

# **SUDAN IGAD PEACE PROCESS: AN EVALUATION**

**By John Young, PhD\***

30 May 2007

---

\* Senior Research Associate, Institute of Governance Studies, Simon Fraser University, Vancouver, Canada. Email: johnr\_young@hotmail.com

## Table of Contents

SUDAN IGAD PEACE PROCESS: AN EVALUATION .....	1
Acronyms .....	3
Executive Summary.....	4
Introduction .....	6
Review of peace making efforts .....	8
The first Sudan IGAD Peace Initiative: September 1993 to May 2002 .....	9
The Second IGAD Peace Initiative: May 2002 to January 2005 .....	12
From two party dominance to the dominance of two people .....	17
The challenge of an inclusive peace process .....	22
A peace process without trust.....	26
IGAD Secretariat and the media.....	29
Democratic accountability and the national election.....	30
Quartet .....	32
Observers .....	33
Advisors, Resource Persons, and Envoys.....	35
Limits of mediation .....	36
How much authority did the mediators have? .....	39
Conclusion .....	43
Lessons to be learned.....	47
Bibliography .....	55
Selected Interviews.....	55
Selected books and articles.....	58
Appendix A .....	61

### Acronyms

ABC	Abyei Border Commission
AEC	Assessment and Evaluation Commission
CPA	Comprehensive Peace Agreement
CPMT	Civilian Protection Monitoring Team
DoP	Declaration of Principles
DPA	Darfur Peace Agreement
DUP	Democratic Unionist Party
EPLF	Eritrean Peoples Liberation Front
EPRDF	Ethiopian Peoples Revolutionary Democratic Front
GoS	Government of Sudan
IGAD	Inter-Governmental Authority on Development
IGADD	Inter-Governmental Authority on Drought and Development
IPF	IGAD Partners Forum
JEM	Justice and Equality Movement
JLEI	Joint Libyan and Egyptian Initiative
LRA	Lord's Resistance Army
NCP	National Congress Party
NDA	National Democratic Alliance
NIF	National Islamic Front
NRM/A	National Resistance Movement/Army
OAGs	Other Armed Groups
PFDJ	Peoples Front for Democracy and Justice
SAF	Sudan Armed Forces
SCP	Sudan Communist Party
SLM/A	Sudan Liberation Movement/Army
SPLM/A	Sudan Peoples Liberation Movement/Army
SSDF	South Sudan Defence Force
TMC	Transitional Military Council
TPLF	Tigray Peoples Liberation Front
UDSF	United Democratic Salvation Front
USAP	Union of Sudan African Parties
VMT	Verification Monitoring Team

## Executive Summary

Sudan has suffered war for most of its existence as an independent state and many hoped the Comprehensive Peace Agreement (CPA) of 9 January 2005 would not only end the long-running southern civil war, but provide the momentum and serve as a model for resolving other conflicts in the country. While the jury is still out on whether the CPA will survive until the 2011 referendum on southern self-determination, it has not served as the stimulus to end the war and humanitarian crisis in Darfur. Nor to date has the CPA advanced any reconciliation between the people of north and south Sudan, provided hope that its commitment to 'make unity attractive' is being fulfilled, or is ushering in a democratic transformation of the country. There is a widespread acceptance that the CPA and the broader peace process it fostered is at best stalling, or at worst is collapsing. Indeed, on 13 April 2007 at a meeting in Nairobi the IGAD Council of Ministers concluded the implementation of the CPA was 'lagging behind schedule' and urged an extraordinary meeting of the IGAD Heads of State be held to consider the problem (IGAD, 13 April 2007).

IGAD's engagement in the Sudan peace process began on 7 September 1993 when it established a Standing Committee on Peace to assist negotiations and end Sudan's civil war. A Declaration of Principles (DoP) was proposed and quickly accepted by the SPLM/A as a basis for negotiations, but was not endorsed by the Government of Sudan (GoS) until 1998. By this time the peace process was floundering and in an effort to re-activate it the mandate was renewed by the IGAD Sub-Ministerial Committee on the Conflict in Sudan (IGAD, Nairobi, 23 July 1999). This Committee established a 'Secretariat for the IGAD Peace Process on the Sudan' based in Nairobi with the mandate 'to carry out continuous and sustained mediation efforts with a view to arriving at a peaceful resolution of the conflict'. This phase of the peace process led by Special Envoy Ambassador Daniel Mboya also floundered and the next and final phase – which is the subject of this evaluation - began under Special Envoy Lt. General Lazaro Sumbeiywo in May 2002. On 20 July 2002 the Government of Sudan (GoS) and the Sudan People's Liberation Movement/Army (SPLM/A) signed the Machakos Protocol as a framework for the conduct of the negotiations and after two and one half years of negotiations endorsed the CPA.

The Sudan mediation under Special Envoy Sumbeiywo was widely appreciated for its effective management of the process and financial accountability, particularly when measured against earlier weaknesses of the IGAD mediation. The mediation was also applauded for its impartiality, success in maintaining the integrity of the process, the generally positive role of the advisors, resource people and ambassador envoys from the region, achieving good relations with the donors, and the steady production of protocols that culminated in the CPA, and these will be duly noted and commented on as lessons to be learned. The mediation also linked together the parties to the conflict, IGAD as the regional organisation, and elements in the international community in an innovative structure. However, the Sudan peace process is in a state of crisis which is not simply due to failures in the implementation of the agreement, but is a result of its narrow approach and short-sighted vision. By assuming a limited definition of peace, focusing solely on the north-south dimension of the conflict, refusing to involve other political parties and civil society, treating the media as a threat to the process, and leaving the fate of the process to SPLM/A leader Dr. John Garang and First Vice President Ali Osman Taha, it was successful in reaching an agreement based on an acceptance of the lowest common denominators of the parties. But this approach largely precluded the realisation of its own stated objectives, which included a sustainable peace, Sudan's democratic transformation, and making unity attractive.

The weaknesses of the IGAD mediation include:

- Lack of inclusivity of interested parties in southern Sudan, notably civil society and other political parties, and at the national level for a peace process that claimed to be comprehensive. The result is an agreement that is effectively a bilateral arrangement between the SPLM and the NCP for which most people in Sudan feel no sense of ownership.
- The peace process never developed trust and understanding between the parties, and in its absence and the failure to commit to wide-ranging reconciliation, the mediation followed Western practice

and emphasised legal requirements and time-tables. But the great number of bodies and commissions formed to regulate, monitor, and adjudicate disputes have not managed to overcome the lack of trust between the SPLM and the GoS, and as a result the implementation of the agreement is far behind schedule.

- The elitist approach of the mediation was also manifest in its disdain for the media. Instead of viewing the media as a partner in the peace process, a valued critic, and a crucial instrument with which to engage the Sudanese public and provide a measure of accountability, it was treated as an enemy and a threat.
- The lack of inclusivity of the peace process means that the Sudanese people can only pass judgement on the CPA through national elections, but the elections have been delayed and the difficulties in demarcating the north-south border and ending the conflict in Darfur may result in a further postponement. In addition, the development of a democratic culture conducive for the holding of fair elections has not been permitted to emerge in either north or south Sudan where security regimes dominate. Lastly, the National Assembly has passed legislation that prohibits parties participating in the national election unless they endorse the CPA, thus precluding a negative assessment of the agreement.
- The narrow focus of the mediation and the emphasis on reaching an agreement meant its implications were not fully appreciated. Thus the agreement to dissolve OAGs threatened to unleash a war between the SPLA and the South Sudan Defence Force, while the power sharing arrangement which gave the SPLM and the NCP the lion's share of state power undermined efforts to reach a settlement in Darfur and have encouraged secessionist sentiments in the country.
- While international engagement in the peace process is necessary, the mediation failed to appreciate that this engagement posed a threat to the sovereignty of Sudan and the IGAD region. The conclusion of the US and its allies that their security and the 'war on terror' necessitates heightened military and diplomatic involvement in the Horn raises fears that the region could again – as it was during the Cold War – become a focus of competition and conflict for external interests.
- Although never stated, the mediation was carried out on the basis of a narrow model which focused on ending the violence (many respondents referred to it as an extended cease-fire), instead of laying the basis for a sustainable and comprehensive peace in the south and the country at large.

