

PROSPECTS FOR PEACE IN SUDAN

BRIEFING

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Overview

1. The twenty years' anniversary of the outbreak of the war has passed, with the basic issues that can end the conflict still unresolved. However, the peace process is now sufficiently advanced, that neither party can turn away without serious, possibly irreparable, domestic and international cost. The mediators have embarked upon a bold 'holistic' strategy to bring the negotiations to a rapid conclusion.
2. The fifth session of the Sudan peace talks under the auspices of IGAD ended in Machakos on 21 May. The mediators described the process in this round as 'a holistic approach to the negotiations on all the agenda items'. This approach is a means of accelerating the negotiation process, almost akin to an arbitration effort. It appears from this approach that the phase of negotiations between the parties, GoS and SPLA, is nearly over. It further means that the fate of war and peace in Sudan will soon be directly in the hands of Dr. John Garang and President Omer al Beshir. Will the mediators have the energy and clout to bring the two principals to an agreement? Will the foundation be there for that agreement to stick?

Can there be Peace by 30 June?

3. Can an agreement be reached in the coming month? The U.S. remains bullish. Gen Sumbeiywo is more cautious. Dr Garang, speaking in Asmara, said that June was too soon. The fear among the mediators is that the pressure will slacken and the momentum will die if the negotiations drag on into the final quarter of the year. The mediators' principal concern is not the substance of the negotiations, but the political will and commitment among the parties themselves. If that commitment can be secured, then any outstanding substantive disagreements can be resolved.
4. In response to these fears, the last round of negotiations consisted largely of the mediators presenting an open agenda to each of the parties separately, and asking for their positions on all positions (save the marginalised areas, which are dealt with in parallel). The implication of the closure of this phase is that the mediators now consider that they have learned enough, that the parties have no more to say, and that it is up to the mediators to study their positions and identify possible compromises for presentation. Face-to-face sessions were limited. Most progress was made in sessions held between the parties and the mediators and their resource persons.

5. The most substantial progress made in the recent round was on the issue of wealth-sharing. With the assistance of resource persons including some provided by the World Bank and IMF, the distance between the parties has narrowed considerably. There are a few outstanding issues, including, curiously, the SPLA's insistence that its currency (which it has printed) should remain legal tender. There has been less progress on power sharing and security arrangements. One reason for this is that, as the negotiations zero in on the critical issues, the delegations from the parties do not necessarily have the authority to present and agree to final positions.

6. In the meantime, the key mediators are continuously in contact with the parties. Dr. Garang is currently visiting Washington as part of the SPLA and GoS continuous consultations with the mediators, in order to explore the still outstanding issues. Garang was preceded by Mustafa Ismail, the GoS Foreign Minister. The U.S. role in forcing the pace of the negotiations remains key.

7. At the next session scheduled for June, the mediators are likely to present a draft proposal of the best possible compromise which will address the aspiration of both parties. This will be somewhat akin to a position presented by an arbitrator. The parties will be expected to agree and asked to consult their respective institutions for ratification.

8. The next round of peace talks will therefore focus on details concerning security arrangements, and then proceed on to the finalisation, implementation modalities and international and regional guarantees of a comprehensive peace agreement. Meanwhile, a further round on the marginalised areas will be held. The following points will deserve special attention. First, the Referendum Protocol for the exercise of the right of self-determination. Details as to the exercise including the mandate of the Referendum Commission and eligibility of voters will need to be ascertained. This is to avoid a Western-Sahara scenario in which disputes over the voters' roll have indefinitely delayed the holding of a referendum. A second issue will be a border commission, to ascertain the borders of 1/1/56 and to resolve other border disputes that may arise during the interim period. This is to avoid a repetition of the border conflict that followed the ending of the Eritrean war in 1991.

9. If an agreement is to be reached, it will need a high-profile final push. Perhaps the best option is for President Bush's Africa trip—postponed from January with no date set—to be scheduled to coincide with a successful conclusion to the talks. However, this is a high risk strategy, because a decision by one or other party to postpone at the last moment could potentially remove the momentum of the process.

