



Situation Report

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Insecurity in South Sudan: A threat to the IGAD Peace Process

Introduction

After a long and tortuous process, the Inter-Governmental Authority on Development (IGAD) peace talks in Naivasha finally produced a signed framework agreement on 26 May 2004. In spite of this worthy achievement, the security situation and the prognosis for the immediate future in southern Sudan do not support a sense of optimism. The security agreements currently in place have been ignored regularly, which casts doubt both upon the agreements and the organisations monitoring their implementation. There has been no increase in the level of trust between the belligerents after two years of almost continuous negotiations, and there are indications that elements without the national army are sabotaging the peace process by fostering insecurity in southern Sudan.

Beyond the south, Darfur is aflame, discontent is spreading across the country, and there is a danger that a peace process predicated upon the viability of the Sudanese state may not be sustainable. Moreover, even under the most favourable security regime – and as the analysis below will make clear there is no evidence of that being achieved – a sustainable peace is unlikely unless a government is established that enjoys the confidence of the Sudanese masses and demonstrates an unqualified commitment to peace. This in turn assumes that the country will undergo a democratic transformation, something that at present is not even under consideration.

Part of the current insecurity afflicting southern Sudan is a consequence of various military and political groups trying to position themselves for the political struggles that will follow. That is to be expected. But there are also fundamental and continuing obstacles that pose threats to security in the south, and hence to the long-term viability of the peace process. When examined within the context of the region, three factors stand out. First, there have been major problems in the enforcement of the Cessation of Hostilities Agreement, the Protection of Civilians Agreement and the Nuba Mountains Cease-Fire Agreement, which collectively have set the security parameters in southern Sudan. Second, there are major weaknesses in the Security Arrangements Agreement, which is to set the parameters for security during the transitional period. And lastly, the lack of trust between the two negotiating partners – the Sudan People's Liberation Movement/Army (SPLM/A) and the Government of Sudan (GoS) – means

that they, and particularly the government, already appear to be positioning themselves in expectation of a break-down in the peace process.

The Machakos Accord of July 2002¹ set the IGAD peace process on track, but it was the Cessation of Hostilities Agreement of 15 October 2002,² and to a lesser extent the Protection of Civilians Agreement of 31 March 2002³ and the Nuba Mountains Cease-Fire Agreement of 19 January 2002⁴ that established a security regime on the ground. An examination of the experience of monitoring those agreements provides insight into the difficulties that may be faced during the transitional period.

The Verification Monitoring Team (VMT)

The Cessation of Hostilities Agreement led to the establishment of the Verification Monitoring Team (VMT), made up of representatives of the SPLM/A and the GoS armed forces, together with foreign military observers, all of whom are directly responsible to General Larius Sumbeiywo, Special Envoy for the Sudan IGAD Peace Secretariat. The VMT is tasked with ensuring that military forces maintain the positions they held on 17 October 2002, and reporting on allegations of any movements of the forces of the GoS, SPLM/A and their allies. The Cessation of Hostilities Agreement is understood to be an interim measure, and hence the precursor to a comprehensive cease-fire agreement that will cover the transitional period until the referendum on southern self-determination is held.

The Civilian Protection Monitoring Team (CPMT)

The Civilian Protection Agreement has its origins in the concerns of US Senator John Danforth, Special Envoy for Peace in Sudan, to end the widespread abuse of civilians at the hands of the various military forces.⁵ Against that background, and after considerable US pressure, the GoS and SPLM/A committed themselves to abide by a regime of international law designed to protect civilians from armed groups. But what gave the agreement political weight was the provision for the establishment of a monitoring team (the Civilian Protection Monitoring Team or CPMT) that would carry out investigations and prepare reports upon receipt of allegations that either of the signatories to the agreement, or their allies, were failing to abide by its terms.

The Joint Military Commission (JMC)

Concern in the United States about the humanitarian situation in the Nuba Mountains led Senator Danforth to make this issue a priority and found expression in the Nuba Mountains Cease-Fire Agreement and the formation of the Joint Military Commission (JMC), which has bases throughout the region, as well as offices in Khartoum. Unlike the other two security organisations, which cover all of southern and the war-afflicted areas of eastern Sudan, the JMC has responsibility for a small territory only, and hence its experience is of less relevance when examining the larger security picture in southern Sudan. Moreover, within the Nuba Mountains the JMC has a far wider range of responsibilities than either the VMT or CPMT, including ensuring the disengagement and redeployment of combatants and de-mining. To carry out these responsibilities, the JMC maintains a significant presence in the local community and again this is different from the VMT and the CPMT. Like the VMT, the JMC comprises representatives from the SPLM/A and the GoS and international military officers, and like the CPMT, its membership includes civilians.

