

The Non-Enduring Peace: Critical review of Darfur Peace Agreement

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"There is a significant risk that the Darfur Peace Agreement will collapse. The agreement does not resonate with the people of Darfur". Jan Pronk

By Monim Elgak *

1. A CONTEXT

September 15, 2006 — Since the eruption of conflict in Darfur in early 2003, the people of the western region of Sudan have experienced massive cycles of violence as thousand hundreds of people have died and more than two million forced and uprooted from their homes. In February 2005 an independent United Nations (UN) Commission of Enquiry found that, “[g]overnment forces and militias conducted indiscriminate attacks, including killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement, throughout Darfur. These acts were conducted on a widespread and systematic basis, and [therefore may amount to crimes against humanity](#)”

In such tragic circumstances, peace is a basic need and has an explicit expression; namely protection and security of civilians, accountability and justice for victims and rebuilding the destroyed livelihoods of Darfurians. Peace is also in political terminology is a compromise! Indeed this is exactly what was pointed to by the African Union (AU) mediation team after two major rebel groups rejected the Darfur Peace Agreement (DPA), and it was signed only by the faction of Sudan Liberation Army/Movement SLA/M led by Minni Arkou Minawi and the Government of Sudan (GoS) on 5th May 2006. In an open letter addressed to Darfur holdout rebels, the AU’s mediators stated that "a basic principle of the DPA is compromise. The Movements did not win the war and were not in a position to dictate their terms. The Government is in power and has no intention of handing over that power at the negotiating table". Ironically, the discourse of the AU mediators in advocating for the DPA is not that far from that of the government discourse on the escalation of the conflict as stated on many occasions by officials including the President.

The post-DPA era, instead of being an era for celebration of the accord, has contributed to exacerbating insecurity in Darfur and created further fragmentation among Darfurian actors. Two out of the three main insurgent movements; e.g. Abdul Wahed’s faction of the SLA/M and the Justice and Equality Movement (JEM), rejected the deal. A new alliance of non-signing insurgents was formed (the National Redemption Front). Civilian populations continued to be targeted by militia, the government and rebel movements. According to number of reports by UNMIS, UNHCHR and credible human rights (I) NGOs, the post-DPA violence has resulted in numerous civilian deaths worsened the already deeply fragile human rights and humanitarian situation. Further, the majority of Sudanese political parties/actors have made clear their reservations and have rejected both the DPA and the tactics of GoS in achieving the deal. On the ground, frustration with, and rejection of, the content of the DPA,

provoked tensions and violent demonstrations and clashes throughout the three Darfur States, particularly among IDPs, and in the national capital Khartoum, meeting with counter-violence from government bodies.

The conclusion in this context must be that neither of the two meanings of peace identified at the beginning of this reflection- peace as a political compromise nor peace as the Darfurian demands for protection and justice, has been/will be achieved through the DPA. It is not just the post-DPA violence that indicates the clinical death of the DPA. The exaggerated and dangerous position of the GoS against UN Security Council Resolution 1706 which seeks to support a transition from AU to UN peacekeeping, including the GoS request to the AU to withdraw from Darfur and the President's statement that the government will take over security in Darfur, appear to directly undermine and contravene the deal. Prior to making such judgment however, some reflection on the development of the peace initiatives on Darfur, the DPA itself, and why it is a fragmented deal, must be made.

2. PEACE INITIATIVE(S): MAPPING EFFORTS

Although official history of the DPA goes back to September 2003 with the Chadian initiative, some rebel groups view the history of the negotiation as going back to 2001, even before the official declaration of the insurgent movements: “[a] total of 5 meetings of Peace Talks were held between the Government of Sudan (GoS) and the Movement in different places in Darfur, mainly in El Fasher and the Jabel Marra area...[a]fter the Movement declared itself officially in early 2003, another 3 meetings were held... [i]n all these rounds the GoS has rejected all demands”.

One can document the origins of the political history of the DPA with Abeche's peace talks in Chad in September 2003, but this history is founded on the tragic humanitarian and human rights situation which erupted earlier than this date, and created the urgency for a political solution. The Abeche peace talks can be considered as a first clear declaration of both the political nature of the conflict and the growing international political concern with the conflict. Abeche's talks represented also a launching of the AU's efforts to take the lead on Darfur conflict.

