

PROSPECTS FOR PEACE IN SUDAN

BRIEFING

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Overview

1. A month after the signature of the CPA, the Sudan peace process faces its first major test. The release of the report of the International Commission of Inquiry (ICI) into human rights violations in Darfur is a triumph for international processes of accountability. It is also a direct challenge to the security cabal that lies at the heart of the GoS. The international community is demanding justice before peace, an unprecedented reversal of the normal sequence.
2. The implementation of the pre-interim period is on track. Both GoS and SPLM are demonstrating good faith. The immediate task of drafting the interim constitution is well in hand, though it is vitally important to expand the review process to ensure that it is all-inclusive.
3. The war in Darfur continues. The African Union is planning to accelerate the Darfur peace process. In order to achieve this, a coordinated strategic plan worked out between the AU, the UN and international partners is needed, that includes not only a political deal between the GoS and rebels, but also an intra-Darfurian dialogue on social, economic and governance issues. Another attempt at a quick fix is sure to be counterproductive.
4. The East threatens to explode into violence, with both rebel attacks and a severe crackdown by the GoS. All the warning signs for a serious conflagration are flashing red. The international community, including the AU, UN and troika, must act on this with extreme urgency.
5. In principle, the Naivasha CPA, the Abuja process for Darfur and an appropriate forum for Eastern Sudan, provide a framework in which all of Sudan's many political problems can be comprehensively solved in one go. What is missing is popular enthusiasm and dynamic political leadership, which can captivate the energies of the Sudanese people and make this framework a reality. There is a real danger that the politics of exhaustion, of being driven by events rather than making things happen, will allow instability to overwhelm Sudan.

Implementing Naivasha

6. The first challenge of implementing the CPA is the normalization of the SPLM. This has occurred through the establishment of Rumbek as interim capital of the South, and the opening of the SPLM office in Khartoum on 28 January. However, the problems of the institutionalization of the SPLM have yet to be overcome.

7. The second challenge is the drafting and adoption of the interim constitution. The parties' lawyers promptly began working on a draft. This will be submitted to a Constitutional Review Commission of sixty people, in March. The CRC is composed according to the basic Naivasha power-sharing formula, and is supposed to be inclusive. The major challenge is the inclusion of representatives from Darfur and the Beja Congress. This problem could be resolved if the NCP is prepared to offer some of its positions to individuals nominated by the Darfur movements and the Beja Congress.

8. The CPA was presented to the National Assembly for ratification at the end of January. Vice President Ali Osman Taha instructed the members of the Assembly that the text should not be altered in any way. While expressing the Government's determination to adhere to the letter of the agreement, this also indicated that the democratic practice of free debate is to be considered secondary to the authority of the Presidency. Many Northerners are only now reading the CPA texts in Arabic for the first time, and beginning to realize fully what the agreement means. There is support for the peace itself and the democratization measures, but concern over the extensive powers awarded to Southern Sudan.

9. The agreement on security arrangements has surprised many in Khartoum, especially in the army. The provision for the near-complete withdrawal of the Sudan Armed Forces from Southern Sudan is widely criticized, on the grounds that an army that has not been defeated should not be compelled to withdraw. In Sudanese history, the army has often been seen as one of the few truly national institutions, and nationalist officers see the withdrawal from the South as tantamount to accepting that the army is a Northern army only. Many others argue that the Islamist government has so changed the army that it is no longer truly national in any way, so that its withdrawal from the South and thorough reform is necessary. Army disquiet will be further fuelled by the report of the International Commission of Inquiry into Darfur (see below). But a coup d'état is unlikely, as all know that it would not be recognized regionally or internationally.

10. The Naivasha CPA was not submitted to any representative institutions in the SPLM or Southern Sudan for discussion and ratification. This caused concern within the SPLM, notably by the Deputy Chairman Salva Kiir.

