

PROSPECTS FOR PEACE IN SUDAN

BRIEFING

JULY 2004

Justice Africa
30 July 2004

Overview

1. Peace in Darfur will be complicated and slow. We should not have any illusions that there is a quick fix that can bring peace in a matter of weeks or months. The difficult beginning to the AU negotiations in Addis Ababa on 15-17 July demonstrated this. The rebels made some missteps, but still retain the moral and political upper hand, demanding that the GoS fulfil its commitments to disarm the Janjawiid, provide humanitarian access and release PoWs before political dialogue can begin. Pressure is mounting through the UN and EU and in the U.S. for vigorous action against Sudan, resulting in a UN Security Council resolution (due later today) demanding that the GoS rein in the militias within a month, but thus far without a plan for a comprehensive settlement of the conflict.
2. The GoS has made little progress in implementing the commitments in made in Ndjamen and the promises it made to Alpha Konare, Colin Powell and Kofi Annan. The most important of those commitments, the disarmament of the Janjawiid, is also the most difficult. Comprehensive forcible disarmament is hazardous at best, impossible at worst. Before effective disarmament (or more realistically, regulation of armaments) can take place, a workable definition of the Janjawiid is needed, and a political process will need to be in place to ensure community-based mechanisms for provision of security.
3. Progress in the Naivasha talks has slowed to a crawl, in part due to complications in the security arrangements talks introduced by the GoS by reintroducing the SSDF issue, and in part because successful completion is impossible until there is significant political progress on Darfur. An interim mechanism to ensure that the achievements to date are not unravelled will be needed. The international community will need to keep equal pressure on Khartoum to avoid a slide back into war in the South.

Darfur: Peace Talks

4. The first round of AU-brokered peace talks convened in Addis Ababa on 15-17 July. It was confused and conflicted. In AU Chairperson Alpha Konare's eagerness to get to grips with the problem of Darfur at speed, not all the required preparatory work had been done in advance. Notably, the rebels had not been informed about the date, venue or agenda, and, fearing that they might be ambushed (as had occurred in Chad), they initially refused to attend. The AU mediator is the former Prime Minister of Niger, Hamil Algabid. His

appointment was initially canvassed when Chad was still leading the negotiations, but it came through only after the Chadian Government had handed over the lead role to the AU. (Formally, Chad and the AU are jointly leading the negotiations.) He will need the support of a dedicated expert team. The UN has indicated that it may provide this. The SRSG, Ambassador Mohammed Sahnoun, played an important role in ensuring that the talks proceeded as well as they did.

5. The SLA and JEM sent a small, three-person joint delegation. The higher leadership did not turn up, despite promises to the mediators, instead remaining in Asmara for the NDA meeting. Their non-attendance was a significant political misstep and public relations disaster, reflecting their suspicion of mediation efforts thus far, their lack of time to prepare a common political position, and possibly the influence of the Eritrean Government. The GoS sent a substantial delegation.

6. Contrary to press reports, the rebels did not walk out of the talks. This misreporting appears to have been based on misinformation from the GoS and a misquoting of rebel spokesmen. Nonetheless, the non-attendance of the leadership and some unguarded statements indicate the rebels' need to pay more attention to sustaining the international sympathy they have thus far enjoyed unconditionally.

7. The talks themselves were minimally productive. The parties were far apart, as is to be expected. The SLA and JEM forwarded a joint position, requiring the following conditions to be met before the start of political dialogue:

- (i) Disarmament of the Janjawiid;
- (ii) An international inquiry into charges of genocide;
- (iii) Prosecution of those alleged to have committed genocide or ethnic cleansing;
- (iv) Removal of obstacles to the delivery of humanitarian relief;
- (v) Release of prisoners of war;
- (vi) A neutral venue for the talks.