10. This process appears to be the best way of moving towards a conclusion to the peace process. It is predicated on the assumption that the parties realise that they have no option but to agree, and the fact that the 'literature of accord', extant before the Machakos process began and much intensified since, displays a considerable convergence on key issues. Its disadvantage is that there is very little direct negotiation between the parties, and therefore little opportunity to build trust. The parties are not aware of one another's positions, and neither are the people aware of the parties' positions. Everything hinges on the ability of the mediators to deliver. The SPLA has shown some concern over this approach, fearing that it is not a solid foundation for a post-conflict cohabitation between the parties.

Security Arrangements

11. For the SPLA, and many Southerners the issue of two armies is a breaking point for the talks. The mediators have a clear preference for the single army solution, but Southerners have made it clear that this is not acceptable. The GoS, however, has shown a little more flexibility. It may agree with proposal of two armies, based on its acceptance of this as an interim measure in the 1997 Khartoum and Fashoda Agreements. For the GoS, the question is not the existence of two armies, but their size and deployment.

12. SPLA would like the GoS forces to withdraw north of the 13th parallel, while the GoS rejects this position on basis of the right of a sovereign state to deploy its forces throughout its territory. The most likely compromise will be the creation of an army that has peacetime size and the definition of the tasks and deployment of those forces. If the tasks of the armies are defined, reaching agreement on their size is less difficult. The SPLA is demanding military presence in Khartoum. At the minimum, it requires an SPLA battalion there to guarantee its presence in the national capital. The creation of a small joint force for the national capital is another option, less attractive to the SPLA at this point.

13. If the issue of security arrangements can be resolved by the end of June, perhaps by the procedure of the mediators' presenting their proposed compromise, then the negotiations will move on the issue of power sharing, leading hopefully to a successful conclusion of the whole process. Further progress on both these issues will require the direct involvement of the key decision makers on both sides, namely President Bashir and Dr John Garang.

The Marginalised Areas

14. A consultation on the marginalised of Abyei, Nuba Mountains and Southern Blue Nile areas ended on 26 May. This initiative is chaired by the Government of Kenya. These talks are primarily focussed on developing a similar 'holistic approach', with the mediators presenting questions relating to the administration of the areas, Islamic law and self-determination. The talks are due to resume on 15 June and conclude within the week, immediately prior to the resumption of the main track of Machakos.

15. Meanwhile, key issues on power and wealth sharing are being agreed, on a North-South basis, on the implicit assumption that the marginalised areas will be part of one of these two entities. The discussions on power and wealth sharing have not set aside specific quotas of revenue or government positions for people from these areas. This is contributing to a feeling of uncertainty in the three areas. People in the marginalised areas are asking, are we being left for last-minute bargaining? Might we be sold short at a moment when it is politically impossible for the SPLA to back out of a peace deal?

16. A possible GoS position on the three areas has been leaked to the Khartoum press. This involves a variant of the 1972 Addis Ababa formula for Abyei (repeated in the 1996 Asmara Agreement of the NDA), namely a referendum in Abyei as to whether the area should be part of Bahr el Ghazal or Kordofan. However, it is clear that no such option is on offer for the Nuba Mountains or Blue Nile.

Darfur

17. The implications of the insurrection in Darfur need careful consideration. The military capacity of the rebels is considerable: they succeeded in destroying a number of aircraft and capturing a senior army general in their raid on el Fashir. Subsequently they attacked the town of Mellit, north of el Fashir. The tactics they are using are similar to those used by Chadian armies in their civil wars and their famous 1988 defeat of the Libyan army. They use land cruisers mounted with heavy weapons in highly mobile surprise attacks. The Sudan army is not prepared to deal with such tactics and has only two possible military responses. One is the use of air power (already impaired by the loss of four aircraft in the el Fashir raid); the other is the familiar 'divide and rule' approach of arming local militia (commonly called marahiil). The latter has been canvassed. If followed, it would run the risk of creating a vicious internecine war targeting civilians.

