

Peace on the rocks

Sudan's Comprehensive Peace Agreement

By Adam O'Brien February 2009

The precarious peace between northern and southern Sudan stands at a crucial crossroads. Intended by its architects as the cornerstone of peace in a country fractured by conflict, the Comprehensive Peace Agreement, or CPA, has been hamstrung by the National Congress Party's intransigence, the Sudan People's Liberation Movement's growing pains, and the international community's neglect. With two years remaining before a referendum on self-determination for the south, confidence in the CPA is diminishing, mistrust between the NCP and SPLM is mounting, and both sides are arming in preparation for a resumption of hostilities. The International Criminal Court's, or ICC's, forthcoming arrest warrant against Sudanese President Omar al-Bashir will further isolate the NCP and adds an additional layer of uncertainty to the CPA's fate.¹ U.S. leadership was instrumental in negotiating the CPA and could be pivotal in preventing a relapse into a full-scale war that would have grave humanitarian consequences and further destabilize an already volatile region. The Obama administration must revitalize U.S. support for CPA implementation, and develop a clear and comprehensive diplomatic strategy that encompasses both north-south issues and Darfur as the core of a renewed push for peace in Sudan.

Lasting peace or temporary pause?

The NCP and SPLM signed the CPA in January 2005 after 22 years of civil conflict that claimed an estimated 2 million lives and displaced more than 4 million people. Scorched earth tactics and divide-and-conquer strategies created a massive humanitarian catastrophe where famine was an instrument of war and civilians became either expendable pawns or heavily armed proxies. The government's pursuit of a radical Islamic and overtly racist political agenda were major catalysts for the conflict, but the underlying cause lay in the concentration of power and privilege among a narrow stratum of northern elites who viewed the state as a means to extract resources and accumulate control over the sprawling state's resource-rich periphery. As a result of this political marginalization and economic underdevelopment, deep-seated conflict took root in Sudan.

The CPA is a complicated, ambitious document that aims to create a sustainable peace by remedying these historical imbalances. Through an array of wealth and power-sharing arrangements mandated over the course of a six-year interim period, the CPA seeks to remold the skewed state and promote a political partnership between the NCP and SPLM, while offering the south a clear exit strategy if these terms are not met. The agreement created a new central governing body, the Government of National Unity, or GNU, and granted the south semiautonomous status admin-

istered by the Government of Southern Sudan, or GoSS. National elections are mandated to be held by July 2009, and the GoSS is required to receive 50 percent of all revenue from oil fields in southern Sudan. While the goal is to make unity attractive by giving the south an equitable stake in the state, the south can choose to become an independent nation through a referendum in 2011.

From the outset, the CPA has faced an uphill struggle. The death of SPLM/A head John Garang on July 30, 2005 in a helicopter crash was a major setback. Garang was a strong leader who formed personal bonds with key NCP leaders and their allies in the Arab world to create a climate of confidence that enabled negotiations to succeed. The sudden loss of Garang and the resulting scramble to fill the leadership void exposed old divisions in the south between those who favor his “New Sudan” strategy of unity and national transformation and those who prefer a “south first” strategy whose ultimate goal is independence. As the SPLM struggled to consolidate control over a vast territory emerging from decades of conflict with an ethnically diverse population and little infrastructure, it also had to reconcile its competing visions for the future.

Garang’s death altered Khartoum’s calculations and led the NCP to increasingly obstruct CPA implementation. The prospects for a NCP/SPLM national partnership were always tenuous, but they became even more problematic once the NCP concluded that Salva Kiir, the new GoSS president, was more committed to the path of independence than to Garang’s “New Sudan.” The NCP rejected the findings of a commission set up to determine the border of Abyei, a politically sensitive, oil-producing flashpoint along the fault line between north and south.² The NCP also withheld funding for a national census and demarcation of the north-south border, delaying crucial CPA benchmarks that impact oil revenue sharing, national elections, and the self-determination referendum. Both the Sudan People’s Liberation Army, or SPLA, and Sudanese Armed Forces, or SAF, were slow to redeploy their forces, leaving large concentrations of troops in close proximity along hotly contested border areas despite a ceasefire.