Setting up the monitoring instruments

All of these organisations faced major difficulties in starting up operations in southern Sudan. In addition, the VMT has been hampered by its complicated structure, which makes decision-making and even the conduct of investigations highly bureaucratic, and hence very time-consuming. The result is that it has only been able to produce one report. Other problems faced by the VMT included a number of disputes between senior officers and Lt. General Lazaro Sumbeiywo. In addition, from August through October 2003 the VMT was effectively 'grounded' because of various objections by the GoS, notably its refusal to grant two Eritrean members visas because of 'security problems'⁶ and opposition to proposed base areas.

As a wholly American organisation and accountable to the State Department, the CPMT's structure was less complex, but it was also slow to become operational and there were problems over tasking (specifically whether such decisions would be made by the CPMT or by the US chargé in Khartoum), considerations that figured in the departure of its first programme manager. Indeed, there has been a high turn-over of programme managers (there have been four to date) and of monitors, many of whom have moved to higher paying positions with private security companies in Iraq. The CPMT has also suffered in that few of the monitors have had any experience in Sudan before, and not all have the requisite investigative, human rights, or writing skills to adequately perform assigned tasks. The organisation has also suffered from a narrow interpretation of its mandate. Nonetheless, CPMT has been able to produce more than forty reports to date.

The biggest problems faced by both the VMT and CPMT have been the result of obstacles imposed from the outside. Foremost among these has been the inability of the VMT to implement the terms of the Cessation of Hostilities Agreement. The Agreement went into effect on 17 October 2002 and stipulated that the various forces of the SPLM/A, the GoS, and their respective allies, must maintain the positions they held on that date. They have not done so, and that nothing has been done about widespread breaches has encouraged disrespect for, and blatant flouting of, the agreement. This experience will inevitably cast a dark shadow over the impending cease-fire agreement.

An example from Akobo in eastern Upper Nile illustrates this point. On 17 October 2002 the town was under the control of two allies of the GoS – the South Sudan Defence Force (SSDF) and the South Sudan Liberation Movement (SSLM) – but three days later it fell to the SPLM/A. Letters of complaint were sent by the GoS to the Sudan IGAD Peace Secretariat, but no action was taken. It should be noted that the VMT was not operational at this time so the responsibility for acting on this complaint fell to the Sudan IGAD Peace Secretariat. Perhaps not surprisingly, the parties to the agreement drew the appropriate conclusions and as a result the town has repeatedly passed from the control of the SPLM/A to the allies of the GoS, and back again. Investigations have subsequently been attempted, but since nothing was done about the initial breach of the agreement these have not been conclusive.

The example of Akobo also raises what has become another critical problem: what happens when armed forces or civilians, or some combination of both, operating within an area change their affiliation? This

would appear to be the case when Akobo passed from SSLM control to SPLM/A control in late 2003. A strict reading of the Cessation of Hostilities Agreement could be interpreted to mean that the regime in place on 17 October 2002 cannot be changed, that the area in question must remain under the authority of either the GoS or SPLM/A, irrespective of the shifting loyalties of individuals or groups within the GoS or SPLM/A. But natural justice would seem to grant people the right to be ruled by leaders of their choice and not be forced to accept an imposed group, even if it was in control of the area on some arbitrary date. Unfortunately these questions have never been answered satisfactorily. Indeed, in an environment completely lacking in transparency such questions have never even been raised at the popular level, again a poor omen for problems that will inevitably occur during the transitional period.

Moreover, Akobo proved to be the tip of the iceberg in a southern Sudan where political attachments – and security conditions – can change rapidly. In late 2003 and early 2004 a number of leaders of GoS allies in Western Upper Nile (WUN) and the Shilluk Kingdom of central Upper Nile defected to the SPLM/A. The issue was raised – though not answered – as to whether the territory occupied by their forces would automatically pass to the SPLM/A. The SPLM/A clearly felt that a change of political affiliation and loyalty of military forces necessarily meant that the status of the territory would also change. Again the GoS took the view that since its allies (the South Sudan Independence Movement or SSIM in WUN and the Sudan People's Liberation Movement-United or SPLM-United in the Shilluk Kingdom), controlled the areas in dispute on 17 October 2002, that these territories belonged under its control, irrespective of any changing loyalties. No doubt because the VMT did not resolve the problem the parties felt few constraints against addressing it in ways that best reflected their interests.

Thus in WUN Tito Bihl and James Leah, two senior commanders of the SSIM, a component of the SSDF, defected to the SPLM/A in early 2004, flew to Naivasha where they met John Garang, and were apparently instructed to return to the field and bring over their remaining forces and to gain control of the territory they originally occupied. What followed was fighting within SSIM as most fighters opted to follow their leaders into the SPLM/A. This conflict spread to the civilian population, resulting in the destruction of key infrastructure, including clinics and schools, and a number of campaigns of forced conscription of under-aged boys. It also produced further rounds of fighting between the former SSIM followers and the rump left under the command of Peter Dor who received strong backing from the national army. There has also been considerable looting of civilian assets, particularly cattle, by both sides, but it would appear, more by the SSIM rump.