8. Items (i), (iv) and (v) basically consist of the demand that the agreements entered into in the previous rounds of negotiation (Ndjamena, 8 and 25 April) and commitments made by the GoS (19 June promise to disarm the Janjawiid) are met. The SLA/JEM position is that these commitments are non-negotiable, because the GoS has already made solemn commitments, and because they are obligations under international law. These commitments have not been met, though there is modest progress. On their side, the rebels have made a (somewhat uncertain) commitment to put their troops in cantonments, which has so far not been met.

9. Items (ii) and (iii) reflect GoS obligations under international law. At present, there is a non-credible promise of investigation by the GoS and a promise by the AU for its Commission on Human and People's Rights to investigate, which has not moved forward. It is both likely and desirable that the UN will initiate an inquiry of some kind, perhaps including a special investigator attached to the International Criminal Court.

10. Item (vi) reflects the SLA/JEM suspicion of Ethiopia, on account of warm relations between Addis Ababa and Khartoum. In turn this reflects an influence from Eritrea on the rebels' negotiating positions. It should be noted that it is the AU, not Ethiopia, which is

hosting the talks. However, it seems likely that the next round of talks, scheduled for late August, will not be held in Ethiopia.

11. The GoS position was essentially defensive, trying to rebut and discredit the rebels' demands, claim it controlled the whole of Darfur and focus on immediate ceasefire and humanitarian issues. Its political agenda was less substantive than that of SLA/JEM. The GoS did, however, informally indicate that it would consider a settlement along the lines of that agreed for Southern Kordofan/Nuba Mountains. The GoS rejected precisely such a framework back in February, when it might have been adequate to resolve the dispute. Such formulae need to be raised rapidly before it is too late.

12. The AU mediator's final statement underlined that 'commitments entered into must be implemented without delay.' The GoS seems unaware that its failure to implement its commitments is making its claims seem less and less credible.

13. The SLA and JEM have both a Darfur agenda and a national agenda. The two sets of agendas cannot be addressed in isolation. The priority discussions must focus on Darfur, to be followed by discussions on the necessary changes to the national constitution, power sharing arrangements, etc. This will inevitably be a slow and convoluted procedure, as both sides explore their positions and options. An indicator of what is to come is the document produced by the JEM in early July proposing how the Darfur conflict could be resolved in the framework of the Naivasha Agreement. In fact what JEM did was to use the Naivasha Framework document as the basis for framing its claims. Meeting these demands would require a major revisiting of the provisions of the agreement. For example, the JEM proposal is for a President, first Vice President, and then five second Vice Presidents (one for each of the regions of the North). The GoS continues to suspect that the JEM has links to Hassan al Turabi and its agenda is to replace the government in Khartoum.

Darfur: Ceasefire and Humanitarian

14. The ceasefire monitoring teams are slowly being put in place. Currently there are 70 monitors, who are beginning to file reports. Any fear that they might be soft on Khartoum were laid to rest by their third report, which documented the burning to death of villagers by the Janjawiid. Possibly their number will increase to 200, still a small contingent for the size of Darfur. A force of up to 300 African troops will be provided to provide security for the ceasefire monitors. They are not there to provide security for the civilian population. This may disappoint Darfurians, but providing village-by-village security would entail a truly huge force of tens of thousands. The idea of civilian protection was raised by South Africa at the AU Summit but not adopted. It was also called for by the SLA and JEM. Even with their limited mandate, the ceasefire monitoring commission will require greater capacity including helicopters.

15. The role of the Joint Commission has yet to be fully specified. Its mandate is to ensure that the commitments made by the parties are fully implemented. Its membership has been determined (including the parties, AU, Chad, UN, and international community). But the extent of the commitments it is to monitor remains undefined, as does its mechanism for responding to non-compliance. A particular question is, will the Joint Commission be responsible for monitoring political commitments? Or will a separate monitoring mechanism be required for any political agreements reached?

16. Ceasefire violations continue by both sides. Janjawiid attacks continue, and there have been further reports of aerial bombardment. This is leading to growing calls for a flight ban over Darfur. Meanwhile, rebel attacks continue over a large area, almost into Kordofan.