The lessons to be learned from the weaknesses of the Naivasha process include the need for a strong commitment to democratic change as the cement upon which any peace agreement should be built, and that in turn necessitates a comprehensive conception of peace. It requires a much wider involvement in the process, robust reconciliation, and respect for the media. This approach also recognises that endemic conflict, such as that suffered in Sudan, is the result of deep seated problems which necessitate structural change. The lessons to be learned also include the need for the mediation to weigh the effect of its endeavours on other conflicts. Although the Sudan peace process needed the financing, expertise, and legitimacy provided by the international community, the injection of external foreign policy concerns into the process posed a threat to national and regional sovereignty which IGAD needs to be aware of and respond appropriately. Lastly, the experience of the Naivasha peace process makes clear that peace processes do not end with the signing of a peace agreement, but must continue into the post-conflict period.

These lessons form the basis of an alternative approach which will be longer, more complex, stress process and principles over legalise and agreements, and offer no promises of success. But the record of failure of mediation of conflicts in the Horn of Africa makes clear that a different approach must be considered.

## Introduction

The signing of the Comprehensive Peace Agreement on 9 January 2005 in Nairobi, the culmination of more than a decade of intervention by the Inter-Governmental Authority on Development (IGAD), is a milestone in the history of Sudan and will have a major impact on the country, the region, and beyond. Its achievement was greeted with joy in most parts of the south, muted optimism in the north, and hopes in the international community that it would bring peace to the south and provide the model for peace agreements in Darfur and elsewhere in the country. However, on the second anniversary of the agreement, President of the Government of South Sudan (GoSS) and Vice-President of Sudan, Salva Kiir, reported that the agreement was in a state of crisis ('Sudan Tribune', 11 January 2007), the optimism of northern Sudanese had largely vanished, and the Darfur Peace Agreement (DPA) of May 2006, which had been shaped by the CPA, had all but collapsed. To be sure, it is far too early to pronounce the demise of the CPA and the processes that it gave rise to in Darfur and eastern Sudan, but its failure to usher in the comprehensive peace and democratic transformation promised by its authors and supporters point to the need for a critical assessment of the peace process, the CPA, and its implementation.

Commissioned by IGAD this report constitutes a first and by no means complete analysis of the peace process that produced the CPA. Time constraints (the report was to be completed in less than two months), financial restrictions (which did not permit travel outside Khartoum, Juba and Nairobi), and the inability to review the peace process documents (which have not been archived) all served to limit the value of this report. In addition, former Special Envoy, General Lazaro Sumbeiywo and some of his staff did not agree to be interviewed. Against that background, this study should be considered an introductory evaluation of the peace process and begs for a more exhaustive study.

It must also be stressed that the author is not an 'insider' to the process, and hence cannot bring such a perspective to bear in this study. I briefly served as a resource person for Special Envoy Daniel Mboya, but was not involved in the final and crucial phase of the peace process. Nor am I a diplomat or a mediator, and hence cannot claim any special knowledge of those fields. I am an academic and have written extensively on peace and security issues in Sudan and the Horn of Africa, have lived in the region for thirteen years, and from its outset have been a critic of the peace process and the CPA (See Young, 2003, 2005a, 2007).

The terms of reference for this study included the examination of a range of technical concerns, but the emphasis was on 'broader political issues' and IGAD officials made clear that (within the time and financial constraints) I was to have a free hand. Befitting an academic and outsider, the approach has largely focused on broader political issues and the essence of the peace process. Interviewees were encouraged to comment on technical aspects of the mediation, but if they failed to do so, and that was usually the case, or there was not time to raise them, they were not pressed. Almost certainly the reason they were not interested in this subject is because the technical and organisational side of the mediation was generally handled competently and did not warrant discussion.

IGAD officials made clear they wanted a frank appraisal and it was quickly discovered that most of those interviewed would only be completely forthcoming if they were assured of anonymity. As a result, assurances were made they would not be identified and their comments would be off-record. This may lead to difficulties in distinguishing between the analysis and views of the researcher and those interviewed, but there seemed no alternative. While I have drawn insights and information from the interviewees, the final product is not based on any attempt to balance their views and reach a consensus, which in any case would be impossible. The conclusions reached are solely those of the author. While the focus is at all times on the peace process, the institutions created in pursuit of the process, and interests and developments that took place outside the formal peace process that influenced or determined the process, the study will inevitably stray, as did those interviewed, to consideration of the implementation of the peace agreement. Indeed, it became clear during the course of this study that perspectives on the peace process were strongly influenced by the interviewees' current assessment of its outcome and of developments elsewhere in the country, notably with respect to the flagging peace process in Darfur.

A longer study would have interviewed a wider and larger group, but because of time and travel constraints, the focus was on two broad categories: first, those directly involved in the negotiations and that included members of the negotiating teams, mediators, observers, resource people, and ambassador-envoys, and second, those who closely followed the negotiations, and that included leaders of Sudanese political parties, civil society, and journalists and analysts who wrote about the negotiations. While this study was able to interview a reasonable number of negotiating team members (who were largely in Sudan) and those who followed the negotiations, it was less successful in interviewing the mediators, most of whom are not living in the region and are not personally known to the author, and indeed that is another weakness of the study.

There are no comprehensive academic studies of the Sudan IGAD peace process, but there is considerable journalist commentary, published interviews of actors, various analyses, a book about General Sumbeiywo's role as special envoy (*The Mediator: Gen. Lazaro Sumbeiywo and the Southern Sudan Peace Process*, by Waithaka Waihenya, 2006) and a chapter in a book on his role ('The God-fearing General.' *Kings of Peace: Pawns of War*, by Harriet Martin, 2006). In addition, Accord and Concordis International carried out a number of interviews and analyses in an internet publication, *Peace by piece: addressing Sudan's conflicts* (2006). I have also drawn on my own publications and an eclectic range of material.

The study begins with a brief overview of early peace making efforts and then shifts to a more detailed consideration of the first IGAD Peace Initiative of the 1990s. From that background the study will turn to an examination of the first IGAD peace initiative in Sudan, the IGAD mandate for the peace intervention, its emphasis on the Declaration of Principles (DoP) as the basis for negotiations and consider how the DoP was transformed into the Machakos Protocol, which in turn provided the framework for the subsequent process.\* The process will then be examined from the perspective of the domination of it by two parties to its domination by Dr. John Garang, the late leader of the SPLM/A, and Ali Osman Taha, then First Vice-President of Sudan. While this study will not examine the various protocols produced, it will give close attention to documents like the Machakos Protocol and the aborted Nakuru Framework because they were crucial in determining the peace process.

The study will go on to examine particular problems faced: first, failure to achieve an inclusive peace process and the subsequent problems that followed; second, the inability of the peace process to achieve trust between the parties and how this is negatively impacting upon the implementation of the agreement; third, the negative relationship of the Secretariat with the media, and lastly the problem of democratic accountability and the role ascribed by the CPA for national elections in the peace process.

I will then critically assess the main components of the mediation: the quartet of Western states that provided the political back-up for the process, the observers who oversaw the process, the advisors and resource people who served the IGAD Secretariat, and the ambassador-envoys from the region who supported the process. While not considered separately, the role of General Lazaro Sumbeiywo in his capacity as Special Envoy, will be examined from various perspectives. Also not considered separately because of its impact across a range of issues is the United States, which this study concludes was the most influential element in the peace process.

The next section of the study takes up two related concerns: the limits of mediation and the authority of the mediators. The key concern is to understand how much authority the mediators had in the peace process and whether they could or should have gone against the will of the parties and members of the international community. I will then provide a concluding analysis that places the efforts at peace building in the Horn in a broader context and looks at the approach to mediation utilised in Sudan peace process and suggest that other models would have been more appropriate. Against that background the final section of the paper will consider the lessons learned.

---

\* The Machakos Protocol can be found in Appendix A at the end of the evaluation.

### Review of peace making efforts

The SPLM/A insurrection broke out in 1983 and by 1985 the Transitional Military Council (TMC), which overthrew the Nimeiri dictatorship in the same year, appealed to the southern rebels to join the government and resolve their grievances peacefully. However, the TMC was not prepared to accept the SPLM/A as a national party with an agenda for reconstructing the entire country, nor did it agree to the movement's demands to freeze Shari'ah laws introduced by Nimeiri, end defence agreements with Arab countries, and hold a constitutional conference (Lesch, 1998). As a result, this early effort at peace-making collapsed. Two points should be noted here: first, Shari'ah was to prove to be an enduring and difficult issue in successive attempts at resolving the conflict, and second, southern self-determination did not figure as a major issue at this time.

