

PROSPECTS FOR PEACE IN SUDAN

BRIEFING

NOVEMBER-DECEMBER 2002

Overview

1. The prospect for peace in Sudan is still charting a middle way between optimism and pessimism. The second round of negotiations at Machakos concluded with a second protocol covering several important areas, but pitched at a high level of generality. Important details remain unresolved. Two of the trickiest issues will have to be addressed in January and February 2003, namely the status of the contested areas of Abyei, the Nuba Mountains and Southern Blue Nile, and security arrangements.
2. The SPLA has publicly spoke of the ‘failure’ of Machakos. The leadership still does not appear to have made the psychological leap to believing the peace is workable. In the GoS, Bashir’s position is strong, but there is still a coalition of individuals and groups that would prefer to continue the war.
3. The mediators’ role is key to the prospects for peace. The vigour and persistence of international mediators has thus far paid off. But by the same token, a change in policy or a loss of focus in Washington DC could seriously dampen the prospects for peace.

The Second Machakos Protocol

4. The second Machakos Protocol was signed as the talks concluded on 18 November. This is a short document and somewhat general in its provisions, reflecting the fact that agreement had not been reached on the major issues under discussion. The progress made and agreement reached was confined to some generalities, on general principles of power sharing and a commitment to holding elections during the interim period. As with many such documents, it can be read either way. If the commitment to the principles of power sharing is made in good faith, then it is a substantial step forward. If the devil is in the details, then there is a long way to go.
5. The issue of Presidency and Vice-Presidency remains unresolved. This question has become personalised around the question of what Dr John Garang will accept and what will happen to the current Vice President, Ali Osman Mohamed Taha. The SPLA’s preferred option of a rotating presidency has been set aside. The second option, which is that the SPLA takes the first Vice Presidency, has one major drawback as far as the GoS is concerned: it would mean that John Garang (or another Southerner) would automatically become President if the position became vacant. The GoS is unwilling to swallow the prospect of a non-Muslim, Southern president. However the position of second Vice President is understandably unacceptable to the SPLA leadership. A possible compromise position would be First Vice President, but with the Presidency and Vice Presidency awarded to parties and not individuals. Thus, should the President’s position become vacant, it would be the

privilege of the National Congress Party to nominate the new president, or similarly for the SPLA to nominate a successor Vice President.

6. A second problematic issue is the status of Khartoum. The GoS has ruled out the options of having secular law in place in Khartoum, or relocating the capital. It insists that Khartoum must be ruled by the shari'a. The SPLA takes the logical view that a 'one country two systems' approach demands symmetry between the Northern and Southern Entities, and a national capital that serves all citizens. Finding a compromise on this will not be easy. One possibility is for the key central institutions—perhaps the Presidency itself—to rotate the locations of their meetings between Khartoum and Juba.

7. Several key constitutional issues are unresolved. One is, will the current 1998 Constitution be revised? Or will there be a wholly new constitution? The GoS position is that the peace treaty should be an amendment to the existing constitution. The SPLA position is that a new constitution is required. The latter is surely more logical, given the radical departure from existing arrangements required by a peace treaty.

8. The parties have agreed on elections during the interim period, but not on when. The October civil society conference in Entebbe proposed elections after two years: these seems a sensible time, after which the remaining four years of the interim period will be governed by an elected government. This will enhance the legitimacy and stability of the interim period.

9. Concerning government structures in the interim period, the two parties have concluded an expert consultation at the Max Planck Institut in Germany. The proposal as it stands includes a Senate (with members drawn from all Sudan's regions, to represent the country's diversity), a House of Representatives and a Regional Parliament for the South. The Senate will be a new structure in Sudan's constitutional history (there is a precedent during the first parliamentary period 1956-8), and a valuable mechanism. But the plan for an asymmetry between North and South may entail complications. Logically, as argued by the SPLA leadership, the division of powers for the Interim Period entails three governments: North, South and Central. The GoS however insists that the Northern Government is the Central Government, and thus there is an additional layer of legislature for the South that has no parallel in the North. After the 1972 Addis Ababa agreement, such an arrangement led to conflicts between the Southern regional parliament and the national assembly, with the latter claiming the right to overrule the decisions of the former.

