

Prospects for Peace in Sudan

Briefing: October 2009

Overview

1. The central challenge facing Sudan is the exercise of self-determination in southern Sudan. The default scenario is violent contest over the partition leading to major disaster. Key decisions on how to manage the exercise in self-determination must be made soon.
2. The NCP has neither the time nor resources to settle the problem on its own terms (which would entail a “buy in” solution) and has neither the capacity nor the will to make the concessions necessary to achieve a credible consensus with its adversaries. The SPLM faces major challenges of unity and capacity if it is to be able to handle self-determination successfully. The Darfurians have limited incentives to come to an agreement with a government which they distrust and suspect is heading for a major crisis. However there are signs of progress on Darfur.
3. Recent international policy has failed to address the strategic challenge, focusing on UNAMID deployment and CPA implementation. Both are tactical responses, important insofar as they can pave the way for a strategic initiative aimed at political engagement with the heart of the problem. There are encouraging signs that Thabo Mbeki and Scott Gration can grapple with the main issues.
4. The customary Sudanese manner of dealing with insoluble issues is delay, in the hope that the contradictions will resolve themselves in due course. The southern leadership has ruled out delay to the referendum.
5. Tackling the key issues requires a strategy, driven by politics, with clear priorities. Should effort focus on the centre of gravity of the Sudanese problem (self-determination), turning to the resolution of secondary issues (Darfur, southern governance) thereafter? Or should the secondary issues be tackled first, thereby clarifying the central question of unity or separation? Or should there be a redoubled effort to crack all the issues at once? Whatever decision is taken, it should be guided by the realities that (a) international engagement can only influence Sudanese outcomes at the margin, (b) Sudanese political processes are severely constrained, and (c) existing strategies are insufficient.
6. The possibility of a worst-case outcome remains probable. Anticipatory crisis management is required.
7. The high level of international noise, with little coherence, is not helpful. The ‘Save Darfur’ campaign to remove Gen. Gration is stupid and damaging.

The Challenge of 2011

8. The central challenge facing Sudan is the exercise of self-determination in southern Sudan. The timing and options are detailed in the CPA. If it goes ahead the outcome of the vote is not in doubt: Sudan will be partitioned. Success demands that the exercise is legitimate, consensual and orderly. The political conditions are not propitious for fulfilling these requirements.

9. State partition is a difficult option in the best of times, and Sudan is far from the best of times. A formidable amount of political business needs to be transacted in the limited time available. More than three quarters of the way from the CPA signature to the referendum, less than half of the political business is complete. Huge issues lie ahead which are intrinsically complex and can distract from the core question. These issues include economic crisis, elections and the formation of a new government, the three areas, the ICC, humanitarian access in Darfur. The informal political business is equally important. This centres upon a compact among the elites of north and south to identify their core common interests and work to sustain them. Those interests include common financial concerns (participation in the same patronage networks).

10. At current rates of political bargaining success on both formal political process and elite compact cannot be achieved. However it is possible that the imminence of catastrophe will concentrate political minds and accelerate political bargaining such that a new dispensation can be achieved at the requisite moment. One of the key functions of the 2010 elections could be to provide a moment at which concentrated political bargaining can be undertaken.

11. Currently “CPA implementation” is the preferred banner for the SPLM/GoSS and internationals. This gives the impression that they believe that implementation of the CPA will resolve Sudan’s problems. For many secondary CPA provisions, such as security arrangements, fiscal arrangements, border demarcation, etc., this is a fair approach. But in reality, *implementation of the core CPA provision—self-determination—is the problem*. The referendum on self-determination is an alien process in the Sudanese political tradition: it is a deadline bound non-negotiable all-or-nothing exercise in popular sovereignty. By contrast, Sudanese politics is characterized by delay, recursive negotiation, indeterminacy and elite bargaining. But until there is an alternative to the referendum, it is in the parties’ interests to focus on the manageable secondary issues and avoid the unmanageable central one.

12. The default scenario is violent contest over the partition of the country, with conflict within the south, in the transitional areas (especially the Nuba Mountains) and in any other part of the country which is not at peace (e.g. Darfur, should agreement not be reached). The outcome in the south could be a new state which can only sustain itself with indefinite political and financial commitment from its neighbours and the international community. In the north it could be the political annihilation of SPLM constituencies and an embittered part-nation unable to reconcile or move towards democracy. The risks of a regionalized armed conflict should also not be overlooked.