The next internal effort at peace-building took place in a meeting between the National Salvation Alliance (the umbrella organization of the parties that overthrew the Nimeiri regime) and the SPLM/A in March 1986 at Koka Dam in Ethiopia, when agreement was reached on all the SPLM/A's demands. Unfortunately the refusal of the Democratic Unionist Party (DUP) and the National Islamic Front (NIF) to participate in the discussions undermined these achievements. In July 1986 after the holding of national elections the Umma Party leader and Prime Minister, Sadig Al-Mahdi, met the SPLM/A leader, John Garang, and agreed to the Koda Dam recommendations and the meeting 'ended in a note of guided hope' (Sadig Al-Mahdi, 2003), but these hopes were not realized.

Arguably the best prospect of ending the war until the signing of the Machakos Protocol was the DUP-SPLM/A agreement reached by their respective leaders, Osman Al-Mirghani and John Garang, in November 1988 in Addis Ababa. However, faced with dissent in his ruling party, and the opposition of the NIF, which was part of the coalition government, Sadig, did not implement the DUP-SPLM/A accord. Nonetheless, given enormous popular sentiment for peace and the formation of an Umma-DUP coalition government that did not include the NIF, the National Assembly endorsed the agreement on 3 April 1989. As arrangements for the constitutional conference proceeded, a group of army officers with ties to the NIF and led by General Omar Al-Bashir seized power and this action dealt a death-blow to the DUP-SPLM/A accord. But despite reservations, the SPLM/A entered talks with the new government in August 1989 in Addis Ababa and in December in Nairobi under former US President Jimmy Carter, but to no avail.

The overthrow of the Ethiopian Mengistu Hailemariam in 1991 - the SPLM/A's foremost foreign supporter - and a schism within the rebel movement in the same year seriously weakened the SPLM/A. Concern that the SPLM/A was near collapse led Nigerian President and OAU Chairman Ibrahim Babangida to offer and then to hold peace talks in Abuja in May-June 1992 (Young, 2004). With a weakened rebel movement represented by factions led by Dr. Riek Macher and Dr. John Garang, an increasingly confident GoS proposed majority rule, by which it meant the constitution should be based on Shari'ah, although the south could be exempt from *hudud* (the Islamic code of punishments). Both SPLM/A factions pressed for a secular democratic system and the right of the south to a referendum on self-determination. It is noteworthy that this was the first time the SPLM/A proposed self-determination and that appears to be due to the fact that since it was no longer beholden to Mengistu who opposed it because he was at war with liberation movements espousing self-determination, Garang could now endorse it (Young, 2005b). In addition, self-determination had gained considerable popularity in southern Sudan after it was advocated by Dr. Riek Macher and the other dissidents. However, with Khartoum rejecting secularism and refusing the proposed referendum, the talks collapsed.

A year passed and Babangida called for a second round of talks at Abuja, by which time the SPLM/A was even more militarily weak. Assuming a similar stance as in the first round, Khartoum proposed power-sharing and balanced development, rejected secession, proposed a constitution that did not refer to Islam as the state religion, and exempted the south from certain provisions of Shari'ah (Lesch, 1998). The SPLM/A rejected Khartoum's federalist approach and called for confederation and a secular, democratic 'New Sudan' and held that if the government could not commit to them, the south and the 'marginalised territories' (the Nuba Mountains and Southern Blue Nile), together with Abeyi, should have a vote on confederation or

separation. There were other differences between the parties, but the critical issues of the separation of state and religion and self-determination again proved conclusive in causing the collapse of the negotiations.

### **The first Sudan IGAD Peace Initiative: September 1993 to May 2002**

The failure of these various efforts laid the basis for the region to take up the gauntlet, but first a suitable mechanism had to be established, and what is significant here is that the impetus came from outside the region. The formation of the Inter-Governmental Authority on Drought and Development (IGADD), the fore-runner to IGAD, was largely due to pressure from aid agencies and international donors, while its subsequent assumption of responsibilities in the fields of peace and security followed new thinking on the role of regionalism and regional co-operation in safeguarding the international order (Abdelwahab, 2001). Thus in the wake of the failed Nigerian efforts, IGADD launched a peace initiative at its Addis Ababa summit of 7 September 1993 and a Peace Committee made up of the heads of state of Ethiopia, Eritrea, Uganda, and Kenya was established with President Daniel arap Moi serving as chairman. The mediation process was handled by a Standing Committee made up of the foreign ministers from the same countries and chaired by Kenya. In addition, the Friends of IGADD was formed by leading Western countries and it promised support for IGADD's peace keeping role.

Against this background Sudan's President Omar Beshir proposed that IGADD take up the peace process. The reasons for Beshir's proposal included the desire to pre-empt any UN initiative, fear that in the absence of a viable peace process that US military engagement under way in Somalia could spread to Sudan, and because his government had provided support to the Ethiopian and Eritrean rebel groups in the period immediately prior to their capture of state power he anticipated it would receive a fair hearing from them. The GoS considered the SPLM/A largely a proxy of Haile Mengistu Mariam and Uganda's President Museveni, but with the overthrow of the Ethiopian military regime it hoped for better relations with the new governments that came to power, and according to one respondent, President Beshir consulted Prime Minister Meles Zenawi and President Isias Aferworki before making his appeal to IGADD. Indeed, the incoming Ethiopian Peoples Revolutionary Democratic Front (EPRDF) strongly supported good neighbourly relations and oversaw the expulsion of the SPLM/A from its territory as part of that commitment. But if Bashir concluded that the leaders of Ethiopia and Eritrea would be sympathetic to Khartoum, he was soon to be badly disillusioned.

Counter-balancing the Eritreans and Ethiopians, the GoS assumed that Uganda was completely on the side of the SPLM/A, and while Djibouti as a fellow member of the Arab League and Organisation of Islamic States would probably support Khartoum, it was not a member of the conflict committee. Kenya thus became the obvious regional candidate to lead the process. In the assessment of a GoS respondent, it was only peripherally involved in the provision of weapons and equipment for the SPLM/A and had few connections with the rebel leadership. Negatively, Kenya was the most subject to Western, and particularly British and American, influence and – in the view of the Khartoum government – its officials had less knowledge of the conflict in Sudan than their counterparts in Ethiopia and Eritrea. According to a GoS official, although IGAD was not the best forum and in any case was viewed as 'a platform', it was the only group that could convince the SPLM/A to accept peace. The GoS also could not say no to an African initiative and it was assumed that IGAD would provide some protection against the partisan US which was the 'number one player'.

As would soon become apparent, the countries of IGADD shared a collective interest in containing Sudan's civil war, and with the elevation of President Isias Aferworki of Eritrea and Prime Minister Meles Zenawi of Ethiopia to power in 1991, the organization had two dynamic leaders ready to assume the task. A Standing Committee on Peace in Sudan was established with Kenyan Foreign Minister Kalonzo Musyoka as chairman, and in March 1994 peace negotiations were officially launched in Nairobi. To the surprise of the parties, IGADD proposed a Declaration of Principles (DoP) that acknowledged the right of the south to self-determination, but made this contingent upon the failure of the GoS to introduce democracy and secularism. It also stipulated that Sudan must respond to the needs of diverse population for social and political equality.

Although implying that other groups besides the south suffered oppression in Sudan, the DoP reflected the SPLM/A-Mainstream and SPLM/A-United bargaining positions during the second round of negotiations in Abuja. Khartoum was shocked that the leaders of two parties – the Eritrean Peoples Liberation Front (EPLF) and the Tigray Peoples Liberation Front (TPLF) – which it had assisted in coming to power would make a proposal so repellent to the government. The southern rebels of the SPLM/A-Mainstream and the SPLM/A-United accepted the DoP, but after considerable confusion in the government camp it was rejected and a stalemate ensued for the next four years.

