UNITED STATES INSTITUTE OF PEACE www.usip.org

SPECIAL REPORT

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# Some Assembly Required

## Sudan's Comprehensive Peace Agreement

### About the Report

The United States Institute of Peace conducted a project to identify lessons learned from the negotiation of Sudan's Comprehensive Peace Agreement (CPA) from 2002 to 2005 and its implementation since then.

Ninety open-ended interviews with government officials, international and local NGOs, and private individuals from Sudan and other countries form the basis of this report, which examines the relationship between negotiations and implementation. The Association of Diplomatic Studies and Training conducted the interviews under a contract with the Institute.

Timothy Carney was the last accredited U.S. ambassador to Sudan. His 32-year career included service in areas of conflict from Vietnam and Cambodia to South Africa and Haiti, as well as work in two UN peacekeeping missions. He spent four months in Iraq this year, having served with the first civilian mission in Baghdad in April 2003.

**The views expressed in this report do not necessarily reflect the views of the United States Institute of Peace, which does not advocate specific policy positions.**

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### Summary


- Regional mediators and international facilitators helped the two main opposing forces in Sudan's fifty-year civil war, the National Congress Party (NCP) of the North and the Sudan Peoples Liberation Movement and Army (SPLM/A) of the South, to reach a detailed Comprehensive Peace Agreement (CPA) after two-and-a-half years of negotiation, from 2002 to 2005.
- The United States served as the catalyst for the peace process and then became part of a group of facilitators including the United Kingdom, Norway, and Italy. At different points during negotiations, each of these countries exerted influence on the Sudanese parties.
- Kenya took the lead in mediating the negotiations under General Lazaro Sumbeiywo. Sudan Vice President Ali Osman Taha, representing the North, and Dr. John Garang, representing the South, spent fifteen months negotiating the final agreement in Naivasha, Kenya. Implementation of the CPA requires continuing good security with minimal fighting, agreement on the boundaries of North and South that affect the distribution of Sudan's oil wealth, completion of midterm elections, and a referendum in the South.
- Slow implementation of key provisions of the CPA is causing Sudanese to question the political will and even the good faith of the northern government. Failure to provide an immediate peace dividend, lack of competence in managing southern expectations, and corruption have led to public criticism of the southern authorities.
- Hope is waning that the CPA will pave the way to a modern, united Sudan with a government responsive to all its peoples. The SPLM/A leadership is focusing on developing the South rather than creating a national political movement.
- The crisis in Darfur has diverted the international community's attention. Implementing the CPA will require sustained international pressure and imagination to help resolve numerous political, economic, and social problems.

## About the Institute

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# History of the Conflict in Sudan

Sudan's bitter conflict between North and South raged for fifty years, from 1955 to 2005, with a hiatus from 1972 to 1983. The longest-running civil war on the African continent, it began when Sudan gained its independence and the North tried to control the South without giving southerners a real voice in national affairs. In 1972 the government of President Jaafar Nimeiri negotiated a peace agreement with the South that held for nearly eleven years. The conflict resumed in 1983 as a result of the continuing economic and political marginalization of the South and the growing strength of political Islam in the North. As a result of this growth and to ensure his own political survival, Nimeiri imposed sharia law nationwide.

Foreign analysts of the conflict cited root causes that ranged from racial, cultural, and religious differences to impulses for power and control of Sudan's labor, land, water, and minerals. The North, which is predominantly Muslim, historically has tried to convert southerners, who primarily followed traditional religions. Perhaps as much as 15 percent of the southern population is Christian. Northerners generally identify with Arab culture, while southerners see themselves as African.

Sudan's oil wealth has added a volatile element to the civil war. Initially discovered in the 1970s, the oil began to be exploited in 1998, when an international consortium started exporting crude from fields in the South, near the historical boundary of northern and southern Sudan.

Sudanese analyses of the reasons for conflict have varied and evolved over the decades. The riverine, Arabic-speaking peoples based around Khartoum, who have dominated Sudanese politics, identified with the modern Arab world and claimed ancestry dating back to the earliest days of Islam. They have viewed themselves as culturally superior and marginalized not only southerners but also the peoples of Sudan's East, West and Far North. One of the northern goals since the 1980s has been to create a modern Islamic state in all of Sudan. The Islamist party that seized control in 1989 sought the creation of a Muslim South as a springboard for the Islamization of all sub-Saharan Africa.

Southerners, on the other hand, have distrusted northerners since the nineteenth century, when slave traders raided villages in their region. In modern times southern politicians have sought either independence or unity in a radically transformed country that would give all its citizens equal political rights, religious freedom, and economic opportunity. Such a "New Sudan," as John Garang, the late leader of the SPLM/A, called it, would become democratic and responsive to the aspirations of the majority of Sudanese, whether southern, western, eastern or northern. Garang died in a helicopter accident in July 2005, shortly after becoming first vice president of the CPA-created Government of National Unity. He was a member of the Dinka ethnic group, U.S.-educated, an officer in the Sudanese army after the Addis Ababa agreement, founder and then leader of the SPLM/A. His deputy, SPLA Commander Salva Kiir, has replaced Garang.

Both northerners and southerners have reinterpreted their own identities. Anthropologists believe northern Sudanese are Afro-Arabs with a history that includes Sub-Saharan Africa's oldest identified major state. Known to the ancient Egyptians as Kush, it gave way to Christian kingdoms that subsequently decayed under pressure from Islam brought by Arab peoples, who moved from the Arabian Peninsula through Egypt, and African Muslims, who built the mighty Funj Empire beginning in the early sixteenth century; it was extinguished after a long decline when the Ottomans invaded in 1820.

