

The African Union High-Level Panel on Darfur: Q&A

1. What is the AU Panel on Darfur?

- The AUPD was Mandated by the AU Peace and Security Council in July 2008 and re-mandated in February 2009. It was set up in March and began its activities in April.
- The AUPD was mandated to look into the issues of peace, justice and reconciliation in Darfur, with a view to finding an overall solution to these challenges.
- The Panel’s Chairman is President Thabo Mbeki, and its members include President Abdulsalami Abubaker, President Pierre Buyoya, Justice Florence Mumba, Al Haji Kebir Mohammed, Ms. Rakiya Omaar, and Mr. Ahmad Maher.
- The AU constituted the Panel as an independent body, to make recommendations to the AU for action. The Panel therefore will submit its recommendations to the AU PSC, including actions for the AU, the AU-UN Joint Chief Mediator and UNAMID.
- The AUPD handed its Report over to the Chairperson of the AU Commission on 8 October and the Report was adopted at a special summit-level meeting of the AU Peace and Security Council on 28 October.
- The PSC has re-mandated the three former heads of state to form an AU High-Level Implementation Panel, for twelve months, to oversee the implementation of the recommendations.

2. What is the Panel’s Vision?

- The Panel defined the crisis as “Sudan’s crisis in Darfur.” This calls attention to the fact that the conflict is the manifestation of a deep-rooted problem of unequal power and wealth in Sudan. This is a legacy of the colonial period that successive post-colonial governments have failed to correct.
- The Panel sees the issues of peace, justice and reconciliation as interconnected and that any solution to the three must be found as part of an integrated package. All should be subject to negotiations as part of a Global Political Agreement.
- The Panel believes that any solution to the crisis must be found through the people of Sudan taking ownership of the process and the solution. The Panel does not support any externally-determined blueprint.
- Furthermore, the Panel holds that recommendations will be meaningful only if they can be agreed and implemented by the people of Sudan. For that reason, the Panel extended its work to include an additional round of consultations, so that it could share its preliminary recommendations with the Sudanese people.

- Because the Darfur crisis cannot be disconnected from the wider Sudanese crisis, the AU Implementation Panel's mandate includes also the implementation of the CPA.

3. How Did the Panel Go About its Work?

- The Panel initially had a three month mandate, which it extended by an additional two months in order to undertake additional consultations.
- The Panel's method of work was to meet with as many different stakeholders as possible, from the President of Sudan to villagers and displaced people in rural Darfur, to obtain their views, analyses, fears, hopes, and opinions. During its four missions to Sudan, over more than forty days of consultations, the Panel met with more than 2,700 people in Darfur and 400 in Khartoum. It undertook a pioneering round of public hearings with stakeholders. The Panel used the good offices of the DDDC and UNAMID to organize these meetings.
- Members of the Panel travelled to neighbouring countries to meet with government officials, members of the armed movements, refugees, and civil society organizations. The Panel also met with the special envoys of the P5 countries and the EU, plus senior officials of the AU, League of Arab States, Government of Qatar, and the UN. It consulted with the Prosecutor of the ICC and leading members of the Save Darfur campaign and other human rights organizations.
- The Panel conducted a final round of meetings with stakeholders to discuss its preliminary recommendations.

4. What are the Recommendations for Peace?

- In all the consultations held by the Panel, stakeholders emphasized peace as an overriding priority. Noting that peace, accountability and reconciliation are an integrated whole, everyone agreed that without peace there could be no progress on any of the other dimensions.
- The AUPD recommends enhancing the existing peace process, convened in Doha with the Joint Chief Mediator Djibrill Bassolé. It is essential that there is only one track for the peace process, and that all international efforts are directed towards the same end. However, based on its extensive and unparalleled consultations, the Panel recommended that the peace process needs to be reinvigorated in important ways.
- The crucial recommendation is that participation in the peace process must be inclusive. At present, participation is limited to the Sudan Government and the armed movements. All the organized stakeholders who met with the Panel, including civil society, political parties, IDPs and refugees, native administrators and pastoralists, demanded that they too be represented. They argued that they are part of the solution to the Darfur crisis and it is essential that they themselves are able to speak as full participants in any peace process.
- The mechanisms for ensuring inclusivity have yet to be decided, and will include consultative processes in which representatives from each of the

stakeholder groups can be selected. The DDDC will play a leading role in the process of bringing the stakeholders together to select their representatives.

