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Sudan after the Naivasha Peace Agreement

No Champagne Yet

Denis M. Tull

A peace agreement for Sudan was signed in Nairobi on January 9, 2005. The accord opens a historic opportunity to end the conflict between the Sudanese government and the SPLA rebels in southern Sudan. The cornerstones of the deal are political autonomy for southern Sudan during a transitional period leading up to a 2011 referendum on independence for the South, and equal sharing of oil revenues. The peace agreement is, however, merely the first step toward settling the conflict. The two sides must now get on with the much tougher challenge of implementation, which will be doomed to failure without an active long-term commitment by the international community. Impetus for a peace process for the country as a whole—and thus also an end to the conflict in Darfur—is not to be expected from these developments.

The peace settlement comprises eight protocols, and was drawn up under the auspices of the Intergovernmental Authority on Development (IGAD). The signing in Nairobi merely marked the formal conclusion of the negotiations; on December 31, 2004, in Naivasha (Kenya) the Sudan People's Liberation Army (SPLA) and the Sudanese government had already finalized the last two agreements regulating a permanent cease-fire and defining the modalities for implementing six protocols and agreements that had been concluded earlier. Now that it has been signed, implementation of the agreement should begin; it includes the following provisions:

- ▶ The peace process will extend over a six-year transitional period, which will end with a referendum to allow the population of southern Sudan to choose between independence or remaining in Sudan. After three or four years elections will be held across the whole country.
- ▶ Until the referendum has been held, the South will be an autonomous region within Sudan, with its own president—SPLA leader John Garang—and parliament.
- ▶ A six-month pre-interim phase preceding the transitional period proper will be used to prepare the ground for implementing the agreement and set up the transitional organs: an interim consti-

tution, a parliament for southern Sudan, a national transitional government, and a national parliament. The interim constitution is to be adopted six weeks after the signing of the peace agreement. After the six-month pre-interim period Garang will become the first vice-president in the transitional government. According to the Power Sharing Protocol of May 2004, the SPLA will receive 28 percent of the ministries, of posts in the transitional government, and of the seats in the transitional parliament. President Omar al-Bashir's ruling National Congress Party will receive 52 percent of ministries and seats in parliament, with the rest going to political parties that are either close to the government or part of a opposition coalition, the National Democratic Alliance.

- After implementation of the January 2004 Agreement on Wealth Sharing, state resources generated in the South (taxes, oil revenues) will be divided equally between the two parties.
- The Sudanese army is to withdraw from the South within 30 months, while the SPLA has one year to leave certain areas in central Sudan (Nuba Mountains, Abyei, Southern Blue Nile). The military disengagement process is to be accompanied by the creation of integrated army units totaling 24,000 men, with equal numbers from the Sudanese army and the SPLA. These could form the nucleus of a new national army if the South were to decide to remain in Sudan in 2011. Within one year the pro-government militias of the South Sudan Defense Forces (SSDF) should be integrated in the SPLA or the government army, or disarmed.

Skepticism Is the Order of the Day

Considering the duration of the war, which has produced a humanitarian disaster with more than two million dead and four million internal refugees (end of 2002, excluding Darfur), the peace agreement is

undoubtedly a historical achievement and it offers a serious basis for ending Africa's most protracted conflict. But the biggest challenge—implementing the agreement—is still to come. If the international community believes that the signing ceremony in Nairobi represents the conclusion of the peace process and assumes that implementation is a *fait accompli*, the process is in great danger of failure. Precisely because outside pressure was so crucial in achieving agreement between Khartoum and the SPLA, it will be important for the international community to play an active role during the implementation phase.

