

PROSPECTS FOR PEACE IN SUDAN

BRIEFING

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Overview

1. This is a historic moment in the history of Sudan. The Naivasha Final Agreement is due to be signed on Sunday 9 January. The permanent truce and the agreements on the implementation of power- and wealth-sharing and security arrangements were signed on 31 December. Their texts are reproduced on the Justice Africa website. Congratulations are in order to the parties, the mediators and facilitators, and the Sudanese people. It has been a slow and often painful process, continued in the face of much skepticism and some active attempts at destabilization. The next challenges are to ensure that the peace agreement is owned by the Sudanese people, that it is inclusive (especially with regard to Darfur, Kordofan and the East), that implementation remains on track, and that the Sudanese people enjoy a peace dividend.
2. By October, the major international actors concerned with Sudan had re-converged on a strategy that prioritized the Naivasha process, and made more modest demands of the GoS for the stabilization of Darfur. To that end, at U.S. bidding, the UN Security Council held a session in Nairobi, at which it obtained a pledge from the Sudanese President and SPLM Chairman to seek to conclude Naivasha by the end of the year. The main outstanding issues, including salaries for members of the Southern armed forces, the timing of elections and banking, were settled. However, the price of concluding the deal is that significant problems were postponed for the implementation phase. The UNSC also showed less concern for Darfur, probably encouraging the GoS to believe that it could mount military activities with impunity.
3. The peace agreement scheduling calls for a six-month pre-interim period followed by a six-year interim period, ending with the referendum on the right of self-determination in Southern Sudan. The first critical hurdle is the drafting and adoption of the Interim National Constitution, due after ten weeks.
4. Darfur is a disaster and is getting worse. The Darfur peace talks reconvened in Abuja, while the GoS engaged in an astonishing exercise in brinkmanship, in the form of launching a serious military offensive. Partly because of this egregious violation, and partly because of the lack of preparation on all sides for a political settlement, no progress was made, and the talks broke up in acrimony.

5. The biggest immediate challenge for peace in Sudan is incorporating the legitimate grievances of the people of Darfur, Kordofan and the East within a political framework and schedule determined at Naivasha on a North-South basis. The African Union mediators failed to get the Darfur parties to sign a Declaration of Principles. This means that there has been no political progress in Darfur, a shortcoming reflected in the Darfur rebel's rejection of Naivasha. Meanwhile, there is currently no forum at all in which the Beja can present their political demands to the GoS. This is dangerous.

Successful Conclusion of the Naivasha Process

6. The UN Security Council meeting in Nairobi in November was a major success in that it succeeded in bringing the Naivasha process to successful conclusion by January. This is a vindication of the facilitators' approach of persevering with the Naivasha-first approach and maintaining a balance of carrots and sticks. However, there are several areas of concern within the Naivasha Agreement itself.

7. The first set of concerns relates to security arrangements. Three issues remained difficult until the very end. The first of these was the payment of salaries to SPLA/Southern armed forces during the interim period. The final agreement places the responsibility for this on the Government of Southern Sudan and not central government. This means that SPLA forces in the Nuba Mountains and Blue Nile will also be paid from the GoSS budget. The size of the Southern armed forces has yet to be agreed. What has been agreed is that when the Northern forces withdraw from the South after two and a half years, a process of downsizing both forces to peacetime levels will begin. Other areas that required last minute agreement were the locations for relocation/concentration of forces in the Nuba Mountains and Blue Nile and the third is the security presence in the oilfields, whether this should be SPLA, SPLA and SAF, Joint Integrated Units, or police.

8. Concerning political issues, the final outstanding issue was the timing and scope of the elections. The starting positions of both parties were that no elections should be held during the transitional period. However, under pressure from the NDA and civil society organizations, which argued that they should have a stake in the agreement, the SPLA demanded elections before the end of the third year. A compromise was reached in which there will be elections at every level including the Presidency before the end of the fourth year. However, the dates for elections are to be set by the parties based on their assessment of the feasibility of the electoral process. This is a clause that demands careful monitoring.