13. There are three major policy directions: (a) delay, (b) increased effort to address the issues (in whatever sequence or prioritization) and (c) preparing for the worst.

The Challenges of 2009-10

14. The NCP's preferred option is a "buy in" solution in which the material interests of provincial elites, including the SPLM, become identified with the status quo. Achieving this demands time and resources to cut the necessary bargains. During the recent economic boom years, the NCP and security chiefs had the capacity to purchase loyalty across the whole spectrum of provincial elites. However, it had not proceeded far with this policy. With the fiscal crunch, the level of provincial violence has risen as some provincial elites (and their armed followers) consider themselves underpaid. In response NCP has reverted to an ad hoc policy of concentrating resources on problem areas in fire brigade style. At best this will contain some of the upsurges in violence: the option of an inclusive political compact that encompasses all the elites is now more remote.

15. During the boom years, the SPLM/GoSS dispensed immense amounts of patronage within the south. However, the SPLM/GoSS was less careful in its finances than the NCP, making its governance of southern Sudan more fragile. Approximately three quarters of the \$8 bn in GoSS finance over the last four years remains to be accounted for. The SPLM/GoSS has now run very short of money: its budget for the first quarter of 2009 was about one quarter of the previous year's first quarter (there has been some rebound since). The immediate outcomes have been an upsurge in rural violence by armed units which are no longer paid and the deepening of internal fissures within the SPLM/GoSS.

16. The fiscal crunch has weakened the SPLM/GoSS more than it has weakened the NCP. But the NCP's preferred buy-in solution is not in immediate prospect. The SPLM/GoSS strategy had the effect of inflating the price of loyalty demanded by southern provincial elites to an unsustainable level: the resources needed to contain the current governance crisis in the south exceed those available. Northern constituents also have first claim on NCP patrimony. The NCP prefers to run southern Sudan on the cheap. The likely outcome is that both NCP and SPLM/GoSS will selectively rent the allegiance of specific armed groups, each playing divide-and-rule.

17. Some NCP leaders recognize that the party needs to make major political concessions in order to achieve credible substantive agreements with its adversaries across the country. However, they face major problems. Many in the NCP leadership are deeply sceptical about making any concessions, anticipating that the government's enemies (domestic and international) will simply take advantage and not reciprocate. Others are focused on the material benefits of the status quo and internal factional competition. Equally importantly, both civil and military institutions have become dysfunctional so that a command issued from the top needs to be negotiated at every stage of the hierarchy. Vast effort is needed to implement a policy and there is a hefty discount rate

on every instruction issued. Most NCP operatives quickly revert to purchasing patch-up solutions rather than trying to reform the institutions.

18. The SPLM is too weak and divided to be able to handle self-determination in an orderly manner. In the south, the SPLM has a large but ill-organized constituency. In the north, it has several ethnic constituencies (notably the Nuba and Blue Nile) and has a party structure that, albeit small, is better organized than in the south. The northern sector of SPLM knows that southern separatism spells political oblivion. The northern sector possesses a political veto over SPLM decision-making. The southern sector of SPLM knows that the longer it fails to come out in support of separation, the more popular support will leach towards openly separatist parties which will challenge it in important constituencies. Meanwhile the GoSS mis-handling of administration and finances has made a new state in Juba less attractive. These internal problems reflect the historical development of the SPLM as an army rather than a political movement, and its manifesto commitment to a united, secular Sudan with self-determination as only a fall-back option. The implication is that the SPLM cannot navigate the issue of self-determination: faced with making a decision on supporting unity or separation it runs a serious risk that it will split or implode.

19. In Darfur, the SLM has failed to make the transition from an armed uprising to a political movement. It depends upon the political platform and resources derived from international attention and lacks the political infrastructure to unite and move towards an agreement. If the SLM leaders do join a peace process they may find that the “negotiation rents” they obtain through the fact of participating in a process are more rewarding than the anticipated gains of a successful completion of that process. Meanwhile Darfur has been isolated in Sudan’s national political processes and the SLM is unprepared for participation in elections or national debates. Finally, its leaders have no incentive to come to an agreement with a Government of National Unity that they believe cannot survive.