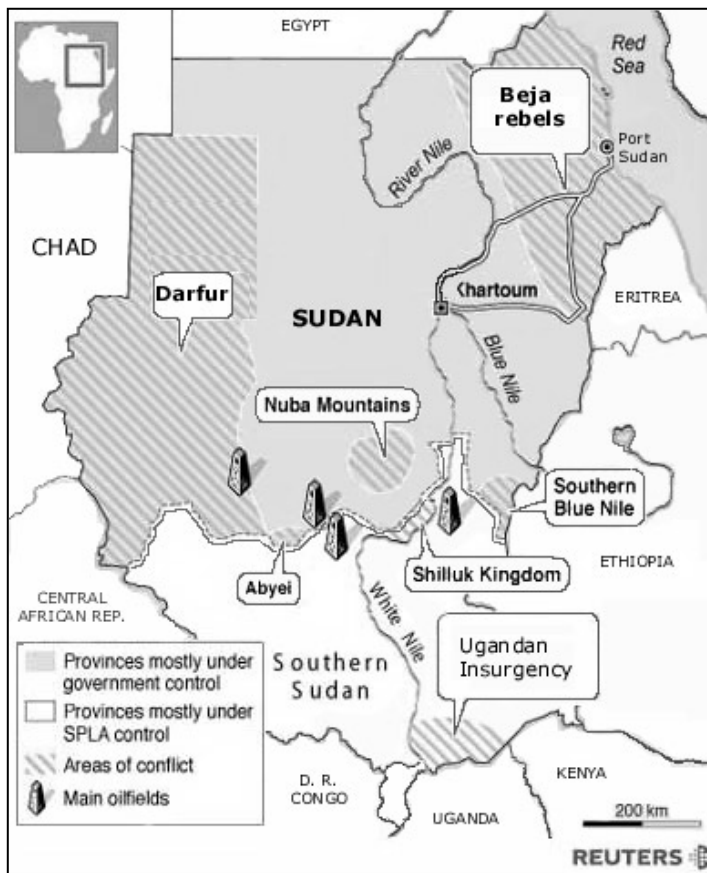
As such, the agreement merely represents a necessary first step where the warring parties—above all the regime in Khartoum—declare their willingness to bring peace to the country. The timescale—ten years of international mediation attempts and a two-year negotiating marathon since the signing of the Machakos Protocol in 2002—suggests that the success of the peace process is by no means a foregone conclusion. In particular, there must be a question mark over the government's political will to implement the agreement. The long list of Khartoum's broken promises (see Darfur) should be taken as a warning.

From the point of view of the regime in Khartoum, especially its hard-liners, Naivasha cannot represent a satisfactory medium-term solution. The concessions to the SPLA are so far-reaching that they represent a serious threat to the regime's political and economic base, especially given that if the South seceded, Khartoum would lose its grip on most of the oil-fields and the associated revenues. So we cannot exclude the possibility that Naivasha will turn out to be nothing more than a breathing space that the government will use to gain new room for maneuver at home and abroad, at least in the short term.

That is not the only reason to doubt Khartoum's willingness to implement the peace agreements: the militias fighting

Map

Sudan: Areas of Conflict and the Regional Context



the SPLA in the South continue to receive its support. In January 2004, 60 commanders of the South Sudan Defense Forces were made high-ranking officers of the Sudanese army. In spring and September 2004, the militias—with government support—launched military offensives in parts of the country that had been placed under SPLA control by the Machakos Protocol. Furthermore, the Agreement on Security Arrangements of September 2003 provides for only two legitimate military forces during the transitional period: the government army and the SPLA. All other groups are to be disarmed or integrated in those two forces. It is fairly obvious that Khartoum's continuing support for the SSDF in the South contradicts the spirit of the peace process and that the government is not ready to cede control of this part of the country to the rebels. There is a real possibility that the SSDF will continue to act as Khartoum's

proxy force, possibly to persistently disrupt the peace process before the referendum can be held. Should this occur, the government can be expected to respond to international exhortations by claiming that it had no connection with the SSDF, and that the threat to the peace process emanated from internal southern Sudanese conflicts. Khartoum has followed this strategy consistently for decades in the South, and is now applying it in Darfur.

The peace agreement is a strictly bilateral accord. Reducing the conflict to the North-South dichotomy (and Muslim versus Christian/animist)—for which the external mediators bear a good share of the responsibility—has helped to legitimize the two dominant parties, which are largely military and repressive in character. The government and the SPLA have understandably done their best to perpetuate this truncated interpretation, which also pro-

duces a double exclusion. All of the country's remaining political, military, and civil society actors are excluded (e.g. the opposition groups in the National Democratic Alliance) and so are the other marginalized regions (Darfur, Nuba Mountains, Abyei, eastern Sudan).