In the recent round of fighting some 3,000 cows were stolen from civilians in one noteworthy case, and while their ultimate distribution will never be known with a high degree of accuracy, there is little doubt that although SSIM commanders received the largest proportion, cows were also distributed among leading members of the Unity State Government, the South Sudan Unity Movement (a component of the SSDF led by Paulino Matieb who also serves as the chief of staff of the SSDF – Matieb was in Lebanon at the time of the theft so may not have been personally involved), and local elements of Military Intelligence. In a community as small and closely linked as that of WUN, large numbers of people know what groups and individuals benefited from this raid, but out of concern for personal

security these details have never come to light. Instead, it is typically maintained that the last raid was merely a response to a previous raid by the SPLM/A and, when this is challenged, these thefts are justified, as all such theft is ultimately justified by both sides, on the grounds that the civilians in question are being punished because they support the enemy. What that means in practice is that they share a clan affiliation, and usually nothing more, with a particular senior commander. In the event, the VMT completely failed to effectively address the territorial issue in WUN, while the CPMT carried out investigations of abuse of civilians, but ultimately can do nothing about stopping such abuses, or of returning the cattle to the rightful owners.

In the recent WUN fighting, fortunately, there were few civilian casualties or displaced people. The same cannot be said for the Shilluk Kingdom, which experienced a similar problem, but with more horrific results.⁷ In this case, Dr. Lam Akol, leader of the SPLM-United (considered a GoS-affiliated militia under the Cessation of Hostilities and Civilian Protection Agreements) defected along with a number of his senior commanders to the SPLM/A in early October 2003. The countdown to the predictable crisis then began and neither the VMT, nor the CPMT, could do much more than sit back and wait for events to unfold. Again the GoS held that Lam and his compatriots were free to join the SPLM/A, but that the territory occupied by SPLM-United on 17 October 2002 must remain under the authority of the government, or the rump SPLM-United, now led by Commander and Tonga Commissioner, James Othou.

The national army demonstrated how seriously it considered the issue by bringing in Nuer components of the SSDF (notably forces of Gabriel Tangyangi and Thomas Maboir) from outside the area in support of James Othou and his much reduced forces, thus clearly breaching, though to no discernable effect, the Cessation of Hostilities Agreement. Army support was clear: many of the militia forces were transported on government barges to the villages they attacked, sometimes escorted by gunboats. In the event, the terror campaign led to dozens of Shilluk villages being burned to the ground, some 50,000 civilians forced to flee, and another 50 people killed. A considerable amount of personal property was stolen.

As in WUN, the principal object of theft was cattle and since these were taken from many villages and over a period of about three months their numbers cannot be reliably estimated. However, the current pattern of cattle distribution appears to be the same as in WUN, allowing us to identify those who benefited. Again the lion's share went to the militia leaders, but senior officials in Military Intelligence have taken their cut, as have elements in the local administration. (It should be noted that the local administration in the Shilluk Kingdom, as is the case in many parts of GoS-controlled southern Sudan, has considerable overlap with the militia leadership.)

At the time of writing (early June) few of the displaced have returned home, and with the onset of rains they may miss their opportunity for planting and in addition be exposed to the elements. Moreover, because of insecurity in the traditional pasturages of the Shilluk, their cattle, most of which are in and around Malakal, are dying. Although a component of the VMT was in Malakal during much of this havoc it singularly failed to make a definitive ruling on the fighting, much less contain it. For its part, the CPMT has made clear in its reports that it was the GoS-affiliated militias

which are largely responsible for the abuse of civilians, but its mandate does not permit it to go beyond that.

One of the most glaring abuses of the rights of civilians has been the refusal of the national army to permit food distribution in many parts of the region, allegedly on the grounds of insecurity. However, it is widely suspected in NGO and UN circles that restrictions on food distribution were imposed because the government did not want the international community to witness the destruction Khartoum's militia allies have carried out right under the noses of the army, which has done nothing to protect the civilians. It would thus appear that the GoS is in breach of Article 5 of the Cessation of Hostilities Agreement which states that, 'the Parties shall allow unimpeded humanitarian access to all assistance for people in need, in accordance with the Operation Lifeline Sudan (OLS).'⁸ The failure of the VMT, the CPMT, the OLS, and the broader international community to highlight this issue again sends out the wrong message.

While these cases represent the most glaring breaches of the Cessation of Hostilities Agreement (and in the latter case, the Civilian Protection Agreement), they do not stand alone. Moreover, none of the groups in question have respected the provision of the Cessation of Hostilities Agreement that they not move their forces from where they were positioned on 17 October 2002. Indeed, the VMT has not attempted even to highlight, much less stop, such flagrant, widespread, and continuing breaches. Again the contesting parties to the agreement have drawn the appropriate conclusions.

The GoS army has perhaps made the most of this failing in two significant instances. First, it has shifted Nuer groups within the SSDF, which are traditionally based west of the Nile, across the river and into the Shilluk Kingdom. Second, it has transferred large numbers of its armed forces in the south to Darfur, thus exacerbating the conflict there. One GoS minister was heard to say that essential to convincing the government to accept the Cessation of Hostilities Agreement in the first place was the argument that troops could be shifted to Darfur, and this in blatant disregard of the agreement.

