

Prospects for Peace in Sudan

Briefing: April 2009

Overview

1. For eight years, the centre of gravity of the consensus on Sudan's political future has been a negotiated transition to political pluralism, self-determination for southern Sudan, and normalization of international partnerships. Even while Sudan's crisis continued, there was a consensus among the political elites in Khartoum and Juba and the international community that the country was heading in this direction. That consensus and expectation no longer exists. The end to the Sudanese crisis is no longer in sight. The major feature of Sudanese politics today is uncertainty with very high stakes for the NCP-security leadership.
2. The ICC issue today overwhelms all other issues. We can see the beginnings of the repercussions of the arrest warrant in the re-mobilization of the militant Islamist base of the regime, which has been largely dormant for the last ten years. It has both domestic and international ramifications. This is extremely worrying.
3. The biggest challenge facing Sudan remains the successful completion of the CPA. This overshadows all others, but cannot be given its due attention. More than two thirds of the CPA Interim Period has passed. About one third of the necessary political business has been done, and the speed of political action has not speeded up. The ICC issue today occupies all available political energy. By maintaining its existing partnership with the NCP, the SPLM has positioned itself well to protect its gains under the CPA and to extract more concessions. However, this position has a short shelf-life with the approach of 2011.
4. The expulsion of the NGOs from Darfur threatens a slow-onset humanitarian crisis, its political ramifications accelerated by media and advocacy attention. The Save Darfur campaign's failure to take seriously the GoS warnings of reprisals has damaged its credibility but the GoS clampdown makes it imperative to mount a coherent response. Fortunately the Darfur war is at a low ebb: it continues as a low-intensity conflict with both government and rebels responsible for military operations and fatalities, and continuing lawlessness continuing to claim slightly more than half of the 150 or so fatalities registered each month. The Darfur peace talks will not make progress.
5. International leverage on Sudan has rarely been less. The GoS regards the current confrontation as potentially a fight to the finish. It has international and regional allies. The African Union is positioning itself to offer overall political solutions but is unlikely to be given the opportunity, either by the UNSC or by the GoS. Future international efforts should focus on Sudanese solutions to the crisis.

End of the Consensual Transition

6. Since the 2001 U.S. Sudan policy review, the Sudanese political elites and the leaders of the international community have concurred that Sudan's political future should be a negotiated transition to political pluralism, self-determination for southern Sudan, and normalization of international partnerships. Even in the depths of the Darfur crisis, this consensus remained the centre of gravity of the country's politics. The ICC arrest warrant against Pres. Bashir has destroyed the consensus on the negotiated transition. The depths of humiliation and insult conveyed by the warrant cannot be overstated. For the GoS leadership in general and Pres. Bashir in particular, dignity is profoundly important. More widely, the arrest warrant has introduced an element of uncertainty into Sudanese politics, causing every political player to consider alternative scenarios and fall-back options. More significantly, it has killed the expectation that there is an end in sight to the crisis.

7. The GoS regards the arrest warrant as tantamount to an act of war. It is a demand for regime change subject to no negotiation and with no expiry. Despite speculation from some activist quarters, the ruling clique closed ranks and adopted a common approach to the crisis. Security officers are trained to analyze all the threats they face, assume they are linked and coordinated, and take no chances. At times such as this, they make policy. Their approach identifies the ultimate goal of their adversaries as regime change, and every discordant note in the policies or actions of the P3 and their NGO clients as merely a ruse to deceive. In these circumstances, we cannot expect the GoS to yield concessions that would, in its view, weaken its position vis-à-vis its western adversaries, without gaining a significant concession in return.

8. The GoS-security analysis is that the P3 have *already* declared war. The actions in response such as expelling international NGOs are only the beginning. The GoS expects an escalation from the P3 such as additional sanctions or a no-fly zone. This does not mean it will stop talking or bargaining, merely that the terms of the bargaining process have changed. There is no doubt that the GoS would prefer a de-escalation of the crisis, but the areas that are non-negotiable have dramatically expanded.

9. The most likely outcome of the current impasse can be labeled "managing the unmanageable." If the current leadership hangs together and refuses to yield (as is most likely), the international community will be compelled to find a means of doing business with the GoS, while pretending otherwise. One precedent is the way in which the IMF established "shadow programmes" of cooperation with Sudan after it expelled Sudan for non-payment of debts in 1986, formally debarring any dealings. Another is the international treatment of Hamas following its electoral success in Gaza. The internationals should bear in mind that the Sudanese political and diplomatic leadership is more adept at playing its poor hand in these circumstances than the international community is skilled at playing its theoretically stronger hand. We can expect the GoS to turn the tables, for example by insisting that diplomatic representatives present their credentials to their host, the President of the Republic.

