last step. The grounds for this are that the SPLA exercises leverage through its ability to sustain the war. John Garang rejected the option of a comprehensive ceasefire when it was put to him by the mediators in early September. He feared that a ceasefire would have some form of international legitimation and would therefore become indefinite. A compromise position would be to agree a cessation of hostilities or military stand-down for the duration of the talks. This appears achievable.

14. The GoS has stated that it will recapture Torit before it agrees to a ceasefire. The GoS has been mobilising its Southern militia forces as well as deploying an extremely large quantity of mechanised forces. However, the GoS has increasing difficulty in mobilising volunteers. The response to the latest call for jihad has been disappointing. Most of those who have volunteered are Islamist student cadres, whom the party is unwilling to risk in the front-line.

15. In addition, the SPLA forces that captured Torit are also numerous and well-organised. Southerners are themselves mobilising. They may open additional fronts in Equatoria in the coming weeks. As time passes, the pro-war feeling among some Southerners may strengthen. However, by the same token, many Southerners feel that they should not sacrifice their lives for territories that will be theirs anyway under a peace deal.

16. The resumption of the war has been accompanied by a crackdown on newspapers and journalists. The government slogan is, 'No voice should be louder than the sound of the gun.'

17. The GoS has carried out extensive bombing raids and has also imposed flight bans on humanitarian agencies. These raids threaten to become an important issue, partly because of the protests of humanitarian agencies and pro-SPLA lobbies in Washington DC. The mechanism for Senator Danforth's final test, namely respect for civilians in the war zones, is finally being put into place.

Addressing Key Issues

18. Procedurally, the GoS has expressed lack of confidence in Gen Sumbeiywo, on the grounds that he has agreed to include 'additional' issues on the agenda, such as the Nuba Mountains/Southern Blue Nile, and the status of Khartoum. This is a curious objection as no peace deal could be achieved without these questions being resolved, and the Nuba Mountains was already the focus of one of Senator Danforth's four tests. The attempt to discredit the Kenyan mediators must be seen in the context of the renewed engagement of Egypt (see below).

19. How are the substantive issues to be resolved? In all the preparation for the negotiations, and parallel track seminars that have been convened, the two issues now at the head of the agenda have not been investigated sufficiently, leaving the mediators at a loss. In one respect, the hiatus is a blessing in disguise: it gives time for the mediators to study potential solutions to these problems.

20. Concerning Abyei, the Nuba Mountains and Southern Blue Nile, a number of options have been canvassed (see August briefing), but none have yet been explored in detail with the parties. The first step is for the GoS to concede that this issue should be on the agenda of IGAD. It prefers a parallel track of negotiations, not within the IGAD framework, fearing that including these areas within the Machakos negotiations is tantamount to conceding that they are part of Southern Sudan. The SPLA is very likely to reject this proposal, fearing that it would then come under severe pressure to come to separate agreements for the South and for the other war-affected areas. A parallel forum might also create other procedural complications.

21. Concerning the status of the national capital, there have been virtually no discussions at all. The GoS has simply assumed that Khartoum is an intrinsic part of the North. Khartoum has enormous economic, political and socio-cultural prominence, and is arguably more important to the GoS than all the rural areas of the North put together. It is simply dumbfounded by the idea that shari'a could be suspended there, and regards the issue as closed following the 20 July Protocol. The SPLA takes the contrary view that a federal or confederal system logically and legally requires a neutral federal capital territory. (This issue was not even on the agenda to be discussed in September. The GoS simply deduced that it would be a controversial issue from the papers tabled by the SPLA, which went beyond the agenda for the September round of talks and included a position on the secular status of the national capital.)

22. Resolving this issue will require boldness and creativity. Could Khartoum have two legal systems side by side, with citizens having the choice as to which to utilise? (Or would this create insuperable legal difficulties?) Could the national/federal capital be elsewhere than Khartoum? (On the model of Abuja in Nigeria.) Could the status of national capital be shared between Khartoum and Juba with the president and key federal institutions moving between the two? Some of these options have been quietly floated, but the GoS remains adamant that there is no compromise on the location or status of the capital.