Although the levels of destruction are not comparable, there are no shortages of examples of breaches in the Cessation of Hostilities Agreement by the SPLM/A. Two recent examples include the movement of SPLM/A forces from Bahr El Ghazal to assist the former SSIM forces of James Leah and Tito Bihl, and the assistance rendered Dr Lam Akol's former SPLM-United forces in central Upper Nile.

The Cessation of Hostilities Agreement failed to address fully the front in north-east Sudan, even though it was clearly a critical component of the GoS-SPLM/A war and included forces from both groups in confrontation across the Sudan-Eritrea border. And while the GoS permitted the CPMT to operate within areas under its control in the north-east, the SPLM/A did not allow monitors to access the vital SPLM-controlled town of Hamishkoreb,⁹ despite numerous claims of abuses of civilians in the area. Nor did the CPMT or its American backers challenge this clear violation of the Protection of Civilians Agreement. Even more striking is the failure of the CPMT to take up an operational role in Darfur, although a crisis of enormous proportions was unfolding. Although the leading Darfur opposition group, the Sudan Liberation Movement/Army (SLM/A), is now a member of the National

Democratic Alliance (NDA) – an umbrella group that is acknowledged to fall within the scope of the Civilian Protection Agreement – this was not used as a means to offer protection to the beleaguered civilian population of Darfur, and this is hard to either understand or justify.

Introduction

With much fanfare, in September 2003, the IGAD Sudan Peace Secretariat announced agreement between the SPLM/A and the GoS on security arrangements during the critical transitional period. In point of fact, however, and this is now acknowledged, the Security Arrangements Agreement was only a framework agreement – in a future comprehensive peace agreement the parties will have to return to the task of putting flesh on the document. Given the recent history described above, together with the distrust that the negotiations have failed to dissipate, there is every expectation that this will be an onerous task. Further complicating resolution of the issue is that the parties themselves are not in complete control of forces over which they claim control.

Indicative of the weakness of the Security Arrangements Agreement is the fact that it repeatedly states – against all evidence to the contrary – that there are only two military forces on the ground in southern Sudan.¹⁰ Having come to this erroneous conclusion, the authors of the Agreement go on to contradict themselves by stating that, ‘no armed group allied to either party shall be allowed to operate outside the two forces.’¹¹ Provision is made for members of the unacknowledged armed groups in the south to be absorbed into the army, prison, police, and wildlife services. And finally in one of the most confusing components of the Agreement, the belligerents accept that, ‘the parties agree to address the status of other armed groups in the country with the view of achieving comprehensive peace and stability in the country and to realize full inclusiveness in the transition process.’¹² The Security Arrangements Agreement, which thus denied the existence of other armed groups in the south, nonetheless said these had to be absorbed into the two recognised groups, and then ended with a provision that their status had to be addressed.¹³ Not surprisingly these seemingly contradictory provisions led to widely diverging interpretations.

Alarming as these developments are, or how they speak to future prospects, even more disturbing are the calculations apparently made by the GoS (or the armed forces, it never being entirely clear who is calling the shots) with respect to security in the south. While the Security Arrangements Agreement stipulates that southern Sudan is to come under the control of the SPLM/A, and that the GoS military presence in the region will be limited to 12,000 soldiers, the actions Khartoum has been taking recently suggest that it wants to exert a much greater level of control through proxy forces than these numbers would indicate. Part of the problem flows directly from the failure of the Security Arrangements Agreement to address the status of the SSDF. The notion that this amorphous group would somehow dissolve immediately on its own volition after the signing of a peace agreement (since no provisions were made for any outside force to take on this responsibility) has never been convincing.

Planning for a breakdown in the peace process?

The actions of the national army suggest that it wants the SSDF, or some other proxy group of southern militias, to maintain an existence

throughout the transitional period, in spite of commitments made to the contrary in the Security Arrangements Agreement. The first sign of this was the appointment of more than sixty senior SSDF officials to high ranking positions in the GoS army in early 2004. The army clearly wanted to purchase the loyalty of a select few of the notoriously fickle SSDF commanders, but apparently did not have the inclination or financial resources to accept responsibility for their forces. This action was too clever by half, since it may have encouraged the SPLM/A to call upon its supporters in the SSDF to renounce their affiliation with the government, thus precipitating further conflict. The promotions also had the effect of increasing tensions between leaders and led within the SSDF components because line soldiers saw no benefits in their commanders receiving big salaries, vehicles, houses, and the like while they received nothing, nor had any prospects for the future. Within the Equatoria Defence Force (EDF) component of the SSDF it is known that the offers of generous benefits to a limited number of senior commanders led to resentment and in the end became an important factor in their leader, Martin Kenyi, defecting to the SPLM/A and taking the large majority of his forces with him.¹⁴ So the army's decision to promote these officials may have backfired.