10. The analytical and policy failures that contributed to this impasse will need to be studied at some point soon. In line with historical analyses of how leaders persist with policies that have demonstrably failed, the “groupthink” among the activists that assumed they could continue to condemn and punish the GoS without untoward consequence, and the resolute denial to acknowledge progress when it occurred, will surely be blamed for the willful naivete with which the internationals blundered into the current situation.

The Islamist Remobilization

11. The pattern of the GoS response to the ICC arrest warrant can now be traced clearly. When first alerted to the imminent Public Application in June, the NCP leadership was angry and in disarray. But by the time the Application was announced, it had adopted a policy of remaining cool and seeking to head off the charge by seeking an Article 16 deferral. By September, when VP Ali Osman Taha led the Sudanese delegation to the UN General Assembly, it became evident that this would not succeed. Meanwhile, the strategy of building a broad base of support across all parties (including SPLM and Umma) on the basis of an appeal to nationalism, was also not succeeding. By October, the NCP-security leadership position had hardened into one of no compromise and mobilizing its core political base.

12. The NCP’s core political base remains the Islamist movement. It mobilized this base at the time of the 1989 coup and thereafter for the jihad. By the late 1990s, when the movement split, it slowly demobilized, to the extent that the Islamist movement had withdrawn to the shadows by the mid-1990s. (Islamist mobilization played no significant role in the Darfur counterinsurgency.) At the end of last year, the NCP began remobilizing the Islamist constituency, while also appealing to the nationalism of the wider Sudanese public. Lacking confidence that the wider public will support the NCP, it has proceeded cautiously with nationalist mobilization. For example it has not held mass rallies, fearful that these could get out of control, with unpredictable consequences. Rather it has focused on its old power base. In doing so it has extended its hands to its old allies in the Middle East including Iran, Hamas, Hezbollah and the Muslim Brothers including the Emir of Qatar. Based on assurances from these groups, the NCP was sufficiently confident of its support among the Islamists to release Hassan al Turabi from detention, knowing that he would continue to support the ICC, but knowing too that he would not be able to galvanize his constituency. Leading PCP members and backers are falling in behind the NCP position. Even al Qaida, which a few years ago denounced the NCP as an enemy, has declared that Sudan now represents its new front.

13. The threats issued by the GoS that it is ready to unleash the Islamist radicals but that it cannot then control them should not be disregarded. While ultimate responsibility for any remobilized militant constituency will lie with the security and party leadership, should the jihadists again congregate in Khartoum, that will not be helpful in the search for solutions. Some neighbouring countries are alarmed by the Islamist remobilization but in the short term are more concerned by the adventurism of P3 policy.

14. Speculation about a palace coup among some of the commentariat has been without foundation and also rather irresponsible. The likelihood of a pro-U.S. coup by the head of security was not increased by the fact that the Enough campaign declared it the best option, because of his record of cooperation with the CIA. The likely consequences of a coup include a period of instability marked by intensified repression and probably a crisis in the CPA. The putchists would not want to see Pres. Bashir in The Hague (as he would point the finger at his successors), so he would be either killed or placed in safe exile. No purpose of justice would be achieved. Sudan would be worse off.

15. The crackdown on domestic civil society is severe. At least three organizations have been closed down and all are watched. The relative liberties enjoyed during the last four years are receding rapidly. Not since the terror days of the early 1990s has Sudanese civil society been so fearful.

The CPA

16. The most positive sign thus far is the position taken by the SPLM leadership. After some dithering, the SPLM decided that it would continue its coalition with the NCP in the GoNU. FVP Salva Kiir spurned hints that he should consider dabbling in the internal affairs of the NCP, reading this (correctly) as a counter-invitation to the NCP to play divide-and-rule within the SPLM, and distrusting (again correctly) the signal that VP Ali Osman Taha might be sufficiently dissatisfied with Pres. Bashir that he would gamble on making a decisive move. The SPLM has at the same time rebuffed some of its members who wanted to toe the NCP line completely. Salva Kiir's position has managed both to gain sufficient political credit in Khartoum that he will be able to gain some concessions on CPA implementation, and to maintain his power base intact.

17. Thus far there is no indication that the NCP and SPLM have dimmed in their commitment to holding the mid-term elections, technical issues notwithstanding. Pres. Bashir's interests in holding a quick election have increased, as he still fears that if he is in office without an electoral mandate on 9 July, his constitutional position could be challenged. A snap election cannot be ruled out. Such an election would, of course, reduce the electoral process to a tightly-managed plebiscite on the President, rather than a step towards Sudan's democratic transformation.

18. The fact that the fundamentals of the CPA remain in place is cause for optimism. However, this does not alter the fundamental challenge of navigating the exercise in the right of self-determination in southern Sudan. This is getting more difficult with every passing month, as the political process remains focused on the ICC issue to the neglect of the key domestic challenges. The Interim Period is more than two thirds complete with perhaps two thirds of the political business yet to be done, and the pace of political business is slowing down and in some cases entirely stalled. (For example, reform of the security laws is now improbable.)