11. The National Congress Party is preparing for power sharing by reshuffling senior members. Posts that have been allocated for the SPLM are being vacated. Senior officials who are likely to be replaced are being moved to other positions. Preparations are in hand to provide the incoming SPLM officials with residences and cars. This is both a gesture of goodwill and a pro-active attempt to incorporate the SPLM leadership into the lifestyle

and political culture of Khartoum, in the hope that this will strengthen the pro-unity impulses of the SPLM, and make it a partner with the NCP in running the country.

12. Under the envisaged mechanisms for implementing the CPA, the Special Representative of the UN Secretary General is assuming extraordinarily wide-ranging powers to monitor many aspects of government performance. There can be few instances in which a sovereign state, which has not lost a war, has yielded such intrusive international involvement in its internal processes.

13. The Assessment and Evaluation Commission for the Naivasha CPA has not yet been set up. This will include the parties, the UN, the Troika and others. This could prove to be a very important institution for international engagement and monitoring in the transition.

The International Commission of Inquiry

14. The ICI was established by the UN Security Council, after the GoS had rejected an AU proposal for an African Commission of Inquiry on the model of its international panel on Rwanda. The ICI has done its job professionally and wholly independently. Many Sudanese automatically suspect that its findings are influenced by, or at least shared with, the U.S. and other western countries. Some western activists suspect that the ICI has deliberately pulled its punches. Neither is correct. The ICI report was sent to the UN Secretary General on 27 January and then passed to the GoS, before it was seen by members of the UNSC.

15. The ICI is thorough and uncompromising. A separate, sealed document identifies 51 individuals against whom there is evidence for responsibility for the atrocities in Darfur. The list includes ten senior government officials. While the report finds no evidence for genocidal intent by the government, it does not rule out the possibility that individuals in the GoS and militia possessed criminal genocidal intent (leaving that up to a court to decide), and emphasizes that the crimes against humanity it has clearly identified are no less heinous than genocide. The sealed document does not contain evidence sufficient for an indictment or a conviction (which is why the names have not been released), but sufficient evidence for criminal investigation. It is extremely serious for the GoS, as much of hierarchy of its military intelligence and security is directly implicated, and would have to be removed if the ICI recommendations are followed. Despite the fact that it trumpeted the 'no genocide' finding, the GoS can find no solace at all in the ICI report.

16. The ICI report identifies some rebel abuses and the names of some SLA and JEM commanders are in the sealed document. But it is emphatic that the overwhelming majority of the abuses have been committed by the GoS, and the Janjawiid, operating under the direction of the GoS.

17. The ICI report comes closely on the heels of a Sudanese national commission of inquiry. This report is much milder. This underlines the recommendation of the ICI, which is that Sudan's national courts cannot be entrusted with prosecuting the alleged

war criminals. The GoS has insisted that it will not hand over any suspects to an international court.

18. In the absence of an International Criminal Court, it is undecided how any prosecutions should proceed. This has become a major issue of international debate, consuming a great deal of energy. However, it is a distraction from the central issues at stake in Sudan.

19. The ICI report strikes right at the heart of the current GoS. It identifies the senior security officers who are responsible not only for atrocities in Darfur, but also in the South and against the domestic opposition. These individuals are the very core of the NCP government. They have a veto power over any political decisions. Doubtless it was their influence that caused the issues of accountability and security sector reform to be dropped between the signing of the Machakos Protocol in 2002 and the completion of the CPA in January 2005. While ethics demanded that they were brought to book, the reality of politics is such that their consent was needed to achieve peace. In all other cases of international prosecution for war crimes, peace was obtained first. Darfur is the first time that this sequencing has been reversed. Although some human rights activists are loath to admit it, there is a real dilemma at work here: is it worth endangering the peace process to ensure accountability for human rights abuses?

20. Any prosecutions must be conducted in the interests of the victims. It is important that these victims of abuses should be able to articulate their own interests. This is the next task.