The crisis of the Sudanese state has lasted since independence and is a great deal more complex than ideas of a conflict between "North" and "South" suggest—and it affects the whole country. Indeed, the two-state solution that will come into effect if the South chooses independence in the 2011 referendum will not necessarily be viable—neither within the South nor in the rest of the country. Garang's claims to a monopoly of power steer resistance across the South, and even within the SPLA. Other ethnic groups in the South feel provoked by the dominance of Garang and the Dinka group he "represents," and will demand a share of political and economic power in any southern Sudanese state. In the North too, the many lines of conflict make it unlikely that a stable and democratic state could develop in the North in the foreseeable future. Alongside the violent conflicts in the East and in Darfur (both of which belong to the North in geographical and in religious terms), this applies in particular to the power struggle between the government and the Islamists under Hassan al-Turabi, which has by no means been calmed, let alone settled.

Since 1999 we have also been able to observe a more assertive attitude and mobilization of other actors, above all regional groups, encouraged by the SPLA's already foreseeable success to articulate their own demands through violence too (Darfur, Nuba Mountains, Abyei, eastern Sudan). The rise of these movements broadened the front against Khartoum and was originally welcomed by the SPLA for that reason. But the closer a North-South agreement came, the less willing was the SPLA to include these groups politically, because the logic of that would have meant redistribution

and a loss of concessions and resources that the SPLA had previously wrested from the government. Nor did Khartoum have any interest in increasing the number of parties to the negotiations. Consequently, these other groups were systematically shut out of the negotiating process.

The SPLA has completely abandoned its earlier vision of a comprehensive political transformation to create a "new Sudan" in favor of securing the greatest possible share of resources and political power through the Naivasha agreement. There is no reason to believe that these two authoritarian partners would voluntarily put the peace process on a broader, more solid footing by including other actors and groups during the transitional period. On the other side, all the signs are that the excluded groups and regions will cease to accept their continued political and economic marginalization—now by both the SPLA and the former government. Representatives of the Beja, from the Nuba Mountains and Darfur have already—rightly—voiced their criticism that Naivasha was simply an accord dictated from above that paid no heed to their own interests. At the same time, reports suggest that the rebel groups in Darfur have gone on an arms-buying spree in recent months.

The Conflict in Darfur

The international mediators hope that the Naivasha peace agreement will act as a catalyst for resolving the Darfur conflict. But how realistic is that? A further escalation of the Darfur crisis and a worsening deterioration of the humanitarian situation occurred toward the end of 2004. On November 9 the Sudanese government signed a cease-fire agreement with the Justice and Equality Movement (JEM) and the Sudan Liberation Army (SLA), but only ten days later—as a result of Security Council Resolution 1574 passed at the Council's meeting in Nairobi on November 18 and 19—the agreement was not worth the paper it was written on. Previous resolutions had concentrated primarily on the Darfur con-

flict and threatened the Sudanese government with sanctions, but the main focus of Resolution 1574 was on the North-South conflict. In order to encourage the Khartoum government to conclude the peace negotiations with the SPLA, the Security Council dispensed with the threat of sanctions and as a direct result both sides in the Darfur conflict launched new offensives. The rebels were thought to be attempting to draw international attention back to Darfur from the North-South conflict, while the government for its part came under justified suspicion of interpreting the mild wording of the resolution as a green light for renewed military activity in Darfur.

Developments in Darfur subsequently took a worrying turn for the worse: a helicopter from the African Union monitoring mission was shot down (for which the SLA was blamed); the relief charity Save the Children withdrew from Darfur because of the prevailing insecurity; the Sudanese government continued to harass aid workers; and little progress was made in stationing the forces of the African Union mission. So far only 1,000 of the planned 3,200 African Union soldiers are in the country and the Janjaweed militias have yet to be disarmed. According to United Nations estimates, 10,000 people die every month in Darfur, and the number of refugees jumped by another quarter million at the end of the year to reach 2.3 million. United Nations Secretary-General Kofi Annan said on December 22 that the international community's Darfur strategy was "not working."