17. The GoS has taken some steps towards meeting its humanitarian commitment, for example relaxing visa and travel requirements for aid workers.

18. The humanitarian needs of the substantial population of civilians in areas controlled by the rebels are not being met in any significant way. This reflects the fact that no television cameras have been into these areas: the humanitarian agenda is still led by pictures.

Disarming the Janjawiid

19. Who are the Janjawiid? A clear definition of the Janjawiid is a requirement for their disarmament. The term 'Janjawiid' has been used to denote Arab militias since the late 1980s, but not always to refer to the same entities. Noting that the term 'Arab' is ambiguous and fluid in Darfur, we can note the following different armed Arab groups in the region:

- (i) Armed pastoralists. Every community in Darfur is armed. For pastoralist groups, disarmament is out of the question as long as there is no effective law enforcement. The issue here is regulation of armaments. Armed Arab pastoralist groups that are not significantly involved in the conflict include the Rizeigat Baggara, Habbaniya and Ta'aisha.
- (ii) The Rizeigat (Abbala) Janjawiid. Including members of the camel-herding Rizeigat clans of Jalul, Ereigat and Mahariya, and some other smaller Arab groups as well, these are the militia that have achieved prominence through the leadership of Musa Hilal. Note that the northern Abbala (camel herding) Rizeigat are only distantly related to the southern Baggara (cattle herding) Rizeigat and have no contemporary political association. Note also that the Janjawiid leadership does not enjoy universal support among these groups. For example, Musa Hilal was reportedly attacked and nearly killed by one of his clansmen on account of his activities.
- (iii) The Beni Halba Fursan. This militia was mobilised in 1991 to fight the failed SPLA incursion into Darfur. Elements of it are involved in the current violence, while strong elements of the Beni Halba are uninvolved.
- (iv) Other Baggara militia, such as the Janjawiid drawn from the Terjam group that lives in the environs of Nyala.
- (v) Chadian Arabs, including the Salamat group, which lives on both sides of the Chad-Sudan border. Their numbers are unknown but are rumoured to be substantial. Unlike most indigenous Darfurian Arabs, many Chadian Arabs have noticeably lighter skins than the non-Arab population.
- (vi) The Rizeigat (Baggara) Murahaliin. This is the oldest militia in Darfur, established in the mid-1980s to fight the SPLA. Neither the Rizeigat Baggara (the largest of Darfur's Arab groups, in the southeast of the region) nor its militia are involved in the current conflict.
- (vii) Emergent militias among groups that have not thus far been involved in the conflict. For example, there are reports that the GoS is trying to mobilise a militia among the Fellata. Of West African origin, the Fellata are 'Arab' in the sense that some are pastoralist (i.e. 'Bedouin') and they have been closely associated with the Islamist project of the NIF.

- (viii) The Popular Defence Forces. Under GoS command and control, PDF forces have been implicated in Janjawiid attacks. An estimated 5,000 Janjawiid have been absorbed into the PDF and police, apparently representing the majority of the 'new' police despatched to Darfur by the GoS.

20. While the GoS played a key role in establishing, arming and directing the Janjawiid and Fursan, it does not follow that the GoS can so easily demobilise or disarm them. The Janjawiid and Fursan leadership will doubtless be learning the lessons of other militias, such as the Murahaliin. Rizeigat Baggara leaders initially embraced the military support offered by Khartoum, but later came to consider themselves manipulated and used by the GoS. Reportedly, several Janjawiid leaders are already bitter at what they see as a betrayal by the senior security officers who initially dealt with them.

21. The GoS has committed itself to disarm the Janjawiid. What does this imply? Clearly, disarmament cannot be effected by force unless the GoS and/or international peace enforcement troops are ready to fight and take casualties. The most realistic option is twofold. On the one hand, it can control the paramilitary forces it has established under the command of Musa Hilal and other commanders. Secondly, it can initiate a process of arms regulation, whereby communities are permitted to hold arms for legitimate self-defence, in accordance with norms and procedures agreed by all groups, and they themselves become partners in disarming the illegitimately armed groups. This kind of disarmament will be gradual, founded on community-based security provision, and will take place concurrently with political negotiations, reconciliation and reconstruction.