18. Who is being the insurrection in Darfur? There are two principal groups. One is the Sudan Liberation Army/Movement (SLA), which recently changed its name from the Darfur Liberation Front. This has issued a manifesto calling for a secular Sudan with equality for all citizens and justice for the marginalised areas. In its choice of name and platform, the SLA has obvious echoes with the SPLA. The GoS has alleged, that the SLA has received arms from the SPLA, flown by air from the South. Despite the GoS immediate assumption that Chad was behind the rebellion, there is little evidence for support from states neighbouring Darfur, though it is possible that Chadian soldiers—many of whom are from tribes such as the Zaghawa and Masalit, which live on both sides of the border—have quietly deserted to join the rebels.

19. The second major group is the Justice and Equity Front. This is essentially the Darfur branch of the NIF, which split with both Turabi and Bashir in the period of turmoil around 1999. The leader of this group is Dr Ibrahim Khalil. It is not clear whether this group has access to Islamist finance and the media (including al Jaziira television station). Members authored the 'Black Book' which accused Sudanese from the riverain regions of consistently marginalising those from Western Sudan.

20. The two groups are not natural bedfellows and could easily be split apart. What they share is a deep resentment at the marginalisation of Darfur. For this reason they command immense popular support, widely spread among the different ethnic groups of Darfur (half a dozen major tribes and several dozen smaller ones). They also enjoy widespread sympathies among the many army officers from western Sudan. Their popular support is predicated on this unity: if one group were to try to exclude the other, both would suffer. This is precisely what the GoS hopes for.

21. A number of veteran Darfurian leaders are trying to create political unity. Among them are Sharif Harir (a leader of the Sudan Federal Democratic Alliance). Dr Sharif has publicly supported the rebels, but it is unclear whether he has the support of his party, which represents many others too. The former governor of Darfur, Ahmed Diraige, also a leader of the SFDA, has not come out in support of the insurrection.

22. Thus far, the GoS has responded solely in a military manner. Since the attack on el Fasher and the abduction of Major General Ibrahim Bushra Ismail (an airforce commander) it has shown no readiness to talk. Instead, its approach is framed by vengeance.

23. Some southern leaders including the SPLA leadership may be tempted to believe that the Darfur insurrection presents an opportunity for an outright military victory, representing a coalition of the marginalised. The leadership may believe that the GoS will now face the insurmountable challenge of fighting on two fronts. This would be a miscalculation. First, the interests of the Darfur people are somewhat different to those of the South: they are demanding fair representation within (Northern) Sudan, not self-determination. Second, the GoS has until recently been fighting a war on two fronts: in the South and in the East. The Eastern front is now quiet. The south has a ceasefire and Paulino Mateip have pledged to take some of his forces to Darfur. There is no doubt that Darfur puts both military and political pressure on Khartoum.

24. The best approach to Darfur is to achieve a peace settlement for the South and then for the new national government to approach the problem of Darfur and seek a negotiated settlement. The irruption of the Darfur crisis may also present an opportunity for a broader democratic settlement favourable to the marginalised peoples of Northern Sudan including the Nuba and Southern Blue Nile people.

Opposition Politics

25. The NDA meeting in Asmara concluded somewhat oddly. The NDA Chairman, Mulana Mohamed Osman al Mirghani, reported to on his dialogue with the GoS. In the meeting he was asked to continue this dialogue, but directly with the GoS, rather than in the context of the Joint Libyan-Egyptian Initiative. Circumventing the JELI is a sign that even its former supporters have abandoned this initiative. His proposed model is one of power sharing within a 'Republican Council' of five members. These include al Mirghani himself, President Bashir, John Garang, Sadiq el Mahdi, and one other 'neutral' figure. This appears to have the backing of the SPLA leader, who met with al Mirghani at some length in Asmara.

26. This outcome is curious because the SPLA, as a leading member of the NDA is now backing an alternative peace plan to IGAD. He may be doing so on the assumption (probably valid) that al Mirghani's peace initiative will fail. In the unlikely event of its success, the SPLA will face a dilemma.