The first official round of talks under the auspices of the AU mediation was in April 8th, 2004 in N'Djamena (Chad) where a ceasefire agreement was signed. The AU mediation then moved negotiations to the AU's headquarter in Addis where an agreement on the modalities for the establishment of the ceasefire commission and deployment of observers in the Darfur was signed on May 2004. In fact, Olusegun Obasanjo the Nigerian and then AU president was in favor of the negotiation developments between the GoS and the rebels groups and the talks moved to Abuja city in Nigeria, where six further rounds of peace talks were held in the run up to the signing of the DPA on 5th May 2006. In brief the six rounds of talks achieved; (1) Protocol on Implementation of the Humanitarian Situation in Darfur, (2) Protocol on Enhancement of the Security Situation in Darfur, (3) Declaration of Principles (DoP) for the Resolution of the Sudanese Conflict in Darfur, and (4) the signing of the DPA between the GoS and one faction of the three insurgent movements.

3. WHAT'S THERE IN THE DPA?

As highlighted before, the DPA is not more than only one expression of the humanitarian and human rights tragedies of Darfur. The four protocols and agreements signed before the DPA were not concerned with the political elements of the conflict. Indeed, the four protocols dealt with technical and selective issues of the humanitarian and security aspects of the conflict rather than providing any initial political framework for a comprehensive peace agreement which could address the roots and causes of the conflict. Therefore, only the Declaration of Principles (DoP), signed on July 2005, was relevantly present at the DPA. At the seventh round of peace negotiations the AU mediation team restructured the DoP framework and put it on the table for negotiation resulting in the signatures of two parties.

The DPA is structured in four main sections, in addition to the implementation modalities and timelines. It also includes the N'djamena Humanitarian Ceasefire Agreement of April 2004. The major sections of the DPA relate to Power Sharing, Wealth Sharing, Comprehensive Ceasefire and Security Arrangements and the "Darfur- Darfur Dialogue and Consultation"(DDDC). The DPA can be summarized as follows :

Chapter (1) of the DPA: Power Sharing:

- ▶ Gives the rebel movements the 4th highest position in the Sudanese Government of National Unity; Senior Assistant to the President and Chairperson of the Transitional Darfur Regional Authority..
- ▶ Establishes the Senior Assistant and Chairperson of the TDRA as the dominant political leader in Darfur, and in Khartoum as the senior Darfurian representative in the Government of National Unity.
- ▶ Makes provision for a popular referendum by July 2010 to decide whether to establish Darfur as a unitary region with a single government.
- ▶ Sets out that elections at every level of government shall be held not later than July 2009, in accordance with the Interim National Constitution.
- ▶ For the three-year period prior to elections:
- ▶ Grants the rebel movements chairmanship and control (at least 8 of 10 seats) in the Transitional Darfur Regional Authority.
- ▶ Allocates to the rebel movements twelve seats in the National Assembly in Khartoum.
- ▶ Allocates to the rebel movements twenty-one seats in each of the Darfur State legislatures.
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- ▶ Awards to the rebel movements one State Governor of Darfur, and two Deputy State Governors.
- ▶ Allocates to the rebel movements senior positions in State Ministries.

Chapter (2) of the DPA: Wealth Sharing:

- ▶ Creates fund for Darfur Reconstruction and Development to which the Government of National Unity (GNU) will contribute \$300 million initially and then \$200 million/year for 2 additional years.
- ▶ Calls for a Joint Assessment Mission - modeled on the one done for Southern reconstruction after the Comprehensive (North-South) Peace Agreement - to determine the specific reconstruction and development needs of Darfur.
- ▶ Commits the international community to holding a donors conference to pledge additional funds for Darfur.
- ▶ Establishes a commission to work with the United Nations to help refugees and displaced

persons return to their homes.

- ▶ Creates a commission to provide compensation to victims of the conflict.

Chapter (3) of the DPA: Security Arrangements

- ▶ Requires complete, verifiable disarmament of Janjaweed militia by mid-October, 2006. Provides milestones such as the containment of Janjaweed and other armed militias into specific restricted areas prior to disarmament, removal of heavy weapons, specific assurances of security in assembly areas of the rebel movements, and other steps to contain, reduce, and ultimately eliminate the threat posed by such forces.
- ▶ Places restrictions on the movements of the Popular Defence Forces and requires their downsizing.
- ▶ Provides for a detailed sequencing and phasing schedule aimed at ensuring that Janjaweed and other armed militia will be disarmed before rebel forces assemble and prepare for their own disarmament and demobilization. African Union peacekeepers will inspect and certify that areas are safe and secure prior to rebel assembly.
- ▶ Requests that the Sudanese government punish ceasefire violations by Janjaweed and other armed militia including the PDF, including through immediate disarmament and demobilisation.
- ▶ Establishes buffer zones around IDP camps and humanitarian assistance corridors, into which rebel forces and Sudanese Armed Forces cannot go.
- ▶ Defines the principles for integration of the rebel forces into the Sudanese Armed Forces and police.