Indeed, the recent wholesale looting of civilian property, and especially cattle, in both WUN and the Shilluk Kingdom was probably accepted as a pay-off for militia members who typically receive no compensation apart from food, clothing, and what they can steal. But the destruction wrought on the Shilluk Kingdom suggests the pursuit of other objectives by the government or its army. The attack by the militia on the *reth*, or Shilluk king, who lost much of his own property and was forced to flee for his life also indicates that more was at stake than mere cattle raiding. In this Shilluk area of Upper Nile, which until the past six months stood out for its high level of peace and security, the army-instigated campaign through the militias probably ranks as the most destructive in southern Sudan since the signing of the Cessation of Hostilities Agreement.

This in turn has led to much debate about the intentions of the army. Even if the GoS interpretation of the Cessation of Hostilities Agreement is correct and the territory held by Lam's SPLM-United as on 17 October 2002 falls within the government's domain, it begs the question of why so much suffering should be visited upon unfortunate civilians when the outcome of the peace agreement will result in the transfer of the entire area to the control of the SPLM/A. Speculation on the army's motives has largely been three-fold: first, that it wants to make the area ungovernable for the incoming administration; second, that it wants to foster tribal war between the Nuer and the Shilluk, and lastly, that it wants to maintain military allies in the area through the transitional period and this is best pursued by keeping them engaged in warfare.

In addition to the security problems in Upper Nile, there are continuing indications that the GoS army, or elements within it, are still supporting the Lord's Resistance Army (LRA) in Equatoria, in spite of the frequently issued statements from Khartoum to the contrary. It will be recalled that the GoS claimed that it ended its acknowledged support to this group, which is considered by the international community, and perhaps most significantly by the US Government, as a terrorist organisation, in September 2002. But since then a large number of reports from victims and their supporters in northern Uganda, together with the SPLM/A, have held that the Sudanese armed forces never ended their relations with the LRA. Not so widely known

is that the leadership of the Equatoria Defence Force, a major component of the SSDF until its recent defection to the SPLM/A, has also repeatedly made similar claims of GoS support for the LRA. The EDF's military leader, Commander Martin Kenyi, reported that captured members of the LRA admitted receiving GoS assistance, and were found to be in possession of GoS army uniforms and various other materials recently been supplied.

Moreover, both Commander Martin and Dr. Theopolis Ochang, the leader of the EDF now based in Nairobi, have said publicly that the main reason why they ended their ties with the GoS was its continuing support of the LRA and its failure to provide the EDF with logistical assistance so that it could fight this organisation, which preyed on the civilian population in the area of its control. Again the question must be raised as to why the army would continue to support the LRA when this would predictably raise the ire of the US and when the entire area of LRA operations will fall under the jurisdiction of the SPLM/A as a result of the IGAD peace agreement?

In the past it has been argued that the LRA was too valuable a resource for the Sudanese army to give up, both because of its success in fighting the SPLM/A, and as a means of putting pressure on the Ugandan government to cease its support to the SPLM/A. In the present situation the variables may not have changed significantly. The LRA could still be a valuable tool to bring pressure on both a southern Sudanese administration and the Ugandan government, and provides – as is the case with the southern militias – another means for the army to maintain its influence in the south after most of its forces are required to leave the area as a result of the peace agreement.

Further evidence that the national army, or elements within it, may not be prepared to accept a transitional security regime that would severely limit its authority is seen in its relations with both the VMT and the CPMT. The VMT took many months to become operational because of army objections to its composition, deployment and proposed bases. Despite clearly stated provisions in the Civilian Protection Agreement granting CPMT's monitors unhindered access to all war-affected areas, this has frequently not been the case. Indeed, on more than one occasion operations by the CPMT have been stopped completely by Military Intelligence. Usually neither the CPMT nor its American backers seriously challenged this interference, although in May 2004 strong letters of complaint were issued by the US Government at flagrant Military Intelligence obstructions to the investigations of the CPMT, ironically over cases that were themselves first raised by the government.

Why the GoS, or its Military Intelligence, which sometimes appears to be the tail that wags the government dog, would want to undermine its own peace process is a matter of debate. Current thinking runs along two lines. First, that the GoS army led by Military Intelligence has established very lucrative sources of income in the war-affected areas of southern Sudan, particularly through using elements of the SSDF to raid stock in the cattle-rich province of Upper Nile, and that it may not be prepared to end these arrangements. Second, it is hypothesised that the army is operating in league with elements in the GoS that have always opposed a peace agreement, and that the best means to pursue this objective is to use cooperative elements of the SSDF to spread instability.

With the signing of a formal peace agreement, a significant stage of the IGAD peace process has been reached. But the danger in giving undue attention to the signing of a peace agreement is to buy into a misplaced

optimism. In fact the peace-making exercise has been beset by enormous difficulties, as evidenced by more than ten years of the IGAD process and almost two years of continuous negotiations since the signing of the Machakos Protocol. Indeed, the peace process has done nothing to reduce, much less eliminate, the multiple layers of distrust that have accumulated over half a century of independent statehood, the majority of those years being consumed by civil war.