27. On 24 May, John Garang, Sadiq el Mahdi and Mohamed Osman el Mirghani held a leadership summit in Cairo. The three leaders announced 'the Cairo Declaration', which emphasised the unity of Sudan, support for the Machakos peace process and a national capital with equality among citizens. The latter is a reference to a non-Islamic capital for the interim period. Sadiq el Mahdi advocates a capital that is part of Khartoum Province but autonomous in its laws. This is similar to the SPLA position in the peace talks on this issue, namely the national capital as a shari'a-free enclave.

28. The Cairo Declaration may serve to complicate the peace process rather than enhancing it. The position of a shari'a-free enclave is completely rejected by both Beshir's National Congress and Turabi's Popular Congress. It could be a breaking point for the talks as the NIF may find its unity in an adamant rejection of any secular laws in Northern Sudan. The

mediators will have a daunting task of pushing the shari'a-free enclave as a national capital as a compromise position.

Khartoum

29. The issue of Ali Osman's position is still critical. He has key supporters including Nafie Ali Nafie (security) and Awad al Jaz (oil). What are the options for him? It is increasingly unlikely that Bashir will step down and hand over to him, as agreed in 1999. It is virtually certain that Bashir will remain up to the elections three years into the transitional period, at which point he will probably stand again for election, thus excluding Ali Osman from the top job. The possibility of first vice president is looking remote. Second vice president is up for negotiation (though the SPLA is arguing for just one vice president). He may find the proposal of al Mirghani, of a five-member Republican Council, more attractive.

30. Meanwhile, talks between the DUP and National Congress have been proceeding. These are well short of the stage of an agreement for the DUP to participate in the government. Underlying these talks is a recognition that, with the ongoing fragmentation of Northern Sudanese politics into regional blocs, the DUP and NCP, which have a similar power base, should not end up dividing the riverain constituency.

31. The National Congress is preparing for its own convention. It is still weakened by the split of 1999-2000. President Bashir has called on the Congress to prepare for peace and democracy, and the age in which it will compete on an equal footing with other parties.

32. The main parties' positions are increasingly framed by the anticipated electoral arithmetic that will arise subsequent to a peace deal. There is likely to be a period in which the party leaderships test the loyalty of theirs—and each others'—constituencies. Because the constituencies of the Islamist parties overlaps so substantially with those of the sectarian parties, and loyalties have not been put to the test since the 1980s, all face a need for invigorating their party machineries, calculating their interests, and building coalitions. At present, the Umma Party appears best placed to take advantage of the opening of competitive politics. It is holding elections for its party positions at the grass roots, something none of the other main parties have done recently.

The South

33. The SPLA is holding a series of conventions. These broadly follow the model adopted for the Nuba Mountains and Southern Blue Nile. The aim is the creation of SPLM structures up to the National Convention that will elect the National Liberation Council. This is the first such popular convention since the First SPLA/M Convention which was held in 1994. They reflect the lately-recognised need for the movement to obtain a popular mandate and preparation for post war democratic period.

34. The first convention was held in Equatoria and concluded in April. It supported regionalism for the South, and equality in ethnic representation in power and wealth sharing. The Bahr el Ghazal Convention met in May, with Abyei delegates attending.

35. A convention for Upper Nile logically follows. It is scheduled for May 30, though it may be postponed to some time in June. The difficulty that the SPLA faces in this regard is the

fact that it cannot claim to represent the people of Upper Nile. Should it allow non-SPLA participation? Should peace between the different armed groups and political factions be achieved before any such convention is held? This convention will be a test of the SPLA's political strategy.

36. On the GoS side, the Southern Coordination Council continues to create potentially serious obstacles to peace. Dr Riek Gai is establishing a political and military base that largely excludes the signatories to the 1997 Khartoum and Fashoda Agreements.

37. The Southern Leadership Consultation Forum scheduled to take place in Entebbe on 26 May has been postponed. The forum was aimed at bringing together all Southern armed groups, the SPLA, Southern political parties and civil society to discuss mechanisms for a peaceful interim period in Southern Sudan. The SPLA leadership communicated its last-minute non-attendance to the convenor, the New Sudan Council of Churches despite earlier assurances to attend. Its stated reason was the visit of the Chairman to the U.S. and other ongoing commitments. However, it is hoped that the SPLA will reconsider its position and enter into public dialogue with the other Southern armed and political groups regarding security and power sharing in the south during the interim period. Many Southern Sudanese find the attitude of the SPLA on the issue of South-South dialogue puzzling: while it is keen to be in dialogue with the Northern Sudanese, both GoS and opposition including Sadiq el Mahdi, it is conspicuously reluctant to do the same with non-SPLA Southerners.