The most recent immigrants to Sudan include Muslims from the Arabian Peninsula, the Rashaida who live in the East, and Muslims from West Africa, known as *fellata*, who continue a long tradition of overland travel on the hadj, or pilgrimage to Mecca. Many fellata have settled in western Sudan and along the Nile.

Scores of ethnic groups inhabit the South. Divided by language and culture, some are sedentary farmers like the Azande; others, like the Dinka and the Nuer, are pastoralists, who migrate according to the seasons with their cattle herds in search of grass and water.

Historic rivalries, especially between the Dinka and Nuer, resonate in modern politics. Minority groups in the South distrust the Dinka, who are a majority in the SPLM/A and figure heavily in the government of South Sudan. Many southerners have learned to speak Arabic to get jobs. The educated often speak Arabic and English.

Humanitarian groups estimate that some 2 million people died, mostly of malnutrition and disease, during the second phase of the civil war starting in 1983. In the mid-1980s the United Nations negotiated a relief effort, Operation Lifeline Sudan, which provided food, education, and health assistance in both the North and the South.

At the same time several national, regional, and international groups mounted efforts to end the war. The most important of these resulted from activities of a body that became the Intergovernmental Authority on Development (IGAD), an East African regional group that assumed responsibility for bringing peace to Sudan in September 1993, in addition to its economic development duties. The IGAD effort stalled in 1997, largely for lack of political will in Khartoum and the absence of a broader international push for a genuine peace process. Joint Ethiopian-Eritrean-Ugandan military support of the SPLA posed the gravest armed threat to Khartoum at the time.

Civil society interaction and meetings of various elements of the two major antagonists took place throughout the 1990s, keeping contacts alive and, more important, adding various points of agreement and softening negotiating positions in anticipation of serious compromise.

## Necessary and Sufficient: Setting the Table for Negotiations

Although northerners and southerners realized by the end of the 1990s that neither side could win the war militarily, they proved incapable of finding a peaceful solution to the conflict on their own. Once talks got under way, senior foreign figures seemed perpetually surprised that given this realization, neither side had any apparent capacity for compromise, despite outward camaraderie and even friendship away from the table.

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Engagement by the United States proved absolutely necessary to get the peace process under way in Sudan, but it was not sufficient. Only a broad international effort could bring the Sudanese to the negotiating table and keep them there for the duration.

The movement toward reengaging the U.S. government in a search for peace in Sudan began in the final year of the Clinton administration. In May 2000, recognizing its failure to isolate Sudan through diplomacy or economic sanctions, the United States finally responded to Khartoum's three-year-old invitation to send a counterterrorism team to discuss a six-point American agenda. Sudanese security authorities believed they had satisfied all six points by the end of the year.

While President George W. Bush and his new administration grappled with what to do about Sudan in 2001, several disparate U.S. groups were lobbying the administration to do something to end the war. They included evangelicals and other Christians, who generally believed the civil war was an effort to suppress Christianity in the South; the Congressional Black Caucus, which was concerned about allegations that classical forms of slavery still existed, with Arabs targeting black Africans in Sudan; and human rights groups. Moreover, U.S. groups and the U.S. government feared that Sudan was backing Islamist insurgencies, as well as the vicious Ugandan Lord's Resistance Army. The United States was also intent on eliminating any Sudanese support for international terrorism.

U.S. officials believed that the American domestic focus on Sudan jeopardized the administration's ability to deal with both parties in an evenhanded way. Indeed, the risk was that Congress might place limits on the administration's role in Sudan, reducing U.S. effectiveness in the Sudan peace process. Thus the State Department Sudan team worked immediately to broaden the international role in the negotiations. A spring 2001 meeting in New York brought together the United States, Britain, and Norway, beginning the process that led to the concerted and effective international effort for peace talks. Italy eventually joined the initial troika, making it the "Troika Plus."

In July 2001 the director of the U.S. Agency for International Development visited Khartoum. He was the highest-level U.S. official to visit Sudan since the U.S. permanent representative to the United Nations had been in Khartoum in the early 1990s. He won agreement from Sudanese authorities for a U.S. aircraft to deliver badly needed relief food to the Nuba Mountains, an area of a long-standing, brutal Sudanese government effort to control the dissident population.

On September 6, 2001, in the White House Rose Garden, President Bush named John Danforth as his special envoy to the Sudan. The former U.S. senator, also an Episcopal priest, agreed to test both sides' willingness to have the United States catalyze a peace process. The U.S. focus on just two sides, combined with the history of the IGAD effort to bring the Khartoum authorities and the SPLM/A together, ultimately led to a bipartite negotiation. The northern party refused to open talks to other Sudanese actors. The SPLM/A also resisted bringing others from the opposition to the table.

In 2001 two other important factors converged to make the negotiations possible. First, Kenya's then president, Daniel arap Moi, decided to energize the IGAD process to end the civil war in Sudan. He saw the conflict as a source of regional instability. Moi also saw an opportunity to boost his legacy by becoming a peacemaker. He asked a very competent Kenyan general, Lazaro Sumbeiywo, to spearhead an effort to bring the Sudanese to the negotiating table. Second, the positions that formed the basis of successful negotiations had already emerged in prior talks. In one forum or another, with one interlocutor or another but usually not with each other, the authorities in Khartoum and the rebel SPLM/A broached, accepted, and published declarations, communiqués, and agreements that addressed important elements of each side's demands and grievances concerning power and wealth sharing, security, and the relationship of religion and the state.

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## The Evolution of Northern and Southern Policies

A complex set of domestic, regional, and geostrategic events, combined with personal relationships, underlay the successful negotiating process. The northern Sudanese came to realize that their vision of political Islam was not achievable. In 1989 then Colonel Omar Bashir and other followers of the Sudanese Islamist activist Hassan Turabi had mounted a coup against the northern government led by Prime Minister Sadiq al-Mahdi. At that time Sudanese Islamists believed that political Islam was on an unstoppable worldwide march.