On the Ground in Darfur

21. The war continues in Darfur, with a series of attacks by the airforce and ground troops including militia. The December military operations by the GoS to clear the major roads and reduce, if not halt, SLA attacks on vehicles was largely successful, and the same method is being reproduced to try to expand the GoS sphere of control. The GoS forces continue to expand in number and armaments. Following some egregious violations, control of the airforce has been tightened, and at last hostile flights have been halted.

22. Meanwhile the SLA has also been rearming, albeit more modestly. Serious questions remain about the cohesion of the SLA command and control system.

23. The GoS is actively intervening in the Native Administration (tribal leadership) system to replace individuals whom it does not trust, and to create new positions to try to reward its followers and punish those that have not supported its line. In recent weeks it has replaced the Fur Madgum of Nyala and created a new Nazirate for the Ma'aliya. The latter is in part an attempt to intimidate the Rizeigat of Ed Da'ien, who have thus far remained uninvolved in the conflict. Recognizing that a restoration of Native Administration is widely acknowledged as a component of a peace settlement, the GoS is trying to create a system wholly sympathetic to its cause. However, its manipulation is so

blatant that it will merely generate a counter-demand to return the Native Administration system to how it was before this government took power.

24. The AU monitoring mission remains hampered by its small numbers and inadequate logistics. The deployment is due to be completed by the end of February. With a few exceptions, its monitoring continues to be prompt, objective and outspoken. It has interpreted its mandate to allow it to speak out immediately it has evidence for a violation, without first submitting reports to the parties. It is possibly the most outspoken monitoring mission in history, certainly in comparison to the UN in Rwanda in 1994.

Prospects for Abuja

25. The AU has recognized that the approach taken to negotiation during 2004 did not succeed. It is considering its options for revitalizing the peace process. At the AU Summit in Abuja on 30-31 January, it was decided to create a group of concerned countries, including Nigeria, Egypt, Libya, Chad and Gabon. Eritrea, which is a significant stakeholder in the Darfur crisis, is absent, which is unfortunate. The plan is to adopt a roadmap for achieving peace, preferably before June (i.e. before the end of the CPA pre-interim period) but certainly by the end of the year.

26. The group met in N'Djamena on 17 February. The agenda was how to make the Cease-Fire Commission and Joint Commission function. The next stage resuming the political process, by sending delegations to Khartoum and to the SLM and JEM, to discuss the outlines of a deal. This may take some time, so the next round of talks, which had been penciled in for 23 February in Cairo, has been postponed for several weeks.

27. This approach is based on de-linking the immediate security and humanitarian issues from the political talks. Until now, the Abuja talks have remained stuck on the immediate issues, which have only polarized the parties. De-linking entails strengthening the Joint Commission, currently based in N'Djamena, and possibly relocating it to el Fasher, so that it becomes capable of dealing with the immediate issues.

28. The framework for an envisaged deal will be based upon the Naivasha CPA. Substantively, many of the issues in Darfur are amenable to compromise. There are three areas in which major problems will arise. The first is the precise details of Darfur's own governance. Should it be one state or three? What should be the percentages of state posts awarded to the parties in the interim period? Indeed, should there be an interim period at all or should there be elections as soon as possible? The second is Darfurian representation in central government. The SLM and JEM demand representation in the presidency (i.e. a vice president for Darfur), a proposal which elicits no support from those who have just painstakingly concluded the Naivasha talks. They also demand a quota of central posts commensurate with Darfur's share of the national population. If this is to be achieved, it will require adjustment to the percentages agreed at Naivasha, with one or more of the NCP, NDA and SPLM giving up some of their allocation. The third issue is the army in Darfur. The SLA and JEM opening position is that they would like a separate army for Darfur, on the model of the South. This also has no support

among other parties or the international community. Most probably, an arrangement for the absorption of some SLA and JEM units into the SAF will be required.

29. Much needs to be done to make this workable. To begin with, it will require the expansion of the AU's unit dealing with the Darfur peace, to include technical and liaison officers, so that intense and substantive bilateral discussions can be held with both parties, also involving the international community more fully as supporting actors. Extensive prior consultation with the rebels is essential so that both the leadership and the field commanders have confidence in the process.

