

PROSPECTS FOR PEACE IN SUDAN

BRIEFING

AUGUST-SEPTEMBER 2004

Justice Africa
3 September 2004

Overview

1. The GoS is pursuing the high-risk strategy of seeking a solution on its own terms in Darfur, anticipating that international interests in the Naivasha process will allow it to prevail. It may yet be proven right. It has made only modest progress in implementing its commitments in Darfur, focusing its efforts on building an international coalition opposed to sanctions. The practical obstacles to ensuring security are considerable, but the GoS needs to demonstrate much more goodwill and determination.
2. The Darfur peace process is making some progress in the AU-convened talks at Abuja, Nigeria. It is clear that the negotiations will take some time. The best options for immediate progress include upgrading the AU military force in the region, while refining the proposals for establishing security and moving towards a comprehensive political settlement.
3. There are three parallel negotiating tracks at present. Naivasha is currently in suspended animation, while the Abuja talks progress. The NDA-GoS talks have resumed in Cairo under Egyptian auspices. How can these initiatives be coordinated? Should they be sequenced? The GoS is content for delays to continue at Naivasha, as it wants to organise its core northern constituencies before concluding deals with the SPLA and the Darfur rebels. GoS hints about linking the peace processes are in fact an indication that it prefers to slow them down.
4. The international community and many observers remain remain opposed to such close linkages, preferring to emphasise the successful completion of Naivasha without it being complicated by the Darfur conflict. In fact there is no reason for delaying Naivasha. Its conclusion before the other tracks makes it the main reference to any subsequent Agreements on Sudan.

The U.N. Security Council

5. On 30 July, the UNSC passed Resolution 1556 which required Sudan to take immediate steps to disarm the Janjawid, provide humanitarian access, and promote security in Darfur. A report was required after 30 days (there was no deadline or schedule for action as such). The resolution was considerably weaker than most human rights advocates had hoped. No sanctions were canvassed, merely unspecified future steps. It has become clear from the

positions of many members of the international community, including the Arab League members, Russia and China, that a UNSC vote in favour of sanctions is extremely unlikely.

6. The UNSG's report indicates that some progress has been made, and that cooperation between the GoS and the international community has improved, but that militia and GoS attacks were continuing. It was completed too early to include evidence for GoS involvement in the most recent attacks. The report, drafted by the SRSG Jan Pronk, notes that 30 days was too short a period to effectively disarm Darfur, but also points out that immediate action is possible in some areas.

7. Mr Pronk drew up a 10-point action plan with the GoS for humanitarian action and the promotion of security, covering 90 days. The GoS tried to present this as an alternative to the UNSC demands, which it was not. The plan included a proposal for 'safe areas'. In principle these are a reasonable concept for the promotion of security in the vicinity of IDP camps, but the name adopted carried echoes of the failed UN safe areas in Bosnia, and generated opposition from relief agencies as a result. The GoS also planned to use this as a means for securing its major towns and a handful of other areas, increasing its own security presence, and perhaps consolidating the displacement of IDPs in those locations. A more comprehensive approach to security is under discussion at Abuja, which may replace this proposal.

8. One of the major areas of progress has been humanitarian access to the rebel-held areas. Vaccination programmes have proved a significant success, and food distributions have begun. GoS cooperation with international agencies has improved somewhat, though promises have yet to be implemented fully.

9. The GoS was slow at drawing up its plan for controlling the Janjawiid, presenting it to the Joint Implementation Mechanism only on 19 August. This reflects the fact that a large proportion of the Janjawiid, including its commanders, are part of the command structure of the Sudanese armed forces and PDF, so that disarming them while also maintaining the pretence that they are an independent force represents political challenges. The actions taken thus far for disarmament have been token only, as alluded to by the UNSG's report. The well-documented attack on 26 August demonstrated the GoS failure to implement its commitments. Was this an instance of contempt for the international community? Or internal dissension within the ruling clique? At the moment it is unclear, but it is probable that the government has yet to decide on its plan of action. (In this respect it is interesting to note that the GoS reported to the JIM that some of the militias were indeed under its control, and were associated with the PDF, thus contradicting its earlier statements and explicitly opening up the agenda of disarming the PDF itself.) There is no sign of any efforts to prosecute Janjawiid leaders allegedly responsible for abuses.