By 1996 the Islamist vision had begun to fail. The Khartoum government under President Omar Bashir was in serious trouble at home and abroad. The civil war seemed unwinnable, despite growing revenue from the oil that had begun to make a profit in 1998. At the same time the United States had become an enemy, espousing a public policy of containment and demanding that the Khartoum government change its positions. Some Clinton administration figures were working secretly for regime change in Khartoum.

Meanwhile Sudan's neighbors generally supported the southern rebels, first with money and hardware then directly with troops, armor, and command-and-control staff. Foreign support enabled the SPLM/A to make significant gains south and southwest of Juba and in Blue Nile in early 1997. By 1999–2000, internal dissension, fueled by Sudan's deteriorating military position, international isolation, and leadership struggles over control of oil revenues, had arisen within the northern leadership group.

Leadership of the southern political and military movement was firmly in the hands of Garang and his close associates. Despite northern attempts to exacerbate ethnic differences among southerners and internal tensions over control, the SPLM/A was in charge of the rebellion.

By late 2001, however, the southern leadership also had cause to reconsider the future. Garang was aware that the new oil revenues enabled Khartoum to purchase force multipliers such as helicopter gunships. These weapons would give the North a technical

advantage on the battlefield and make the war unwinnable for the South, despite broad African support and international sympathy. Garang also realized that the Bush administration was not going to support the SPLM/A militarily. In the wake of September 11, the U.S. administration was pressing the issue of terrorism, and the government in Khartoum acted quickly to signal its willingness to enhance its cooperation with the United States begun the previous year. Shortly afterwards senior American officials made it clear to Garang that he would not receive U.S. heavy military assistance.

## International Role in the Peace Talks

International facilitators acted differently toward each Sudanese side. Sudanese government officials, journalists, and activists confirm that they were certain the United Kingdom. favored the North. Indeed, Sudan is in the purview of the U.K. Foreign and Commonwealth Office's Middle East Bureau, where Arabists hold sway. On the other hand, largely because of their NGO activities in the South, the Norwegians were seen as firmly in the southern camp. The Norwegian development aid head, Hilde Johnson, developed a close relationship with Garang.

In 2001 and 2002 no great sophistication was needed to recognize that the United States did not have a unified position on how to deal with Sudan. Opposing views in the Congress, the National Security Council staff, and the State Department made it difficult for the United States to articulate a coherent policy. U.S. agencies viewed Sudan through different lenses. Although the State Department had moved Sudan to its Africa Bureau in the late 1950s, other U.S. agencies still kept it in their Middle East offices.

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Moreover, American non-governmental organizations (NGOs), churches, and journalists held strong views, often informed by only one party. Some lacked understanding or willingness to try to grasp complicated Sudanese realities. Former President Jimmy Carter did, however, use his ties with evangelical Christians to ensure breathing space for Senator Danforth's efforts.

The U.S. Congress's focus on Sudan and its critical view of the National Congress Party resulted in the Sudan Peace Act of 2002. The law required the president to certify in six months that both the Government of Sudan and the SPLM/A were negotiating for peace in good faith. If he could not do so, the United States had to seek UN and international financial institutions' sanctions and limited access to oil revenues. The administration had worked successfully to restrict the legislation to reporting requirements on the intentions and actions of the parties. Western observers generally agree that the law provided a useful threat, enabling U.S. diplomats to urge Khartoum to forestall any further congressional moves. However, some observers suggest that the act began the process that convinced the NCP of U.S. bad faith, after little normalization in relations with the United States resulted from the signing of the CPA itself.

## Tests Met, Talks Launched

In October 2001 Kenya's army chief, General Lazaro Sumbeiywo, became the IGAD mediator. He proved to be the right person at the right time and quickly built on the earlier, mid-year IGAD Summit agreement by Khartoum and the SPLM/A, which placed fully mandated teams at the IGAD secretariat for negotiations.

U.S. engagement and reinvigorated IGAD activity proceeded along parallel lines. Senator Danforth traveled to the region after the shock of September 11 had subsided. He and his team had put together a road map that included four tests to determine if the Sudanese were ready to engage in a peace process. These tests included a cease-fire in the Nuba Mountains with international monitors, an agreement not to attack or target civilians that included international verification, appointment of an eminent persons'

commission to investigate the slavery issue, and request for zones of tranquillity where humanitarian agencies could work on human and animal health.

Senator Danforth's focus on the Nuba Mountains resulted in a six-month, renewable cease-fire in January 2002, achieved largely through a joint Swiss-U.S. mediation effort. The document provided for monitoring by fifty unarmed foreign staff, to be led by an active and wise Norwegian brigadier general, Jan Erik Wilhelmsen. An international monitoring group, the Civilian Protection Monitoring Team (CPMT), was established to work in the South. Signed in March, the CPMT agreement gave international actors limited capacity to examine allegations of attacks on civilians. The Nuba Mountain cease-fire success helped underpin the IGAD negotiations, and the CPMT would prove its worth when hostilities broke out in the midst of the North-South negotiations. In April 2002 Senator Danforth reported to President Bush that both sides had passed his four tests and recommended that the United States use the existing IGAD process to move forward the peace process.

On July 20, 2002, the sides signed the Machakos Protocol, which established the framework for future talks and met the all-important southern condition for a referendum on secession. The document also limited Islamic law to the North and only to Muslims. The Machakos Protocol was the first of six protocols and five implementation modalities, which detail the steps to realize the goals of the protocols. The various protocols and their implementation modalities constitute the CPA (see page 14).