30. The AU has averted the embarrassment of Sudan hosting the July 2005 Summit and President Omer al Bashir becoming its President. At the AU Summit in Abuja on 30-31 January, the decision to hold the summit in Tripoli was confirmed. Libya will therefore take the AU Presidency.

Modest Progress in Tripoli

31. The meeting of Darfurian leaders in Tripoli concluded in January without an agreement on the next steps. Previous attempts by the GoS to mobilize Darfurian leaders to its side had not worked, and on this occasion the GoS blocked the original delegation from Khartoum and instead sent its own handpicked individuals, including many Janjawiid leaders (despite the fact that they are officially debarred from international travel by the UNSC). This has the significant advantage that the political demands of the Janjawiid can be identified.

32. There were three major areas of disagreement among the delegations in Tripoli. The major one was the demand of the GoS-aligned delegates that there should be an amnesty for crimes committed. The opposition-aligned and independent delegates insist that individuals responsible for abuses must be punished, while also recognizing that there must be no collective retribution or punishment. The second area of disagreement was whether Darfur should be reunited as one region or state, or remain divided into three (the GoS prefers continued division). The third is the demand for Darfurian representation in the presidency.

33. There were important areas of agreement too. Significantly, there was consensus that the traditional 'hakura' land tenure system in Darfur should be retained, and that the hierarchy of tribal administrations should be tampered with only minimally.

34. The Tripoli process has proved its value as an important forum in which Darfurians can discuss among themselves and thrash out many important issues. Under Libyan hospitality, it was the most intensive discussion by Darfurians of their region's problems. However, it is unclear what happens next. The Libyans have not indicated whether they propose a third round of talks. The GoS is suspicious of the initiative, which has not worked in its favour. There is no formal articulation of the Tripoli initiative with the Abuja process. The recent round could well prove the last. However, the Tripoli process

should not be neglected: it is an essential counterpoint to the Abuja talks, and can provide the best forum in which issues internal to Darfur can be best discussed and agreed.

Darfur Rebel Politics

35. The SLM/A held its political conference in Asmara, Eritrea. This aimed to establish the political structures for the movement and to unify the leadership. The SLM has been sharply divided between its Zaghawa and Fur/Masalit sections. Moreover, there has been a notable lack of clarity on the political posts at the leadership level, as well as the absence of structures for consultation and decision-making. This conference was highly necessary. The fact that it took place in Asmara gave rise to fears that the political stand of the host government, would influence the outcome. It also fueled suspicion among field commanders that the political leadership had become completely disconnected from them. In the event, the conference did not change the leadership.

36. The SLM Chairman, Abdel Wahid Mohamed el Nur announced that he would respect any findings of the ICI report and hand over any named individuals to an international court. This suits his purposes as it would weaken those field commanders. It contributed to an acrimonious exchange between some field commanders and the leadership.

37. The JEM has been discreetly expressing its readiness to negotiate a serious deal with the GoS. A JEM conference is also taking place this month in Asmara.

38. The National Movement for Reform and Development, which has forces north of el Geneina, has clearly emerged as a GoS-Chadian stooge. The movement was created and armed with remarkable rapidity and the N'Djamena peace talks concluded rapidly and smoothly. A new movement in Kordofan, the Movement for the Elimination of Marginalization, has emerged. According to some reports, this is aligned with some commanders in the SLA and has been organized as a means to get around the commitments entered into by the SLA.

The East

39. The alignment of factors in Eastern Sudan is cause for very grave concern. The Beja have a small guerrilla force, a legitimate grievance, and no forum in which to negotiate with the GoS. The SLA and JEM both have forces in Eritrea, and there are numerous Darfurians in eastern Sudan who could form a recruitment base if a war were to start. The Eritrean government is opposed to Naivasha, which it sees as a sell-out, and committed to overthrowing the GoS.