Chapter (4) of the DPA: Darfur-Darfur Dialogue and Consultation (DDDC)

- ▶ Is a conference in which representatives of all Darfurian stakeholders can meet to discuss the challenges of restoring peace to their land, overcoming the divisions between the communities, and resolving the existing problems to build a common future.
- ▶ Is an advisory and facilitation mechanism. It is to make recommendations and observations to the Darfur and national authorities, including community leaders.
- ▶ Will focus on two areas, namely (1) political and (2) socio-economic and traditional.
- ▶ The first function of the DDDC is to popularize the Agreement and obtain support for it from all stakeholders in Darfur.
- ▶ Representation at the DDDC shall be decided by the Preparatory Committee according to guidelines.
- ▶ Observers shall be drawn from other parts of Sudan, AU Mediation and Facilitators, League of Arab States and Organization of Islamic Conference, CENSAD, IGAD, UN and international community.

4. THE DPA AND FRAGMENTED HOPE

As is pointed out in the first section of the paper, the DPA is in state of a clinical death, and instead of bringing peace it has deepened fragmentation. The rejecting insurgent movements, the Darfurians victims of the conflict and most of the Sudanese parties, in addition to some regional and international actors, believe that the DPA is not a genuine deal that can create a just, peaceful and lasting political solution to the conflict of Darfur. Indeed, the major criticism of the DPA is rooted in the challenge of the 'compromise thesis' of the deal: many of the proposals from the mediation were close to the government's position, and this accounts for the immediate acceptance of the deal by the GoS.

The weaknesses and possible objections to the DPA can be addressed from a variety of perspectives. I will first look at the general considerations underlying the rejection of the DPA, and then to move to the details of the objecting content of the DPA.

► Firstly, the general considerations:

- **Exclusiveness of the DPA** One of the major critiques of the CPA was that it was not inclusive of the various Sudanese parties, despite having stopped the state of bloody war in the south. The DPA, indeed, is worse, as it is not only exclusive of the other Sudanese parties, but of Darfurian rebel groups and other Darfurians' social and political forces, including Arab groups. In fact the exclusiveness of the DPA created a controversial duality between the two signing parties and introduced a divisive and selective deal that served to only deepen the already existing states of polarization and fragmentation in the region.

- **Divide and Rule Tactics of NCP** Historically the senior ruling party, National Congress Party, has utilized divide and rule tactics against other political forces. It was the tactic used to encounter the SPLM/A that succeeded in bringing Lam Akol and Rick Machar to sign the so called Khartoum Peace Agreement before returning to the SPLM/A mainstream. Perfectly, the NCP utilized the same tactic against Darfur and the insurgents movements in particular. The International Crisis Group has presented credible information and a strong analysis of how the NCP played games with tribal reconciliations and invented local deals with tribal leaders and insurgent factions. Indeed, the ICG's report notes that the NCP in fact established a special unit to sow divisions among the rebels . Indeed, this tactic has been used even after the signature of the DPA, to encourage individuals and members of rejecting movements to join and sign the agreement.

- **Pressure and Threats from the Mediators and International actors** It is widely accepted that the AU's mediation team and different international actors permitted and practiced very intensive pressure and even threats, particularly against the insurgent movements, to sign the agreement. It is understandable that international community was worried about the humanitarian situation and the protection of civilians on the ground. What is not understandable is the international community ultimately contributed to the divide and rule tactic of NCP to achieve an exclusive and non comprehensive peace deal. The pressure on the rebel groups that did not sign the deal has continued, including threats of sanctions. Indeed, it can be said that this approach goes against the logic of the global human rights discourse that talks about freedom of expression, particularly in the light of the fact that the refusing movements affirmed their commitment to the ceasefire agreement.