23. Underpinning all of these is the key issue: power. The nature of the agreement is that senior posts will be shared between the GoS and SPLA. This means there will be losers, and those who lose office now will have no way back for at least six years. For his part, Bashir and his closest entourage will be sure of their position for this period—a timescale longer

than most politicians think. Closely related to the issue of power are the questions of security arrangements for the interim period, and wealth sharing and reconstruction.

24. Another related set of issues concerns elections, and the associated question of the inclusivity of the new government. Multi-party elections during the interim period will undoubtedly lead to the reduction in the power of both the main parties. The SPLA faces the particular challenge of organising a political party, which it has not yet done to date.

Attitudes and Expectations

25. The talks breakdown also reflects a longstanding difference in negotiating culture between the two parties. The GoS delegation is ready to make certain compromises, confident that it will be able to better its position during the implementation. Thus its 'concession' on self-determination was made in the knowledge that in six and a half years it may have plenty of time to row back on its promises. The SPLA, well aware of the history of agreements dishonoured, thus tends to demand the maximum and indicate that anything less is unthinkable. It will only make compromises in the context of strong guarantees.

26. In addition, the GoS was expecting more flexibility from the SPLA, based on its reading of U.S. power and policy. Khartoum appears to believe that the U.S. has decided in favour of a united Sudan, and that verbal concessions to self-determination are just that: verbal. It has a perhaps exaggerated view of the coherence and stability of U.S. policy in the region, believing that if the U.S. has decided that unity is the best option, it will ensure that unity is achieved. On this basis, it assumed that the U.S. would exert pressure on the SPLA to make the SPLA negotiators recognise that the basic deal was in place, and it should fall into line. The GoS therefore became frustrated with the inability of the SPLA to follow this 'rational' approach.

27. The SPLA engages in the negotiations after many months of hard work and lobbying by a range of Southern groups. The leadership has clarity on what the Southern constituencies will and will not accept. The major possible reservation, which is the role of the recently-absorbed forces of the Southern Sudan Democratic Forces, appears to have been laid to rest by Riek Machar's clear support for Machakos. However, an agreement that gave the SPLA complete authority over Southern Sudan for the whole interim period would not enjoy widespread support. By contrast, the GoS remains divided. President Bashir and the pro-peace camp in Khartoum have not done the necessary political work among their own supporters to convince them off the necessity of peace, on the terms negotiated. This reflects a weakness in the Congress Party since the split of 1999: the only leader with the charisma and legitimacy to lead the party in a direction of his choosing was Hassan al Turabi, and most of those now in government are office holders rather than politicians with strong constituencies.

Egypt and the Arab World

28. Egypt's role is clear: it does not want to see a peace agreement proceed without its involvement, if it contains even the smallest hint of self-determination. Egypt reportedly offered military assistance to the GoS for the recapture of Torit. Clearly, participating in military operations would rule out Egypt having a role in the peace talks. Hence the offer was probably intended as a signal of readiness to intervene.

29. The Egyptian government has promised a relaunch of the Joint Egyptian-Libyan Initiative (JELI). This promise was made when the Machakos negotiations were continuing, and lapsed after the GoS walkout. This indicates the essentially reactive nature of the JELI. However, the JELI has the endorsement of the GoS Foreign Minister, Mustafa Ismail, who has placed himself in the Ali Osman camp (for now). One of the difficulties faced by Egypt is that its agenda has been so focused on trying to block the right of self-determination that it has neglected working on all the other necessary components of an agreement.

30. The Arab League meeting in Cairo created a committee of Arab states to work with Sudan for peace, and decided on the appointment of a Special Envoy, who is, unsurprisingly, an Egyptian. The GoS criticism of the Kenyan mediators for not being impartial must be seen in this context: it is most likely part of a strategy to bring in Egypt as a full-status mediator.

31. Egypt no longer has a powerful constituency in Khartoum that can determine the outcome of the peace process. Almost all political groups in Sudan have accepted the necessity of self-determination for the South over recent years. (In this context, the Kenyan papers tabled at Machakos in June were also out of step, insofar as they described self-determination as an 'extreme' position.)