The international community has been slow to respond to the sputtering pace of implementation and the NCP’s attempts to undermine the CPA. The genocide in Darfur diverted international focus and funds away from implementation of the agreement. Eager to gain humanitarian access and stop the slaughter in Darfur, international actors became less willing to press the NCP to fulfill its CPA commitments. (This is sadly ironic given that the conflict in Darfur stems from many of the exact same causes as the earlier north-south civil war, and has been prosecuted by Khartoum using many of the same brutal strategies). The Bush administration, which had played a lead role during negotiations, was unable to harmonize competing objectives in Sudan: implementing the CPA, managing the genocide in Darfur, and maintaining its close ties with the Sudanese government on intelligence sharing and counterterrorism. As a result, U.S. attention to the CPA has flagged during the interim period. The U. N. Security Council also lost capital and leverage as a credible international guarantor by failing to follow through on threatened sanctions against the NCP for repeated violations in Darfur. Emboldened by the example set in Darfur, the NCP saw little risk in obstructing implementation of any CPA provisions that did not serve their political interests. Constrained by a narrow mandate and limited capacity, the 10,000-strong United Nations Mission to Sudan, or UNMIS, has often been relegated to the role of a spectator.

After four years of fragmentary implementation of the agreement, the situation on the ground remains fragile. In May, clashes between SAF and SPLA in Abyei killed 89 people and displaced 50,000, raising fears that the delicate peace would not hold.³ Determination of the Abyei border has

been referred for international arbitration, but sporadic violence prevents the majority of civilians from returning, military tensions remain high, and UNMIS continues to be subject to freedom of movement restrictions imposed by the SAF that severely curtail its ability to monitor troop activities north of Abyei. Both sides are building up their forces along the border and devoting increasing amounts of their budgets to military rearmament. Efforts by the GoSS to purchase 100 refurbished tanks came to public light after a third of these tanks were seized by pirates operating off the coast of Somalia. Declining world prices and diminishing oil revenues have had a considerable impact on budgets already strained to deliver development and meet increased military expenditures. Oil revenue accounts for 97 percent of the south's budget and 50 percent of the north's budget. As the pool of oil profits shrinks, competition for control over oilfields will likely intensify.

Additionally, Omar al-Bashir, the NCP leader and president of the GNU, has responded to the issuance of a potential arrest warrant by the ICC for his actions in Darfur with blustering threats that have sparked concern about the impact on security and CPA implementation. The Lords Resistance Army, a brutal Ugandan rebel group with a long history of serving as a SAF proxy, has resumed attacks in Western Equatoria State following the breakdown of peace negotiations and the launch of a regional military campaign to capture Joseph Kony, the rebel commander indicted by the ICC.⁴ The proliferation of small arms in southern Sudan continues to fuel widespread local violence among pastoralists competing for resources and power that has not been reduced by GoSS-initiated civilian disarmament campaigns.

With the elections and referendum looming on the horizon, difficult decisions can no longer be delayed. The next two years set out a compressed agenda of highly contentious, interrelated issues that leave little room for maneuver. Although the Border Committee was scheduled to submit its report in November 2008, disagreements over the boundary between White Nile and Upper Nile have prevented consensus on the findings and pushed back demarcation. The census results are expected in early 2009, but some southern leaders have already stated that the outcome will be rejected unless it is determined that the south comprises at least 30 percent of Sudan's total population. Rejection of the census would be another setback for national elections, which have already slipped past schedule due to the daunting logistics and delays in passing enabling legislation. Flawed or failed elections could provide a convenient rationale for either or both sides to repudiate the CPA and resume hostilities. Continued uncertainty about the census and border demarcation not only complicates elections and oil revenue sharing, but it will also begin to cast a shadow over the referendum unless progress is made soon. While the parties have muddled through four years of uneven implementation, failure to hold a credible referendum on schedule could potentially sound the death knell for the CPA and spark a new war.

Action plan for the Obama administration

The CPA is not a lost cause. However, it badly needs the international community to provide focused support, in the form of both incentives and pressure, to send a clear and consistent message that full implementation of the agreement is the essential foundation for peace in Sudan. Over the next two years a range of issues—including elections, border demarcation, the ICC, Abyei, and the referendum—will all test the resolve of the parties and the strength of the agreement. A fresh infusion of international commitment is needed to help navigate these challenges or the CPA may become a missed opportunity, with tragic consequences for Sudan and the region. Just as U.S. leadership was crucial in brokering the CPA, U.S. engagement carried out in concert with its multilateral partners will be central in bolstering the agreement's chances for success.

A reinvigorated strategy to build peace in Sudan should be grounded by three central policy pillars:

Reprioritize CPA implementation as part of a comprehensive approach to ending Sudan's conflicts

Sudan's vast landscape features a seething genocide in Darfur, smoldering tensions in eastern Sudan, Southern Kordofan, and Northern State, and a shaky peace between the north and south. Diplomatic initiatives have tended to compartmentalize Sudan's myriad conflicts, essentially falling victim to Khartoum's familiar 'divide and rule' strategy. By diffusing and distracting international focus, the ruling regime has been able to tighten its reign on power without making systemic changes to the structure of the state. However, U.S. policy must be shaped by the fact that these complex conflicts have a common core: flawed governance by a center that exploits and marginalizes an underdeveloped periphery. Not only does the CPA provide a roadmap for resolving the longest and bloodiest of these conflicts, but it also offers a framework for the kind of democratic, structural transformation necessary to alter the root cause of Sudan's many recurring conflicts.