40. On 25 January there was a joint Beja Congress-SLA raid on a police station 60 kilometres east of Kassala, near the border. It is not clear if this is an isolated event, whether it is intended to test the response of the international community, or whether it is the first stage in an expanded insurrection. Other attacks have been reported near Port Sudan and Gedaref.

41. On 29 January, a demonstration in Port Sudan by supporters of the Beja Congress turned into a bloody confrontation with the police. Reports indicate that between 14 and 30 people were killed by gunfire. Other demonstrations occurred in Kassala and Sinkat. The immediate spark was a protest over the dismissal of Beja dock workers, but the protesters demanded that the GoS open negotiations with the Beja Congress on a political deal for the East. The dispute has intensified with the Nazir of the Amara refusing to take the bodies for burial until there is a settlement.

42. The GoS response to the killings has been to promise an investigation and mount a crackdown, with more than 200 people reported arrested. The GoS has not taken any initiatives to deal with the underlying issue of a lack of a forum for Eastern Sudanese to negotiate with the GoS. The dispatch of senior security officers to Port Sudan and the mobilization of the army and PDF in the East bodes ill.

43. No war will begin in Eastern Sudan without the go-ahead from the Eritrean Government. All logic dictates that peace in Sudan is in Eritrea's best interest. However, the Eritrean President has not acted consistently in his country's best interest, and has clearly indicated his preference for a military over a political solution in Sudan. Eritrean opposition groups, some of them armed, are operating in Sudan. Moreover, there is currently a high level of tension along the common border with Ethiopia. For President Isseyas Afewerki to enter a new war with Ethiopia would be an extremely risky gamble. To stir an insurrection in Eastern Sudan, directly threatening the vital road, rail and oil arteries of the country, would be an easier option whereby he could place himself at centre stage of any proposed solutions to the problems of the Horn.

44. The political deal for Eastern Sudan is not difficult to envisage. It would involve an adaptation of the Naivasha formulae for Southern Kordofan and Blue Nile, with strong regional autonomy. A key element—probably the most important for the Beja people—is a better share of national resources, and especially greater rewards from the key infrastructure and development schemes in Eastern Sudan, such as Port Sudan, the gold mines and the Gash and Tokar agricultural projects. Relatively modest generosity in terms of spending money on schools, health centres and employment generation might yield impressive results in terms of political stabilization.

The Northern Opposition

45. The Chairman of the NDA and leader of the DUP, Mulana Mohamed Osman al Mirghani, continues to try to negotiate an agreement with the GoS. The February round of talks made no progress, with the NDA resolving to stay out of both the Government and the Constitutional Review Commission—the latter on the grounds that the CRC membership meant that the NDA would be heard but could be overruled by the Congress Party majority. There are two other outstanding issues also. One of these is the continuing state of emergency, and the second is the status of the NDA forces in eastern Sudan and Eritrea. Given the withdrawal of the Beja and the separate arrangements for the SPLA, these forces are small indeed.

46. The calculation of the DUP leader may be that he will be the favoured partner of John Garang, in accordance with their 1998 agreement. But this far from certain. Meanwhile, the other NDA parties (excepting the Beja, Free Lions and SLM) are likely to return to Khartoum separately. The remnants of SAF are still negotiating their alliance or merger with the SPLM. The NDA parties are preparing for coalition politics, anticipating that the historical divisions of the Sudanese electorate will remain, and will be exacerbated by new fault lines that have opened up.

47. The Umma Party is seeking to try to reunify itself, after the departure of the Renewal and Reform wing from the GoS. The Umma leader, Sadiq el Mahdi, is emphasizing the need for an all-inclusive political process, beginning with the process of drafting the constitution. It is most likely that the Umma Party will stay out of the Government of National Unity, and will focus its efforts on rebuilding its party infrastructure for the elections scheduled for 2010.

48. Dr Hassan al Turabi, leader of the Popular Congress, remains in prison, despite the release of most political prisoners. The Popular Congress is critical of the Naivasha CPA, arguing that it gives too much away to the South, and that the formula is unbalanced. A definite strain of Northern separatism is growing in strength among those who feel that the cost of the peace deal is too high, in terms of the abandonment of the Islamist agenda.