In response to the failure, the SPLM/A and the government turned their energies to fighting political and military battles and positioning them-selves for what would inevitably be another encounter at the negotiating table. The SPLM/A built up its relations with the National Democratic Alliance (NDA), a loose grouping of northern opposition forces, as a means to bring further pressure to bear on the government, divide the north, and gain acceptance from parties which arguably represented the majority of the Sudanese people. Politically this was expressed in the Asmara Declaration of June 1995 which included acceptance of self-determination for the south and other disputed areas and separation of state and religion. The NDA also gained considerable international support, particularly from the US, which at the least saw it as an important means to divide the forces of the GoS and take the war to the north, and at most as the instrument to overthrow the government. And in response to what was held to be an Islamist threat to their sovereignty, Ethiopia, Eritrea and Uganda stepped up their military assistance to the SPLM/A, and by late 1995 were sending their armed forces deep into Sudan. The US assisted these ‘frontline states’ with USD 20 million to protect them-selves from Khartoum. This policy probably reached its height with the August 1998 bombing of the El Shifa plant in Khartoum and the October 1998 meeting of Secretary of State, Madeline Albright with the NDA and SPLM/A leadership in Kampala where she made clear that the US favoured regime change. Time was to prove that the NDA was a paper tiger, but that was not clear in the late 1990s and with considerable support from the region and indications that the Clinton Administration was prepared to give increasing assistance to it and the SPLM/A the GoS had good reason to be concerned.

Meanwhile, the Khartoum government pursued a strategy of ‘peace from within’ that led to the signing of the Khartoum Peace Agreement in 1997 with the South Sudan Independence Movement (SSIM) of Dr. Riek Machar and a handful of smaller liberation groups and the Fashoda Agreement with Dr. Lam Akol of SPLM-United (Young, 2006). Critically these agreements acknowledged the right of the south to self-determination and the principle was then enshrined in the country’s 1998 constitution. Although the Khartoum Peace Agreement in many ways served as the model for the CPA, it did not gain regional or international legitimacy and that made clear to the government that such efforts would never prove effective.

Regional isolation, the military engagement of the neighbouring countries in Sudan, SPLM/A military victories, the acceptance of self determination in the Khartoum and Fashoda Peace Agreements of 1997, its enshrinement in Article 113 of the 1998 Constitution and later its appearance in the Djibouti Call between Sadig Al-Mahdi’s Umma Party and the GoS in 2002 suggested a new pragmatism in Khartoum that was due to military defeats and the isolation of Hassan Al-Turabi and his supporters. As a result, the NIF returned to the IGAD bargaining table in October 1997, but it was not until May 1998 the GoS accepted the DoP as a basis for negotiations. However, with the outbreak of the Ethiopian-Eritrean war in the same month the energy of the mediators and the incentive of the GoS to accept a process based on the hated DoP markedly decreased and the IGAD Peace Initiative began to falter.

Against this background the IGAD Partners Forum (IPF, the successor of the Friends of IGADD) and civil society groups got the IGAD states to agree to the establishment of a permanent Secretariat and the appointment a special envoy. In addition, IGAD turned its attention to gaining Western financial and political support and ensuring that other peace processes were not endorsed by the international community. In 1991 mandate was renewed as a result of the meeting of the IGAD Sub-Ministerial Committee on the Conflict in Sudan held in July 1999 with the support of the parties to the conflict and a Secretariat was established to carry out mediation (IGAD, Nairobi, 23 July 1999). The meeting also decided to have a

special envoy appointed by the President of Kenya and for the other sub-committee members of Uganda, Ethiopia and Eritrea to each appoint a full time envoy to the peace process, although in practice their ambassadors to Kenya served as peace envoys. Subsequently the ToRs of the Secretariat was agreed upon and they stipulated it be based in Nairobi and permitted the special envoy to consult resource persons, required him to liaise with the Executive Secretary of IGAD (although the actual terms were not spelled out), and permitted the Secretariat to assume responsibility for 'receiving and managing funds obtained from the IGAD member states, IGAD partners, and the international community'. Ambassador Daniel Mboya, a veteran diplomat, was appointed special envoy and set about establishing the Secretariat and conducting the mediation. However, despite this revamped system the July 1999 talks in Nairobi did not make any substantive progress, nor did two more rounds in 2000.

In response to the perceived weaknesses of the IGAD process a number of other peace efforts were launched. Foremost was the Joint Libyan and Egyptian Initiative (JLEI), which was concerned with the absence of the northern opposition participation, African domination of the peace process, and the lack of a formal role for Egypt, given its considerable interest in Sudan. This initiative also reflected opposition by Libya and Egypt to self-determination for southern Sudan, which was seen as a threat to Cairo's access to the waters of the Nile, which flow through southern Sudan. Khartoum and the SPLM/A both agreed to the JLEI principles, but the latter made clear it wanted the document revised to include self-determination, secularism, and coordination of the JLEI with the IGAD peace process. Although the JLEI largely withered, it represented a strong statement of Egyptian fears about southern Sudan self-determination, as well as the absence of the northern opposition forces from the negotiations, and these concerns have not lost their resonance with the passing of time.

Given its major interest in the Sudan peace process, Asmara repeatedly attempted to initiate negotiations between the NDA and Khartoum. While sympathetic to the concerns of southerners, Eritrea only shares a border with northern Sudan and it feared the northern opposition was being marginalised in the unfolding IGAD process. However, these efforts were rejected, and while Khartoum was blamed for not permitting the NDA to participate in the IGAD negotiations, the SPLM/A was equally reluctant to support the participation of its erstwhile allies. Indeed, a number of respondents, and not exclusively on the side of the national government, have described the SPLM/A's rejection of NDA participation in the peace process as 'disingenuous' or 'double-dealing'.

Out of fear of the imminent collapse of the IGAD peace process and for the same reasons that stimulated its earlier efforts, Nigeria again attempted to promote peace in Sudan. In the event, this effort came to naught, but it did make clear that the issues at the heart of the conflict - religion, race and regional disparities within the state - had resonance far beyond the country's borders. Moreover, the focus of this effort, like that of Eritrea, and in distinction to IGAD, was a more inclusive process that involved the engagement of the major political forces of the north and the south. Indeed, the failure of IGAD to involve other political forces is a concern that has continued to the present. Another weakness of the IGAD peace process was the result of contradictions between the countries of the region. While widely accepted that neighbouring states must be involved in, and endorse, peace processes for them to be successful, it is also true that inter-state conflicts and tensions constantly threaten regional initiatives. The IGAD Peace Initiative was beset by these problems from its inception, but they reached their height with the outbreak of the Ethio-Eritrean War in 1998, which seriously undermined the peace process, and as both countries attempted to improve their relations with Khartoum, the pressure on the regime declined.

Although it ultimately failed, the first IGAD Peace Initiative was unlikely to have got off the ground and make the progress it did unless the regional context had not remarkably changed with the rise to power of a politically expansionist Islamist regime in Khartoum that threatened the security of its neighbours, the collapse of the Derg, which had been the main supporter of the SPLM/A, and the rise to power of Meles Zenawi and Isias Aferworki, who both wanted to replace the regional practice of beggaring one's neighbours with a policy of good neighbourly relations. Their primary concern, however, shifted to

stopping the Islamist onslaught and in this they were largely successful, but with the outbreak of the Ethio-Eritrean War the IGAD peace initiative withered.

The near defeat of the SPLM/A by the GoS in the early 1990s might have led outsiders to conclude that its leaders would accept an unfavourable agreement, but that was not the case. The rapidity of change in the Horn, combined with the view that its friends regionally and internationally would not let it collapse led the SPLM/A to assume – correctly – that it did not have to accept a less than ideal agreement. However, and despite the help of foreign friends and the provision of assistance from the region in the 1990s, it could not achieve a military or political victory over the NCP at the bargaining table.

Professor Abdelwahab is highly critical of the partisan nature of the mediation in support of the SPLM/A and writes ‘mediators must be at least friendly to the party/parties they seek to deliver to the agreement, a characteristic IGADD lost when its members became unanimously hostile to Khartoum’ (Abdelwahab, 2001). But if anything the subsequent IGAD initiative that produced the CPA involved an even greater number of participants lined up against the government and it proved successful in reaching an agreement. It appears the problem is less one of the positions and biases of the mediators and observers, than of the timing of the mediation. Also important are the assessment of the problem by the mediators and the means they employ to reach a resolution. The early 1990s IGAD initiative sought to find a genuine solution to Sudan’s endemic conflicts and came up against a dead end, while the later initiative – as will be seen – set aside larger objectives and concentrated on getting an agreement based on the lowest common concerns of the parties.