Focus on both the short- and long-term

The overriding policy objective of too many in the international community seems to be to limp toward 2011 by preventing a premature collapse of the CPA and accomplishing the bare minimum necessary to stamp the referendum as free and fair. Since there are so many hurdles to be cleared in the short term and foreign governments are sensitive to prejudge the referendum's results, there has been very little focus during the interim period on long-term policy planning. With the referendum drawing nearer, this myopic complacency about the potential scenarios and likely risks moving forward is no longer sustainable.

Narrowly focusing on reaching the referendum neglects key dynamics. First, regardless of the referendum results, both northern and southern Sudan will be mutually dependent for the foreseeable future on the oil that straddles their shared border. Even if the south opts for independence and controls most oilfields, the only available pipeline and refining capacity at this time are in the North. Water, infrastructure, migratory populations, and security will also continue to create shared issues of common concern. Second, marginalized northerners who fought alongside the SPLM in the war do not have the option of voting in a referendum. These areas, including South Kordofan and Southern Blue Nile, are reliant on the CPA's wealth and power-sharing provisions to stimulate inclusion, development, and peace. Third, the worsening crisis in Darfur and the unpredictable consequences of the forthcoming ICC arrest warrant against President al-Bashir directly affect the calculations of both sides and could potentially lead to an open split within the NCP. Finally, after four years the CPA has not forged a partnership between the NCP and SPLM or made unity more attractive for the south. While the ultimate outcome of the referendum will be influenced by how issues like the border, elections, Abyei, and oil transparency are resolved, the south would likely vote overwhelming for independence were the referendum held today. In short, if the United States and its allies do not get the CPA back on track, they could face a new civil war in Sudan and the violent dissolution of Sudan as a state.

Actively engage in Sudan through a combination of strong leadership and multilateral collaboration with international partners

The United States does not need to shoulder the burden alone. The CPA was the result of a regional mediation framework reinforced by robust commitments from international partners such as the United Kingdom, Italy, and Norway. This equation provided a formula for success during negotiations and could be reconstituted. Similarly, the United Nations Security Council and UNMIS provide a platform for ensuring CPA implementation and protecting vulnerable civilian populations. As one of the integral guarantors of the CPA, the United States should spearhead a multilateral, multitrack international initiative to help see the agreement through its next critical phase.

In support of these principles, several actions should be taken:

- **Encourage negotiations between the NCP and SPLM on a long-term wealth sharing agreement.** While shrinking reserves and falling prices might ultimately wean Sudan off oil revenue dependency by forcing broader economic diversification, the north and south will have to find a mutually beneficial framework for developing the oilfields along their border in the meantime. Disentangling the issues of land and oil by negotiating a long-term wealth-sharing arrangement could ease tensions over border demarcation, generate momentum for further cooperation, and ensure that the referendum is not a zero-sum game with high probability for conflict.
- **Expand efforts to deliver a peace dividend.** Progress has been slow in providing education, health services, access to water, and basic infrastructure to the peripheral areas of Sudan. Although the overall situation has improved since the end of the war, insecurity and underdevelopment remains a fact of life for most Sudanese. As long as that is the case, the GoSS will have difficulty consolidating the peace and holding together an ethnically divided south with competing political visions. Corruption and the general lack of trained administrators within the GoSS further stifle growth and fuel popular discontent.
- **Enhance efforts to professionalize and modernize the SPLA.** The SPLA has struggled to transition from a guerilla movement to a formal army, a process complicated by attempts to integrate southern militias that opposed the SPLA during the war. To ensure that the south is stable and the GoSS can deliver a peace dividend, the SPLA must continue to modernize through a well-supported process of security sector transformation that improves discipline, command and control, capacity, and competency. Toward this end, the Obama administration should explore the sale of an air defense system to the GoSS. Although introducing new weapons systems into a volatile military environment could be interpreted as contrary to donors' responsibility to make unity attractive, it is in the interests of lasting stability that the GoSS spend money on defense wisely. Unlike the aforementioned refurbished tanks, an air defense is non-offensive and helps level the playing field by neutralizing the north's major tactical advantage in the event of renewed hostilities.
- **Support efforts to neutralize the SAF's preferred war tactic of arming and supporting proxy militias against its enemies.** Over the course of the war, the government supported many proxy militias against the SPLA, including the Southern Sudan Defense Forces, or SSDF; the Popular Defense Forces, or PDF; the "white army"; the Murahaleen militias; and, most pressingly, the LRA. There will be no peace dividend without security, and the LRA are a brutal, blunt-edged tool that may well undermine elections and the referendum over the next two years if left