22. Darfur was a region in arms before the conflict erupted. As a result, the major armed groups—the SLA, JEM and Janjawiid/Fursan—comprise coalitions of pre-existing local militias and self-defence groups. This makes it difficult for centralised control to be exercised, and opens up concerns of factionalisation and even internecine strife. For example, it is quite possible that if the GoS seriously withdraws political and military support to the Janjawiid, elements of these militias may come into conflict among themselves or with the GoS. Meanwhile the GoS will do its best to generate divisions among elements of the opposition, using all means of persuasion open to it. There are risks that some groups currently aligned with the SLA and JEM will be bought off by the GoS.

23. The GoS continues to retain many Janjawiid leaders in Khartoum. It has detained some and there are reports of one clash between GoS forces and Janjawiid. The U.S. Government has named seven leaders, and imposed sanctions on them. This is largely a symbolic step as few of them are likely to want to travel abroad.

Naivasha

24. The Naivasha talks encountered a predictable, but nonetheless surprising, obstacle when the GoS decided to include the SSDF in its delegation to the talks on the implementation of the security arrangements. The SSDF demanded a share in the security arrangements at all levels including the joint integrated force. The SPLA rejected the SSDF inclusion and separate share, but the seeds of military disunity in Southern Sudan have been sown. This is exactly what the militarists in the GoS wanted. Revenge attacks by some government-supported armed groups are expected mainly in the areas of Upper Nile including the Shilluk

Kingdom. However, the challenge now is how will the SPLA continue dialogue and bring on board the SSDF in the context of the SPLM's South-South dialogue.

25. The SPLA position on the SSDF has been that the leaders have the choice between staying with the GoS (which has given them military ranks) and (re-)joining the SPLA, in which case they will be given the appropriate rank. This position was presented by the SPLA last September, and several groups (SPLA-United, Equatorian Defence Force) chose to rejoin the SPLA, while others stayed silent. The SSDF response was to threaten to oppose the deployment of SPLA forces to their areas during implementation of the security arrangements.

26. The current Naivasha talks (which are partly held in the Inter-Continental Hotel in Nairobi) on security arrangements and the final ceasefire have stalled and are likely to be adjourned. The main areas of disagreement are the following. First, who will foot the bill of the SPLA army during the interim period? The GoS rejected any payment from the central treasury to the SPLA and insisted instead that payments should come from the Government of Southern Sudan. This in turn raises the question as to who will pay for the Sudan Armed Forces based in Northern Sudan. Other issues of disagreement include the mandate of the multinational monitors, the relocation time-scale for withdrawal of the extra GoS forces from the South, the status of the security organs during the interim period, and the deployment of Joint Integrated Forces in eastern Sudan.

27. The mediators' strategy to date has been to delink the IGAD talks in Naivasha from the Darfur crisis. For a while this was tenable. It is rapidly becoming untenable, for several reasons. First, the Darfur rebels have political demands concerning power sharing that require a revisiting of the Naivasha Agreements. Second, the implementation of the Naivasha Accords will require political stability and international assistance, neither of which are possible while the Darfur crisis continues. Third, the success of Naivasha depends on the cooperation and power of Vice President Ali Osman Taha. As the political, diplomatic and human rights implications of the Darfur crisis play out, Ali Osman's position will become more precarious.

28. The accelerated conclusion of the Naivasha talks will enable the GoS and SPLM to jointly negotiate on the Darfur issue as the de facto government of the day in Khartoum. This is the best option for comprehensive peace in Sudan. It will place Ali Osman and John Garang at the centre of the resolution of Darfur. It will enable the settlement models from South Kordofan and Blue Nile to be applied to Darfur, appropriately amended, without revisiting the fundamentals of Naivasha.