20. JEM has different faces. As well as being the only organized armed movement in Darfur, it is the vanguard for a Zaghawa elite that has political (security and commercial) interests in Chad, CAR and Libya as well as Sudan. JEM has gambled that it can seize a stake in state power commensurate with its ambitions. The Chad, CAR and Darfur crises can only be resolved when the political interests of the Zaghawa elite are settled, and that requires a compact between the Zaghawa elite and the NCP and its associated riverain commercial elite.

The Option of Delay

21. The customary Sudanese manner of dealing with complicated issues is delay, in the hope that the contradictions will resolve themselves over the course of time. Today, the items on the formal and informal Sudanese political agenda are too many and too complex to be resolved given the existing capacity of the political system to process issues. July 2009 marks the three-quarter point between the CPA (January 2005) and the scheduled date of the referendum (January 2011). Less than half of the necessary political

business has been done, both in terms of reaching formal benchmarks and in terms of informal political bargains. The political system is not speeding up.

22. Delay in the referendum is not an easy option given the international investment in the CPA timetable and the fact that the legitimacy of the SPLM GoSS among southerners depends on delivering on self-determination. Delay would be credible only if proposed by the SPLM/GoSS in the context of credible efforts to resolve the outstanding issues. The SPLM/GoSS will pay a high price for proposing delay and will need to be compensated.

23. It might be possible to engineer a rapid acceleration of the political process, using an intensive bargaining process among the principals in the context of the elections, currently scheduled for April 2010. This would depend upon the readiness of the NCP and SPLM to reach agreements on the key issues under time pressure. It would require a small and closed forum and a skilled, well-briefed and energetic mediator with the full backing of Africa and the U.S. Even under optimal circumstances this would be a gamble, but the option warrants careful exploration.

Darfur

24. Since the violence and humanitarian emergency have subsided, the issue in Darfur has become the search for a political solution. This has been complicated by the blockages caused by the failures of past efforts at political resolution, the continuing proxy war between Sudan and Chad, the international preoccupation with the logistical issues of UNAMID deployment, and the lack of an overall political strategy by the Joint Chief Mediator.

25. For the great majority of Darfur, the war is over. The removal of the SLA-Minawi from south Darfur in February and the concomitant GoS efforts to resolve the intra-Arab conflicts have created a de facto stabilization of most areas. The challenges are lawlessness, local disputes, creating the conditions for the return of those IDPs who wish to do so, and addressing the political challenges of enabling Darfur to be re-inserted into the national political scene. The Darfur conflict is increasingly played out among different lobby groups outside Sudan, some of which absurdly insist that there is an “ongoing genocide.” Unfortunately, the UN Security Council remains sensitive to such external pressures, with the consequence (among others) that it overemphasizes the mechanical aspects of UNAMID deployment and the demand for public posturing, and underestimates the opportunities for political progress towards a resolution of the different layers of conflict.

26. The ICC issue has proved more of a liability for the supporters of the ICC than for the GoS. The Rome Statute parties at the UNSC did not use their leverage to extract any concessions and chart a route ahead during the eight months when the ICC arrest warrant against President al Bashir was pending, leaving them weakened subsequently. The AU decision to reject enforcement of the arrest warrant is merely the recognition of a de facto situation.

27. The Joint Chief Mediator has spent a valuable year without making any tangible progress. The strategy of seeking a ceasefire between the GoS and JEM as the key to a settlement was (to put it charitably) an experiment and a gamble. It did not work. There are signs that the JCM is revising his approach, following in the wake of the AU Panel, but this will only work if the JCM shows the competence and vigour that the Panel has shown, and these qualities have not been evident in the mediation effort over the last year.

28. The bright spot is the work of the AU High-Level Panel on Darfur headed by President Thabo Mbeki, which has shown a level of commitment and analysis superior to all other efforts in the recent past. It has revealed an encouraging level of political maturity and process among the Darfurian stakeholders, and a readiness by most of them to move rapidly towards a political settlement. Complications remain, among them the intransigence of some rebel leaders who continue to believe that 'Save Darfur' will deliver the removal of the GoS.