9. The agreement provides for an immediate process leading to the formulation of a national interim constitution. This consists of a committee of 14 members (seven from each side) to be formed immediately, which will spend eight weeks drafting this constitution, which it then submits to a National Constitutional Review Commission, formed according to the percentages laid down in the power-sharing protocol. This Commission then has two weeks to approve the Constitution. After this, the President and

two Vice-Presidents can take an oath of office and formalize their positions. I.e., John Garang should become First Vice President in ten weeks' time.

10. There are several concerns over this process. One is that the SPLM is not well-prepared. Three years ago, the NDA prepared a draft constitution but this was never discussed or circulated. Sudanese CSOs have been involved in discussing a number of constitutional principles including drafts, and are continuing activity in this field. A second is that the Darfuri rebel groups and the Beja will not be adequately represented, if at all, in this process, and are likely to reject it. Their only mechanism for representation is through the NDA, of which the SLM and Beja Congress are both members. The NDA should make all efforts to include them in the National Constitution Review Commission. Sudanese CSOs should also be brought in. Building on the Kenyan experience of a civil-society led constitutional review process, Southern Sudanese CSOs are extremely active in discussing constitutional issues. Their efforts should be utilized at this point.

11. The constitution-building process can therefore be made to work, if effort is made to make it more inclusive. However, a preferable alternative is the call made by Sudanese democrats since the Popular Uprising of 1985, for an all-inclusive Constitutional Conference. The SPLM should take the lead in calling for this, in order to fulfill its commitments to its partners in the NDA and its promise of including all parties in a comprehensive and democratic peace.

12. An important lacuna in the Naivasha Final Agreement is the question of what is to happen should there be an unconstitutional change of government or a major abrogation of the agreement by the principal parties. The best guarantee of adherence to the agreement would be an additional clause, which authorizes an internationally-sponsored referendum on the right of self-determination in Southern Sudan immediately following any such abrogation.

13. The Agreement provides for an Assessment and Evaluation Commission composed of IGAD, its partners and the UN. After three years, this Commission will report on the implementation of the agreement. However, it is hoped that the AEC will be proactive in identifying possible pitfalls and working to ensure that they are avoided.

14. On the completion of Naivasha, a UN peacekeeping force will be dispatched to Sudan. This will leave the country in the unique position of hosting two separate peace support missions, with different organizations and mandates. Harmonizing the two will be an important task for early 2005.

Darfur: The War Continues

15. Despite all the previous agreements for a ceasefire, and despite the Security Protocol signed in Abuja in November, the war continues. There were continuing militia raids including burning villages, air assaults and overflights, and rebel attacks on militia camps and police stations. There was an intense sequence of high-profile incidents that

immediately preceded the Abuja agreement and the UNSC meeting, and then a second escalation leading to the GoS offensive from Nyala and el Fashir on 13-14 December.

16. On the rebel side, violations appear to arise from several sources. One is that some frontline commanders are acting without authorization from above, raiding police stations to obtain weapons. A second is that the security protocol, by prohibiting hostile military flights, left some militia camps militarily exposed and vulnerable, and commanders were tempted to attack them in order both to consolidate their military position, and to remove a source of harassment and atrocity for the local populace. A third reason is that some within the rebels have no interest in a negotiated settlement.

17. On the GoS side, the violations have been larger and more systematic. The clearest instance is the offensive launched on 13-14 December. The head of the African Mission in Sudan made one of the most outspoken statements ever made by a peacekeeper when he predicted a major offensive, and said the issue was not if such an offensive occurred, but when. Under intense pressure, the offensive was finally called off. But there are indications that the GoS may try again in the near future.

18. Meanwhile, the conditions of life for millions of Darfurians continue to worsen. Humanitarian operations are becoming more dangerous and restricted, and the no-go areas are expanding.

