

Prospects for Peace in Sudan

Briefing

October-November 2004

Justice Africa
15 November 2004

Overview

1. After ambiguity during most of 2004, international policy towards peace in Sudan has stabilized on a strategy that prioritises the Naivasha peace talks, while seeking a decisive end to the violence in Darfur. This is premised on the ability of Vice President Ali Osman Taha to deliver peace in the South and stability in Darfur. The international consensus is that all realistic alternatives to making Ali Osman the linchpin of the peace process, are far worse.
2. There are clear efforts to undermine the prospects for peace, both from some elements within the GoS and some among the Darfurian opposition. There are three overlapping explanations from this, including lack of capacity to control the armed groups in Darfur, a GoS policy of testing the limits of international concern, and a concerted attempt by those still loyal to Hassan al Turabi, some still within government and others in the opposition, to destabilise the situation and bring down Ali Osman, so that they can take power.
3. The current intensified push for peace, symbolized by the UN Security Council meeting in Nairobi on 17 November, has a fair chance of success. But it is equally likely that the current 'no war no peace' situation will prevail into the middle of 2005 and perhaps even beyond, with serious dangers of unraveling the progress so far.

Naivasha Still in the Balance

4. The GoS-SPLM peace talks of September–October, held in Nairobi between the two principals Ali Osman Taha and Dr John Garang, ended without significant results despite great expectations by all both Sudanese the international community. This round of talks clearly exposed the difficulties in implementing any final peace agreement in Sudan, and showed that on current performance, peace in Sudan is far from being concluded at the end of this year as expected unless the parties are pressured to negotiate in good faith. The Sudanese in general and southern Sudanese in particular are deeply sceptical of GoS intentions in the light of its rejection of National Treasury payment to the SPLA forces and insistence that other Southern armed groups be considered as separate (third) force.
5. Ali Osman and Dr. Garang parted in a diplomatic note, that concealed how modest the progress had been. The agenda for this round was negotiation of two technical issues: permanent

cease-fire and mechanism for the implementation of the agreement. They departed, raising hopes that the implementation mechanism committee will provide the magic bullet. However, the meetings of the Technical Committees have so far proved disappointing. While the GoS team challenges every detail, in effect seeking to renegotiate the entire package, the SPLM team is unable to press towards an agreement or make counter proposals in the absence of its Chairman.

6. The talks continued in form of implementation mechanism committees behind closed doors in Karen Resort, beginning on 17 October. The GoS and SPLM are represented by eight members each. Idris Mohamed Abdel Gader and Dr. Mutrif Sadig head the GoS delegation and SPLM is headed by Cdr. Nhial Deng and Cdr. Malik Agar.

7. The committee started with the discussion of **Abyei District**, including its administration and security. One week passed while the parties disagreed on the geography of Abyei. Precisely, where is Abyei located in the map of Sudan? The SPLM argues that Abyei is located in accordance with the borders of 1 January 1956 but the GoS disputes such definition and argues that Abyei Border Commission stipulated in the Power Sharing Agreement should be allowed to demarcate the location of Abyei. When that is concluded, the parties could discuss the administration and military presence in Abyei. Moreover, the GoS argues that the Border Commission should be given two years to finish its job. The Parties have come and reported to the plenary that they have agreed to disagree. It is now for the mediators to step in and offer a solution.

8. **The Nuba Mountains/South Kordofan region** is also emerging as problematic. The Misiriya Arabs of Muglad and Babanusa are strongly opposed to the dissolution of Western Kordofan State and the re-absorption of their areas into Southern Kordofan. The GoS is arguing that the capital of the Nuba Mountains/South Kordofan State should be located in Lagawa instead of Kadugli. The SPLM in turn opposes this proposal. Hence the parties disagree on the administrative headquarters of the state.

9. On **power sharing**, the parties have opted to go through the agreement line by line. Until 30 October when the talks were adjourned the parties have not agreed on even one third of the almost 360 pages of the power-sharing document.

10. Concerning the Southern Armed Groups, the GoS argues for accommodating the armed groups separately for two and half years, that is, treating them at par with the Sudan Armed Forces and SPLA. This is what the government calls a 'collaborative approach.' The SPLM on the other hand argues for immediate choice by the Southern armed groups between joining the GoS army or SPLA once the agreement is signed. The SPLM proposed this choice should be completed within three to six months from the date of signing the peace agreement. The committee is currently discussing the time factor, namely whether the integration to take place within two and a half years or 3-6 months?