10. Wealth sharing is also unresolved. While the SPLA demanded 60% of oil revenues, the GoS offered 10%. There is considerable work to be done.

Nuba Mountains and Southern Blue Nile

11. There is widespread confusion over the status of Abyei, the Nuba Mountains and Southern Blue Nile (NM/SBN) in IGAD. What has been agreed is this. The GoS and SPLA will negotiate on Abyei, NM and SBN, with the same group of mediators and facilitators, in Nairobi, but in a forum convened and chaired by the Kenyan Government that is formally separate from the Machakos talks. The SPLA delegation will be led by individuals from the areas. These talks will last three weeks and will not overlap so that the same individuals can participate in the Nairobi talks as in Machakos, which will reconvene shortly afterwards. An

agreement on Abyei, NM and SBN at these talks will be a precondition for agreement at the Machakos negotiations. These talks will begin in mid-January.

12. From almost the day that the IGAD talks reconvened in 1997, the issue of the status of the NM/SBN was flagged as a potential stumbling block. Identifying a lasting solution to the conundrum was one of the abiding concerns of the late Yousif Kuwa Mekki, SPLA Governor of South Kordofan. In September 1998, he and his counterpart from SBN, Cdr Malik Agar, attended a round of IGAD talks in Nairobi in which they put on the record their intention that the NM/SBN issue should never be an obstacle to achieving peace in the South, and that the people of NM/SBN should be entitled to a similar deal as that provided for the South. This position was never elaborated, as the SPLA leadership took the approach that NM/SBN should be considered as part of a greater 'Southern Entity'. But no details of how this might work were spelled out either. And, it appears, the SPLA never drew up any 'plan B' for these areas, despite its signature on the Asmara Declaration, which provides for autonomous status for NM/SBN. The SPLA's underlying fear is that any delinking of the South from the NM/SBN would be a recipe for a GoS divide-and-rule stratagem during the interim period.

13. Nuba civil society groups have long argued the need for a conference that would bring all Nuba parties together to discuss their common future. Such a conference finally materialised in November—or, to be precise, two conferences were held—in anticipation of the January negotiations on NM/SBN.

14. The first was convened by Justice Africa in Kampala. It included both NM and SBN. All parties including the GoS and SPLA were invited. Despite the SPLA having been involved in the initial planning, the SPLA leadership decided to denounce this conference and not attend. Of the remaining 38 delegates, only two succumbed to SPLA pressure and did not attend. Participants included representatives from the Arab communities in the two regions. The outcome was a 'Kampala Declaration' demanding special status for the NM and SBN, including secular laws, but rejecting any attempt to bring the regions into the South. Its reference to the fact that all Sudanese peoples are entitled to self-determination drew fire from the GoS.

15. On the sidelines, the four Nuba civilian parties agreed a framework for unification (which was later formalised in Kauda), under the name United Sudan National Party (USNP). Other discussions focused on specific problems that will arise because of the current coexistence of two judicial systems (the GoS shari'a and the SPLA secular system), and the relative under-representation of NM/SBN commanders in the officer corps of the SPLA, which may create problems when the SPLA becomes a regular army or is merged into a new Sudanese national army.

16. SPLA-aligned organisations had meanwhile planned their own conference and festival, in Kauda in the SPLA-held areas of the Nuba Mountains, supported by solidarity groups. Non-GoS political parties were invited but not of course the GoS. Arab leaders from South Kordofan did not attend. John Garang visited the area for the first time since the beginning of the war, and was greeted with acclaim. His public speech was full of solidarity, aimed at laying to rest any fears that the SPLA would sell out the Nuba in Machakos. Dr Garang conceded that the Nuba are not part of Southern Sudan, though he said they are 'part of the SPLA,' and as such needed to be under SPLA during the interim period. He said the region should share in the application of the non-Islamic laws applied in the South. By the close of the 90 minute speech, not all members of the audience were clear about the SPLA position.