The Machakos talks revealed some key weaknesses in the process. Although both the North and the South had pledged to give their delegations plenipotentiary status, none of the individuals participating in the talks actually had the authority to make agreements. Indeed, General Sumbeiywo described the process as listening to a month of haggling as the sides argued and put forth positions. He finally took the initiative by presenting the Sudanese with a composite text. The general then locked the door and demanded an agreement. The result was a rush to cell phones to seek approval from Khartoum or Garang.

## Fight–Talk–Fight and Talk Some More

***Warring parties simultaneously talk and fight as they try to improve their negotiating positions.***

The history of conflict negotiations from Vietnam to Namibia demonstrates that warring parties simultaneously talk and fight as they try to improve their negotiating positions through surprise military strikes. In September 2002 the SPLA struck the Khartoum authorities' garrison at Torit, capturing the town east of Juba and inflicting heavy losses on government forces, including deaths of some officers highly regarded by President Bashir. The Khartoum team walked out of the talks and their military struck back, first recapturing Torit and then opening a second front. Using its mandate to protect civilians, the CPMT investigated allegations of abuses. It proved invaluable in helping end the hostilities and fostering resumption of negotiations under General Sumbeiywo.

The two sides returned to the negotiating table in October and reached a formal cease-fire agreement. Khartoum signed when General Sumbeiywo presented the northerners with a copy the southerners had already signed. Southern statesman Abel Alier, backed by the Norwegians, had worked with Garang on the basis of a four-point paper to ensure SPLM/A acceptance of that cease-fire.

After signing the cease-fire the two delegations formed small groups to discuss issues, such as security, power, and wealth sharing, set out by the Machakos Protocol. Although they continued talking they produced very little until June 2003, because each side had important constituencies that were unhappy with the Machakos agreement. Fallout from the Machakos Protocol included pressure on the SPLM/A to sort out the issue of the "Three Areas" that had strongly supported the insurgency: Abyei, Ingessena Hills (Southern Blue Nile), and the Nuba Mountains (Southern Kordofan). These areas did not figure in the Machakos document. Arguing that the areas did not form part of the historical South, Khartoum refused to permit any discussion about them in the IGAD framework. With the

assistance of international facilitators, they eventually worked out a technical compromise, putting negotiations over the disputed areas under the aegis of Kenya and General Sumbeiywo rather than under IGAD itself.

Drawing on reports from international NGOs, General Sumbeiywo became aware that positions taken by the delegations to the peace talks did not always reflect the desires of Sudanese on the ground. After his February 2003 retirement from Kenya's army Sumbeiywo travelled extensively and held meetings with a broad cross-section of Sudanese. In June 2003 he produced the Nakuru document, an important draft agreement informed by his conversations. International observers endorsed this Nakuru document. The Khartoum authorities, however, rejected it, and President Bashir's public comment was particularly vituperative.

New arguments erupted between the northerners and southerners, with debate over whether the two sides should hold face-to-face talks across a negotiating table or hold "proximity talks" with the parties in separate rooms. General Sumbeiywo determined that the northern delegation reported to Vice President Ali Osman Taha. Believing the time had come to bring both Taha and SPLM/A leader Garang into the negotiations, he asked the Kenyan government to approach Khartoum directly. Taha agreed to come to Kenya to meet Garang, who previously had refused such a meeting. Considerable international pressure was required to get Garang to agree to direct talks, and Taha, against the advice of his advisers, had to wait on the scene for three days for Garang to arrive.

Almost immediately the negotiations took on a different character, as the two men sought to develop a working relationship. Two vignettes illustrate their efforts to reach out to each other. During the first meeting, just one bottle of water was on the table. Garang opened it and poured a glass for Taha, a considerate act that augured well to Taha. Some time later Taha commented on a need for a haircut and observed that Garang's hair looked well cut. Garang promised to bring his barber. He then produced his wife, Rebecca Garang, to trim Taha's locks. Soon international observers and IGAD secretariat experts, as well as Sudanese delegation members, found themselves excluded from discussions that often included just the two men.

Sixteen months after Taha and Garang shared the bottle of water, the two sides signed the CPA. The negotiations could not have succeeded without the continuing presence of the Kenyan mediator, the engagement of the two principals, and the constant attention of the international community. The last three implementing agreements were finally signed December 31, 2004, in Naivasha, Kenya, with President Bashir and visiting South African President Thabo Mbeki as witnesses. Garang and Taha signed the CPA in Kenya on January 9, 2007.

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## The Challenge of Implementing a Complex Agreement

As spelled out in the CPA, the goal of Sudan's peace process was to transform the country into a unified, democratic state with a government responsive to popular will and needs. The May 2004 Power Sharing Protocol called for a midterm election, which was seen as the best way to move the country toward representative democracy. That election, scheduled for 2009, will be open to all Sudanese political organizations that accept the CPA. It has the potential to create a more representative government than Sudan has ever had. A slow response in implementing key CPA provisions, however, has put the timing of the elections in doubt. Neither the return of 500,000 refugees nor of some 2 million internally displaced southerners is sufficiently advanced. Preparations for a census that could delimit constituencies have also been delayed.

Among the primary reasons for the slow pace of implementation is the fact that the CPA is weighed down with details. With the devil, as usual, in the fine print, the CPA includes 1,100 specific tasks. These include everything from appointing a National Assembly to

establishing an independent judiciary, creating a Government of South Sudan that has a percentage of NCP members, forming joint integrated military units, redeploying forces according to very specific schedules, creating commissions to delineate boundaries, dividing oil revenues, integrating militias into existing forces, and much, much more. The massive detail results largely from southern experience with the vagueness of the unsuccessful 1972 Addis Ababa agreement that ensured ten years of peace. This time southerners wanted everything spelled out to make clear the obligations of the North. It is important to note that the CPA is part of the new Interim National Constitution, and changing it requires a constitutional amendment.