- The Panel proposes a cessation of hostilities followed by the adoption of a Framework Agreement (it proposes the 2005 Declaration of Principles for this) then followed by the negotiation, in parallel, of security arrangements and a Global Political Agreement. The full agenda for the political agreement talks is to be determined.
- The Panel proposes that the Darfur peace process result in a Global Political Agreement, which addresses all the major issues facing Darfur. The GPA should cover not only the issues of peace for Darfur itself, but also justice, and reconciliation.
- The Panel recommends many immediate steps that the Sudan Government can take in order to build confidence and generate momentum towards peace. These include improving the security around IDP camps and enhancing the capacity of local police units.

5. What are the Recommendations for Justice?

- The Panel heard unanimous views that justice needs to be done. The question posed to the Panel is, *how* should it be done.
- Based on what it heard from the people of Darfur, the Panel sees justice as much wider than the question of criminal trials for serious abuses committed during the Darfur conflict. Justice involves the wider and more ambitious agenda of compensation and restitution, the restoration of the rule of law, and enabling the Darfurian people to resume their correct place within the Sudanese national political order. Justice in Darfur is social and economic as well as judicial in the narrow sense.
- The role of justice in a final settlement of the Darfur crisis is subject to negotiation and agreement among the parties. Justice for crimes committed during armed conflict and political upheaval must be integrated into a global political agreement.
- The AUPD does not have the legal power to make any proposals that would be binding on an international criminal mechanism such as the ICC. The ICC is a reality that the Sudanese must recognize and deal with as they see fit. Cooperation with the ICC, or rejection of it, should be a political decision to be arrived at by negotiation.
- The Panel notes that even if the ICC were free to pursue all its cases, it would prosecute only a handful of alleged perpetrators of crimes. The vast majority of those alleged to be responsible would not face justice at The Hague. Consequently, other measures are needed in order for criminal justice to be done. Among these are strengthening the national judiciary and setting up hybrid courts.
- There is no definition of a hybrid court. It is a criminal chamber that involves both national and international legal professionals to try exceptional cases. It can either be modeled on an international tribunal, but located in the country affected, or can be a chamber of a national judicial system adapted to include

international legal professionals, to prosecute for crimes under international law. The Panel leans towards the second approach. The details are to be decided.

- Any hybrid chamber will also prosecute only a small number of alleged perpetrators. The strengthening of the Sudanese judiciary is an essential step.
- Social and economic justice is an integral part of achieving justice for the people of Darfur. This includes restitution, compensation, and economic development to enable the region to catch up with other parts of Sudan.

6. What are the Recommendations for Reconciliation?

- The challenge of reconciliation is the third pillar of a solution for Darfur. This consists of two elements: local measures, and a Truth, Justice and Reconciliation Commission.
- The Panel found that local communities in Darfur are already making significant moves towards reconciliation. It recommends that these should be supported and proposes that the DDDC should play a prominent role in this.
- The Panel recommends setting up a Truth, Justice and Reconciliation Commission (TJRC) that will play the leading role in bringing Darfurians together.

7. What does the AUPD Have to Say about Sudan as a Whole?

- The Panel defines the current crisis as ‘Sudan’s crisis in Darfur.’ Darfur is an integral part of Sudan and, in large measure, the crisis in Darfur is an outcome of the enduring governance problems of Sudan as a whole. The Darfur crisis can only be resolved as part of an overall national political settlement, and by the same token, Sudan’s national crisis can only be overcome if Darfur is resolved.
- Sudan has made important sovereign decisions, within the framework of the CPA, to hold national elections in April 2010 and a referendum on self-determination in south Sudan in January 2011. It is vitally important that Darfurians are able to participate fully in free and fair national elections, and that they become part of the national process leading up to the referendum. The legitimacy of the elections and the referendum should not be impaired by an ongoing crisis in Darfur.
- The Panel also considers that a process of national reflection on the events since independence would be a helpful, even essential, exercise in forging national unity and a sense of common Sudanese identity, coming to terms with the past and enabling the Sudanese people to face the future together.

8. How are the AUPD Recommendations to be Implemented?

- The AUPD report was presented to the AU Commission on 8 October and to the AU Peace and Security Council, meeting in Abuja, Nigeria at the level of

heads of state, on 28 October. It will also be presented to the UN Security Council.

- The Panel does not have a blueprint. Its recommendations are focused on process and local ownership of the processes. The recommendations are binding on UNAMID and the JCM, insofar as they answer to the AU, but all proposals for the Sudanese are open for negotiation.