10. The SLM kidnap of Sudanese humanitarian workers on 29 August was not a comparable violation, although the GoS has done its best to put such a spin on it. Those who were detained were Sudanese staff, whom the SLM suspected may have been intelligence officers. There is a long history of the GoS placing security staff in humanitarian agencies. The quick response of the SLM leadership to cooperate with the UN in releasing the detained staff has in fact demonstrated good cooperation between the rebels and the international community.

11. The UNSG's report concludes, fairly, that the GoS has not met some of the commitments it entered into. This conclusion is qualified by the report's acknowledgement of practical

difficulties in making progress, and efforts already made. The challenge is now on the UNSC to find a means of maintaining or intensifying pressure. There is an international consensus, supported by most in Sudan, that sanctions are crude and ineffective. The rebel movements are calling for a no-fly zone over Darfur to prevent aerial attacks. But the key areas for progress must be the parties' negotiation of a political settlement, and the substantial upgrading of the African Union military presence in Darfur.

Darfur: The Parties' Calculations

12. The GoS calculation is that the international community does not have sufficient seriousness or staying power on the Darfur issue, and that time is therefore on its side. It assumed that with the support of the Arab League, the benefit of the doubt from some prominent African states plus Russia and China, it would evade sanctions at the UN Security Council. The GoS also calculates that the U.S. and other western countries will not risk derailing the Naivasha process over Darfur.

13. The GoS held its 'All Darfur Conference' in Khartoum on 11-12 August. It resulted in calls for 'harmony' and 'coexistence' in Darfur, but no breakthroughs. The conference was a stratagem for furthering its agenda of presenting the Darfur conflict as purely internal, and seeking a purely internal solution. It also allowed a range of parties to present proposals, some of which could then be adopted by the GoS as 'consensus positions', and for the GoS to argue that it had undertaken a wide-ranging consultation on the crisis. One of the GoS's cards is that many Northern civil society organisations and political parties feel that their voices have been silenced in the Naivasha process, and want to have their say in Darfur. For the most part, these parties are averse to proposals for regional autonomy (they are critical of the agreements on the Nuba Mountains and Blue Nile, for example).

14. One of the recommendations from the Khartoum conference was the re-establishment of the Native Administration (tribal leadership). This can be, and has been, presented as the re-establishment of traditional independent community leadership. In fact, administrative sheikhs have always been government appointees, whether by the Dar Fur sultanate, the colonial administration, or the independent government. The Native Administration was abolished (several times) in the 1960s and '70s, and reinstated (several times) in the 1980s and '90s. The re-establishment of a form of Native Administration in 1994 in western Darfur was in fact a spark for the GoS to appoint favoured leaders, and was a spark for violence. We must therefore be cautious about appeals for re-establishing 'traditional' authorities: all are political appointees.

15. The GoS wants an ineffective AU intervention. It is counting on the weak capacity and uncertain political will of the AU, and is trading on the ambiguity of the AU's legitimate concern with the internal affairs of a member state (as formalised in the Constitutive Act of the African Union) and the principle of non-interference in those internal affairs, which remains vibrant especially in the Arab world.

16. The SLM/JEM calculus is less clear, and in any case is based on a less sophisticated understanding of the forces at play. Under the influence of some friends, the rebel movements may have also assumed that time is on their side, and that the al Bashir government is doomed.

The rebels' calculations are evolving over time, as they learn the interests and capacities of the international community and negotiating strategies, as they go along. While the SLM's agenda focuses overwhelmingly on the needs of the people of Darfur, the JEM agenda is clearly national in scope, and the JEM leadership is resistant to concluding a deal that is confined to Darfur.