The first Sudan IGAD peace initiative nonetheless had some genuine accomplishments – a well thought out DoP, workable relations with the belligerents, an institutional focus in the Sudan Secretariat, development of the system of ambassador envoys, political and financial support from the IPF, and international legitimacy. It also carried out considerable work on a wealth-sharing agreement and on resolution of the problem of the marginalised territories that would figure in the subsequent CPA. However, although President Moi appointed Special Envoy Daniel Mboya, he did not support him, frequently refused to even see him, and did not demonstrate much commitment to the Sudan peace process. The first Sudan IGAD peace initiative also suffered from a perennial shortage of funds, caught as it was in a battle between IGAD-Djibouti and the international donors. IGAD-Djibouti wanted the donors to deposit the money in its accounts, while the donors complained of a lack of accountability, and together with Mboya claimed that the Sudan Secretariat was starved for funds. Moreover, since Mboya was a Kenyan ambassador appointed by the President of Kenya, IGAD could exert little influence over him. In the event, the finances were largely to be taken out of the hands of IGAD, but political control of the Sudan IGAD Secretariat would remain a concern. As a result of these problems and the disenchantment they created, by late 2001 most diplomats, analysts, and the belligerents concluded that the peace process needed invigoration.

### **The Second IGAD Peace Initiative: May 2002 to January 2005**

Frustration with the lack of progress in the peace process, growing US interest in Sudan as a result of the increasing profile of Sudan’s civil war in domestic politics and its perceived link to American security, and the rejuvenation of the peace process are linked and provided the stimulus for the second and successful IGAD peace initiative.

Many people point to the terrorist attack on 11 September 2001 to explain heightened US interest in Sudan, but the American bombing of the Khartoum Al-Shiffa Pharmaceutical Plant in August 2000 on the basis of faulty intelligence information that it was producing chemical weapons made clear a much earlier American concern with the country (Young, 2005). Moreover, President George W. Bush’s appointment of special peace envoy, Senator Danforth, five days before the 11<sup>th</sup> September attack, demonstrated growing US concern about the faltering Sudan peace process. Interest in Sudan by a number of key constituencies - the Congressional Black Caucus, the Christian right, liberals, human rights activists, American humanitarian agencies, and the oil lobby upset at being denied entry into the potentially lucrative Sudan market because

of American sanctions - combined with heightened concerns about international terrorism after 11 September contributed to demands for increased US involvement in Sudan. In fact US interest in Sudan steadily increased from President Clinton's Executive Order of November 1997 which imposed comprehensive trade and economic sanctions, through to the Sudan Peace Act of October 2002 which called for further sanctions if the GoS was found to be not participating in the peace negotiations in good faith. Additional pressure was brought to bear by Sudan being identified as one of seven countries on a State Department list of state sponsors of terrorism. US officials interviewed during the course of this research also emphasised President Bush's strong personal desire to end the war in Sudan as a major incentive for US engagement in the country and the peace process.

GoS negotiators, however, deny claims that US pressure was decisive in bringing them to the table and making concessions. They point out that President Beshir was clear that the government 'was compelled to fight but did not want to fight', and that a 'strategic decision' had been made to embrace peace. Certainly on the eve of the last IGAD attempt at peace making the government's security position was improving as it appeared to be in control of the oil fields and was able to use the windfall of revenues to buy increasingly sophisticated military hardware. Moreover, even with the end of the Ethio-Eritrean War, Addis Ababa continued to have friendly relations with the regime. And internally, although the split in the regime with the departure of Turabi and his followers was a major shock, by 2002 it appeared to be weathering the storm. Nonetheless, the GoS assessment was that even if the SPLA was defeated there would still be a major problem in the south that had to be confronted and although the threat posed by the region had declined, it could again be resurrected. In addition, they contended that after the crucial commitment had been made to southern self-determination in the Khartoum Peace Agreement and instituted in the 1998 constitution, there was no reason to continue the war and every reason to take the peace process forward.

This reasoning is not without foundation, but does not explain why the NIF opposed the peace-making efforts of the Sadig Al-Mahdi government and subsequently overthrew it, and further why it refused to implement the provisions of the Khartoum Peace Agreement. It would thus appear that fear the US would significantly increase support for the SPLA and other armed groups in a context where the US was – as can now be seen – at the height of its international power did carry considerable weight. And this would explain the rapid jettisoning of its expansionist Islamist policy in the region, the offer to turn over Osama bin Ladin to the US, and the further proposal to cooperate with the Americans in the field of intelligence. However, entering a peace process, particularly one which restricted participation to the NCP and SPLM/A and defined Sudan's conflict in exclusively north-south terms was attractive because it would undermine the alliance between the SPLM/A and its northern allies and make the survival of the resulting peace agreement dependent upon its signatories, and hence provide a lease on life for the embattled regime. It would also – as will be seen shortly – be the basis to successfully argue that Nuba Mountains, South Blue Nile and Abyei which were nominally in the north should not be considered in the IGAD negotiations. Providing further encouragement was the signals sent by the incoming Bush Administration that contrary to the Clinton Administration's focus on regime change, it would attempt to constructively engage the regime.

The starting point for US heightened engagement in the peace process was the report by Senator Danforth, which proposed a series of confidence-building measures, including a ceasefire in the Nuba Mountains, zones and times of tranquility in which vaccinations and other humanitarian interventions could be carried out, a commission to report on the issue of slavery, and an end to attacks on civilian targets and the formation of an organisation on the ground to ensure that allegations of such acts by both armed groups were impartially investigated (Danforth, 2002). Whether or not these measures increased mutual confidence between the government and the SPLM/A is doubtful, but they did suggest that the parties were susceptible to international pressures. Significantly Danforth never mentioned any need for a democratic transformation as part of the peace process, and while the US emphasised democracy in its vision of a new Middle East, it has never been at the forefront of its policy on Sudan. Also significant is that despite appeals from various sources that it fashion its own peace initiative, the US administration made clear that it supported regional efforts led by IGAD and would not lead a separate peace process.

The changing US policy and the issuing of the Danforth Report stimulated IGAD to again attempt to invigorate the flagging peace process. And at its 9<sup>th</sup> Summit in Khartoum on 11 December 2002 the Heads of State of IGAD issued a communiqué in which they 'called upon the Chairman of the IGAD Committee on Sudan to rejuvenate the IGAD Peace Process'.

The rejuvenation of the peace process in its final phase was thus a response to growing US interest in Sudan's conflict and the assumption that it would support IGAD's efforts. The mandate was further strengthened by the Sudan IGAD Secretariat being legalised under Kenyan law and that gave its members diplomatic status and conferred on General Sumbeiywo the dual status of Special Envoy and Kenyan Ambassador for Peace. Further strengthening the position of General Sumbeiywo was his relationship with President Daniel arap Moi with whom he had worked closely for more than a decade, and in the view of numerous respondents that helped overcome funding, administrative, and political problems. The increasing engagement of these officials in the peace process reinforced the growing sense of Kenyan Government ownership of the process, but at the same time weakened the link with the IGAD Secretariat. While the IGAD link weakened, that between Nairobi and Washington strengthened.

In the wake of the 9/11 attack on the US, the Americans increasingly called upon Kenya to assume a major role in the war on terror because of its strategic location its large Moslem population who lived on the coast across from the volatile Gulf. The terrorist bombing of the US Embassy in Nairobi in August 2000 in which most of the victims were Kenyans served to further link Kenya to the US and its policy objectives in the region. As a result and in addition to British bases that had long been in the country, land was granted to the US military in north-eastern Kenya, Mombassa became a major centre for Western warships patrolling the Gulf, and intelligence cooperation expanded. And with the growing link being drawn in the US between national security and the Sudan peace process, the Americans would be reassured that Kenya was designated to play the dominate role and that the negotiations were to be led by General Sumbeiywo who had received education in the US, previously directed the Kenyan intelligence service, was the head of the army, and developed relations with the leadership of the SPLM/A during the retreat from its bases in Ethiopia in 1991.

The first session of what would prove to be the last phase of the Sudan peace process began at Karen on the outskirts of Nairobi in May 2002. The GoS negotiating team was led by Idris Mohammed, a State Minister in the Office of the Presidency, and the SPLM team was headed by Elijah Malok, an uncle of Garang. The first concern was gaining acceptance of a framework agreement, but the Karen meetings ended with only minimal progress.