To think that in this situation a (potential) spark of peace could spring over to Darfur would appear wildly overoptimistic. The postulated domino effect is based on two optimistic suppositions: firstly that power-sharing between the government and the SPLA—and the formation of a transitional government—would result in a new political line on Darfur; and secondly that SPLA leader Garang would work for a resolution of the conflict (with some prospects

of success because at least for a while the SPLA supported the rebels in Darfur and Garang stays in close contact with the insurgents, especially the SLA).

The history of power-sharing agreements in other countries shows that the real struggle for authority and power only begins when the former rebels join the government, and that due to their control of the state apparatus, members of the previous government enjoy considerable advantages over their former enemies and new partners. A formal sharing of responsibilities cannot put an end to mutual mistrust, rivalries, and parallel structures. It remains to be seen how much influence and room for maneuver Garang actually has.

It is unclear how much direct influence the current government has on the Janjaweed militias and the processes in Darfur. There is no doubt that Bashir's regime supports the militias, but whether the government possesses the means to disarm (or even just neutralize) them is another question altogether. It is equally uncertain whether the new government coalition under Garang and Bashir will reach a political consensus on dealing with the Janjaweed militias, and whether it even possesses the military capabilities to disarm them. The clique around Bashir may well put up considerable resistance against resolving the Darfur conflict. Some of the regime's hard-liners would regard a compromise on Darfur as yet another defeat. Current reports suggest that the government has started moving troops from the South to Darfur, and that a further escalation is imminent.

In fact, the regime continues to regard the Turabi's Islamist movement as the most serious internal threat to its power. Relations between Turabi and the JEM are said to be close, so the fear of inflaming the power struggle with Turabi will probably prevent concessions being made to the rebels. Turabi has been in prison since September for alleged participation in a coup attempt. Now that the peace agree-

ment has been signed and the state of emergency is about to be lifted, he will probably be released along with other political prisoners.

Garang, too, exhibits a distinct lack of political will to find a peaceful political solution for Darfur. A political settlement would undoubtedly lead to renewed calls by the Darfuris (and other marginalized groups) for a modification of the Naivasha agreement. Whether Garang and Bashir would pay heed to such demands—which would reduce their power—remains at least uncertain. The Bashir government is sticking to its standpoint that the agreement with the South should be regarded as an exception and that political compromises with other regions and groups are out of the question. Garang's policies toward rival groups in the South gives little evidence of willingness to compromise. Rather than looking for a comprehensive reconciliation, he has preferred to secure his power base in the South by reaching arrangements with individual SSDF commanders. For both these reasons Naivasha cannot be a model for peace agreements in Sudan's other crisis regions, even though it would be desirable to expand the peace and transformation process.

Two tasks must stand at the forefront of international efforts in Sudan: implementation of the Naivasha agreement and a political resolution of the Darfur conflict—preceded by a resolution of the acute humanitarian crisis.

Implementing the Naivasha Agreement

The international community, including Germany and the European Union, can and should make various contributions to the peace agreement implementation process. Firstly, an international committee holding regular meetings should be set up to monitor the observance and implementation of the peace agreement and its numerous protocols. It should serve as a neutral arbitrator to deal with the disagree-

ments that will inevitably arise. In Sudan the most important mediator in the process so far, IGAD, could lead such an international body, which should include representatives of the African Union, the United Nations, the European Union, and important donor countries. Neighboring countries that are directly affected by the conflict and primarily pursue their own interests should be excluded from participation (e.g. Eritrea, Egypt, Chad).

The second indispensable element is the deployment of a United Nations mission to monitor the implementation of the military elements of the peace agreement: observance of the ceasefire, troop disengagement, the creation of integrated units, and the disarming of the SSDF militias. The United Nations has already started planning a mission, which the Secretary-General's Special Representative for the Sudan, Jan Pronk, estimated would comprise between nine and ten thousand men. Special attention should be paid to the force's logistical needs (vehicles, helicopters, modern communications). The example of African Union's Darfur mission, whose effectiveness has been hampered by inadequate logistical preparations, should serve as a warning.