49. The Sudanese Islamists remain divided and exhausted. Those in government are concerned solely with remaining in power. Those in opposition are demoralized. There are continuing attempts to reunite the Islamist movement and to move it onto a new agenda. However, they remain hampered by the fact that after more than fifteen years in power, the Islamist experiment in Sudan is deeply unpopular, and it is difficult for the Islamists to blame anyone other than themselves for their predicament. The most insightful critiques identify the way in which the Islamists allowed their movement to become driven by security issues, as the origin of their problem. However, it will be some time before a credible civil Islamism emerges as a coherent force in Sudan.

Can the Centre Hold?

50. The Naivasha CPA was signed by Vice President Ali Osman Taha because he believed that it was the best way in which the National Congress Party could secure continuing control of the centre of state power. Clearly, the NCP leadership and its associated security cabal had personal and political interests in maintaining as much power as they can. But there are also wider national, regional and international interests in maintaining a viable centre of power in Khartoum. Historically, Sudan's centre has been weak, characterized by unstable and shifting coalitions. Even the three dictatorships have been coalitions, which have shifted (mercurially so in the case of President Nimeiri, 1969-85). But no government in Sudan's history has faced the present combination of a weak central power base and multiple challenges in the provinces.

51. Khartoum continues to respond to international pressure on issues such as Darfur, in a slow and piecemeal manner. Each of the steps that it takes strips more power from

everyone except the Vice President. There is a danger that the result will be a government unable to exercise any significant leadership over the coming years. The CPA has the potential to establish a new coalition, between the NCP and SPLM, which can stabilize Sudan. However, it is far from certain whether the SPLM will choose to align itself with the NCP, or will prefer its old allies in the NDA, or a grand coalition of the marginalized regions. The NCP has reason to be concerned about the political dynamics of the transitional period. With additional international pressure, focused around the ICI report, there is a real prospect that the central structures of government become paralyzed or chronically instable. The security cabal is quite capable of blocking the transition, or going underground to derail it. The NCP itself may fragment into a coterie of individuals, each of them pushing his own interests.

International

52. Sudan is back at the top of the UN Security Council agenda and a focus for concern in Washington and London. Much of this concern is framed by the ICI report and the agenda of prosecutions. But these issues are marginal to the central challenges of Sudan and are indeed a distraction from investing the necessary political and diplomatic energies in the search for long-term solutions. The call for sanctions is similarly a response to the pressure to be seen to be ‘doing something’. There are no realistic scenarios in which sanctions would have a major positive impact: they are simply a means of expressing outrage. This is symptomatic of the way in which international engagement in Sudan has become focused upon short-term management rather than strategic thinking. In turn this reflects the predominance of activist agendas, and the lack of strong material interests in the outcome for Sudan.

Next Steps

53. The Naivasha CPA needs attention in two immediate areas. One is ensuring that the Constitutional Review Commission is sufficiently inclusive that all parties (including Darfurians and Easterners) feel represented. The Congress Party and SPLM need to redouble their efforts in this direction given the NDA decision to boycott the CRC. The second is accelerating the internal democratization of the South.

54. On Darfur, the peace initiative lies with the AU, which has the option of developing a strategic approach to the Darfur crisis, at the cost of a process extending over several months, or aiming at another quick fix, born of impatience. Recognizing everyone’s frustration with the intractability of the Darfur crisis, it would be a huge gamble to try to impose a peace deal without extensive preparation.

55. Eastern Sudan has pushed itself to the top of the list of priorities for action. The Beja need a forum in which their legitimate demands can be posed and mediated.

56. The surrender of powers by the central government in Khartoum continues apace. While welcome in many respects—this central government has wrought far more damage than it has brought benefits to the people of Sudan—the international community must be

very careful about this process and its dangers. The formal establishment of the Assessment and Evaluation Commission should be done as soon as possible to formalize and regulate this engagement.