The next round began at the town of Machakos on 17 June 2002 with Idris still leading the government delegation, but in the SPLM camp Elijah was replaced by another Garang loyalist, Nhial Deng Nhial. Attempting to speed up the slow pace Sumbeiywo and the mediators drafted a Single Negotiating Text, but crucially it did not stipulate the right of south Sudan to self-determination, which suggested their limited knowledge of the conflict, and the advice of some observers like the British who did not think it was realisable. Not only was the SPLM furious, the US envoy walked out of the talks. In the wake of this setback, Sumbeiywo arranged for the parties to express their anger through a series of workshops and plenums dealing with such issues as African identity, slavery, and self-determination. The mediators considered this exercise useful, but the Americans viewed it as time-wasting. Eventually the parties reached agreement on what became known as the Machakos Protocol, which was signed by General Salva Kiir on behalf of the SPLM/A and Dr. Ghazi Salahdien on behalf of the GoS before President Moi at State House on 20 July 2002. Significantly the first response of the Americans upon learning of the agreement was to reject it out of hand because Sumbeiywo had not first consulted Washington (Waithaka Waihenya, 2006). The US attempt to dominate the peace process was rejected by Sumbeiywo who was supported by the observers from the other three Western countries and the GoS. Within a few weeks, however, the US endorsed and even praised the Machakos Protocol and Sumbeiywo's role in reaching it.

However, while both the Communiqué of the IGAD Ministerial Sub-Committee on Sudan of 19-23 July 1999 and the Joint Communiqué of the First Session of the Political Committee Task Force of 20 July 2002 emphasised their commitment to the Declaration of Principles (DoP), the Machakos Protocol – which provided the framework - bears only a superficial comparison to the DoP. Special Envoy Sumbeiywo described the DoP as a ‘complete analysis’ (Sumbeiywo as quoted in Waithaka, 2006), and indeed it was a product of a major engagement by officials of the Ethiopian and Eritrea Governments, in particular Ethiopian Foreign Minister Seyoum Mesfin. Sumbeiywo said that he ‘translated the DoP into a single text and then zeroed in on the two main issues of self-determination and separation of state and religion’ (Ibid.). In other words, Machakos was intended to be a simplification, but in practice it ignored key principles of the DoP. Although only a page in length it was crafted to endorse the right of the south to self-determination in the DoP, but at the same time was designed to both ease the concerns of President Bashir and mesh with Garang’s vision of New Sudan, which emphasised the need to overcome broader inequities in the Sudanese state and did not reduce the problem to a merely north-south dimension. Indeed, the DoP calls for:

3.4 A secular and democratic state must be established in the Sudan. Freedom of belief and worship and religious practice shall be guaranteed in full to all Sudanese citizens. State and religion shall be separated. The basis of personal and family laws can be religion and customs.

3.5 Appropriate and fair sharing of wealth among the various people of the Sudan must be realised.

While the DoP calls for the separation of state and religion, Machakos only endorsed this principle in the south. As a result, Machakos moved from a broader vision of Sudan’s ails to meeting the immediate needs of the ruling NCP. Endre Stiansen, a resource person for IGAD, considered this resort to real politic ‘a stroke of genius’ (Stiansen, 2006), but does not consider whether in rejecting the DoP’s ‘complete analysis’ in the interest of reaching an agreement that there might be negative consequences. While Stiansen applauds this provision because religion is about identity and compromises about religion are difficult to reach (Ibid.), the NDA which constituted a more representative group of Moslems than the NCP endorsed the separation of religion and state in the Asmara Declaration of 1995.

Moreover, while the DoP made the right of the south to self-determination subject to the failure of the national government to introduce democracy, secularism, and the fair distribution of resources, Machakos granted the south the right to self-determination after a transitional period, irrespective of any changes within the central state. Thus despite IGAD’s stipulation that the DoP form the basis of the Sudan peace progress, the widespread view at the time that it was a break-through, and the assertion above by General Sumbeiywo that Machakos was the distilled political essence of the DoP, in reality it entered very different political waters. Indeed, a SPLM respondent involved in the negotiations concluded there was ‘no real link between the DoP and the Machakos Protocol’ and a GoS negotiator said, ‘Machakos was completely different than the DOP’, although others did not share this assessment. Moreover, given the fact that much of the later period of the IGAD peace process took place in the shadow of the humanitarian disaster in Darfur, which made clear that Sudan’s problems could not be reduced to a north-south conceptualisation, much less a Moslem-Christian conflict, the analysis that underpinned the DoP looks more convincing than the reductionism of the Machakos Protocol.

In any case the government’s concession of self-determination had already been accepted in a number of forums. What appears to be at work is the SPLM/A lacked trust in the GoS and needed yet another promise of self-determination, this time before the international community. It also did not want to acknowledge either the legitimacy of the Khartoum and Fashoda Peace Agreements (while one SPLM/A negotiator concluded that they ‘laid the basis for the CPA’, another said these agreements were ‘documents signed and meant to die’) or the 1998 Constitution, and wanted to claim credit for gaining this concession. It is also a mark of the distrust of the SPLM/A that none of their negotiating members interviewed believed these earlier commitments (in fact the Khartoum and Fashoda Peace Agreement’s provision on self-determination were never implemented.) They also noted that an earlier northern government’s commitment to hold a vote in Abyei under the Addis Ababa Agreement on whether its people wanted to be part of the south or north was also never kept. Meanwhile, the GoS negotiating team managed to successfully present self-determination as a great compromise and convince themselves that with Garang committed to unity he

would eventually bring the SPLM/A and southerners around to his view. In any case, SPLM/A negotiators repeatedly said during the course of this research that they do not expect the GoS to willingly carry out the self-determination clause in the CPA. Against this background the 'compromise' at the heart of the Machakos Protocol seems far less significant than it was made out to be.

Another issue generating considerable controversy in the southern camp during negotiations was over the status of Abyei, Nuba Mountains, and South Blue Nile. As a strong proponent of Pan-Africanism, Garang insisted on pressing for the inclusion of these territories in the Protocol. The fact that some of his closest colleagues in the SPLM/A were from Abyei, as was Sudan's best known son, Francis Deng, another Garang loyalist, made it difficult to leave these territories outside the negotiations. But many southerners contended that the Abyei chiefs who decided to link their territory to the north had to take the lead in resolving the problem and the other areas were constitutionally part of the north, and thus the inclusion of these three territories in the peace process would be opposed by the GoS and unduly complicate the negotiations. In the face of considerable opposition Garang had to relent and there was no mention of them in the Machakos Protocol.

But during a break in the negotiations the SPLM/A leaders from these territories faced a near uprising from their followers furious at the apparent sell-out. Malik Agar from South Blue Nile and Abdel Aziz from the Nuba Mountains were very forceful in their demands that the marginalised territories be considered part of the south and granted the right to self-determination. Indeed, dissatisfaction ran so high among SPLM/A ranks after the South Blue Nile and Southern Kordofan Protocol, particularly among Nuba Mountain supporters that the party almost split. However, the damage had been done and although the SPLM would demand that the Sudan Secretariat re-visit the issue, the GoS was emphatic that it could not. By way of a concession it later agreed to have the issue taken up in a separate set of talks under the direction of General Sumbeiywo in his capacity as an ambassador of the Kenyan Government.\* This controversy had one other impact: Garang removed Salva Kiir as head of the SPLM delegation, presumably because he sided with the popular sentiments of the southerners and opposed his leader.