Egypt and Libya

38. Egyptian president Hosni Mubarak visited Khartoum for the first time since the 1989 coup. The visit itself is symbolically important. Egypt has been marginalised in the peace process in the last two years.

39. President Bashir's short-notice trip to Libya was primarily aimed at putting pressure on Chad vis-à-vis the insurrection in Darfur. There are many Darfurians in Chad who have been suspected of supporting their brethren across the border. Meanwhile, the Libyans presented a Three Countries Unity document, dealing with Sudan, Egypt and Libya. This is the latest in a long series of ambitious aspirations for unity forwarded by the Libyan leadership. Sudan promised to look at it and respond accordingly.

The Region

40. The continuing intense war in the north of Uganda cannot be resolved by military means alone. As well as addressing the political grievances of the Acholi and their neighbours, the Ugandan government needs to talk to non-SPLA armed groups in Southern Sudan and appreciate the need for resolving their political differences. Until there is Southern unity, the LRA will continue to have space in which to operate, politically and militarily. Hopefully, the still-planned Southern leadership conference in Kampala will be an opportunity for the Ugandan government to become more familiar with the intricacies of Southern Sudanese politics.

41. Kenya's involvement in the peace process has continued uninterrupted, as marked by the continuation of General Sumbeiywo (now retired) as mediator. However, President Kibaki does not have the familiarity with handling the parties that his predecessor enjoyed from his

long experience. Kibaki is less able to judge when to bully them. This will be an important issue when the talks on the marginalised areas resume, as these are convened directly by the Kenyan Government.

42. Eritrea's role continues to be one of disturbing the region. The African Union Sudan-Eritrea mediation has kept the potential conflict between the two countries contained for now. But while the Eritrean opposition continues to organise in Khartoum and Addis Ababa, the potential for conflict remains.

Washington

43. There was a potential threat to the U.S. Administration's strategy in the review of the parties' commitment to peace, to be submitted in April. This hurdle was successfully cleared. Its principal beneficiary is the Sudan Government, some of whose members are increasingly tempted to believe that whatever happens, they are free of any real threat of sanctions or other pressure from Washington.

44. The arrival in Khartoum of a U.S. military aircraft indicates that the Pentagon has firmly decided that Sudan is an ally in the 'war on terror', and that it is unlikely that the anti-Khartoum lobbies in Washington will sway the Administration in the opposite direction.

45. There is a fear that the U.S. government may be abandoning its leverage on Khartoum too quickly. Cooperation with Khartoum in the war against terror should be balanced with the need for progress at the Sudan peace talks. Thus far, there are still areas in which the GoS needs to show much greater flexibility.

Conclusion

46. The mediators' 'holistic approach' to the negotiation strategy is a welcome and probably necessary means of pressing the talks towards a conclusion. However, if it is to succeed it will require several additional elements. The first is greater transparency. Not only should the parties become aware of one another's positions, but equally importantly, the people of Sudan should become aware of the negotiation process and its details. This will allow for broad popular ownership of the outcome. There is a need for both face-to-face sessions between the parties, and for greater personal involvement by President Bashir and Dr Garang.

47. A second requirement for success is the entry of other political forces into the political process at the key moment. Clearly the principal peace deal will be between the GoS and SPLA. But during the envisaged six month pre-interim period, an option for including all political forces in a constitutional conference, should be considered. This would serve as a mechanism for ensuring the solid buy-in of all major forces into the agreement.

48. Related to this is the need for the inclusion of all Southern political-military forces. South-South dialogue cannot be relegated to a footnote of the peace process. It must be an integral part of the move towards a final, inclusive and robust settlement. The mediators can play an important role in ensuring that such dialogue continues.