Abuja III

19. The lack of progress on political issues at Abuja in November had encouraged the African Union negotiators to consider postponing the next round of talks, to give the parties the opportunity to consult internally and develop their political positions. One of the persistent problems with the Darfur mediation has been that the crisis has grown so huge so rapidly, that the parties—especially the rebels—have had no time to undertake the necessary political discussions internally. This became clear when a draft Declaration of Principles was discussed on the Abuja sidelines. Although both rebel groups had considered drafts in August, there were many outstanding unresolved issues, including (perplexingly) the relationship between religion and the state. However, the many immediate problems on the ground in Darfur, prompted a push to reconvene as soon as possible.

20. The talks were hampered by the low-level delegation sent by the SLM, which did not have the authority to make any significant decisions. This reflected a view from the SLM that the talks were not going to succeed anyway, because of GoS belligerency. The SLM also accuses the AU of bias, and has demanded that other African countries join the mediation (implying Eritrea) and that the EU and U.S. join as co-chairs. Thus far, there is no sign of the AU or other members of the international community acceding to these requests. The JEM, which until recently was in danger of being labeled the spoiler in the peace process, has engaged at a higher level and more constructively, reflecting the careful calculations of its leadership, that serious engagement is a sound political strategy.

21. But the major obstacle to the talks was the GoS offensive, launched a few days after the opening. It is extraordinary that the GoS should feel able to launch ground and air attacks while it is engaging in peace talks. The weak wording of the UNSC resolution undoubtedly encouraged this. The offensive immediately and unsurprisingly led to a rebel walk out, and finally the collapse of the talks on 21 December. The AU mediators were unable to present their draft Declaration of Principles for discussion, with the result that there are no substantive political agreements at all on Darfur at the time of the Naivasha final signature. The rebels meanwhile have failed to capitalize on the GoS shortcomings, and are indeed weakening their position by threatening to withdraw from the Joint Implementation Mechanism should the GoS not return fully to its pre-offensive positions. Their attitude has been to discredit the GoS, rather than forwarding their own proposed solutions.

22. The African Union Mission in Sudan (AMIS) needs a much more assertive implementation modality. The AU monitors have demonstrated their readiness to be outspoken; now they need the means to turn their legitimacy to good account. They will also need clout in Khartoum, with an envoy ready to confront the highest leadership and challenge them to ensure that the lines of command and control are clear.

23. The Libyan Government has convened two rounds of talks with the Darfur parties including traditional leaders and civil society, one in early December 2004 and one beginning this week. This process has the potential to discuss the wide range of social and economic problems that underpin the conflict and could be a constructive contribution to a settlement. There is a danger, however, that if the Tripoli effort is not closely linked to the AU's Abuja process, that it could end up undermining it, by allowing the GoS to play divide-and-rule. Alternatively, the meeting could end up calling for actions that cannot be implemented. It is therefore important that the AU work closely with the Libyans to ensure that the processes are linked: neither can succeed alone.

24. The Libyans are, overall, playing a constructive role. However, occasional statements and interventions are unhelpful, for example a call for all Darfurian combatants to be withdrawn on an equal basis.

25. The JEM described Naivasha as a 'partial agreement' while the SLM rejected it entirely. Having achieved no political progress themselves, there is a serious danger that the Darfurian rebels will continue to reject anything other than regime change or a complete revision of the peace agreement.

Khartoum

26. The Renewal and Reform wing of the Umma Party has withdrawn from the government, following the sacking of its leader, Mubarak al Fadl. Among other things, this reflects the GoS's inability to command any political consensus for its Darfur strategy, and reveals how deep the divisions in Khartoum go.

27. The Sudan Alliance Forces leader, Brig. Abdel Aziz Khalid, was arrested in the United Arab Emirates and deported to Sudan. His deportation reflects the degree of legitimacy enjoyed by Khartoum across the Arab world, as well as the decay of the movement which he had headed. Brig. Abdel Aziz was then released. He is, however, a sad figure and a spent political force. His political fate serves as a warning to those who rely too heavily on the sponsorship of neighbouring states.

28. There are disturbingly frequent reports of the arrest and detention of Darfurians in central and eastern Sudan, including among others Zaghawa living in the three towns. Should the Darfur war continue to escalate, the million or more Darfurians in these areas will be extremely vulnerable to abuses. Their situation demands monitoring. The GoS is committed to ending the State of Emergency and releasing political prisoners when the National Interim Constitution is adopted. Darfurians must not be forgotten when this occurs.

