

Explaining the Darfur Peace Agreement
Part 4
The Transitional Darfur Regional Authority

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This is the fourth 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 is the Transitional Darfur Regional Authority (TDRA) and why was it proposed by the African Union Mediation?

One of the most controversial issues in the Abuja negotiations was the question of whether Darfur should be constituted as a single Region or should remain as three states. The Movements' negotiators insisted that Darfur was historically constituted as a single political and administrative entity and had only been divided by administrative fiat in 1994, and should be returned to that status immediately, with its pre-existing borders. Their chief negotiators—Abdel Jabbar Dosa for the SLM-Minni Minawi and Abdel Rahman Musa and Ibrahim Madibo for the SLM-Abdel Wahid, plus Ahmed Tugod Lissan for JEM—insisted on this to the last. The GoS delegation, led by Dr. Majzoub al Khalifa argued that the status quo of three states was supported by most of the population and was also consistent with the Interim National Constitution. The most that Khartoum was ready to concede was a “coordinating council” for the three States.

Three times during the Seventh Round of peace talks in Abuja, which lasted from November 2005 until May 2006, the GoS and the Movements had direct, bilateral talks on power-sharing issues. In January and February, the GoS and the SLM-Abdel Wahid actually reached their own bilateral agreement—but then Abdel Wahid pulled out. In March, Vice President Ali Osman Taha met with Khalil Ibrahim in Tripoli. Khalil reported that Taha had agreed to the Region, but no sign of any such agreement could be seen at the negotiating table in Abuja. In April, Vice President Ali Osman Taha spent three weeks in Abuja and had numerous discussions with the leaders of the Movements, but they couldn't agree on the Region or on how to divide power in Darfur.

By mid-April the Abuja talks were making progress on many issues—most of wealth-sharing and much of security arrangements—but were getting stuck on some basic issues of power-sharing. The African Union Mediation decided to present some compromise proposals. International partners also worked to make some enhancements in the final days, using the same framework.

The challenge facing Dr. Salim Ahmed Salim and his team was not just how to identify a middle position between the Parties, but also to take account of several other important concerns.

One obvious consideration was that the SLA and JEM had not won the war, and therefore could not dictate their terms. They would have to compromise. And they would have to

accept that the Darfurians who hold posts in the legislature and executive today are indeed Darfurians with equal rights—the Movements could not claim to represent 100% of Darfur and exclude others. The GoS was in a more powerful military and political position, but it had not won either. It would have to concede a significant amount of power to the Movements. After much debate, the Mediators accepted the principle that the National Congress Party should keep a bare majority in whatever government system was agreed for Darfur—as it had done in the Nuba Mountains and Blue Nile in the CPA. It simply wasn't possible for the Movements to negotiate the GoS out of power.

A second consideration was the importance of respecting the spirit of the Naivasha Comprehensive Peace Agreement. This was not just a matter of maintaining the delicate balance the CPA had established between North and South, but also keeping the intact the CPA's principles of democracy and pluralism. The Declaration of Principles for the resolution of the Darfur conflict, signed in June 2005, had already specified that any agreement reached in Abuja would be incorporated into the Interim National Constitution. But that was not an invitation to ride roughshod over the provisions of the INC. The reasons for this included the fact that the CPA and INC have far-reaching provisions for the democratic transformation of Sudan, including free elections to be held in 2009. The Mediators reasoned that the DPA should enable Darfurians to become a full part of Sudan's national process of democratic transformation. The DPA should not set Darfurians apart from that democratic process. And a central part of that democratic transformation should be the chance for Darfurians to choose their type of state or regional government.

The CPA also gives official status to the many different languages of Sudan, meaning that this did not need to be negotiated in Abuja. It initiates a process of changing Sudan's security institutions into smaller, non-partisan, professional institutions. It provides mechanisms for the devolution of power. For these reasons and others, the CPA is an asset to the people of Darfur and not an obstacle to them, and the achievement of peace in Darfur—which also means the fuller participation of Darfurians in national political life—should become a means of ensuring the more faithful and rapid implementation of the CPA.

A third consideration was practicality. Darfur is ravaged, half of its people driven from their homes, facing a huge task of reconstruction and reconciliation before normal life can begin again. In these circumstances, it is better to build on what exists—the existing states administration—rather than destroying it, and better not to create any conflicts that do not already exist. For this reason, the Mediation preferred to propose to keep intact what is already there for state and local government, and establish new institutions for the specific tasks of implementing the DPA.