The SSDF militias, which have so far been fighting on Khartoum's side, will remain one of the central problems of the transitional period. According to the peace agreement a solution must be found within one year, either through a demobilization program (which would be the preferred option) or by integrating them in one of the two legitimate military forces. Meeting this deadline should be given high priority, and the international community should bring its influence to bear through pressure and incentives. Otherwise there is a risk that the regime in Khartoum will instrumentalize the militias to undermine the peace process in the South. However, neutralizing the militias will involve considerable problems. In the past the SSDF in general, and individual commanders in particular, have

demonstrated great flexibility and opportunism in forming alliances.

A Much Needed New Start: The Darfur Conflict after Naivasha

The provisional conclusion of the IGAD process has put an end to the discussion about sequencing, priorities, and international strategies for ending the conflict in Darfur and the war in the South. But it is still unclear how the conclusion of the IGAD peace negotiations can be used to bring about a resolution of the conflict in Darfur. One obvious starting point must be the deteriorating security situation in Darfur toward the end of 2004. The short-term aim should be to improve the humanitarian situation in the region. As shown by the escalation of violence after the United Nations Security Council meeting in Nairobi in November, the warring parties are extremely quick to react if they sense that the international community has changed course. For that reason the international community—especially the Security Council—should return to unambiguous language and if violence and obstruction continue, explicitly threaten sanctions against all the parties involved (including the rebels). Action must also be taken without delay to ensure that the African Union mission quickly reaches its planned strength of 3,200 men.

Despite pressing short-term needs, strategic considerations preclude putting humanitarian concerns at the top of the list of international demands. In the past an apparently arbitrary combination of political and humanitarian demands has tended to weaken the international community's negotiating position vis-à-vis the Sudanese government. By making concessions in the field of emergency assistance (access to the population, issuing visas, etc.) the government often succeeded in channeling the growing international pressure in such a way that it was able to avoid making any substantial efforts to resolve the crisis. Khartoum forced the international com-

munity into a negotiators' game of cat and mouse where the government always came off best. The international community must draw up a catalogue of specific demands that includes a timetable and links security demands (disarmament and neutralization of the Janjaweed and the rebels, ending the fighting) to a political solution of the crisis.

It is unlikely to be able to count on effective assistance from the SPLA. Despite various statements to the contrary, Garang has little interest in a resolution of the Darfur conflict, because he regards the Darfur rebels—like the Beja Congress in the East—as a welcome lever for putting domestic and international pressure on Khartoum. Garang will also probably concentrate more on his new role as president of the autonomous South and continue to ruthlessly consolidate his power there.

It is also doubtful whether actively involving Garang in Darfur would actually be desirable from the international community's point of view. If he intervened in the negotiations in his capacity as national vice-president, the blame for any problems and setbacks caused by the government would—rightly or wrongly—fall on him too. With Garang in the same boat as the former Bashir regime, the international community would find it difficult to keep up the pressure.

The former government would undoubtedly welcome this, because it would be able to shift part of the current political responsibility to the SPLA, but that cannot be in Garang's interest. The Bashir government bears the responsibility for the genocide in Darfur and must remain the primary target of international action. The potential for applying pressure also includes the American government's proposal of withholding funds for reconstruction and post-conflict programs until substantial progress has been made on Darfur. This could also represent the only possibility to persuade Garang to intercede in Khartoum for a solution to the Darfur conflict and in particular to expand the peace agreement to allow Darfur a regional share in political

decision-making processes and resource distribution.

The report of the international commission of inquiry set up under Security Council Resolution 1564 will offer an opportunity for a new international initiative in Darfur and toward the Sudanese government. The commission has a mandate to investigate breaches of international humanitarian law and crimes against humanity and to clarify whether genocide is being committed in Darfur. Although Germany is no longer on the Security Council, the German government should use its influence (especially on China and Russia) to promote a concerted international approach toward the Sudanese government on the basis of the report. Consideration will have to be given to sanctions against individual members of the government and businesses close to the regime, freezing foreign bank accounts, and an arms embargo.

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