11. On the issue of a **salary for the SPLA forces** during the interim, the GoS is adamantly opposed to any payment of the SPLA army from the National Treasury. The SPLA in turn is accused by the government of not helping matters by refusing to disclose the numbers of the SPLA. Privately, the SPLA is alleged to be aspiring for 200,000 troops to protect the agreement

from abrogation by Khartoum (a considerable increase on its current strength). The size of the different armed forces is an important consideration. However, both parties are missing a point of principle: is the National Treasury supposed to cater for payment of all armies or not? The issue of what number is to be paid is secondary to that. At present the parties are widely apart. Again privately, Southerners think this GoS rejection adds up to not making unity attractive and the SPLA should turn to the Government of South Sudan for its salaries.

12. **UN military role:** the parties disagreed on the role of the military role of the United Nations. While the SPLM supports a UN Peacekeeping Force under Chapter VI of the UN Charter, the GoS is stating that it will only accept International Ceasefire Monitors.

13. **Banking system and oil management:** the GoS is arguing for full control by the Central Bank on all areas of banking during the interim period. The SPLM in turn is arguing for full autonomy. The same holds for oil sector management.

Next Steps in the Naivasha Process

14. The technical committee of the parties will be meeting on 26 November to be joined by the principals Ali Osman and Dr .Garang on 11 December. Given the present slow pace of the talks, many important questions come to mind. First, what is the logic of the UN Security Council meeting on 18 November in Nairobi while talks are not in progress and the Sudanese parties are still miles apart? Second, will such a meeting not contribute to the false hope that there is progress in the last round of talks when the opposite is true? Third, is it expected that the technical committee would have resolved their outstanding differences or narrowed them by the time the two principals meet on 11 December?

15. Overall, therefore, no significant progress being made on the GoS-SPLM peace front. Much pressure on the parties is crucial at this last stage, which is likely to be make or break. There are many false hopes and high expectations. A meeting of the two principals, Ali Osman and John Garang, is needed if there is to be a significant step forward. In the absence of a high-level political agreement, endless argument over the details will continue, and the scheduled talks at committee level, to begin on 26 November will be redundant and waste of time.

16. While the Naivasha process remains unresolved, the GoS has formed a committee with the task of allocating its quota of positions for the administration of Southern Sudan. It is taking advantage of the suspended peace, and its ability to fund positions from its budget (boosted by increased oil revenues), to buy support. By the same token, it is encouraging some of the Southern armed groups leaders to believe that the status quo will continue indefinitely, and thereby lessening any pressure on them to abide by political agreements.

War in Darfur

17. The war continues in Darfur. Both sides have been launching military actions, though the GoS abuses are more egregious, common and public. As the war continues, material interests in its prolongation are emerging, particularly on the GoS side. There are significant commercial interests in the seizure and sale of livestock, and in the artificially high prices for basic

commodities in the towns, as well as local interests in the resettlement of deserted villages in Fur and Masalit areas.

18. During November, several instances of forcible clearances of IDP camps have seized the international headlines. The abuses were compounded by the shameless attempts by GoS spokesmen to claim that the IDPs were being moved to better locations. These clearances were rightly described as ‘criminal’ by the UN, a description made particularly salient by the arrival in Sudan of the UN investigation team, intended to determine whether crimes against humanity and/or genocide have been committed. Even more shocking were military actions carried out by the PDF with air support, in flagrant violation of the ceasefire agreement. Such actions seem calculated to bring down the wrath of the international community. Is the GoS in denial? Or is there a deliberate strategy by elements within the security apparatus to make Sudan ungovernable, discredit Ali Osman, and bring a new government to power? There is growing evidence pointing to the latter explanation.

19. Opposition armed fronts are proliferating. The most significant may be a new Islamist-oriented front in western Kordofan, Al Shahama, headed by Musa Ali Mohamadein (formerly of the PCP), spurred in part by local discontent over the planned dissolution of Western Kordofan State, and also possibly by the Islamist strategy of destabilization. There are indications of splits within the JEM, and also indications that the Islamist backers of JEM are putting pressure on Khalil Ibrahim to declare his hand.