17. The Kauda conference came with a range of positions and a communique. Some positions reflected the Kampala consensus on autonomous status, while others reflected the preponderance of the SPLA and the presence of the Chairman, and their previously-stated preference that the Nuba should be part of the South. The conference affirmed that while the SPLA negotiates for the Nuba in Nairobi, the USNP should be part of the advisory team.

18. The GoS is formally retaining a hardline position on the NM/SBN. It has tried to intimidate Nuba leaders that were formerly aligned with it but are now taking a more independent position, such as Mekki Bilail and Ibrahim Nayel Idam. But it is quietly considering some concessions, because of the solidity of opinion in the regions in favour of a special status. Even the GoS representatives at the Kampala meeting were convinced of the need for some form of autonomy.

19. The question of Abyei is also outstanding. There is an obvious and fair solution to this on offer: the position adopted at the 1995 Asmara Conference, which gives the people of Abyei the right to vote as to whether they should remain in Kordofan or become part of Bahr el Ghazal, during the interim period. Leading figures within the SPLA are insistent that there can be no settlement for the war without a satisfactory resolution of the Abyei issue.

Next Steps

20. Delegations from the two parties are travelling to Washington for a briefing. In addition, an NDA delegation will be visiting. The meetings, not formally part of the peace talks which are now in recess, should be an opportunity for narrowing the gap between the parties on the key issues. Hopefully, it should be able to expedite the next rounds of negotiations (Nairobi on Abyei, NM and SBN, Machakos III for security issues and outstanding questions left over from Machakos II), so that agreement can be reached by 31 March 2003. More realistically, the mediators are hoping for a settlement by May or June.

21. Reportedly, the mediators have developed extremely detailed blueprints on the structures of the interim government. These will need close attention by the parties before the negotiations reconvene. It is important that the SPLA involves a wide range of Southern professionals in scrutinising these documents, rather than relying on a small inner core of advisers, who may not have all the skills and experience required.

22. Alongside the contested areas, the issue of security arrangements promises to be time-consuming and heated. In 1972 in Addis Ababa, more than half the time of the entire negotiations was taken up on this issue. Recent events in Southern Sudan have revealed the power and significance of militia groups and non-SPLA Southern forces. They cannot simply be treated as GoS proxies, and neither can they simply 'reconcile' with the SPLA and either come under its command or be relegated to second-class armed forces (e.g. put into the police, prisons and wildlife forces): some accommodation will be needed for them.

23. A conference on Southern reconciliation, convened by the churches, is meeting in Uganda as this briefing is completed. This may be an opportunity for exploring some of the modalities for ensuring reconciliation and security in the South after an agreement.

Khartoum

24. During Ramadhan and the Eid, Khartoum has been quiet. The divisions in the GoS are still evident, but there has been no open manifestation of them.

25. Following the cancellation of the Khartoum University Student Union elections, because a coalition between various anti-NCP groups was likely to win, there has been serious discontent. The university was closed on 14 November and many students have been detained. There are credible reports of torture and other abuse. A committee has been set up to investigate police conduct during the quelling of the disturbances.

26. The GoS concern with the KUSU is partly because the student body has long been the cadet school for Islamism, and partly because the prospect of an alliance between the Popular Congress Party (headed by Dr Turabi) and the traditional sectarian opposition, was an alarming prospect. Replicated at the national level, such a coalition would be electorally very powerful.

The SPLA

27. The merger of the SPLA and SSDF forces has continued, with the formalisation of the agreements made earlier in the year. Riek Machar will take the position of second Deputy Chairman. Meanwhile the command system of the SPLA has been streamlined. This is creating concerns among SSDF commanders who fear being short-changed.

28. One of the decisions made during the streamlining was that Cdr Peter Gadet, the SPLA's most effective commander in the oilfields area, should resume his rank at the time when he first left the SPLA to join the GoS. Cdr Gadet felt that this did not adequately reflect the important role he had played after rejoining the SPLA, and defected back to the GoS. His switch is a major blow to the SPLA and a significant boost to the GoS, which will feel much more secure in the oilfields should the war resume.