All agree that implementation is too slow, despite the nearly universal recognition that an end to the fighting has benefited both the North and South. The beginnings of development in the South are real, if inadequate, to southerners. Relative peace, freedom of movement, and the expansion of markets in the South are particularly evident. Northerners acknowledge that the fighting and death of their relatives and friends has ended. Nevertheless, essential questions remain over whether the NCP has the will to implement the CPA fully and whether the SPLM/A has the capacity to do so.

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Delivering real goods and services in the South has proved complex. In September 2006 popular criticism over the failure of the Government of South Sudan to fulfill its promises in 2005 and 2006 caused President Salva Kiir to announce to his legislative assembly a 200-day action plan focusing on "suitably modest" activities that "must demonstrably impact positively" the quality of life. He mentioned rehabilitating physical infrastructure, providing basic social services, maintaining peace and security, building the economy, and strengthening public institutions and good governance. In March 2007, toward the end of the 200-day period, the South's minister of presidential affairs listed some 550 activities of construction or rehabilitation of infrastructure, service delivery, equipment procurement, training, and institutional strengthening. He said the action plan would be reconfigured as an annual action plan, integrated into the yearly budget process, and called for all southern ministries to produce a 2007 action plan immediately. The South has set up important offices of the state structure, including some the North should have, such as a human rights commission. Not all implementing legislation for such bodies has passed, notably that for the Anti-Corruption Commission, leaving it without power.

The southern government faces major problems of revenue allocation and corruption, some related to the 200-day action plan. One of the southern states dismissed thousands of government employees, citing limited budget revenue. Accusations of ghost employees are real. The South's finance minister lost his immunity from prosecution in March and his job in July because of a scandal over vehicle purchases. A contract with a Norwegian company to build and manage ten hospitals, one in each southern state, has engendered controversy over costs, nepotism, and links to those in the vehicle scandal. In July President Salva Kiir also replaced the health minister, bumped "upstairs" as an adviser in the president's office.

A January 2007 progress report from the Presidency of the Republic of Sudan in Khartoum cites movement toward the creation of required CPA commissions and elements of implementation of wealth-sharing and security measures, including forming joint integrated units from the two sides' armed forces. The report notes unimplemented provisions, including the Abyei Protocol; national electoral elements such as a census; a nationwide information campaign to foster national unity, reconciliation, and mutual understanding; and political and financial support for "national reconciliation and social healing."

The new unity government created under the CPA has been most successful on the security front. All the participants understood that security issues are close to the bone and need careful attention to building confidence between the parties' military wings. The positive approach to security began during the pre-Machakos period in early 2002. The Nuba Mountains cease-fire set an example, as mediators brought Sudanese armed parties into direct discussion with each other and the professional Swiss military team. They handled each issue as it arose and ended with a signed agreement.

For the CPA itself, security discussions came out of a 2002 seminar at the U.K. Foreign Office. The participants began the negotiations of the security elements of the CPA and the implementation arrangements. Usually security issues prove the trickiest and take the longest time to sort through. For example, security had taken more than half the negotiating time at Addis Ababa in 1972. The "literature of accord"—the agreements on principle that the parties signed throughout the 1990s—had not touched on security. Following the U.K. seminar, international facilitators embarked on a patient and discreet process of confidence building among northern and southern military officers that took more than a year. Thus by the time security issues came up before Garang and Taha after September 2003, their military officers had already reached agreement. As a result the security text of the CPA is remarkably short and simple.

Because of this effort the CPA's security and military provisions have been relatively well implemented, but like so many other parts of the CPA they have failed to be implemented on time. By late 2006 most of Sudan's armed forces had redeployed from the South, and the SPLA had redeployed from the East. But during his September 2007 visit to Sudan the UN secretary general pointed out that the sides had missed the July 9 deadline for full redeployment into their own areas. He called on both parties to resolve the issue. The UN Mission in Sudan (UNMIS) monitoring force had deployed in large measure and a cease-fire commission had held thirty meetings by late 2006. Much remains to be done, particularly in setting up joint integrated units. Movement toward demobilizing, disarming, and reintegrating the excess military forces of both sides has been very slow and inadequate. The procedure is spelled out in the CPA, but implementation is spotty.

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The complex issue of wealth sharing is another serious matter. The failure to create key CPA agencies and lack of transparency in accounting have raised suspicions in the South and the North. Both sides are focusing on oil revenues. Shortly after signing the CPA the South asserted that it was not receiving its 51 percent share as stipulated in the Wealth Sharing Protocol. Southerners pay great attention to this issue, and Garang himself noted that he had given some of his oil to make peace. Once the oil money started to flow, the southerners argued for a more transparent process with more southern representation on accounting bodies. Revenues from some producing areas are supposed to go into escrow until the geographic boundaries, which would place oilfields in either the North or the South, are finally delimited.

A mixed body of international and Sudanese actors works to ensure CPA implementation. The Assessment and Evaluation Commission began work slowly under a Norwegian chair. By early 2007 most observers viewed it as not really effective. Criticism centered on NCP members' use of procedural rules to delay and on insufficiently active leadership of the body.

## The UN Role in Implementing the CPA

The negotiations did not rely on the UN for input and resources. However, the UN Security Council meeting in Nairobi in November 2004 pushed the Sudanese principals to conclude their talks. At that meeting they undertook to wind up the talks by January 2005, and they did so.