29. The international community needs to make contingency plans for the possibility that the Naivasha Agreements will stall completely, and the progress made to date will evaporate.

Khartoum

30. Hassan al Turabi is likely to be released. The investigations into the allegations made against him have not produced any evidence. The official explanation is likely to be ill-health. Other Popular Congress leaders have also been disarmed.

31. The degree of disquiet and dissension in Khartoum on account of the Darfur policy must not be underestimated. It is causing serious dilemmas for political leaders not directly associated with the GoS policy.

The NDA

32. The NDA leadership met in Asmara, Eritrea, on 14 July. It resolved to operationalise the Jeddah Agreement between NDA Chairman Mulana Mohamed Osman al Mirghani and Ali Osman Taha. The meeting mandated the NDA Chairman to form a delegation to negotiate with the GoS in Cairo during August. The planned negotiations aim to remedy the shortcomings of Naivasha with a view to making the peace process truly comprehensive. The NDA stressed that the negotiation may not necessarily lead to its participation in a future government of national unity.

33. The SLA, which is a member of the NDA, attended the Asmara meeting, and the JEM leadership has also been present in Asmara. The meeting agreed that a settlement in Darfur should become part of the envisioned ‘comprehensive solution’ for Sudan, and adopted a ‘declaration of principles’ for resolving the conflict. Self-determination for Darfur was explicitly ruled out.

34. Eritrea has released the imprisoned Sudan Alliance Force leader, Brig. Abdel Aziz Khalid, and expelled him from the country. This reflects a split within SAF, between its political leadership under Prof. Taisier Ahmed (who has the support of Asmara) and its military leaders including Abdel Aziz Khalid, who have now relocated to Egypt.

The Region

35. The African Union Summit decided that Khartoum should host the next Summit in July 2005, with President Bashir becoming Chairman of the AU for 2005/06. This is a victory for the GoS diplomacy, following on four years of campaigning. But it is also a liability, giving leverage to the government’s opponents. Sudan cannot host the Summit if it is under UN sanctions, or if there is widespread non-attendance on account of outrage across the continent against its actions (in 1982, the quorum of 36 states did not attend the Summit in Libya, which then had to be moved to Addis Ababa, humiliating Col. Gaddafi). Since the establishment of the AU in 2002 and the setting up of the African Peer Review Mechanism, there is an unspoken assumption that the Chair of the AU has to have democratic credentials. The GoS has in effect handed itself a deadline for a settlement in the AU-led negotiations over Darfur—or at least, very substantial demonstration of goodwill in those negotiations.

36. The risk of serious destabilisation of Chad is growing. Presidents Beshir and Deby met and agreed to set up border patrols to prevent Janjawiid infiltration into Chad. Such patrols would have to be substantial and backed by aerial monitoring and rapid deployment by helicopter if they are to be effective, and this seems unlikely.

37. The Chadian Government position on the conflict appears to be shifting. There are two factors at work here. One is that the Chadians hosted the April rounds of peace talks in good faith, and obtained commitments from the GoS. Those commitments have yet to be honoured, and there is a palpable sense among some Chadian officials that Chad has been manipulated. In Addis Ababa, the Chadian mediator spoke of the ‘legitimacy’ of the rebel complaints. The second factor is the evident strength and ambition of the Chadian Arab fighters within the

Janjawiid. For the Government of Chad, the Janjawiid are emerging as an identifiable enemy, and it is keen that the GoS acts on its promises to disarm and neutralise the militia.

38. Eritrea continues to host the NDA and provide it with facilities and support. Given its own weakness, Eritrea is amenable to the NDA's own strategies for Sudan. However, Eritrea remains opposed to any settlement in Sudan while it still has outstanding conflicts with Ethiopia and Sudan.

39. The position of Egypt, Libya, the Arab League and the Organisation of the Islamic Conference on Darfur continues to be silence or support for the GoS.