unchecked. Although the ongoing military operation against the LRA was poorly planned and provided inadequate protection to vulnerable civilians, it does provide a window of opportunity to decisively defuse the LRA threat. The United States could provide logistical and intelligence support to improve civilian protection and help remove a CPA spoiler that also presents a threat to regional stability. Strategic efforts to apprehend the LRA's leadership and deliver them to international justice would also provide an important boost to accountability in the region. To reduce the threat of other potential proxy militias, UNMIS must increase its capacity to monitor weapons flows and the GoSS must work with its partners, including the United States, to ensure full integration of the SSDF and others into its own armed forces.

- **Name a special envoy.** U.S. diplomatic efforts require a high-level focal point to directly engage the parties and send a strong message of U.S. commitment to building peace in Sudan. The Obama administration should move rapidly to name a special envoy who is supported by two deputies: one focused full-time on promoting CPA implementation and the other on achieving a peace deal for Darfur consistent with the CPA.
- **Work with the U.N. Security Council to ensure that UNMIS has the necessary capacity to fulfill its mandate and protect civilians.** The May clashes in Abyei and the resulting displacement of 50,000 people reinforced concerns about UNMIS's capacity to monitor threats to the CPA, reduce tensions before they escalate into violence, and protect civilians in imminent threat of danger. UNMIS must be able to effectively monitor the areas around Abyei and could prevent further clashes by helping negotiate a demilitarized zone along the border and in key flashpoints. Both the elections and referendum also carry a high risk of violence that will test UNMIS's capability and will to act as a guarantor of the agreement's implementation. The United States should lead efforts within the Security Council to strengthen UNMIS's ability to support the CPA.
- **Oppose any effort within the Security Council to suspend the ICC's investigation in Darfur that is not tied to tangible peace and justice guarantees.** Ending impunity for grave human rights violations is an important step in breaking the cycle of conflict and building a sustainable peace in all of Sudan. Anticipating arrest warrants at any moment, President Bashir is attempting to avoid accountability and ensure the survival of his regime by using the threat of violence to hold the ICC's investigation hostage. However, the ICC's investigation has created leverage for a just peace in Darfur and an opening for party pragmatists to jettison Bashir as a leader with too many liabilities. In light of Bashir's lack of credibility and the NCP's long legacy of crimes, an Article 16 deferral of the ICC's investigation by the Security Council could only be appropriate if it is linked to a credible, alternative accountability program acceptable to Darfuris, demonstrated progress toward full implementation of the CPA, and the wholesale return of Darfuri refugees and internally displaced in an environment of security, peace, and reconstruction overseen by a credible U.N. peacekeeping force.

Endnotes

- 1 See Enough's recent strategy paper on the impact of the ICC arrest warrant, "What the Warrant Means: Justice, Peace, and the Key Actors in Sudan" (February 2008), available at <http://www.enoughproject.org/publications/what-warrant-means-justice-peace-and-key-actors-sudan>.
- 2 Enough has done extensive reporting and analysis on the crisis in Abyei. For a background on Abyei, see Roger Winter, "Abyei: Sudan's Kashmir" (January 2008), available at <http://www.enoughproject.org/publications/abyei-sudan%E2%80%99s-%E2%80%9Ckashmir%E2%80%9D>.
- 3 For an eyewitness account of the devastation in Abyei, see Roger Winter, "Abyei Aflame: An Update from the Field" (May 2008), available at <http://www.enoughproject.org/publications/abyei-sudan%E2%80%99s-%E2%80%9Ckashmir%E2%80%9D>.
- 4 See Enough's recent statement on the LRA, "No Excuses: The End of the Lord's Resistance Army is in Sight" (January 2009), available at <http://www.enoughproject.org/publications/no-excuses-end-lord%E2%80%99s-resistance-army-sight>.

Enough is a project of the Center for American Progress to end genocide and crimes against humanity. Founded in 2007, Enough focuses on the crises in Sudan, Chad, eastern Congo, northern Uganda, Somalia, and Zimbabwe. Enough's strategy papers and briefings provide sharp field analysis and targeted policy recommendations based on a "3P" crisis response strategy: promoting durable peace, providing civilian protection, and punishing perpetrators of atrocities. Enough works with concerned citizens, advocates, and policy makers to prevent, mitigate, and resolve these crises. To learn more about Enough and what you can do to help, go to www.enoughproject.org.