17. The SLM and JEM also need to consult extensively with their constituencies and build a consensus around what they can agree to. The SLM leadership has been preoccupied outside Darfur in recent months and has had insufficient time to spend on the ground, although good satellite phone communications have made regular contacts with the field possible. The JEM had planned a Congress in Germany for the end of August, which would have been an opportunity for such discussions, but this was postponed at the last moment.

18. Both principals in Darfur have been counting on the SPLA. The GoS assumes that the Naivasha process, whether completed or in suspension, effectively neutralises the SPLA as an opposition. The rebels have assumed that their contacts with the SPLM will translate into political solidarity. However, neither side should take the Southerners for granted. The GoS should not underestimate the determination of the Southerners and the SPLM not to be outmanoeuvred now or during the transitional period. Neither should the Darfur rebels underestimate the Southerners' commitment to peace in the South, and their resistance to revisiting the North-South peace process and agreements reached therein, on account of the Darfur conflict. The SPLA position on Darfur, made clear by a statement by the Chairman at New Site during the visit of Senator Bill Frist, is that there should be a tripartite security force consisting of GoS, SPLA and African Union forces (10,000 of each). This proposal was rejected out of hand by the GoS. The SPLA is also encouraging the Darfur rebels to study closely the Naivasha agreements on the three areas. Clearly, the SPLA leadership is becoming concerned that the Darfur conflict may delay the completion of the Naivasha process.

The Abuja Peace Talks

19. The agenda for Abuja meeting was agreed between the African Union Commission and the host, the Government of Nigeria (President of the AU) only at the last minute. The AU had earlier adopted a low-key approach to negotiations. The Nigerian President, Olusegun Obasanjo, wanted a higher-profile event. His strategy was to showcase his Presidency of the AU, and Africa's capacity to resolve its own conflicts. This included bringing in the potential rivals and spoilers to be part of the show. To that end, he invited Libyan leader Muammar Gaddafi and Arab League Secretary General Amir Musa (the latter at short notice). This had the desired effect of obtaining public shows of support for the AU from the two key regional actors capable of derailing the process. It had the unfortunate side effect that it aroused the rebels' suspicion that the Nigerians had conspired with Arab governments to set the agenda and cook the outcome. This suspicion was further reinforced when Pres. Obasanjo echoed the GoS and Arab League position that the rebels and the Janjawiid should be disarmed together. This contributed to semi-paralysis in the early days of the talks as the parties disagreed over the agenda.

20. The Nigerian leadership in the Darfur mediation must be seen in the context of Nigerian internal politics. Like Sudan, Nigeria has north-south and Muslim-non-Muslim divides, and has suffered a secessionist war. Nigerians have long-standing political and cultural ties to Sudan. As a southerner and a Christian, Pres. Obasanjo has to be particularly sensitive to northern Muslim opinion in Nigeria, which has entailed appointing a very prominent Muslim

northerner (former Pres. Ibrahim Babangida) as special envoy, and inviting Gaddafi and Amir Musa to Abuja for the talks. The Nigerian involvement has another dimension too. Nigeria has led the way in peacemaking and military intervention in west Africa, undertaking its missions without external finance or technical support. Nigeria therefore assumes that it can lead the way in Darfur, also without calling on foreign funds or technical expertise. The Nigerian leadership runs the risk that it will not be sustainable, beyond a short engagement lasting a few weeks. Should the Abuja process not produce a result within a month or so, it will be important that the AU Commission capacity be strengthened, creating a technically proficient secretariat along the lines of the IGAD Sudan Peace Secretariat. The UN has already assisted the AU to create such a unit, on a small scale.

21. The parties sent large, high-level delegations. Neither side was in a mood for compromise. The GoS delegation, headed by Majzub al Khalifa, made a series of presentations that bore very little resemblance to the realities on the ground. The rebel delegations, headed by SLM Chairman Abdul Wahid Mohamed Nur and JEM lead negotiator Ahmed Tugod Lissan, were also insistent that the GoS prove its good faith by fulfilling its existing commitments, before moving to political negotiations.