40. Nigerian President Olusegun Obasanjo has appointed the former head of state and peace envoy to Liberia, Gen. Abdussalam Abubaker, as his special envoy for Darfur. This reflects the way in which the Sudan war has repercussions in Nigeria, through its portrayal as a racial and religious war. Pres. Obasanjo needs, for domestic reasons, to be seen to be even-handed in his approach to Sudan. Nigerians tend to propose that the Sudanese conflict be settled by a Nigerian-style federal formula.

41. The war in northern Uganda is escalating, widening a humanitarian crisis. The LRA widened its sphere of operations, and in retaliation the Ugandan army struck deep into Sudan, close to Juba, under its agreement with Khartoum. Uganda claims to have nearly captured the LRA leader Joseph Kony in a raid. Greater GoS acquiescence in Ugandan military operations may yet lead to the destruction of the LRA command structure. But there have been many false dawns. The situation could still explode at any time with unpredictable consequences

International

42. The UN Security Council appears set to give the GoS thirty days to meet its commitments before the imposition of any sanctions. This is a compromise measure: the drumbeat for sanctions on Sudan and even military intervention in Darfur has been strong; the U.S. Congress has described the situation in Darfur as 'genocide'; but a number of countries (notably Arab states) strongly oppose sanctions.

43. There is discussion of military intervention by African and western troops, prompting fiery rhetoric from fringe militant groups and even Pres. Bashir about the dangers of western troops occupying Sudan. Darfur is wholly unlike Iraq in most respects, except that any intervention should be part of a coherent political strategy for resolving the fundamental issues of the conflict and providing security across the whole region.

44. There is now absolutely no prospect of Bashir coming to Washington for a formal signing on the White House lawn, as seemed likely in January. The issue is simply too hot in U.S. politics, with Presidential candidate John Kerry speaking about Darfur and consistent coverage in the press. The GoS has lost its modest shine.

45. The press coverage and its dichotomisation of 'Arabs' and 'Africans' continues to have the unfortunate side effect of further entrenching the racial component to the war in Darfur. As journalists are finding out when they visit Darfur, it is rarely possible to tell 'Arab' from 'African' by skin colour. Most Darfur Arabs are black, indigenous and African. They are 'Arab' in the old sense of being Bedouin, rather than hailing from the Arab homelands of the

Nile Valley or Fertile Crescent, and their Arabism is a relatively recent political construct. This 'Arab'-'African' dichotomy is likely to play out in the politics of the African Union.

Next Steps

46. The immediate needs in Darfur remain, as before, security and humanitarian assistance. Significant progress by the GoS towards fulfilling its commitments and promises is a precondition for political dialogue with the rebels. The most urgent task is controlling the Janjawiid and beginning a process of disarmament.

47. The allegations of genocide and crimes against humanity in Darfur need to be pursued by a high-level independent international human rights body, with the possibility of forwarding evidence to the International Criminal Court for the prosecution of those suspected to be responsible for such crimes. The African Union has committed itself to such an investigation, through the African Commission on Human and People's Rights: it should start without delay.

48. The SLA and JEM have considerable political homework to do before they are ready to enter serious political negotiations with the GoS. They need to consult with their constituency. The international community should provide them with opportunities to do this, as a matter of urgency.

49. Accepting that the GoS-SPLA peace deal will be inoperable without a resolution of the Darfur crisis, it is prudent that a comprehensive political settlement in Darfur must not be allowed to drag on indefinitely. As well as a timetable for disarming the Janjawiid, there needs to be a timetable for the beginning and completion of political negotiations. The people of Sudan cannot be subjected to indefinite ceasefires in all war-affected regions, that simply postpone the final settlement.

50. The IGAD mediators need to give serious attention to ensure that the progress made in Naivasha does not unravel. The key consideration is the establishment of a robust timetable for the signing of the comprehensive peace agreement. In the absence of such an agreement, temporary ceasefires can never hold. It is clear that as the military conflict in Darfur continues, the chances of ceasefire violations in the South increase, and with it the chances of political instability in Khartoum as well.