Eastern Sudan

29. The Beja Congress walked out of the December GoS-NDA meetings, claiming that their interests were not represented. They felt that the NDA leadership was playing a divide-and-rule game with them, and demanded a separate forum in which they could deal directly with the GoS, as with the Darfurians. When this was not accepted, the Beja Congress left the meeting, along with the Rashaida Free Lions. Subsequently the Beja have threatened to withdraw fully from the NDA.

30. The SPLA forces in Eastern Sudan are due to be relocated to the South within the first year of the interim period. However, this does not eliminate the risk of violent conflict in Eastern Sudan.

31. When the NDA was militarily active in Eastern Sudan, substantial numbers of Darfurians were recruited to its military forces based in Eritrea, mostly from Darfurian migrant communities in Eastern Sudan. Many remain. The SLM and Beja Congress have political links and recently the JEM and the Rashaida Lions signed a memorandum of understanding. It appears that the Beja and other opposition groups are looking for a settlement akin to that provided for Southern Kordofan and Blue Nile, but some Beja leaders are also calling for the region to receive a share of all the revenues from Port Sudan. Such demands are not going to disappear.

32. On the GoS side, senior security officers are reportedly learning from what they recognize as a miscalculation in Darfur. Their strategy in the East is not an ethnic-based militia counter-insurgency, but mobilizing PDF forces within each of the major groups in Eastern Sudan as a response to what they see as a threat of insurrection or invasion. Meanwhile, the GoS is taking a dismissive attitude to the political aspirations of the Easterners. Reportedly, the GoS position is that the Beja Congress and others should take their share of the percentage of posts allocated to the Northern opposition parties, or wait until elections are held to claim their share.

33. Any military activity in Eastern Sudan would be a disaster for the Sudanese peace process and for the people who live in the area. It should be avoided. All Sudanese parties should commit in advance to a peaceful settlement of the grievances of the people of Eastern Sudan, including if necessary a separate forum for their discussion and settlement.

34. Meanwhile, the humanitarian situation in Eastern Sudan is grave. The region, always poor, has been stricken by drought.

Kordofan

35. The leader of the Al Shahama rebel group in western Kordofan has died of an illness, but the group remains present. There are also serious rumblings of discontent in northern Kordofan, among people who feel that they are completely marginalized in the current peace agreements. The abolition of Western Kordofan State is particularly unpopular.

The NDA

36. The GoS-NDA meetings in early December broke up without progress. Subsequently, the Chairman, Mohamed Osman al Mirghani visited the U.S., provoking criticism from the GoS. The NDA is now trying to restart the talks in Cairo, but the GoS is showing no serious interest. While the NDA wants to discuss principles, including democracy, the GoS is interested only in dividing up the proportion of posts to be allocated to the Northern opposition parties.

37. Although the NDA's role is secondary, it would be a mistake to refuse to take them seriously. One important role for the NDA is to find solutions for solutions for Eastern Sudan and other neglected areas. Another constructive role is to contribute to the constitution-drafting and review process.

The South

38. In early December, the SPLM Leadership Council held an important conference to address a number of concerns that had been raised within the movement, especially by its second-in-command, Salva Kiir. The conference dealt with the lack of institutionalization of the SPLA/M, which is of concern on the eve of a peace deal. As a result, three committees were set up, to deal with military reorganization (headed by Salva Kiir), governance and institutions (Riek Machar) and political reorganization (James Wani Igga). The committees are due to submit reports to the National Liberation Council in early 2005.

39. The discontent articulated at the meeting reflects the fact that the SPLA, more than ten years after its first and only Congress, still lacks many of the basic political and civil institutions possessed by most liberation fronts. If the SPLA finds it difficult to administer itself and the territory it controls, how will it be able to play the leading role in governing Southern Sudan, while also participating in the central government and filling

the quotas so painstakingly negotiated at Naivasha? Will it have the infrastructure to spend the funds that it will receive from oil revenues and international donors?