Apart from the issue of self-determination for the south, probably the key condition in the Machakos Protocol is the commitment 'to make unity attractive', a provision that was widely held to place the onus on the national government to convince southern Sudanese that their rights and culture would be protected in Sudan and they would be treated as valued citizens. However, no one on the SPLM negotiating team interviewed during the course of this research believed the government would live up to this commitment. As a result, this provision is effectively held as a 'get out of Sudan' card since the SPLM leadership remains convinced that the NCP will not, indeed cannot, create the democratic conditions under which southerners would find unity attractive. One former SPLM negotiator went further and said, 'unity is a danger to the survival of the NCP' because a genuine democratic system would be its undoing, and noted that even before the start of the IGAD peace process senior members of the ruling party had agitated for an early separation of the south to ensure their continuing control over the Moslem heartland in the north. But the contradictions were not just restricted to the government's camp. While formally committed to a united 'New Sudan', the commanders and soldiers of the SPLA were mobilised on the basis of southern

---

\* The status of 'marginalised territories' of Abyei, Nuba Mountains, and South Blue Nile became a major issue at the IGAD sponsored peace talks at Lake Bogoria, Kenya 21 September – 4 October 2000 the positions of the mediating Sudan Secretariat, GoS, and the SPLM/A could not have been at greater variance in their approaches (Young, 2004). Based on the observation that South Blue Nile and Southern Kordofan had 'raised arms along side the SPLM/A' the Sudan IGAD Secretariat urged that a separate mediator be appointed and a distinct forum be organised to resolve the conflict. Its advocacy, however, raised the ire of the GoS which questioned the intervention of the Sudan Secretariat and the right of the SPLM/A to represent peoples 'who are northerners and predominantly muslims'. The SPLM/A, meanwhile, held that the IGAD mediation involved 'the sum total of their [i.e. the GoS and SPLM/A] respective parts' and therefore it would take up the issue of South Blue Nile and the other territories of Abeyei and Southern Kordofan where SPLM/A-led insurrections were underway in negotiations. Moreover, the SPLM/A promised to include its members from these areas on its negotiating team, and indeed they regularly participated in the peace talks. However, the problem of the border territories remained divisive and it would be three years before they would again be addressed, this time in the final phase of the SPLM/A-GoS negotiations.

nationalism and a struggle for independence and as a result the disjunction between rhetorical commitments of Garang to unity and popular sentiments within the SPLA bedevilled the negotiations and continue to complicate the peace process. A GoS respondent accurately said, 'Garang had his own understanding of unity and it was not that of the people.'

An innovative principle agreed to in the Marchakos Protocol was the establishment of an Assessment and Evaluation Commission (AEC, Sections 2.4 and 2.41) to assess and evaluate the implementation of the peace agreement. But as will be seen, the eventual formation of the AEC did not meet the expectations of those who initially proposed it.

The Machakos Protocol is forthright in its commitment to Sudan's democratic transformation. More than at any other stage of the peace process, the mediators and belligerents made clear the peace process could only achieve legitimacy and be sustained if Sudan underwent a democratic transformation. The Protocol is replete with reference to 'democratic governance, accountability, equality, respect, and justice for all citizens of Sudan' (Section 1.1), 'that the people of South Sudan have the right to control and govern affairs in their region' (Section 1.2), 'that the people of South Sudan have the right to self-determination' (Section 1.3), and that Sudan 'establish a democratic system of governance' (Section 1.6). It is thus ironic that a GoS negotiator said 'there was no real democratic conviction on either side', a southern SPLM negotiator contended that 'all the protocols were signed in bad faith' and most of his colleagues appeared to share this sentiment. Many SPLM negotiators also felt that promises to the contrary, a southern Christian would never be accepted as president of Sudan, and that included Garang, should he have lived. Not only did the parties apparently not believe in the exercise they were pursuing, but it would soon become apparent that a major weakness of Machakos lay in the gap between the appealing democratic phrases and the means to give this language concrete expression. Just as there was a disjunction in the process between the broader vision of the DoP and Machakos which was designed to meet the concerns of the ruling parties of the north and south, there was another leap between the democratic claims of Machakos, the utilitarianism of the protocols that followed, and the less than democratic approach utilised.

### **From two party dominance to the dominance of two people**

Machakos was important because even if it revisited old ground, it nonetheless involved the two parties making a commitment to one another, to their constituencies, and through the mediators, ambassador-envoys, and observers to the world that they would seriously attempt to reach a peace agreement, or at least such was the appearance. Another statement of this commitment was a meeting between Dr. John Garang and President Omar Beshir in Kampala immediately after the signing of the Machakos Protocol. While numerous leaders attempted to host this meeting, the SPLM/A decided on Kampala as a means to thank President Museveni for the support he had given them.

The first sign of a change in approach by the parties was the appointment of new negotiating team leaders. Salva Kiir was replaced by Nihal Deng Nihal. Meanwhile, Dr. Ghazi Salahdien was replaced by Idris Mohammed as leader of the GoS negotiating team. It would appear this decision was largely made by First Vice President Ali Osman and – like Garang - he used the appointment to exert a tighter control over the negotiations. In retrospect this can be seen as a first step by both leaders to their eventual direct participation in the peace process.

But before the negotiations could move forward there was a major controversy over the SPLM/A insistence that deliberations over a ceasefire agreement be left to the final stage of the peace process because ultimately it was their only means to bring pressure against the government. The GoS was equally adamant that if the negotiations were to be treated seriously there needed to be agreement on a cease-fire. Much to the anger of the government, Sumbeiywo accepted the SPLM/A contention that simultaneous fighting and talking would prevent 'the frozen status quo of the battlefield being interpreted into an unjust agreement at the negotiating table' (quoted in Martin, 2006). But in the absence of a ceasefire there was also reason for the parties to use the battle field to try and advance their position at the bargaining table, and that is what the

SPLM/A attempted when it captured the strategic town of Torit in September 2002, according to one respondent, because 'the talks were staggering'. This SPLM negotiator said the objective in capturing Torit was to defend the more strategically significant Kapoeta, while another said it was to make clear to the government the vulnerability of Juba.

In any case, the SPLM/A leadership had not seriously thought out the implications of the capture of Torit (a SPLM/A negotiator acknowledged that they were 'not sure how serious the government was' about the town) and what particularly angered the government was the large number of senior military officials killed in the attack, as well as Mulla Ahmed Haj, a close friend of President Beshir and a leading Islamist. The GoS was outraged (in the view of one of its negotiators, it demonstrated that 'the SPLM was not up to peace at this time') and left the negotiations. In response to the crisis Sumbeiywo met Moi to appraise him of the situation, Garang met Moi who apparently pressed him to accept a ceasefire, and Sumbeiywo flew to Khartoum and attempted to pacify an angry Beshir (Waithaka Waihenya, 2006).

Six weeks passed until Torit was re-taken in late October by SAF heavily supported by the South Sudan Defence Force (SSDF) without much of a fight since most of the SPLM/A veteran fighters had left and the town was largely defended by youngsters, some brought in from the secondary school in Rumbek and others just returned from training in Cuba. The government then returned to the negotiations and insisted on a comprehensive cessation of hostilities and this time they were supported by the Americans and General Sumbeiywo. An agreement was very quickly agreed to that in the Special Envoy's words continued 'more than less' until the signing of the CPA. Not only did the SPLM/A lose credibility by the recapture of the town and the embarrassment of being forced to accept the cessation of hostilities, but their assumption that without the threat of military action their authority at the negotiating table would be severely reduced was not unfounded as the government largely held the upper hand through to the signing of the CPA, according to an SPLM/A respondent. But the initial agreement proved weak and skirmishes continued, reaching their climax in the outbreak of fighting in the Western Upper Nile oil fields over the government's construction of a road between Bentiu and Adok, which the Civilian Protection Monitoring Team (CPMT, a mechanism established as a result of a proposal by Senator Danforth) concluded was in breach of the agreement (See [www.cpmtsudan.org](http://www.cpmtsudan.org)). As a result, a more effective agreement was signed in Karen on 4 February 2003 that led to the creation of the Verification Monitoring Team (VMT) that reported directly to the special envoy.

With the ceasefire under their belt the mediators attempted to produce the Nakuru Framework, which would resolve the outstanding issues arising out of the elaborations of the Machakos Protocol. Although assured that it could be revised, the GoS nonetheless contended that it 'recklessly abandons the language of the Machakos Protocol', deviates from the idea of unity in Sudan, and gave too much autonomy to the south. In the view of the GoS negotiating team the Nakuru Framework was an unwelcome level of engagement by the advisors, and their quick and emphatic rejection of it was meant to send the powerful message that they, and not the mediators, were in control of the process. In rejecting the 'totality approach', GoS negotiating team member Muhamad Dirdeiry said, 'The only way out is to throw out the IGAD document,' (quoted in Reeves, 24 July 2003). But the government went even further in its opposition to the Nakuru Framework and proposed at an AU meeting in Maputo that South Africa take over the mediation (Waithaka Waihenya, 2006). The Kenyan Foreign Minister, Kalonzo Musyoka, together with Dr. Attalla Beshir, the Executive Director of IGAD, who were both attending the Maputo conference, quickly arranged a meeting of IGAD, which endorsed Kenya's mediation and then convinced South Africa to not respond to the government's proposal (Ibid.).