19. The internal decay within southern Sudan is a major cause for concern. The number of violent incidents increases month-by-month and the capacity and credibility of the

GoSS in Juba is not increasing. Although the NCP and security have a hand in some of the incidents the major causes are internal to south Sudan. The GoSS security policy of using state resources to purchase the loyalty of very large numbers of militia across south Sudan and beyond is unsustainable.

The Humanitarian Access Crisis in Darfur

20. The humanitarian situation in January and February this year was unremarkable. According to humanitarian sources the only health crisis was a meningitis outbreak which had 46 cases and four deaths. Malnutrition and mortality rates were within the normal range.

21. The expulsion of the international NGOs on 4 March was to be expected. The GoS had made its intentions clear. Nonetheless there were no contingency plans. The failure to foresee this response is a salutary lesson in how it is possible to miss the blindingly obvious, presumably because of a “groupthink” mentality among the U.S.-European commentariat. The GoS plan to remove all INGOs within a year should be taken seriously.

22. The stated reason for the GoS expulsion of the international humanitarian agencies was their collaboration with the ICC. While both the ICC and the INGOs have denied any collaboration in gathering evidence, neither is keen to draw attention to a number of instances, some of them dating back to the beginnings of the ICC investigation in 2005 and some more recent, in which such collaboration has in fact occurred. The GoS has some cards in its hand which it has not yet played.

23. The international donor response to the NGO expulsion has been muted for another reason, which is that in comparison to most other humanitarian crises, Darfur has been well-served. Combined with the impasse in peace talks, this has created a situation in which the donors face a real prospect of mounting a major humanitarian effort without an exit strategy. Albeit in extremely fraught and difficult conditions, the expulsion provides an opportunity for revisiting what had become an intractable situation. Part of a long-term solution might entail redefining some of the camps as urban residential neighbourhoods and extending urban services to the residents, including perhaps giving them leasehold rights to their residential plots. The IDP leadership is highly politicized and will reject any such responses, as indicated by the “hunger strike” of the Kalma IDPs.

24. A major humanitarian crisis will take some time to unfold. The expelled NGOs were an important part of the relief delivery system in Darfur, but the wholesale delivery to Darfur (by WFP) and the local distribution (by relief committees) remain in place. The major loss will be in the health sector where expertise and assets have been lost which cannot readily be replaced. The shutdown of clinics is leading to a creeping health crisis and stories of children dying for want of basic health care. These individual tragedies will gradually mount into a generalized deterioration in health. Urgent action is needed for both humanitarian and medical reasons.

Patterns of Violence in Darfur

25. The low-intensity conflict pattern of violence continues essentially unchanged over the last three months. This consists in several distinct kinds of violence, which together amount to an average of about 150 fatalities per month. The patterns of violence include the following:

26. Fighting between government and rebels. The major armed encounter has been in Muhajiriya from mid-January to early February. Approximately 30 fatalities were reported (both combatants and civilians), due to the fighting when JEM first took the town, counterattacks by the SLA-Minawi, aerial bombardment, and then skirmishing when SAF entered the town following the JEM withdrawal.

27. Fighting among government forces. This has been at a low level recently but there have been incidents between different government security forces and army and militia.

28. Government attacks on the civilian population. During the last three months these have taken the form of isolated incidents. The presence of UNAMID in the major IDP camps, especially Kalma, has had an important deterrent effect.

29. Fighting within and among rebels and former rebels and attacks by rebels. Two of the three largest incidents during the last three months fall into this category. The most significant was the JEM massacre and execution of between 36 and 128 Meidob fighters and officers who defected from the Movement on 1 January. The background to the incident is that JEM recruited a number of Meidob fighters in 2008, especially for its attack on Omdurman. After the heavy losses incurred, Meidob community leaders demanded better representation in the higher ranks of JEM. When this was not forthcoming, a group of 128 left JEM en masse. The defecting group was intercepted by JEM and at least 30 killed on the spot. The officers were then executed, reportedly on the leaders of JEM. The second major incident of this kind was the attack on Wada'a in February.

30. Inter-tribal fighting among the pro-government tribes (mostly Arabs) was the cause of about one third of all reported fatalities during 2008. After a lull during January and February, there are worrying signs that this is resurgent. More than 20 were reported killed in an armed clash between the Fellata and Habbaniya in March.

31. Criminal attacks continue to be a major problem, accounting for the largest number of reported violent incidents.

32. The Muhajiriya fighting was an important turning point for UNAMID. In refusing to withdraw, as demanded by the GoS, UNAMID established its credibility among Darfurians. It was also a blow for Minni Minawi. He lost his two major strongholds to SAF—the army reoccupied Muhajiriya and he was compelled to ask SAF in to help defend Gereida. Tactically, various other armed groups allied with SLA-Minawi against

JEM, but that coalition will last no longer than the time it takes to remove JEM from their areas.