22. The main issue of contention at the outset was security. Pres. Obasanjo and Amir Musa both spoke of the parallel disarmament of the Janjawid and the rebels, which is the GoS position and which is completely unacceptable to the SLM and JEM. Clearly, the rebels will need to be disarmed at some point, but putting this as the first stage of a peace process is inviting them to surrender. It was only after almost a week of talks that the parties began studying the formula for ceasefire implementation and arms control used in the Nuba Mountains. At the time of writing, the talks are moving very slowly on security issues, because of the agenda item of the disarmament of the rebels.

23. The rebel fronts have focused on exposing the failures of the GoS to live up to its commitments, arguing that political negotiations can only begin when this has happened. At one point, the rebels walked out for 24 hours in protest at a GoS attack on villages, in violation of the ceasefire agreement. However, the political dimensions to the settlement are the rebels' strongest card. Both SLM and JEM prepared draft declarations of principle for discussion at the talks, and both have longstanding and legitimate grievances to present.

24. The talks have been competently handled by the AU team. The formula for the negotiations will be four technical committees, mandated to deal with humanitarian, security, political and social/economic issues respectively. On completion of the urgent humanitarian and security issues (likely by 5 September or thereabouts) it is likely that the talks will go into recess, for the parties to consult, in preparation for intensive meetings by the technical committees and then another round of plenary negotiations. The mediators are under pressure to make substantive progress by mid-October, which is the deadline set by the domestic U.S. political timetable for a peace deal in Sudan, if it is to have any positive political repercussions for the Administration. However, with the technical issues as complicated as in Southern Sudan, and the intricacies of international engagement just as great, it is important that whatever formulae are worked out are not only politically acceptable to the parties, but also practically feasible and fundable by the international community. This will require time and consultation.

Naivasha on Hold

25. The Naivasha talks remain stuck on two points. One is the funding of the SPLA (armed forces of Southern Sudan) during the interim period. The GoS is insisting that the Southern Sudan entity fund its own army. In the short term this relieves Khartoum of a financial burden. However, it is a crucial step in separating the governance structures of North and South, and in retrospect may come to be seen as an irreversible step towards separation of the two parts of the country. If the GoSS has its own taxation system and funds its own security services, it is a separate country in all but name.

26. Shuttle diplomacy continues on the political identity of the pro-GoS militia in Southern Sudan and their place in the security arrangements. In principle, this issue was resolved a year ago when the militia were given the choice between joining the GoS armed forces and the SPLA. In June-July the GoS tried to reopen the issue, bringing commanders of pro-GoS Southern armed groups to Naivasha. More recently, the militia commanders themselves have said they are ready to speak to both sides, but only through the mediators. This suggestion that they be regarded as a third force is somewhat compromised by the fact that many have accepted senior ranks in the GoS armed forces, making them integral to the Sudan armed forces. Only the rank and file, who have no formal commissions or pay, could be considered as quasi-independent. The most logical outcome for these groups is for them to accept that they are part of the GoS army, but have a special provision in the security arrangements deal, whereby they will become part of the joint integrated force on its creation.

27. A more significant problem will be the size of the Southern army and especially the number of men to be disarmed and demobilised. Most estimates for the size of the SPLA are between 30-40,000, but there have been suggestions that Southern Sudan will need to support as many as 200,000 men. Southerners are asking how many soldiers they will be asked to pay for. Thus far, the security arrangements discussions have not addressed the strategic issues of the long-term size and posture of Sudan's armed forces, which in turn must be based on a defence and foreign relations policy.