On the Ground in Southern Sudan

29. A Memorandum of Understanding on the cessation of hostilities until 31 March 2003 was signed as Machakos II closed. This ceasefire is for real, for the first time since 1989. The Sudan Focal Point 'Monthly Briefing' reports: 'For the first time since churches began keeping detailed records early in 2000, there have been no reported incidents of aerial bombing of civilians.'

30. The GoS has provided for an unprecedented degree of humanitarian access. But it has also opened a consulate in Lokichokkio, which will enable it to keep a much closer watch on cross-border humanitarian operations, and perhaps introduce new mechanisms for exercising control.

31. There was a serious outbreak of fighting in Juba on 9 November between the (mostly Nuer) forces commanded by Gen Paulino Matiep, and the Equatorial Defence Force. Matiep's forces had been brought to Juba for the October assault on Torit, and had not returned to Upper Nile. There were many complaints of their misbehaviour, and a strong

feeling that they were being given impunity by Khartoum. Tensions led to an outbreak of violence. The issue is unresolved.

32. A conflict emerged over the position of the chairman of the Southern Council. Until December the post was held by Brig. Gatluak Deng. But he has been offending the hardliners in Khartoum by rallying the independent Southern forces around his command, and on the issue of self-determination. Certain groups in Khartoum were arguing that he be removed and replaced by a more pliable alternative. A symptom of this power struggle was the GoS refusal to award exit visas to militia leaders to attend the Entebbe South-South Reconciliation conference. On 9 December he was replaced by Dr Riek Gai.

Eritrea and the Eastern Front

33. The African Union investigation into GoS allegations of Eritrean aggression has been completed and the preliminary report presented to the AU ambassadors in Addis Ababa. Details will be analysed in the next briefing.

34. The eastern front operation reminds Sudanese of the SPLA leadership's propensity to play for the military jackpot with the help of an external power. The rationale for the October operation in Eastern Sudan has not been explained to the SPLA rank-and-file: it remains a secret in the office of the Chairman and the NDA leadership.

35. Eritrea accused Sudan of militarily sponsoring Eritrean opposition forces. The accusation was partly correct and partly a self-fulfilling prophecy. Sudan and Ethiopia are cooperating in trying to bring together the various armed opposition groups under the umbrella of the Eritrean National Alliance. Thus far this has not proved successful: although arms have been provided, the groups have proved too fractious. In addition, most are stuck in factional politics of the past, and have no constructive agenda beyond trying to remove President Isseyas. Their militarism is in fact a political asset to the Eritrean leader, who is accusing them of treason and terrorism. The EPLF-Democratic Party leader, General Mesfin Hagos, has visited Khartoum, but has not endorsed armed struggle, though he has stated his fear that violence in Eritrea is now almost inevitable.

Darfur

36. The conflict in Darfur is slowly developing to a point where it may present a threat, not just to human rights and livelihoods in the region, but also to national political stability. The internal politics of Darfur are complex, with ethnic, land and political issues mixed up. The Sudan Federal Democratic Alliance (part of the NDA), headed by former governor Ahmed Diraiqe, has announced guerrilla operations in the area. But their operations are less significant than the general breakdown in governance.

37. During the 1990s, Darfur was a stronghold of the Islamists. But the Islamism of the region was both distinct from the core political philosophy of the NIF, and also internally varied. When the Congress Party split in 1999/2000, the ascendant Bashir and Ali Osman factions had no power base in Darfur. A political vacuum ensued. The government has been unable or unwilling to exercise control. Meanwhile, the people of Darfur themselves are internally divided, and lack a forum in which they can come together and articulate a common vision. Although Darfur should not be on the agenda of the Machakos talks, settling

the conflict in the region should be a priority for the government, a future government of national unity, and the international community.