Prioritization and Sequencing

29. The sequencing of tackling Sudan's political problems poses a dilemma. Should effort focus on the centre of gravity of the Sudanese problem (self-determination), and then turn to the resolution of secondary issues (Darfur, southern governance)? The principal difficulty with this approach is that at present there is no strong leadership on among either party prepared to make the strategic choices necessary to resolve the issue. The framing of the question as "implementing the CPA," as though the completion of the agreement would represent a solution to Sudan's national crisis, runs the risk of allowing all parties to avoid dealing with the fundamental issue. It would take either a concerted international effort to allow the parties to revisit the CPA, or a political crisis. A single-minded focus on this issue runs the risk that, in the time it takes to move towards a resolution, other crises will derail the effort.

30. An alternative is to tackle the secondary issues first, beginning with Darfur, thereby clearing the way to grapple with the central question. The danger of this is that the Darfur issue is sufficiently complicated, and the stakeholders (domestic and international) sufficiently disorganized or contradictory, that no outcome will be delivered in the time available. Should the Darfur issue remains unresolved when the major national questions (elections, self-determination) rear their heads, both sets of issues could become intractable.

31. Numerous tactical issues arise in seeking to resolve the Darfur crisis rapidly, including the role of Chad (and hence France), the stalled Doha process, the inadequacies of the armed movements, the need for Darfur Arab representation, etc. The movements, especially JEM, do not have any interests in a resolution before it is clear how the national issues will be settled. A key question will be deadlines. Contrary to the desultory experience of the last three years, the AU Panel on Darfur has shown that there are possibilities of real and rapid progress, based on energetic and inclusive consultation. The time is ripe for a fresh approach to Darfur.

Elections

32. The 2010 elections are fraught with difficulties. The elections are exceedingly complex and even with the considerable delay to the timetable they will be very hard to organize. There are major pieces of legislation which have been delayed because of the slow pace of conduct of parliamentary business and the paranoia of the NCP/security leaders, especially in the wake of the ICC arrest warrant against President Omar al Bashir. Insecurity affects a number of constituencies especially in Darfur. The census remains disputed. Nonetheless there is sufficient consensus among the political parties that the elections are likely to proceed.

33. The wisdom of the 'mid-term' elections was debated during the CPA negotiations. The international partners advocated the elections, over initial resistance by both NCP and SPLM. The rationale against is that (a) they are a burdensome and complicating factor, and (b) a new elected GoNU will require a great deal of political negotiation and if the signatories to the CPA are not in a dominant position then the remaining provisions of the CPA are in question. In addition, given that the elections can no longer be considered 'mid-term' but are coming close to the end of the interim period, the wisdom of electing a new GoNU just a few months before that government is dissolved by the south voting for secession, is questionable. Lastly, elections are expensive and donors may consider them a financial extravagance given that the referendum will follow within a year. (Elections are of course much cheaper than either war or peacekeeping).

34. The rationale in favour is that the government that presides over the exercise in self-determination must be a legitimate (i.e. elected) government that includes the major political stakeholders that were not part of the CPA. The major challenge to the legitimacy of the CPA negotiations at the time was the exclusion of the northern Sudanese political opposition, principally the NDA parties but also the Darfurians, and also to a lesser extent the southern parties other than the SPLM. The experience of the 1970s was that the exclusion of these parties from the Addis Ababa agreement meant that when they later joined the government, the gains of the Addis Ababa peace were reversed. The aim was therefore to achieve the democratization of Sudan and the legitimation of the CPA, through inclusivity, during the interim period itself.

35. The question of whether Darfur can be included in the elections has since arisen. There are arguments on both sides. One particularly persuasive argument repeatedly expressed in Darfur is that if the elections are held and Darfur is not included, then this will be a strong signal to Darfurians that they are not full citizens of Sudan. In the same way that the incomplete elections of 1965, 1968 and 1986 (in which the south was underrepresented due to some constituencies being war zones) contributed to the discrediting of the elected governments and the growth of separatist sentiment in the south, the selective exclusion of Darfur would be an invitation to Darfurians to demand self-determination or secession.

36. The NCP candidate will be President Bashir, and the NCP will ensure that he does not lose. Any possibility of him standing down was shut off by the ICC Prosecutor. Pres. Bashir has further consolidated his position by removing the head of the National Intelligence and Security Service, Gen. Salah Abdalla Gosh. Reasons for this include the fear that he was running a “state within a state” and potentially becoming part of a move to replace Bashir. His removal was also an element in a deal with the Chadian government which has seen the Chadian opposition removed from the border area, as a quid pro quo for Libya and Chad scaling back on support for JEM.