► Second, a critique of the content of the DPA

• **Wealth Sharing/ Compensation** The issue of compensation turned out to be as important a point on the negotiation table as wealth sharing. For the rebel movements, in particular Abdul Wahid's faction of the SLA/M, compensation was understood as the immediate monetary compensation of the direct victims of conflict, e.g. IDPs and refugees who lost every thing to continue their life. So, it is mainly about livelihoods and refuge. For the government, it was more political, as they viewed compensation as constituting acknowledgement of the violations and grievances held against the government's by its citizens. Thus the government challenged the already agreed upon elements of the DoP that provided that 'steps shall be taken to compensate the people of Darfur and address grievances for lives lost, assets destroyed or stolen, and suffering caused'. The government challenged this position saying that the reconstruction and rehabilitation fund included compensation – a major disagreement between on the definition. In the end, the government agreed on a total of 30 million in compensation to about 600,000 families victimized by the conflict, which mathematically means only 50 dollars per family!

• **Security arrangements** The security arrangements in the DPA are a vital part of the agreement directly touching peoples' security and their protection from the massive killing and destruction. The DPA has defiantly failed to adequately handle this issue, lacking mechanisms and guarantees of IDP safe return to their villages and the disarmament of the Janajweed militias. Although the rebel movements were not required by the DPA to lay down their arms until the GOS withdraws from certain positions and the Janjaweed are to be disarmed, the definition of Janjaweed and other militias remains ambiguous, permitting portrayal of the conflict as a local tribal one. Even the role assigned to AU forces, despite their weakness, is very minor. The DPA, in this respect, more or less requires the parties to disarm themselves, a task usually left for peacekeepers, while authorizing AMIS to verify and monitor the processes of their redeployment, assembly and disarmament . This point indeed opens up the victims' main concern: "how will we be safe without the UN?" It is an open question now within the highly politicized debate around the potential role of UN troops in the protection of civilians, particularly in the light of the lack of trust in the capacity of the AU, its limited mandate and resource, and the escalation of violence as a response to the DPA.

• **Power Sharing** It's understandable that the power sharing section of the DPA is based on the reference point of the CPA. However, the major concerns of the resisting parties are logical. In fact the rationality of the rebels demands find its basis in the acknowledgment of the particular political nature of the conflict and the fact that historically Darfur was marginalized and misrepresented at governance. The presidency was the major demand for the rebel groups, which resulted in the assignment of a position of a senior assistant to the president rather than that of vice president. As ICG's report named it, the office of the presidency represented a red line for the government and the two major ruling parties; e.g. SPLM and NCP. The report states that '[I]n March 2006, Salva Kiir, the SPLM leader, told SLA/AW delegates that a vice president for Darfur was a "red line", along with any other provision that reduced the SPLM's share of power under the CPA.⁴⁰ As a fall back, the Abdel Wahid faction and JEM then demanded that the second vice presidential post, the one held by the NCP's Ali Osman Mohamed Taha, should be allocated to Darfur. The NCP declared this a "red line" issue as well' . Ultimately, the proposal of the senior assistant, which accepted by Minni Arko, has no position in the presidency institution, but is the chair of Transitional Darfur Regional Authority.

The other point that insurgent movements had demanded was the establishment of a regional government for Darfur instead of the current three states invented by the NCP. Their justification was logical in terms of creating a comprehensive rebuilding and rehabilitation of the region. Such a demand was, however, unacceptable to the government as it was viewed as opening the question of greater autonomy by other parts of Sudan. So, the mediators reached a compromise with SLA/M group on a referendum to decide between three states or one region.

• **Human Rights/ Justice** Despite the many references to human rights and the bill of rights included in the DPA, in the context of the scale of human rights tragedies suffered in Darfur, the deal is surprisingly silent on justice and redressing the human rights record on the ground. Alex de Waal, a member of the AU's mediation team, and the 'advocate of the DPA' has acknowledged this reality: "the DPA does not include any special provisions for accountability for human rights abuses and does not mention the International Criminal Court. The reason for this silence is that these questions are dealt with elsewhere. The UN Security Council has already referred Darfur to the ICC, which is undertaking its investigations". In the same article, authored Waal challenges the critique of the absence in the DPA of mechanisms for justice and accountability, and defends the GoS position of the capacity of the Sudanese judicial system to address Darfur's crimes: "some of the provisions of the DPA may change the context in which the ICC carries out its work. For example, if the peace agreement leads to the setting up of courts that bring human rights violators to trial, then it is possible that the Chief Prosecutor of the ICC may choose to limit or even call off his investigations, on the grounds that Sudanese courts are able to do the job". It is ridiculous to market a dead peace deal in this way to victims and/or relatives of victims of massive human rights violations that have been classified as crimes against humanity, war crimes and potentially genocide.

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