Genuine peace must be considered more than a mere absence of war, but instead part of a process leading to the resolution of long-standing grievances and inequities that produced the war. If security maintenance and conflict management become the sole objectives of the transitional period there will be no sustainable peace, either in the south or in the rest of Sudan. Even with a peace agreement the parties will have to move rapidly to reach a final resolution on security arrangements in the transitional period, a process that, as argued above, is highly problematic and will prove even more challenging to implement, given doubts about whether there is any real commitment to either the peace process or to tackling the root causes of the conflict. Against that background, security related problems have three origins: first, failings in the IGAD peace process; second, obstructions by the belligerents, and particularly the GoS, and lastly, weaknesses of the monitoring instruments.

Failings in the IGAD Peace Process

A major weakness of the peace process stems from the prevailing logic of the IGAD mediators, which has been to limit the negotiating parties to the GoS and SPLM/A, partly on the grounds that this would simplify an already complicated process, and also to reduce the threat to the viability of the process by bringing in additional groups. The unstated argument has been that the present military regime in Khartoum could be counted upon to be more reliable than a government made up of Sudan's fractious political parties, even if these groups can claim with some truth better to represent the people of the country. From a democratic perspective the position of the mediators has never been defensible, and with the outbreak of war in the west and the obstruction of the army to the peace process, it has become absolutely essential to bring other sections of the Sudanese community on board the peace process, and just as importantly into a transitional national government.

Such incoming groups might object to some elements of the peace process, but – unlike sections in the military and government – they are not reaping benefits from the war and hence are far more likely to be committed to peace. That they will inevitably demand greater regional representation should not be viewed as unduly complicating the situation, but instead – in the wake of the Darfur crisis – should be recognised as critical to achieving peace and stability in both the south and west of the country. It must be stressed, however, that the buy-in must not be restricted to groups from the riverine core that have long dominated the state, but must also include the new forces from the peripheries and the disenfranchised that are increasingly challenging their marginalisation.

As argued elsewhere¹⁵ the IGAD mediators have long paid lip service to the notion that the peace process involved two stages: the first stage, which gave primacy to a peace agreement between the GoS and the SPLM/A, and a second stage that would immediately follow and involve bringing the

other major Sudanese constituencies into the process. While there have always been doubts as to the seriousness of this commitment, the argument for it has never been greater when viewed against the analysis above. The move of the SPLM/A into the national government could be a force for reform, but all too often the movement has resisted broadening the base of governance and has been equally reluctant to support far-reaching democratic change and early elections.

Belligerents' obstructions to reconciliation

Also vital to securing the peace agreement is the need for reconciliation between the various southern groups in conflict. This is a far-reaching task, but particular attention must be given to the need for reconciliation between the principal fighting forces in the south: the SPLM/A and the SSDF. Although south-south reconciliation is embraced by southern Sudanese of all political complexions, in practice it has been opposed at different times by both the SPLM/A and the GoS. The SPLM/A opposed reconciliation with the SSDF because it would imply sharing power, while the GoS's opposition was due to fears of losing a valued ally and being confronted by a united south.¹⁶ Nonetheless, the civilian population that regularly finds itself the victim of the animosity between the SPLM/A and the SSDF often considers reconciliation between these two groups as important as that between the SPLM/A and the GoS.

The above analysis, however, suggests that some elements of the SSDF (particularly those recently utilised in the Shilluk Kingdom) have become little more than militias operating at the behest of the government, as their opponents have long claimed. And indeed, the actions of a number of these militia leaders have been in complete opposition to the leadership of the SSDF, which has consistently supported reconciliation and opposed recent rounds of fighting in WUN and the Shilluk Kingdom. The decision to grant senior ranks in the national army to more than sixty officers of the SSDF is also consistent with a policy of making these armed groups mere adjuncts of the army. Moreover, it should be noted that this development was opposed by the senior SSDF leadership who upheld the Khartoum Peace Agreement, which stipulated that the southern forces would maintain a separate existence from the national army.¹⁷

All of this complicates the reconciliation process enormously, as well as playing to hard-liners in both the GoS and SPLM/A who are opposed to reconciliation with the SSDF. Dr John Garang, as demonstrated by his actions, has long supported piece-meal reconciliation with individual SSDF leaders because this reduces any threat to his power, and the effective fracturing of the SSDF favours this approach. Instead of negotiations leading to a moderating of positions, consensus, and overcoming long-standing divisions among southerners, the general thrust of recent developments is for the SSDF to divide between commanders who deserted the organisation for the SPLM/A, and a rump closely tied to the government, and hence available to pursue the agenda of the national army. Thus the conflicts that led to the formation of the SSDF are not being resolved and are left as an open wound that can burst out again at a future time.