20. As well as military activities, banditry and general insecurity has been increasing. The UN and others have warned of ‘anarchy’ and ‘warlordism’ in Darfur. These warnings must be taken seriously. While much chronic insecurity is a legacy of twenty years of lack of law enforcement, it is likely that at least some of the instability is being deliberately engineered.

21. The African Union force in Darfur is being upgraded. The AU force will face immense obstacles as it seeks to fulfill its mandate. European governments and the U.S. have stepped forward to help finance the AU force and provide key logistical support such as long-distance transport aircraft. The key challenge for the AU is organization and planning. Most attention thus far has focused on the number of troops and the speed with which they can be deployed, rather than strategic planning for how they will fulfill their protection mission.

22. The AU troops appear to be disciplined and well-led. However, like all troops in such situations, they enter into sexual relations with women around their camps. The GoS has alleged that AU troops are bringing HIV/AIDS into Sudan, with the (erroneous) implication that the country does not already suffer from an AIDS epidemic.

The Abuja Negotiations

23. The talks in Abuja were protracted and bitter, but made significantly more progress than the August-September round, by the time they broke up on 9 November. They were overshadowed by the security situation on the ground in Darfur, which constantly impeded progress towards any agreements and prompted threats of walkout from the SLA and JEM.

24. Agreement on the Security Protocol was finally reached under severe international pressure. The key sticking point had been the AU demand that the agreement should include a ban on military flights. The GoS objected to this until the last moment, but appeared to recognize that if it did not accede to the AU demand, it would almost certainly be faced with a UNSC resolution to the same effect. Having signed the Security Protocol, the Humanitarian Protocol agreed but not signed in September was also signed.

25. While the formal negotiations focused on the current situation on the ground, much diplomatic work was also done on the foundations for a political peace including the preparation of several drafts of a Declaration of Principles for the resolution of the conflict. There are a number of tricky issues in the search for a political settlement, including the SLA's insistence on the separation of religion and the state, and the SLA/JEM demand that national power sharing formulae be agreed, which implies comprehensively revisiting the Naivasha Power Sharing Protocol. These issues will be the main item for discussion when the Abuja talks reconvene on 10 December or thereabouts.

26. The parties still show considerable awkwardness and confusion in articulating their political demands. At the Libya Summit on 17 October, the GoS forwarded a proposal for Darfur to enjoy strong autonomous powers in a federal system. It is notable that the first, and thus far, only political proposal on Darfur from Khartoum was made in what it considers a friendly Arab state. The SLA has yet to hold sufficient internal consultations to develop a full set of political proposals. The JEM has floated proposals for power- and wealth-sharing, but as these involved a comprehensive renegotiation of all the Naivasha Protocols, they were unlikely to go anywhere. It will take a long time before conditions are in place for a political solution to Darfur, arising from talks between the GoS and SLA/JEM. If the SLA and JEM do not want to be sidelined in the search for a political settlement, they would be well advised to develop concrete political proposals in the next three weeks.

Social Peace

27. The need for a social peace, involving local level reconciliation and the reconstitution of local authority, is increasingly recognized. The GoS, mediators and major donors are all considering the issue. Libya has scheduled a meeting in Tripoli for the end of the month, including a wide range of traditional leaders, to consider a comprehensive solution for Darfur. The opposition groups fear that this meeting could easily be manipulated by the GoS. By packing the meeting with GoS-sponsored representatives, Khartoum could ensure a broadly-favourable outcome, and could then use the recommendations as the basis for its negotiating position in Abuja in December, thereby avoiding talking about national power-sharing and wealth sharing. However, the GoS should not consider this a foregone conclusion: the leaders of all Darfur's ethnic groups are ubiquitously suspicious of and angry against Khartoum, and the consensus position could easily be one that is much more sympathetic to the rebel position.

28. There is increasing discussion of reviving the Native Administration (Idara Ahliya), which was created in 1923, based on the administrative system of the Fur Sultanate, reformed several times, abolished twice, and reconstituted in a somewhat different form ten years ago. In part, this discussion reflects a genuine fear of anarchy and warlordism. It is also a warning to the SLA and

JEM that their wider political agendas have not yet achieved recognition by the international community. Those in the international community promoting local reconciliation initiatives should be well aware of the ways in which chieftancies can be manipulated by the government in power. When the British created the Native Administration, they appointed precisely those leaders they considered reliable and loyal, and when the institution was re-established by the current government, the same considerations prevailed. Nonetheless, some form of reconstituted Native Administration will almost certainly be part of a formula for social peace in the region.