Preparing for the Worst

37. Without an exceptional and fresh effort over the coming months, the most probable outcome of the next eighteen months is a contested and disorderly partition of Sudan, while the Darfur conflict remains unresolved and new armed conflict occurs in south Kordofan. Vocal opinion in north America and Europe will demand policies that take the moral high ground and punish Khartoum while responding to humanitarian needs. The UN Security Council will be more responsive to this chorus than to the realities on the ground. The AU PSC response will be based on a sound political analysis but will be too late.

38. A restored relationship of mutual confidence between Khartoum and Washington DC is essential if there is to be any progress. A bilateral agreement between Sudan and the U.S. is the prerequisite for any workable agreements on domestic issues including revisiting the CPA and peace in Darfur.

39. International advocacy on Sudan has had several unfortunate side effects. One is that some leaders in the SPLM and Darfur believe that the U.S. is capable, and ought to be ready, to guarantee solutions to their problems, including providing the necessary guarantees for an independent south Sudan. A second is that these parties prefer to negotiate with Khartoum through the intermediary of Washington DC rather than directly, an approach that cannot lead to sustainable outcomes. One of the challenges for U.S. policy is to downgrade the expectations of Sudanese domestic actors and to serve as a facilitator of a domestically-driven negotiation process instead of negotiating simultaneously U.S. bilateral interests and serving as a proxy for weak national opposition parties. A third is that U.S. policy is pushed towards taking on too many secondary issues and trying to micromanage. A fourth side effect is that the campaign against Gen. Gration feeds the paranoia of the hardliners in Khartoum that there is a regime change agenda in Washington DC. Lastly, the campaign generates uncertainty about any existing U.S. policy position and invites a strategy of second-guessing and delay among the Sudanese actors.

40. Britain, France and the UN have become less significant due to their failure to surmount the policy challenge posed by the ICC. France has also found itself entrapped by a dead end policy on Chad. China and Russia have limited influence.

41. The African Union has positioned itself as the principal multilateral intermediary with the Sudan Government. Its weaknesses are well known. Its strength is its capacity to analyze and function politically and to grasp the overall problem of Sudan, correctly identifying the priorities and risks. Africa knows it will pay a high price for errors made in international policy towards Sudan. This places the AU as the essential partner in facilitating international engagement.

Implications

42. With every passing day, the referendum on self-determination comes closer—not only does the deadline approach but the opportunities for delay or for seeking an alternative resolution to the issue of north and south Sudan become more remote. The process of coming to any decision on the resolution of the self-determination issue is nearly as important as the decision itself: it must be a Sudanese-led process.

43. Under the present circumstances of the countdown to a referendum with a predetermined outcome, then workable mechanisms of state partition must be engineered without delay. At present, “CPA implementation” is locking the Sudanese political process into an elaborate and cumbersome set of mechanisms which, while providing agreed mechanisms to address important problems, is not sufficiently speedy or effective to resolve the basic issue. At some point in the near future, an elite compact must be hammered out to ensure that the process of partition meets minimum requirements of legitimacy, consent and orderliness. Neighbouring countries will need to be involved. Huge effort will also need to be invested in governance structures in southern Sudan.

44. In this context, fresh and energetic approaches will be needed to tackle the Darfur crisis. To date, no serious thought has been given to the implications of trying to resolve the Darfur conflict in the shadow of partition. Implicitly, the decision has already been taken to try to resolve Darfur in time for Darfurians to participate in the 2010 elections and the subsequent key moments in Sudan’s national life. The only option for achieving this is the initiative of the AU Panel on Darfur headed by President Thabo Mbeki, supported by the US and UN. In this context, a mechanism must be found for managing the transition from the existing joint mediation effort to an exercise that possesses the credibility and capacity to deliver a result in the short time available.

45. Immediate focus on resolving the Darfur crisis should not be the occasion or pretext for failing to grapple with the complexities and obstacles of the north-south issue, and especially the limitations of the existing CPA-focused approach. While revising the main provisions of the CPA is not an option, policies must proceed with the recognition that CPA implementation does not represent a solution to the Sudan crisis. For example, UNMIS cannot expect to withdraw from Sudan, “mission accomplished,” on 9 July 2011.