32. The GoS has long had al Qaeda skeletons in its cupboard. These were highlighted in September by the report of al Qaeda gold being reportedly smuggled to Sudan. Such reports are hard to confirm. However, it points to the fact that senior members of the Khartoum administration remain vulnerable to the charge that, in the past, they cooperated with al Qaeda.

The United States

33. It is notable that although the GoS has tried to discredit Kenya as an impartial mediator, it has not tried the rather obvious stratagem of accusing the U.S. of being anti-Arab or anti-Muslim. This may change if the U.S. goes to war against Iraq.

34. The GoS walkout from Machakos, combined with recent and ongoing offensives in the oilfields, plays into the hands of the anti-Khartoum lobbies in Washington DC, which have consistently accused the GoS of negotiating in bad faith. For now, the U.S. policy of supporting the negotiations will continue, but the longer the GoS stays away from IGAD, the greater will be the pressure to revive the measures contained in the Sudan Peace Act, and impose sanctions in some form.

35. Should it occur, a U.S. war on Iraq will have important consequences for U.S. policy towards Sudan. First, the Administration's attention will be diverted from Sudan. There is already a danger that the slowing-down of the peace process will cause Washington to lose patience, and this is much more likely if there is another foreign policy priority. Second, the Congressional mandate requested by the White House allows for a much wider scope of military action than just Iraq. The possibility of U.S. unilateral military action against Khartoum, which has been remote for the last year, may again rear its head. Until now, the GoS leaders in Khartoum, preoccupied with short-term survival issues, have not paid any attention to this possibility.

Regional Factors

36. The SPLA capture of Torit caused some friction between Sudan and Uganda, with GoS accusations of Ugandan bad faith. However, Ugandan military operations against the Lord's Resistance Army have also failed in their stated aims, and the LRA continues to embarrass Uganda with cross-border raids. The two governments will continue to accuse one another, but their interests make it probable that they will continue to cooperate.

37. Ethiopia and Eritrea continue to conduct a war of proxies. While Ethiopia is supporting, and increasingly arming, Eritrean opposition groups, Eritrea is supporting the Oromo Liberation Front and other Ethiopian opposition forces. The launchpad for these destabilisation efforts is Southern Sudan, and specifically Akobo, where Thok Wath, the former governor of Gambella has forces. Ethiopia is maintaining friendly relations with both the GoS and SPLA, but this is currently insufficient to overcome this problem. Ethiopia will need to develop a political strategy specifically aimed at the complex problems of Upper Nile if it is to remove this threat. Meanwhile, the Eritrean President continues to rule in a highly individual manner, and despite all the events of recent years, still talks about overthrowing the GoS by force.

Conclusion

38. President Bashir has survived a threatened palace coup, but at the cost of derailing the peace talks. Can Bashir impose his will on the majority of senior members in his party and government who are opposed to any concessions at Machakos? Can he achieve a consensus among the different factions of the party that they must proceed with the Machakos process?

39. It appears probable that the parties will reconvene in Machakos. But the mutual trust and goodwill is not currently present that would enable speedy movement towards an agreement. While Machakos is the framework for the comprehensive agreement, much work remains to be done to flesh it out.

40. The first step is for the parties to sign a cessation of hostilities, for the duration of the talks. Negotiations cannot proceed while the fighting continues. This in turn will require rigorous deadlines.

41. Without prejudice to the positions of the two parties, the IGAD agenda should include Abyei, the Nuba Mountains and Southern Blue Nile. The IGAD Declaration of Principles of 1994, accepted by the GoS as an agenda for discussion, makes it clear that IGAD is concerned with all war-affected areas in which the SPLA has a presence, whether in Southern Sudan (as defined by the 1956 borders) or not.

42. When negotiations recommence, they should be speeded up to make up for the lost time in September. One option is for different committees to meet in parallel to consider the key issues, including power-sharing and interim arrangements, wealth sharing, ceasefire and security issues, and war-affected areas that are not part of Southern Sudan as traditionally defined.

43. The resumed Machakos process will need a morale boost. The mediators and their international partners may want to consider a visit by high-ranking international leaders, such

as IGAD foreign ministers, their counterparts from the IGAD Partners' Forum, or Senator Danforth.

Justice Africa

27 September 2002