The Darfur Peace Process

33. Peace talks between the GoS and JEM convened in Doha, Qatar, in February. Although Qatar was initially chosen because of its recent emergence as a mediator on Middle Eastern issues and the confidence it enjoyed with France, another significance of the Qatari role has become prominent in the last few months. Qatar is the centre of the international Muslim Brotherhood. In 2000-01, Qatar tried to mediate between the two wings of the Sudanese Islamist movement. Its efforts were unsuccessful but it remains in good standing with all the wings of the Sudanese Islamists, including JEM. Combined with its financial clout (the show-up fee for JEM at the peace talks is variously reported at figures in excess of \$10 million), this provides Qatar with leverage on both sides. The Islamist dimension also gives Qatar an additional incentive for success.

34. The Doha talks produced a statement of good intentions by both sides. The GoS delegation was ready to sign almost any document put in front of it, because it has consistently said that it is ready to talk, but it is the rebels who are the problem. It also wanted to look cooperative in advance of the ICC arrest warrant. For JEM, the chief value in the declaration was that it has maintained for more than two years that it is the sole armed movement fighting the GoS, and it wanted international recognition for that. Doha provided it. In predictable reaction, most of the other armed movements rejected the agreement, even to the extent of ganging up to try to drive JEM out of Darfur.

35. JEM has announced its withdrawal from the next round of peace talks on the grounds that Qatar is ready to receive Pres. Bashir for the Arab League summit. This is likely to be a tactical withdrawal only, to save face, to make it clear that it cannot be bought cheaply, and to avoid the pressures that the regional Islamists will put on it to side with Bashir against the P3. JEM cannot so easily cast aside the precious international recognition it has obtained in Qatar. Nor can it rebuff the Islamist movement so lightly: JEM will be back.

36. Any peace deal at Doha that involves just the GoS and JEM will be incomplete. It will contribute to the stabilization of Sudan's domestic politics insofar as it is a big step towards the consolidation of the Islamist base. But it will not resolve the Darfur crisis and may even lead to a repeat of the situation in 2006 when Minni Minawi signed the DPA and others joined forces to drive him out of the territories he controlled.

The Regional Response

37. The depth of African and Arab bitterness at the way they have been treated over the ICC issue has yet to be fully appreciated. Possibly the former UNSG would have had the grace and skill to make the Africans feel that their voices were at least listened to. That is not the case now. The Africans feel that the UNSC spends well over half its time on

Africa, that Africa has insufficient representation on the Council, and that decisions by the AU PSC have been rebuffed and its delegations ignored.

38. The AU High-Level Panel on Darfur, headed by former President Thabo Mbeki, has been set up. Pres. Mbeki has studiously refused to regard his task as rebuffing the ICC or rallying Africa against a neo-colonial conspiracy. He insists that, irrespective of anything the ICC may do, Africa needs to find a solution to Darfur. Sceptics will write off this initiative as Zimbabwe redux. However, in Mbeki's mind the real comparison is with South Africa after Apartheid, when a fractured country was reborn through a process that balanced peace, accountability and reconciliation. It should be noted that Mbeki was a friend and admirer of John Garang. Mbeki knows he has immense leverage over Pres. Bashir and is determined to use it.

39. The African Union co-ownership of UNAMID will be an important asset in protecting UNAMID in the coming months and years. All other international presence in Sudan is in doubt.

The International Dilemma

40. In allowing the ICC arrest warrant to proceed, the UNSC and its members have broken some of the most elementary rules of diplomacy. They have kicked away the ladder that the NCP was ready (reluctantly) to climb down. Personal humiliation of an interlocutor should be avoided. And they have made a threat—regime change—which can only be enforced at enormous risk and probably huge cost. The GoS will try both to de-escalate the situation and call the bluff of the international community.

41. The GoS has already discounted the next step of escalation, which it expects to be military. If the P3 escalates the GoS will take additional steps against P3 NGOs, diplomatic missions and citizens. In turn this will put the P3 in an unenviable situation of either backing down or making good on threats, which could only entail an open-ended military commitment. The most likely alternative is a protracted effort to manage the unmanageable, accepting that there is no solution within grasp. The international community has lost its best exit options in Sudan.

42. If there is a positive game-changer remaining untried, it is not obvious. As the dust settles in the wake of the ICC arrest warrant, over the coming year or so, a new political landscape in Sudan will become clear. Possibly a solution will become evident. The likelihood that this will be a solution that meets the minimum criteria of acceptability to the P3 is dwindling. At this moment, any new policy towards Sudan must begin by recognizing that the criterion for a solution should be acceptability by the Sudanese, not acceptability by the international community.

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