28. The GoS position needs to be seen in the light of the failure of the Military Intelligence stratagem for outwitting the SPLA and derailing the Naivasha process. Following the decision by the SPLA-United (headed by Lam Akol) and the Equatorian Defence Force, to join the SPLA, there was an MI plan to launch militia attacks in both Shilluk areas (held by SPLA-United) and Torit (the EDF headquarters). The Shilluk campaign was mounted, with scorched earth tactics utilised. But the extent of the political crisis—both domestic and international—that followed the humanitarian disaster in the Shilluk Kingdom precluded the second stage of the plan—the attack on Torit—from proceeding. MI had been planning to utilise the Lord's Resistance Army in this campaign.

29. As a result, the EDF has teamed up with the UPDF to attack its erstwhile allies, the LRA. Given its knowledge of the terrain and its adversary, it has scored some major successes. The EDF alignment with the SPLA also enabled the Ugandans to go beyond the red line earlier negotiated between Kampala and Khartoum, thereby attacking and overrunning LRA bases close to Juba. This episode reveals the extent of complicity between Sudanese MI and the LRA.

30. The next MI stratagem is the relocation of the militia from rural areas to towns. In the past, the militia had been garrisoned almost exclusively in remote areas, reflecting GoS distrust of their loyalty. Their garrisoning in urban centres is a cause for concern. It may be a means of preventing militiamen from leaving to join the SPLA should they so desire. It may also be a means of trying to control the cities and intimidate the civil population. Sudan peace agreement must provide for civil professional police in South Sudan.

31. The second point of disagreement is the proposal for a joint integrated force between the Sudan armed forces and the SPLA in eastern Sudan. The security arrangements agreement provides for the SPLA to withdraw its forces in the east in one year. The GoS proposes that it is replaced by a purely GoS force; the SPLA insists on a joint force. A further complication is that the GoS is conducting parallel negotiations with the NDA in Cairo, including the subject of security arrangements in eastern Sudan.

32. These points of substantive disagreement reflect the need for the talks to reconvene with the high-level principals, namely Ali Osman and John Garang. The formula used for the last round at Naivasha was face-to-face talks, in the absence of the mediators and observers, but at a lower level. This has the difficulty that final agreement is difficult without the high-level principals, and that the delegations themselves may not possess all the technical expertise needed to hammer out detailed arrangements unless they can involve the facilitators and observers.

The Cairo NDA Meeting

33. The NDA and GoS met in Cairo for a week, concluding on 30 August. This was the long-awaited follow-up to the Jeddah Agreement. From the GoS side, the aim is to consolidate its power base in the North, in particular bringing in the DUP as an ally of the NCP, and thereby strengthening the central bloc opposed to further devolution of power to the regions. On the NDA side, it is a vehicle for returning to Khartoum with honour intact. It also has the potential for discussing eastern Sudan, though both leaderships would rather not deal with this issue in detail. Both parties have insisted that this exercise is fully in conformity with the Naivasha process. However, the final statement indicates that the forthcoming meeting will revisit all the items of agreement in Naivasha. The meeting agreed to set up four committees (political, constitutional issues, economics and security), and to meet again on 28 September, again in Cairo. The agenda will include both Darfur and eastern Sudan. It is likely that the delegation heads will be Ali Osman and Mohamed Osman al Mirghani.

34. The SPLA and SLA were present in Cairo, while also pursuing parallel negotiations in Naivasha and Abuja respectively. On one hand, this is odd, as it makes them party to potentially contradictory initiatives. On the other hand, it is a positive factor in that the SPLA in particular will not permit the NDA and the GOS to agree to any settlement that undermines Naivasha.

35. The Cairo meeting represents the reincarnation of the defunct Joint Libyan-Egyptian Initiative, giving Egypt a role in the Sudan peace process. The meeting was addressed by Egypt's Chief of Security, Omar Suleiman, reflecting the fact that Sudan remains a security file in Cairo. The GoS delegation was headed by Nafie Ali Nafie, the first time that he has been allowed to visit Cairo since 1995.

36. An intriguing incident occurred when the Arab League summoned the Australian ambassador to Cairo to its office, to complain over Australia's statement of readiness to send troops to Darfur if called upon to do so. This was a case of the Arab League being more adamant in defence of Sudanese sovereignty than the GoS itself. Perhaps it is a case of displaced Arab anger at the Australian contribution to the U.S.-led invasion of Iraq.