A fourth principle was that whatever was agreed in Abuja was purely interim. Sudan as a whole is in an interim phase—a transition from war to peace, from authoritarianism to democracy, from humanitarian relief to social and economic development. Anything agreed at Abuja would only last until elections were held across the nation. And the country as a whole faces the challenge of adopting a permanent constitution following the

2011 Southern referendum on self-determination. What was at stake in Abuja was not Darfur's permanent status, or a permanent division of power between the parties, but purely an interim arrangement for the next few years.

Most of the provisions for security arrangements and wealth sharing arose directly from the discussions held between the GoS and Movements' negotiators. This was not possible for the power-sharing chapter. Instead, the Mediators based their proposals on the principles outlined, and above all on the principle of democratic transition.

What the GoS and Movement negotiators did agree on was the importance of democracy and free elections according to the timetable of the INC. It was only logical to extend the democratic principle to the concept of the Region—to allow the people to decide. And in their bilateral negotiations in January and February, the GoS and Abdel Wahid had explored the idea of a transitional or interim administrative authority for Darfur. From this, the Mediation developed the idea of the TDRA. It has important powers, a large budget, deals with the most important issues facing Darfurians today, and lasts until there is a referendum on whether Darfur should have a permanent Region or not.

Because the TDRA is transitional, this gave the Mediators scope for proposing more power for the Movements. According to the principle that the Movements could not negotiate the GoS out of power, any fully-fledged Region would have had to be controlled by the NCP. But the TDRA can be controlled by people chosen by the Movements. Each of the bodies that collectively make up the TDRA is to be headed by someone chosen by the Movements. And the TDRA itself is chaired by the Senior Assistant to the President, the fourth most senior individual in the Presidency, who has more extensive competencies than even the Vice President.

Paragraph 50 of the DPA spells out the composition of the TDRA. As well as the Senior Assistant to the President and the Governors of the three Darfur States, it includes:

- Head of the Darfur Rehabilitation and Resettlement Commission, the body that will oversee the social and economic reconstruction of Darfur;
- Head of the Darfur Reconstruction and Development Fund, which will dispense the funds made available by the central government and international donors for reconstruction and development;
- Head of the state Land Commission, which will oversee the resolution of disputes over land tenure;
- Head of the Darfur Security Arrangements Implementation Commission, which has wide-ranging powers and competencies over disarmament and demobilization, the restructuring of security institutions, integration of former combatants, and a host of other security-related tasks;
- Chairperson of the Darfur Peace and Reconciliation Council, an institution which will be established at the Darfur-Darfur Dialogue and Reconciliation;
- Head of the Darfur Compensation Commission, which will oversee the process of making compensation awards and disbursing the monies in the Compensation Fund.

All of these posts are to be filled by individuals of integrity, nominated by the Movements. Taken collectively, the institutions that fall under the TDRA have command over more resources than any State government. The Movements' power-sharing negotiators gained a great deal for their people.

Meanwhile, the three Darfur States remain, with a direct relationship to the central government, continuing their existing activities. One of the three Governors is to be a nominee of the Movements, and the other two States are to have Deputy Governors nominated by the Movements. In each State, the Movements nominate two ministers plus an adviser with ministerial rank. This is a straightforward compromise between the GoS and the Movements' positions.

The Movements' negotiators in Abuja pointed out that because the NCP still has a simple majority in each State legislature, and four ministers, there is the potential for a clash between the TDRA and the States. They won an additional concession from the GoS. In such cases, Paragraph 54 states that the conflict is to be referred to the Presidency—where the Senior Assistant to the President has to be consulted on all matters relating to Darfur.

The Movements' negotiators won another important concession from the GoS. Paragraph 61 returns the borders of Darfur to where they stood at Independence on 1 January 1956. The Southern border with Bahr el Ghazal will be determined by the North-South Boundary Commission and the precise location of the northern boundary will be demarcated by a technical committee.

At the heart of the DPA's provisions for sharing power are the 2009 elections and the 2010 referendum. Whoever wins those elections in Darfur, controls Darfur, whoever wins the referendum on the status of Darfur, determines whether Darfur is one or three. The combination of CPA and DPA gives the people of Darfur democratic rights and opportunities they have never before enjoyed. The challenge facing the Darfurian people and the parties to the DPA is to make this democratic transformation into a reality.