Cairo and the NDA

29. The GoS and the NDA held ten days of peace talks in Cairo. The agenda for discussions had been agreed in previous meetings in August. The delegations were headed by Dr. Nafie Ali Nafie for the GoS and General (rtd.) Abdel Rahman Saeed for the NDA. The parties declared at the end of the talks that seventy percent of the issues on the agenda have been resolved and the talks were extremely positive. It appears that there was agreement on some economic and constitutional issues. However, the details of both agreements and disagreements have not been made public.

30. Despite this optimistic announcement, serious differences are reported between the GoS and the NDA. Chief among them are the following: elections; the national character of the army and security forces; the reinstatement of civil servants laid off for 'public interest'; treatment of NDA military forces in eastern Sudan; and representation of eastern Sudan in a national government (with special reference to the Beja and Rashaida groups). The GoS strategy is to agree to what it can within the context of the Naivasha accords, but not cross its 'red lines', especially on security issues.

31. While the NDA argues for free elections (local, parliamentary and presidential) at the third year of the interim period, the GoS is opposed to any presidential election. On the national character of the organised and security forces, the NDA argues for balancing the forces to be inclusive rather than being formed of those appointed by the current government alone. Moreover, it argues that the NDA forces should be part of the national army. The NDA also argues for the return of all persons dismissed from the civil service and organised forces by the government under the pretext of 'public interest.' The GoS rejected all these proposals and argues the national character has been observed and the NDA forces could be absorbed into the Joint Military Units in Eastern Sudan agreed with the SPLA in the Naivasha peace talks. On representation of eastern Sudan the GoS said it is prepared to meet the Beja and Rashaida in separate venue, as it has done with the Darfur movements. The NDA objected and insisted that eastern Sudan should be discussed in the Cairo forum in its presence.

32. Meanwhile, the Beja Congress and the Rashaida 'Free Lions' walked out of the NDA. The implications of the walk out are not yet clear. What is clear is that the NDA must mend its fences with both these movements, and the GoS must begin serious political negotiations with them. If this does not happen, eastern Sudan could easily turn into another war zone, like Darfur. In this context, we should also note that JEM is not a member of the NDA, but has some forces in Eritrea, and the GoS has recently accused the Eritrean government of supporting hostile actions by the JEM.

Khartoum

33. The GoS strategy on the most high profile issue of the day—Darfur—is perplexing. Its actions are unnecessarily damaging to its own interests and seem calculated to cause it major trouble with the UN Security Council. Why is this? One explanation is that the Darfur policy is in the hands of small coterie of security officers, with the remainder of the government in the dark, and largely in denial. This group has cut itself off from any considerations other than narrow security priorities. A second explanation is that the GoS simply lacks the capacity to implement its decisions on the ground in Darfur. It is true that the capacity constraint is real, and that effective governance structures are an essential part of a medium- and long-term solution to the Darfur crisis. However, the air force and the security services, especially those in urban areas, are under very tight control from the centre, and an explanation of command and control failures carries no credibility. In February 2002, faced with bombing raids in Southern Sudan, the U.S. Special Envoy confronted President Bashir and insisted that actions, not words, would prove his good faith, and the raids immediately stopped.

34. There is a third possible explanation for at least part of the destabilisation, which is a deliberate strategy by Turabi loyalists within the government and military establishment. We should recall that when Turabi was dismissed in December 1999, he initially called upon his followers to leave their positions in the party and government, but then changed his mind and told them to stay, but to work for him from inside. We should also recall that throughout the last five years, the number one threat to Bashir and Ali Osman has come from Turabi and his followers, and that their calculations consistently reflect this reality. We should also bear in mind that if Ali Osman concludes the Naivasha agreements, he will win an international imprimatur that will enormously strengthen his political position. If the Turabists are to bring him down, they need to act now. For these reasons, it is credible that Turabi's followers are following a two pronged strategy of destabilisation, fomenting trouble within the government and escalating the war, in order to bring down Ali Osman and seize their moment.