The Region

38. Egypt is smarting at its marginalisation, and as usual, is acting slowly. It made clumsy attempts to discourage the GoS from cooperating with Uganda, and to stop the GoS and NDA delegations from travelling to the U.S. The Joint Libyan-Egyptian Initiative is clearly dead, with North-North reconciliation now being pursued on a piecemeal basis. Egypt vested too much faith in Mohamed Osman al Mirghani's ability to keep the NDA together, and deliver the SPLA. The GoS is enjoying rebuffing Egypt's heavy handed public advice.

39. Elections in Kenya are approaching. There were fears that the bitterly contested vote might disable Kenya from playing its leadership role in the IGAD peace process. Some of those fears have been laid to rest, by a report that the opposition, should it win, will encourage President Moi to continue with his role as regional peacemaker.

40. The military protocol between Uganda and Sudan renewed, despite serious hesitations from Khartoum. A group in the GoS that includes Foreign Minister Mustafa Ismail argued that the protocol should be discontinued, because it violates Sudanese sovereignty, and because of the failure of the Ugandans to answer some queries raised by Khartoum. The Egyptians reportedly supported this position. However, the delegation to Kampala, headed by Assistant President Mubarak el Fadl, prevailed. There is some evidence that some GoS officers have been re-supplying the LRA, in the anticipation that the war will restart and the LRA will be an important asset.

41. President Museveni is on the record expecting that Operation Iron Fist will not be completed before March 2003. Northern Uganda and the border areas have witnessed serious fighting with the government deploying heavy artillery. Large numbers of people have been moved to camps. The persistence of the LRA over the last year shows that, whether or not the organisation deserves its 'terrorist' label, a political settlement must be found to the protracted trauma of northern Uganda.

42. Ethiopia is a status quo power. It does not support any change in the military balance in Sudan. Before the MoU was signed in October, it reportedly turned down requests by the SPLA to open new fronts in eastern Sudan, while also making it clear to the GoS that it would not approve of any military action either.

43. The GoS has been intensifying its contacts in the Central African Republic, where along with Libya it has a military unit despatched in support of the government. It has also been in contact with the government of DRC. GoS military strategists are exploring all options for a major coordinated offensive should the peace talks collapse.

Washington DC

44. The U.S. government continues to display impressive activism. Secretary of State Colin Powell has spoken to both President Bashir and Dr Garang, and delegations from the parties are visiting Washington. U.S. pressure should be able to accelerate progress towards agreement. But Washington is still speaking with another voice: some in Congress and the

pro-SPLA lobbies (including in USAID) are still holding out the prospect of unlimited U.S. support for the SPLA, and encouraging the delusion of military victory. The Sudan Peace Act is a victory for them. There is too often a solidarity that lacks sober judgement, and it may yet prove an obstacle to peace.

45. The politics of the Sudan Peace Act are murky. The Act delivers nothing immediately: the funds are authorised but not appropriated. These funds are for SPLA/NDA areas, and are not conditional on Khartoum's progress in the peace talks. But they do require Congressional appropriation and Presidential signature. It is likely that the pro-SPLA lobbies in Congress will find a means of finding these monies, perhaps by tacking on an amendment to another bill. Scaled-up assistance will be impractical if the war should restart: U.S. policy should be to encourage assistance to both sides on the condition of a successful negotiation of peace.

46. The Canadian oil company Talisman finally sold out to India's state oil and gas company. Talisman received a good return on its investment (30%) but its successor may do better. The departure of Talisman is a tribute to the power of NGO lobbying in north America, and to the reluctant sensitivity of an oil company to organised public opinion.

Conclusion

47. The peace process is being carried by two things: the overwhelming public support of Sudanese from all walks of life, including the rank and file of the contending armies, and the persistence and energy of the mediators. The parties themselves distrust one another and fear for their fate once a peace agreement is signed: they are reluctant to make progress. The nascent dynamic of mutual trust between Bashir and Garang, ignited by their meeting in Kampala in July, was destroyed in Torit in September and has not been revived. The mediators must decide soon at what point another summit meeting will be needed. The peace process will need more of a positive dynamic between the parties if it is to reach a successful conclusion.

Justice Africa
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