40. The SPLM faces the considerable challenge of staffing its quotas in existing institutions and building the new institutions that will be necessary. It is evident that the SPLM itself does not possess sufficient personnel to meet this challenge. Therefore, the SPLM should open up and co-opt Southern Sudanese from all quarters. The Chairman should appeal and extend the hands of cooperation and reconciliation to all Southern Sudanese, in all parties and all parts of the world, and should absorb individuals into the Sudanese civil service according to merit.

The Region

41. South Africa President Thabo Mbeki visited Sudan, and Nigerian President Olusegun Obasanjo is due to visit. This level of regional interest is encouraging. However, it is important that it does not turn into a competition for leadership of regional peace and security initiatives by the continent's two most powerful states.

42. The African Union is holding an extraordinary summit in Abuja on 30-31 January. One of the items on the agenda will be whether the Annual Assembly of Heads of State will convene as planned in Khartoum in July. Given the positions of Nigeria and South Africa, and the Naivasha Agreement, it now seems very likely that this Summit will proceed. African civil society organizations have been discussing how to handle this challenge, and the consensus is that they should support the Summit and try to organize the maximum attendance, and to ensure full and frank discussion of the situation in Sudan.

43. The Ethiopian Prime Minister, Meles Zenawi, surprised many by accepting the decision of the Ethiopia-Eritrea boundary commission to award the small but symbolic town of Badme to Eritrea. Meles's calculation is that he can weather the inevitable domestic political storm, and that the international benefits in terms of increased assistance and recognition will be worth the price. His Eritrean counterpart has rejected this move as a deception, thereby saving Meles the domestic embarrassment of being welcomed by his adversary.

44. There were high hopes for a negotiated end to the long-running conflict in Northern Uganda, with peace talks between the Government of Uganda and the LRA. However, the sincerity of President Museveni's commitment to these talks was in doubt. He gave an abrupt deadline for success in the talks, and appears never to have given up his hope for a military solution. Although the time period in which Ugandan soldiers are permitted to enter Sudan has expired, Museveni is probably counting on his close relationship with John Garang enabling him to continue or escalate offensive military actions against the LRA in the coming months. Before the peace talks began, the Ugandan army was making significant military progress and had come close to capturing the LRA leadership. This may now be in prospect. But the solution to Northern Uganda's crisis must lie in a political settlement.

International

45. Will the transition to the second Bush administration lead to a new U.S. policy on Sudan? The main factor—which is that President Bush himself decided several years ago to pursue peace—remains unchanged. The new Secretary of State, Condoleezza Rice, will reflect the President’s view, and is unlikely to chart a dramatically new course. Her analysis does not differ from that of Colin Powell. With Donald Rumsfeld remaining at the Department of Defense, the low priority accorded to Sudan by the U.S. military will not change (the Pentagon could find just two aircraft to assist AMIS, with other U.S. logistical activities subcontracted to private contractors).

46. But the GoS would be unwise to bank on policy constancy. Congress has passed the Sudan Comprehensive Peace Act, again signaling its impatience with the protracted peace process and the Darfur violations. President Bush is authorized to impose sanctions, should he so decide. The UN inquiry into Darfur is due to report in late January, and its report (irrespective of its findings) will provide the crux for a new round of activism by the anti-Khartoum lobbies. Above all, if the Naivasha process does not reach a successful conclusion by the end of January, the Administration will face intense political pressure during February to take a unilateral stand against Khartoum.

47. In the short term, with senior appointments awaiting confirmation and posts unfilled, the ongoing insurgency in Iraq, Congress in recess, and the Naivasha strategy showing success, the U.S. policy will certainly remain unchanged.

Conclusion

48. The GoS and SPLM have achieved what may be believed was impossible, namely a negotiated peace. This must count as one of the most difficult and complex peace agreements ever signed. The challenges of implementation over the coming six and a half years will be just as great as the task of reaching the point of signature. The Sudanese people are greeting the agreement with just the right balance of jubilation and wariness: it is a historic step forward, but not the end of the road.