The Beja

37. The Beja areas of eastern Sudan need to be watched carefully. The Beja have historic grievances. Like Darfur, they have been marginalized and exploited, and have never had adequate representation in central government. Like Darfurians, they are non-Arabs but devout Muslims, in particular many of them are followers of a Sufi sheikh, the late Ali Betai, whose settlement at Hamush Koreb has become an important religious and political centre. A Beja political party, the Beja Congress, has existed on-and-off for some decades, contesting the 1960s & 1980s elections and returning some MPs. The DUP also has a strong presence in the area, commanding the loyalty of many Beja leaders, and opposing any independent Beja political organisation. The Islamist government not only continued the marginalisation of the Beja, but also strongly opposed what it saw as the unorthodox Islam of Ali Betay and his followers. It closed and even destroyed some mosques, driving the Beja's traditional and religious leaders into opposition. In response, as part of the NDA and with the support of Eritrea, the Beja Congress set up an armed wing and began guerrilla attacks. In coordination with (especially) the SPLA's New Sudan Brigade, it came to occupy and administer significant areas of eastern Sudan, including Hamush Koreb. These military activities have been almost completely in abeyance for about four years, and a number of Beja Congress political and military leaders have returned to Khartoum. However, there are still a significant number of Beja guerrillas in Eritrea and in opposition-controlled rural areas, and the basic grievances of the Beja have yet to be addressed.

38. The recent NDA meeting began with the Beja low down on the agenda. At the insistence of the Beja Congress their issues were pushed to the head of the agenda. If the Cairo talks are to have real relevance, it should focus on finding a solution to the Beja issue. The obvious solution to the Beja is a form of regional autonomy utilising the formula developed for the Nuba and Blue Nile at Naivasha. However, most of the NDA parties are opposed to regional autonomy settlements for minorities in Northern Sudan, and Egypt is also deeply opposed to any such steps. Thus, it is probable that the Beja will need a direct, bilateral forum with the GoS to negotiate a workable deal. This will add to multiplicity of engagements that must be discouraged.

The Region

39. The role of Eritrea is a complicating factor in peacemaking. Eritrea is opposed to the Naivasha agreement. Until early August, there were signs that Eritrea was considering reopening the eastern front in Sudan, but the progress made in Abuja and Cairo has marginalized Eritrea, and made its engagement more flexible.

40. The recent military successes against the LRA in Sudan have emboldened Ugandan President Yoweri Museveni to be more outspoken about his history of conflict with the GoS. However, he would be unwise to make yet more predictions about the imminent demise of the LRA.

Conclusions

41. Naivasha remains the linchpin of peace in Sudan. Without the completion of Naivasha, all other peace processes are doomed to failure. The completion of Naivasha will significantly change the political dynamics in Khartoum and make a settlement of all other outstanding issues and conflicts, beginning with Darfur, much easier. In addition, many of the formulae agreed at Naivasha, such as those for the three areas, can with suitable modification be applied to Darfur and the Beja. For all these reasons, it is important that the Naivasha process be rejuvenated and brought to a rapid conclusion. The GoS should not be allowed to procrastinate or be distracted by other concerns, however legitimate they may be.

42. The outlines for a settlement in Darfur are in place. The mediation process is beginning to function. The key issues have been identified. The monitoring mechanisms have been identified, even if the AU capacity is as yet inadequate. The key international organisations are appraised of the issue. However, there should be no illusions that this will be a rapid process. The best that can reasonably be expected is a framework agreement in the next two months or so, and the creation of a strong secretariat on the Naivasha model, followed by negotiations on the details and the implementation modalities, concurrent with an upgraded and more assertive AU peace support operation (more African troops with a more robust mandate), linked to sustained political and diplomatic pressure by the international community. The GoS, currently intransigent, is likely to see that conceding a more effective AU presence is its least bad option.