A UN Security Council resolution created UNMIS in March 2005, following the signing of the CPA. That UN effort in Sudan has had a mixed history, however. In October 2006, at the NCP's behest, the Government of National Unity's foreign ministry terminated the mission of the UN secretary general's special representative, requesting his departure within three days. Sudanese authorities argued that his public comments about military matters in Darfur were unacceptable. During his September 2007 visit to Sudan the UN secretary general named a replacement, who arrived in Khartoum on October 22, 2007.

UN specialized agencies have long been engaged in Sudan. UNICEF took a lead role in the relief effort, Operation Lifeline Sudan, from the mid-1980s on. The UN High Commissioner for Refugees (UNHCR) assisted Eritrean and Ethiopian refugees inside Sudan and

Sudanese refugees in Kenya and elsewhere. Just before the signing of the CPA, the UNHCR accepted responsibility for the return of the internally displaced, most of whom live in the Khartoum area. Unfortunately, the UNHCR failed to do the necessary strategic planning to relocate millions of people and initially spent much of its money building its own infrastructure, a problem common to many agencies given the poor facilities in the South.

Besides filling political and monitoring roles, the international community has also provided development and economic assistance in Sudan through international financial institutions. A World Bank–UN Development Program joint assessment mission (JAM) began in mid-2004. IGAD, the UN, international financial institutions, interested partners, and the Sudanese all recognized the need to craft a comprehensive framework for Sudan's development priorities to present to a donors' conference after the sides reached a peace agreement. Norway chaired the JAM core coordinating group that presented its report in March 2005. It covered the 2005–2007 interim period, during which international donors provided specific programs for the national government and northern states, the Three Areas, and the southern government. It estimated initial needs for 2005–2007 postwar recovery and development at $7.9 billion.

The Multi-Donor Trust Funds that the JAM report established have not worked well. At a major donor conference in April 2005 the United States pledged $1.7 billion of the $7.9 billion needed, but continuing sanctions prevent U.S. funds from going to the North except under waiver. Moneys otherwise go through separate trust funds to the North and the South. Although banks are opening in the South, the region lacks proper banking and accounting structures, and it used dubious financial practices when the Government of South Sudan received an internal transfer of several hundreds of millions of dollars of oil revenue.

## Lessons Identified but Yet to Be Learned

***The midterm election ought to begin a transformation of the country.***

**Implementation of an agreement that involves transforming a society requires enormous political will.** For Sudan the midterm election ought to begin a transformation of the country that could result in dilution of control by the Islamist authorities in Khartoum and the SPLM/A in the South. However, important elements within the ruling movements in both areas do not want to put their control or their political futures at risk. In Khartoum many government officials were willing to accept the prospect of regime transformation as part of achieving peace. But those elements seem to have less influence now.

The situation in Darfur has complicated the issue for many northern Sudanese. A growing belief in NCP circles in Khartoum holds that the United States seeks regime change rather than political transformation; that is, a complete removal of the Islamist movement rather than a broadening of participation in governance. During the negotiations over the CPA, Sudanese authorities asked the United States whether the agreement would make any difference in U.S. policy toward Sudan. The Sudanese were assured at the highest level that it would. But the Sudan Peace Act of 2002 raised doubts about the United States, as it seemed to echo Clinton-era rhetoric. Post-CPA U.S. failure to remove sanctions, drop Sudan from the U.S. list of state sponsors of terrorism, or even name an ambassador to oversee the massive U.S. contribution to implement the CPA serve to deepen northern suspicions.

Meanwhile, Southern leadership in the wake of Garang's death appears to be concentrating on regional development, preparing for secession after the 2011 referendum. Although Garang's successor, Salva Kiir, has endorsed the vision of a New Sudan, he devotes most of his attention to creating a functioning Government of South Sudan. At the same time he has been slow to face up to charges of corruption in the South. Overall, with some exceptions he has not used his vice presidency of the Government of National Unity as a bully pulpit and seems reluctant to assume the national role that his status confers.

**Important elements of the process so far have proved either too daunting or too politically risky to implement.** This has called into question the good faith of the NCP. Southerners point to the NCP's rejection of the Abyei Boundary Commission decision as evidence that Khartoum is not serious about implementing the CPA. The boundary commission, whose determination was to have been binding, carefully considered the claims of two groups, Dinka and Messeriya, that live in a district claimed by both the North and the South. According to the 1972 Addis Ababa agreement, its status was to be determined by a referendum that was never held. The CPA provides for a resolution of the Abyei problem in two steps: first by establishing the boundaries of the district and second by holding the referendum.

Resolution has stalled at the first step. Composed of Sudanese and international figures, the boundary commission discovered that the key document supporting the NCP claim to the district's northern boundary was based on a report of the early twentieth century. After carefully recalculating distances actually travelled by the report's author, the commission concluded that the Dinka boundary was further to the North. Thus the commission found that the Dinka claim to the area was valid and that the northern boundary of Abyei, and potentially the boundary of the South itself, should be considerably further north than the NCP had anticipated. Creative engagement of the Dinka and Messeriya on the ground offers a possible path to compromise in Abyei.

***Creative engagement of the Dinka and Messeriya on the ground offers a possible path to compromise in Abyei.***

The presidency of the Government of National Unity, under Omar Bashir, rejected the report, contending unconvincingly that the commission had exceeded its mandate. Two more plausible explanations for the rejection include the NCP fear that the Messeriya people in the area would fight over the land and its reluctance to risk potential oil reserves going to the South, thereby further limiting northern revenues should the South secede in 2011.

**No shortcuts exist in the vital security arena.** The international community needs to continue to nurture the relationships between the northern and southern military to ensure regular contact and timely joint action before problems get out of hand.