Weakness of the monitoring instruments

With the achievement of peace and the anticipated cease-fire the VMT, the CPMT, and the JMC are likely to be replaced by UN or other forces. However,

some assessment of the experience of these monitoring groups should be considered by any incoming peacekeeping forces. From the outset it was clear that the drafters of the security agreements had the objective of maintaining the status quo and defined peace conservatively as the absence of war, and not more positively as a means of resolving root causes of the conflict.¹⁸ Moreover, the instruments put in place to oversee the security regime – the VMT, the JMC, and the CPMT – have likewise defined their tasks narrowly and conservatively and, with the partial exception of the JMC, have striven to ensure that Sudanese civil society has had no part in their operations. They have thus followed the general thrust of the IGAD mediators, who have also been reluctant to permit any involvement in the peace process beyond the GoS and SPLM/A. This lack of engagement with civil society is most clearly reflected in both the lack of vigour with which the leaders of the VMT, the CPMT, and the JMC have taken up human rights issues, and the limited ways they have defined human rights.

With respect to the VMT it is clear that its principal internal weakness has been its cumbersome means of conducting investigations, a result of its convoluted decision-making structure which involves reaching agreement by both the GoS and SPLM/A before an investigation can be launched. No doubt these problems were exacerbated by four major changes in its leadership. That said, the VMT's operations, like those of the CPMT, were seriously hindered by the blatant interference of the GoS, notably in objecting to its personnel and proposed bases. The failure of the Sudan IGAD Peace Secretariat and the VMT to act decisively in the case of Akobo, a failure which was then repeated in WUN and the Shilluk Kingdom, encouraged disrespect of the Cessation of Hostilities Agreement and gave a powerful and wrong message to the belligerents.

In addition, the VMT has also suffered from being poorly funded and having inadequate mobility, a particular significant disability given the scale of operations of southern Sudan. No doubt the most positive aspects of the VMT are that it is an integral part of the IGAD peace process and that it includes representatives from both the GoS army and the SPLM/A. That said, the VMT has been even more distant from Sudanese society and less transparent than its sister organisations.

The CPMT, with its objective of monitoring the performance of the armed forces in meeting the stipulations of international law on the protection of civilians in war zones, has a unique role and hence needs to be critically appraised because it could well serve as a prototype in many conflicts around the world. Given its principal concern with human rights, a primary conclusion must be that the military orientation of the CPMT is inappropriate, that the role of the military in the organisation should be restricted to logistics, and that leadership be placed firmly in the hands of civilians with experience in Sudan and with human rights. Many of the problems of the organisation – its distance from Sudanese society; the ignorance of its monitors as regards the peace process; its slowness in moving into the war front in eastern Sudan; the complete failure to take up a position in Darfur; its personnel problems – derive from a misplaced military command and control approach to its work.

Second, as an organisation whose credibility depends upon the objectivity of its reports, the CPMT must be free of links with bodies such as the US State Department, which have particular political objectives. The CPMT and any successor organisation needs friends in the international community

that can be called upon for support when faced – as is inevitably the case – with hurdles thrown up by resentful armed forces; but these same friends must not compromise the organisation’s integrity. Clearly this is a difficult balance to achieve.

Thirdly, the CPMT’s accountability links are neither with IGAD, nor with any Sudanese body, but with distant Washington. And lastly, although the CPMT should not assume a role in punishing parties in breach of the Civilian Protection Agreement, ways must be found that take forward issues when they are not addressed after the release of a report condemning the guilty party. In response to both of the latter concerns, the CPMT or any successor organisation that takes up its important task, should be linked to either IGAD, or ideally some credible Sudanese organisation that can both ensure means of accountability and take to a higher level abuses that are not addressed.

The experience of the JMC is more limited than that of the other two security organisations, but its claim that there have been no major violations of its cease-fire since it came into effect¹⁹ is certainly a worthy achievement if true. Also noteworthy has been its utilisation of military officials from both the GoS and SPLM/A, alongside civilians. Its strong presence on the ground, greater links to the local community, and multiple responsibilities also compare favourably with the VMT and the CPMT. But it also has some of the same weaknesses as its sister organisations. First, has been the disadvantage of not having a strong, legitimate, and independent body that has the capacity to actively oversee its mandate.²⁰ Second, like the other organisations, the effective implementation of the Nuba Mountains Ceasefire, and indeed the entire IGAD peace process, largely and ultimately depends on US pressure.²¹ Third, the Nuba Mountains Agreement has been criticised for treating conflict in the territory as separate from the broader civil war in the south.²² Fourth, and like the VMT, the JMC has suffered from on-going financial short-falls, made worse by the fact that its mandate has had to be renewed every six months. Lastly, as Paul Murphy has pointed out in a statement that has relevance for all of the security organisations operating in Sudan, ‘the Nuba Mountains ceasefire experience indicates that it is important to ensure that ceasefire monitors are familiar with the culture, context, and the history and dynamics of the conflict situation, nationally and within the areas under inspection.’²³

Conclusion

In summing up, many of the issues raised here – bringing other parties into the peace process, the creation of a transitional national government that has the confidence of the Sudanese people, and the need for greater accountability of the instruments monitoring the security regime – speak very clearly to the need for the peace process and the country to be democratised. Indeed, faced with a faltering central government, a deepening crisis of the state, and growing demands from disaffected regional and tribal groups, only such a transformation offers the prospect of a peaceful and united Sudan. Equally important, only a democratic regime can be expected to have the commitment to confront the grievances that gave rise to war in the south and are producing conflict in other parts of the country.