The Region

35. The Ugandan army made significant advances against the Lord's Resistance Army and appeared to be close to capturing Joseph Kony himself. These military advances should not obscure the reality that the only solution to the problem in northern Uganda is political. Meanwhile, the humanitarian situation of IDPs across northern Uganda has deteriorated to appalling levels, and is arguably already unmanageable.

36. The Eritrean government continues its sad decline. The economic situation is worse than ever before, and an incident in November in which young people were killed following a sweep of suspected draft evaders will bring a human rights spotlight on the regime again. Eritrea's neighbours are following a strategy of sealing the country off, so as to minimise its capacity for destabilisation, while also supporting the armed opposition. President Isseyas Afewerki is responding by trying to make his presence felt by continuing to sponsor insurgents in neighbouring countries.

37. The Central African Republic, hitherto a backwater in terms of Sudanese politics, is emerging as a centre of illicit trade and possible militia organisation.

International

38. The Republican administration continuing in office means no change in the U.S. position on Sudan. This removes any uncertainty about the international consensus on the strategy for addressing Sudan's conflicts. It is now clear that this strategy is to push Naivasha first, in the anticipation that the UNSC meeting in Nairobi will provide greater momentum, and then deal with the political settlement of Darfur by adapting substantive elements from the Naivasha Protocols, especially those on South Kordofan and Blue Nile. In the meantime, the UN and the Troika will support the AU mission in Sudan and its Abuja negotiations.

39. There is a lively debate on what additional pressure could be put on the GoS to ensure that it adheres to its commitments on Darfur. Suggestions include 'smart' sanctions targeted at the personal assets of leading members of the GoS, and a ban on ships that transport Sudanese oil docking at European and American ports (a neat way of avoiding any Chinese veto on oil sanctions per se at the UNSC). Both are unlikely to be enacted (not least because the U.S. government is not going to want to take any action that might send oil prices even higher), but even discussing them serves as a warning to Khartoum, and an indication of seriousness. An arms embargo, which would be a logical step, is likely to be opposed by both China and Russia (in Russia's case, partly because of its profitable arms sales to Khartoum). Proponents of further sanctions are handicapped by the fact that Sudan is already subject to many bilateral U.S. sanctions, and by the lack of evidence for sanctions having any short term impact on the decision-making of the regime. (The direct pressure exerted by Eritrea, Ethiopia and Uganda in 1995-8 was far more instrumental in changing GoS policies during that period than U.S. sanctions.)

40. The public debate on what sanctions might be imposed is mirrored by a much quieter discussion on what incentives might be given for Khartoum to comply with its commitments, and how a roadmap might be constructed that allows it to exit from its predicament and achieve peace. This is more difficult, because of the public relations difficulties of western governments making promises of rewards to a government that is so widely reviled. But this is vital. The currency of threats has been devalued by the fact that the GoS rarely if ever sees them lifted, whatever actions it takes, which only serves to fuel Khartoum's conspiracy theorists who argue that whatever the government does, it will never please the U.S. The international community's most delicate task is to trace a path for Ali Osman to find his way out of his current impasse, without ever seeming to reward him.

Next Steps

41. The Naivasha peace process is still in the balance. It can only be moved ahead through the personal involvement of Vice President Ali Osman Taha and SPLM Chairman Dr. John Garang, and the next steps to be taken by those two men depends critically on the actions taken by the main international players, and in particular the U.S. at the UN Security Council meeting in November.

42. In turn, the first key step is to insist that Naivasha must be concluded as soon as possible. If the principals are directly and personally engaged, then this should be possible within two months. If they are not, there is a serious danger that the committee negotiations will become a de facto renegotiation of all six Protocols. This entails bringing forward the meeting between Ali Osman and John Garang. Rather than delaying their meeting until 11 December, they should meet within a week of the UNSC meeting. The technical committees can then meet in their presence. And as soon as the final agreements are signed, John Garang should become Vice President: there should be no need for a pre-interim period.

43. The Naivasha Accords can then form the basis for the substantive political settlement for Darfur and Eastern Sudan. They can be augmented by mechanisms for social peace and national elections. But there can be no justification for either side to prolong the conflict in Darfur once a framework for a comprehensive peace has been adopted.