**Responsibility for the process and its implementation has been complicated by the decision to limit the negotiations to the NCP and the SPLM/A.** Other parties were consulted—General Sumbeiywo, international observers, and NGOs engaged with Sudanese political parties, individuals, and elements of civil society—but only the two sides negotiated. The Kenyan mediator, the international facilitators, and the Sudanese parties argued that an agreement would still be pending if more parties had joined the talks. The CPA is not, however, comprehensive. The centrifugal effects of other conflicts such as the one in Darfur, and complaints by the Beja in the East and Nubians in the North about lack of government programs in their areas and their limited role in national governance, risk undermining prospects to implement the CPA.

A second aspect is related to the decision to involve only the two principals, Garang and Taha, in the push to conclude negotiations. Observers contend that much of the detail of how to deal with problems of implementation, including steps to resolve conflicts, was in the minds of Garang and Taha. Even the detail and complexity in the comprehensive CPA implementation agreements do not provide an adequate guide. With Garang's death and Taha's seeming loss of influence, the mechanisms of implementation are not moving smoothly, nor are the sides able to deal with the inevitable delays and differences over interpretation of the details of the implementing provisions.

**Southern lack of capacity hampered negotiations and now cripples implementation**. The international community recognized at the beginning of the negotiations that the lack of physical and human infrastructure in the South was a critical problem and made it a priority to provide training courses for southerners in everything from auditing to political party building. During the talks international oil experts helped educate the southern delegation about the range of oil issues, from finding oil to marketing and using it. The experts explained to the southerners the costs involved in exploration and extrac-

tion and informed them of the limited size of Sudan's proven oil reserves. Also at issue is the ability of southerners to influence terms of oil contracts and to create southern-owned oil companies.

***Although the southern delegation mastered the negotiation process, the southern government does not yet have the capacity to govern effectively.***

Although the southern delegation mastered the negotiation process, the southern government does not yet have the capacity to govern effectively. It lacks the ability to deliver economic development and manage the expectations of the people of the South. And it does not have the professionally trained staff to use the funds available to it effectively.

Short-term performance of southern ministries and offices does not articulate with the long-term effort to build the capacity of the South for modern governance. Clearly it is vital to answer popular expectations, all the more so as the southern authorities are failing to manage those expectations because they lack capability to use media for broad, focused communication. The international community generally seeks to build capacity to absorb and use development assistance by creating or strengthening institutions and training staff. This focus on capacity building rather than performance results partly because southern authorities seem reluctant to accept the number of foreign experts needed to ensure performance while capacity is built. This is particularly the case in financial matters, where developing the capacity to do national income accounting and effect fiscal and monetary policy takes considerable time.

**The engagement of the United States in the peace process was necessary but not sufficient.** This deficiency is especially true in the period of implementation. After September 2001 Sudanese actors recognized that the United States was ready to use its power to force solutions, as it demonstrated in Afghanistan. At the same time U.S. officials working on Sudan issues recognized the potentially limiting effect of domestic opinion and Congress on U.S. engagement in Sudan, as the Sudan Peace Act of October 2002 abundantly demonstrated. They sought an active international effort to help push forward the peace process in Sudan. Events in Darfur have resulted in continuing limits on U.S. efforts to join in CPA implementation, especially in the North. Sanctions on the North are not likely to end without a satisfactory response to grievances in Darfur.

Meanwhile the NCP regards the U.S. effort in Iraq as weakening prospects for any U.S. military role in Sudan and as having damaged U.S. prestige generally. Thus the NCP is less concerned about U.S. views now. Indeed, some in Khartoum have argued for years to limit focus on the United States and rely on Asia. For its own economic reasons, China has become a major investor in exploiting Sudan's oil reserves and constructing infrastructure. China also has supported the implementation of the CPA through participation in UNMIS. While China has emerged as the principal ally and major protector of Khartoum in UN discussions of Darfur, more recently, at the United States' suggestion, Beijing has become part of the international effort to encourage the NCP leadership to behave more responsibly in Darfur.

## Conclusions and Recommendations

Sudan is moving toward the end of the CPA process. Serious doubt exists about completing it or even maintaining the peace. Mistrust; questions about Northern political will; concerns about governance, government performance, and corruption; and lack of transparency in wealth sharing all put the CPA's implementation at risk. The October 11 announcement that the SPLM/A has suspended participation in the Government of National Unity increases the uncertainty. Although Kiir and Bashir have met since then, and on November 4 announced steps to implement the CPA, prospects are unclear. The international community maintains an inconsistent, even vague, presence. Darfur blurs the focus on CPA implementation, which affects many more Sudanese directly. If the CPA succeeds, it could show the way to resolve other conflicts, including Darfur, between

Sudan's center and periphery. The September visit of the UN secretary general and the arrival of a new special representative are welcome in this regard.

The scheduled midterm election of 2009 is the most vital upcoming event of the transition period. However, lack of census, failure to repatriate refugees and the internally displaced, and failure to delimit the boundaries of the North and South put a timely election in doubt. Neither the NCP nor the SPLM/A currently commands popular legitimacy. The elections are vital to create a more representative government answerable to all the people.

Even if the CPA holds, the country is in danger of becoming overly dependent on its oil resources. Oil-rich countries tend to become mesmerized by the riches from petroleum revenues, allowing other sectors of the economy to atrophy. The South is particularly vulnerable to this "resource curse," especially because its poor infrastructure makes developing even light industry or a flourishing agricultural sector problematical. International donors, financial institutions, and their experts should give special attention to balanced, environmentally sustainable development in both North and South.