Indeed, neither of the two wars that have afflicted the south, nor the conflict that is currently raging in Darfur, are aberrations, but instead should be viewed as the inevitable results of a state dominated from its beginnings by minority interests. Sudanese governments have held power

through various means – parliaments, the armed forces, sect, and religion. These governments have varied in their make-up and the ruthlessness with which they have pursued their projects of self-aggrandisement. But in the end, the various approaches to projecting power and using the state for enrichment have represented different sides of the same coin, and the Sudanese state has not changed fundamentally in five decades of independence. The same malfunctioning state is now spawning revolts among groups inspired by the achievements of the SPLM/A but fearful that the IGAD peace process will deepen their own marginalisation.

It is thus ironic that the SPLM/A appears to be casting off its commitment to a New Sudan, which involves a fundamental transformation of the state, in favour of buying into the state at the very time that the Sudanese state faces a crisis of legitimacy greater than at any time since independence. However, even if the SPLM/A is prepared to make these compromises in the interests of attaining a measure of power, it is now clear that many disaffected groups will not accept an outcome whereby the division of spoils is merely re-divided among a select few. The Sudanese state has largely lost its legitimacy and if present and past ruling groups, together with the international community, ignore that striking reality and view the transitional period merely in terms of security maintenance, then it is safe to assume that the present crisis will deepen and violence will continue. Instead, the transitional period must be recognised as an opportunity – perhaps the last opportunity within a united Sudanese state – to respond positively to the deeply felt grievances and inequities in the country.

- 1 IGAD Secretariat on Peace in the Sudan, *Machakos Protocol*, 20 July 2002.
- 2 'Memorandum of Understanding Between the Government of the Sudan and the Sudan People's Liberation Movement/Army (SPLM/A) on the Cessation of Hostilities,' signed by the GoS and SPLM/A and witnessed by Lt Gen Lazaro Sumbeiywo, Special Envoy IGAD Sudan Peace Process.
- 3 'Agreement Between the Government of the Republic of Sudan and the Sudan People's Liberation Movement to Protect Non-combatant Civilians and Civilian Facilities From Military Attack,' 31 March 2002.
- 4 Nuba Mountains Cease-Fire Agreement, Nairobi, 19 January 2002.
- 5 J C Danforth, *Report to the President of the United States on the Outlook for Peace in Sudan*, Washington, 26 April 2002.
- 6 IRIN, 29 October 2003.
- 7 See www.cpmtsudan.org, and in particular, *Report on Investigation No 30, Fighting in the Shilluk Kingdom and Killing of Civilians*, Khartoum, 19 April 2004. Also *Report on Investigation No. 40, GoS Raid on Village of Obei, Shilluk Kingdom*, Khartoum, 24 May 2004.
- 8 *Cessation of Hostilities Agreement*, Article 5.
- 9 See www.cpmtsudan.org.
- 10 African Security Analysis Programme Situation Report, *South Sudan Defence Force: A Challenge to the IGAD Peace Process*, Institute for Security Studies, 8 April 2004. www.iss.org.za
- 11 Framework Agreement on Security Arrangements During the Interim Period Between The Government of the Sudan and The Sudan People's Liberation Movement/Army, Section 7A, (Lake Naivasha: 25 September 2003).
- 12 *Ibid.*, Section 7B.
- 13 *Ibid.*, Section 7C.
- 14 Personal correspondence with the author.
- 15 African Security Analysis Programme, *The Sudan-Igad Peace Process. Signposts for the way forward*, Institute for Security Studies, Occasional Paper 86, March 2004. www.iss.org.za
- 16 In this regard see African Security Analysis Programme Situation Report, *South Sudan Defence Force: A Challenge to the IGAD Peace Process*, Institute for Security Studies, 8 April 2004. www.iss.org.za
- 17 Republic of The Sudan, *The Sudan Peace Agreement*, p. 20, Khartoum: 21 April 1997.

- 18 See this distinction convincingly made by A Bendana, *What Kind of Peace is Being Built: Critical Assessments from the South*, IDRC, Ottawa: January 2003.
- 19 Global IDP Project Data Base, *January 2002 ceasefire in the Nuba Mountains conducive to IDP returns 2004*. www.idpproject.org.
- 20 Paul Murphy, *Sudan: Nuba Ceasefire Experience Suggests Points to Ponder*, IRIN, Nairobi, October 2002.
- 21 IRIN, Nairobi, 9 April 2003.
- 22 Paul Murphy, *op. cit.*
- 23 *Ibid.*