

## **Explaining the Darfur Peace Agreement Part 3 Compensation and Assistance to Victims**

Alex de Waal

This is the third in a series of articles concerning the Darfur Peace Agreement (DPA), explaining how different parts were negotiated, what the paragraphs mean, and how they should be implemented. This article asks, what provisions are there for victims of the conflict to receive compensation and assistance?

The conflict in Darfur has left millions of people destitute and without the basis for a livelihood. They cannot return to their homes and rebuild their lives, restoring their dignity and self-reliance, without assistance. For Darfurians, payment of compensation is also the symbolic end to a conflict. And in the Abuja negotiations that led to the DPA, the question of compensation arose as one of the most difficult and controversial.

On the final day of the negotiations in Abuja, all three of the Movements' delegations raised the question of compensation, asking for more. Minni Minawi went into the final session of the Abuja talks not knowing what amount of money the GoS was ready to put on the table, and one of his reservations was the GoS had not yet specified how much it was going to pay and when. When he agreed to sign, Minni raised the issue of compensation and assistance as one of his concerns. That same night, before going into the last session, Abdel Wahid al Nour's delegation said that the wealth-sharing provisions were "95% acceptable." When asked what was the remaining five per cent, the head of Abdel Wahid's wealth-sharing team, Abu al Bashar Abbaker, said "more compensation is needed."

The DPA provides not one but three mechanisms for providing compensation and victims' assistance. The first is the Compensation Commission, which is detailed in Paragraphs 199-209.

- Paragraphs 199-201 establish the right to compensation or restitution, and the legal mechanism for providing it. The Compensation Commission is empowered to examine every single individual case. These paragraphs indicate that the Compensation Commission shall continue until all claims have been settled.
- Paragraph 204 ensures that the Compensation Commission is coordinated with Property Claims Committees (which are established to sort out disputes over who owns which land or other assets) and the Darfur Reconstruction and Development Fund.
- Paragraph 207 indicates the range of different kinds of awards that the Compensation Commission can make, ranging from restitution of stolen assets, cash payments, in-kind assistance in the form of animals or agricultural tools, to medical, psychological, and legal assistance.

The DPA doesn't specify from where compensation should be paid. But it is clear that the Government is responsible.

The second mechanism is a Compensation Fund, which is to be set up under the Compensation Commission. Because the Compensation Commission was expected to take some time to review and assess individual claims, the Movements' negotiators demanded a quicker mechanism. As a result, the GoS agreed to a simplified procedure for giving compensation, which is the Compensation Fund.

- Paragraphs 210-211 set up the Compensation Fund for rapidly paying out interim awards and says this should be done within three months.
- In Paragraph 213 the GoS provides \$30 million as an immediate payment into the Compensation Fund.

There has been a lot of misrepresentation of the amount of money available for compensation. It is worth noting that the Compensation Fund is specially provided only for the immediate, interim awards, and that \$30 million is only the first payment. \$30 million is not the ceiling for the Fund. The Compensation Commission is expected to work over many months and years and its awards are not limited to any amount determined by the Compensation Fund—which covers the interim awards only.

These paragraphs were negotiated in detail by the Movements' negotiators. Jibreel Khalil was a particularly articulate exponent on behalf of JEM and the SLM teams worked hard too. On the side of the GoS, Dr. Lual Deng argued in favour of general assistance for rehabilitation and reconstruction, rather than specific funds for compensation. The international donors were sympathetic to his argument. One reason for this was that they were worried about setting a precedent: they didn't want rebel groups in other civil wars to insist on compensation or reparations as a precondition for making peace. In Southern Sudan, the SPLM had negotiated a very good wealth-sharing package, but hadn't insisted on individual compensation.

It is worth noting that the DPA provides that the Compensation Commission should be headed by someone nominated by the Movements.

The third mechanism for assisting the Darfurian victims of the conflict is the Darfur Reconstruction and Development Fund (also to be headed by someone chosen by the Movements). This is a much larger funding mechanism intended to support all the activities necessary for rebuilding Darfur, including packages for agricultural rehabilitation (seeds, tools, fertilizers, etc.), rebuilding Darfur's livestock wealth (providing animals and veterinary services), rebuilding schools, health services, roads, and wells, providing micro-credit to people to rebuild their small businesses, and a host of other activities. Rehabilitation packages will be given to individual households, in the form of in-kind grants. The GoS is committed to providing \$300 million this year and \$200 million for the next two years for these activities.

A Joint Assessment Mission that includes international agencies and donors will assess the needs in more detail over the coming months, and donors will pledge funds at a conference in September or October in the Netherlands. It is likely that the aid provided by foreign donors will be much larger than the funds provided by Khartoum. But donors don't like to give to a compensation fund—they argue that compensation or reparations are the responsibility of whoever caused the damage in the first place. Donor assistance will be given for assistance to victims, for the return of IDPs and refugees to their homes and their rehabilitation and rebuilding their livelihoods—but the word “compensation” won't be used.

The one thing normally excluded from rehabilitation packages is cash grants. Also, while farming assistance is given to people who were formerly farmers, and micro-credit to artisans and traders, there is no mechanism that specifically restores what has been lost. All will get more-or-less similar levels of assistance, without regard to what they may have owned before.

In agreeing to sign the DPA on 5 May, Minni Minawi clearly said that he was looking at the bigger picture—the overall level of assistance for rehabilitation and reconstruction—and not at the Compensation Fund alone. That assistance is likely to be ten or twenty times greater than the Compensation Fund.

Since the signing of the DPA the issue of compensation has become even more controversial. It was the number one reason that Abdel Wahid gave for refusing to sign. On 14 May he wrote a memorandum and submitted it to Dr. Majzoub al Khalifa, seeking clarification on some outstanding issues. The first thing Abdel Wahid asked for was an increase in the funding for compensation to \$100 million with further increases possible. Dr. Majzoub responded the same day:

“The first paragraph [of Abdel Wahid's memorandum], which has talked about increasing the amount of the government support and its payment to the Compensation Fund set up by the proposed Compensation Commission, which will include others, as stated, we are confident that the duty of the Sudanese people, generally, and the government and its institutions will continue until all the displaced and refugees of our people are returned and settled in a dignified way finding shelter and have the capacity to produce their livelihood as well as empowering every single individual of them with their legitimate rights whether granted by law or tradition.”

This response was not enough to satisfy Abdel Wahid. But it does show that more assistance is on the table, and that the principle of the Compensation Commission is law and rights, not a ceiling of any amount stipulated by a Compensation Fund.

In the last month, discussions have continued about how the GoS and international donors can increase the amount of assistance they can provide to Darfurians, and how that assistance can be dispatched speedily and can reach individual households. The

mechanisms are all provided for in the DPA. The remaining question is the implementation.

The SLM/A and JEM negotiators in Abuja were very effective in hammering out an agreement on wealth sharing. The GoS delegation was extremely cooperative in proposing mechanisms for funding reconstruction and development in Darfur. As the Movements negotiators themselves said, this part of the DPA represents about 95% of their demands. There is more work to be done on compensation, but the DPA provides the basis on which to work out a deal that is fully acceptable to the people of Darfur.