Three other recommendations follow from the present situation. First, the engagement of the international community must be renewed and broadened. This action may also require the Assessment and Evaluation Commission to sharpen its work on CPA institutions. The commission does not have a mandate to sanction parties, but it could make very specific recommendations in the sectors its working groups cover: security, power sharing, and wealth sharing. A new chair must move quickly to ensure results in all four sectors.

Most important is regional and broader African engagement with both Sudanese parties. Through its historic role in the IGAD Sudan peace effort, Kenya should reinvigorate its participation. South Africa should take on a larger role, especially in dealing with the NCP. President Mbeki has shown the ability to work with President Bashir. Moreover, South Africa has the leadership, will, resources, and military capability to make clear the consequences if the NCP fails to move forward on the referendum or if war re-ignites.

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China and non-Muslim Asia can further engage diplomatically with the NCP, as well as participating in the CPA implementation process to move matters forward. The "Troika Plus" can use their relationships with China, Japan, and Korea to urge them to offer their perspective to the NCP. Muslim Asian nations, with moderates such as Malaysia and Indonesia already present in Khartoum, can enhance this effort.

The second recommendation is more mechanical. Election specialists should begin to examine procedures or expedite ongoing studies so as to conduct the mid-term elections in the absence of a census and without the return of refugees and IDPs. Transitional measures might be necessary for Parliament and state governments to hold seats empty for a subsequent by-election or to allocate seats through a creative formula where constituency boundaries have not been delimited.

Northern and southern officials have inadequately presented the CPA to audiences throughout the country. So far an international effort has helped educate southerners through radio, focus groups, and print media. Still, grasp of the CPA seems restricted to urban populations in both the South and the North. Even town-dwellers and university students seem to understand only the general provisions of the CPA concerning the referendum, midterm elections, wealth and power sharing, and maintenance of separate armed forces. A greater understanding of the specifics of the CPA and its complexity can help manage popular expectations, limiting beliefs that immediate vast material benefits will flow, especially as CPA timelines have proven too optimistic for both Sudanese sides and the international community. To implement this recommendation it may be good for the Assessment and Evaluation Commission to propose action and call for international assistance.

## *THE COMPREHENSIVE PEACE AGREEMENT*

The CPA of January 9, 2005, includes six protocols and five implementation modalities.

| **Protocols** | **Implementation Modalities** |
|---|---|
| ➢ The Machakos Protocol (July 20, 2002) | |
| Security Arrangements (Sept. 25, 2003) | ➢ Permanent Ceasefire and Security Arrangements (Dec. 31, 2004) |
| ➢ Wealth Sharing (Jan. 7, 2004) | ➢ Wealth Sharing (Dec. 31, 2004) |
| ➢ Power Sharing (May 26, 2004) | ➢ Machakos and Power Sharing (Dec. 31, 2004) |
| ➢ Resolution of the Conflict in Southern Kordofan and Blue Nile (May 26, 2004) | ➢ Resolution of the Conflict in Southern Kordofan and Blue Nile (May 26, 2004) |
| ➢ Resolution of the Abyei Conflict (May 26, 2004) | ➢ Resolution of the Abyei Conflict (May 26, 2004) |

- The CPA provides for a six-month pre-interim process, followed by a six-year interim period ending July 8, 2011. At the end of the interim period southerners will vote either for unity of Sudan as experienced during the interim period or for an independent southern Sudan. Islamic law holds sway only in the North, only for Muslims. An independent judiciary is established in both areas.
- A government of national unity protects the sovereignty of Sudan. A government of southern Sudan exercises authority in the South. The CPA essentially creates a federal system, with the national unity government linked to states in the South through the southern Sudan government.
- The appointed, two-chamber National Assembly is composed of 52 percent from the National Congress Party, 28 percent from the Sudan Peoples' Liberation Movement, 14 percent from other northern political parties, and 6 percent from other southern parties. The second chamber of the National Assembly, the Council of States, includes two members from each state and two observers from Abyei. The government of southern Sudan has 70 percent membership from the SPLM and 15 percent from the NCP, with the remaining 15 percent from other parties. A National Constitutional Review Commission produced an Interim National Constitution some months late. A census was to take place before July 9, 2007, and general elections at all levels were to have been scheduled for July 9, 2008. These deadlines have slipped.
- Both sides' forces are to keep to a cease-fire and redeploy to their own areas on a listed schedule. Joint Integrated Units shall form, but each side will also keep an armed force. Monitoring arrangements exist through various joint bodies, including UNMIS. An effort is established for demobilization, disarmament, and the reintegration of soldiers no longer needed under arms.
- Equitable sharing of Sudan's wealth includes land usage and ownership, oil and its revenue, taxation and revenue allocation, monetary and financial policies, and reconstruction and development funds. Two percent of oil revenue goes to oil-producing states in proportion to their output; the remainder is divided so that half from wells in southern Sudan goes to its government and half goes to the northern government and states. A boundary commission is established to fix the North-South line of demarcation. Separate southern and National Reconstruction and Development Funds will be charged with reconstruction, resettlement, reintegration, and development, and 75 percent of the National Fund will go to war-affected states, especially Southern Kordofan and Blue Nile.
- Abyei and Southern Kordofan and Blue Nile are subjects of complex protocols and implementing agreements. Abyei's position in the North or the South is to be determined by the binding judgment of an Abyei Boundary Commission and a referendum.

An online edition of this and related reports can be found on our Web site (www.usip.org), together with additional information on the subject.

## Of Related Interest

- *The Eastern Sudan Peace Agreement: Taking Stock and Moving Forward*, by Dorina Bekoe (USIPeace Briefing, October 2007).
- *Sudan's 2009 Elections: Critical Issues and Timelines*, by Kelly Campbell and Dorina Bekoe (USIPeace Briefing, August 2007).

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