Curiously the Americans were also unhappy about the Nakuru Framework. They were piqued that despite their considerable resources they had not shared in the production of the document, they considered it poorly drafted, and were also annoyed that they were only made aware of the document just before it was presented to the parties. The US response had been the same with the Machakos Protocol when it was also angered at not being part of its production and had not seen an early draft.

The SPLM/A in turn were largely sympathetic to the Nakuru Framework, and accused the GoS of attempting to 'derail the process' due to divisions within the GoS leadership and urged 'the Khartoum rulers [to] abandon their culture of rhetoric and open lies' (SPLM Press Release, 25 August 2003).

While some of the elements that most upset the GoS, like the proposal for maintaining a separate SPLA army, were eventually accepted in the Security Arrangements Agreement, the government's anger and threats to leave the negotiations proved effective. The mediators backed down and did not again attempt to put before the parties a holistic approach to resolving the outstanding problems. Instead they shifted gears and followed the parties who preferred a piece-meal approach. But not all were satisfied, and in the view of one SPLM negotiator, this climb down by the mediators was typical of the way they were intimidated by the GoS negotiating team. The Americans were also unhappy because while they criticised the Nakuru Framework, they supported the holistic approach and saw that with its demise the mediation team was even more reluctant to assume a leadership role. However, while the GoS was successful in having the Nakuru Framework removed from discussion at the negotiating table, it conveyed the message to many in the international community that it was not fully committed to the peace process and that concern would have to be taken up.

It had been a complaint of the GoS from the inception of the peace process in the mid-1990s that even through rarely present, Dr. John Garang micro-managed his negotiating team. The GoS also concluded that Garang only wanted to use the various negotiations as forums to strengthen his political position, but remained committed to a military victory. And for his part Garang made clear he would only sit at the table if President Omar Beshir joined him. But although known to be under some pressure from his negotiating team, Beshir never agreed to participate in the Naivasha negotiations. Garang's reasoning was apparently two-fold: first, unless confronting the Sudanese head of state he would suffer a loss of dignity by going face-to-face with someone of a lesser standing, and second, should the negotiations break down, they would be that much more difficult to re-start. And for his part President Omar Beshir never agreed to negotiate directly with Garang and give him the status of an equal. Thus those anxious to bring dynamism to the flagging peace process began to propose that First Vice President Ali Osman Taha, and widely believed in the international community at the time to be the real power holder in the region, lead the GoS negotiating team.

Ali Osman Taha's leadership of the negotiations was the result of a number of factors. Although Beshir met Garang for the first time in Kampala on the 27 and 28 of July in the wake of the signing of the Machakos Protocol and apparently they agreed to take the talks to a higher level, nothing was actually spelled out. Second, there was growing disenchantment by the international community led by the US and shared by the SPLM/A at the slow pace of negotiations and some of this problem was held to be due to the leadership of the GoS negotiating team by Dr. Ghazi Salahdien. Third, it was known that Ali Osman had reservations about the peace process and because of his seniority in the government many people involved in the negotiations concluded that he must be brought on board to win his support. Although Dr. Ghazi Salahdien was a very senior member of the government, with the agreement on the Machakos Protocol the negotiations had raised expectations of a final peace agreement and this necessitated the highest level of support from the government.

Against this background various individuals started pressing for Garang and Ali Osman to lead their respective negotiating teams. With the agreement of the various parties Kenyan Foreign Minister Kalonzo Musyoka took the message to President Beshir in Khartoum that a negotiating team led by the First Vice President would be welcome. Beshir initially refused out of fear that Garang would humiliate his vice-president by not appearing, but eventually the president was brought around by Musyoka's ploy that Ali Osman would go to Nairobi as part of an official Sudanese delegation to attend the funeral of Michael Wamalwa, the Kenyan vice-president, who had just died.

Meanwhile, and parallel to Musyoka's efforts, the US concluded that Ali Osman was controlling the GoS negotiating team and only he could 'unblock' the peace process. Thus the Americans invited Ali Osman to

a private meeting at the US Embassy in London which was very controversial in the GoS because he attended it alone. At the meeting he was pressed by the Americans to lead the GoS negotiating team and in return was assured that the achievement of peace would lead to improved relations with Washington and on that basis he accepted. However, the Americans did not keep that promise, much to the consternation of the GoS.

Garang was equally reluctant to sign on to the idea of him and Ali Osman going head-to-head in negotiations. One particularly influential voice, however, was that of Abel Alier, leader of the first autonomous government in southern Sudan and a confidant of Beshir. Although Garang eventually relented, he did not believe these negotiations would actually materialise. And while Ali Osman agreed to lead the negotiations, he and his government were convinced that Garang would not meet him because he had failed to meet him on three occasions previously. As a result, although a date for their meeting was planned, Garang went ahead with a conference of his military commanders in Rumbek and was surprised to find that Ali was in Nairobi waiting for him. A series of phone calls took place with SPLM/A allies in Khartoum who told Garang that Ali was on his way out of the leadership and held that it would be a mistake to meet him. Moreover, according to a senior official close to these events, apart from his deputy Salva Kiir and Pagan Amum, virtually all the rest of his advisors and the 3,000 commanders in Rumbek advised him not to meet Ali. But with Ali Osman waiting in Kenya for the meeting Kalonzo Musyoka told SPLM official, Dr. Justin Yac that if Garang did not attend the meeting his party would have to leave the country. In the end Garang was convinced by the arguments of Dr. Justin Yac and others that if he did not meet the First Vice President the government would be able to convincingly argue before the international community, and particularly the US, that he and the SPLM/A were not serious about the peace negotiations. More ominously the stakes had been raised so high that if this meeting did not take place there was a real danger that the entire peace process would collapse.

Although appearing reluctant to enter such high level negotiations, the proposal was timely for the government. The GoS was facing considerable international and regional rebuke for its blanket rejection of the Nakuru Framework and was widely perceived as not being genuine in its commitment to the peace process. And by showing its willingness to take the negotiations to a higher level it would do much to undermine this view. And if Garang did not show up for the first face-to-face meeting, and that was the assumption in the government, it would assume the high ground in the propaganda war. But Garang still hedged his bets. Ali Osman had said that he would wait five days for Garang and it was not until the fourth day that he actually arrived. Moreover, for a great strategist like Garang who was constantly trying to counter government efforts to divide southerners and in turn divide the northern camp, it would be almost irresistible to not engage one of the two most senior officials in the NCP in the hope that it would breed suspicion in the enemy's camp.

Although they were initially very wary, their relations improved and soon the SPLM-GoS negotiations were largely reduced to Garang-Ali Osman negotiations. This focus was largely due to the efforts of the US and its allies, Musyoka, and Sumbeiywo to first reduce the participation in the peace process to two parties and then to further narrow them to simply two people. There is no doubt that the presence of Garang and Ali Osman at the negotiations had the desired effect of accelerating the pace of the negotiations since all disputes between the parties were referred to the mediation team and then sent on to the leaders who were fully authorised to decide on them. That is to say, Garang had almost unlimited authority to decide, while Ali Osman was known to phone Khartoum, or on a few occasions fly back to the capital for consultations. Ali Osman appeared to demonstrate that he had a wide mandate to negotiate and as a result took initiatives that were later to produce resentment among some sections of the government and later cause problems in their implementation. This was not understood by the mediators and analysts who considered the domination of the peace talks by Dr. John Garang and the First Vice President as a great achievement and signalled the impending success of the effort.

However, with the death of Dr. John Garang and the fact that First Vice President Ali Osman is not leading the NCP Government as was assumed by many at the time, there is reason to doubt whether leaving the

leadership of the peace process to two people was the great achievement its promoters proclaimed. The arguments in favour of Garang and Ali Osman leading the process include raising the level of the negotiations, putting people at the table who had the highest authority in their respective parties, making clear the seriousness with which both parties viewed the negotiations, and giving hope that the negotiations would be successful. But the arguments against this approach are in retrospect equally compelling: it left the fate of the peace process in their hands and assumed (wrongly as it turned out) they would continue to be in positions of authority to implement the agreement they reached, it risked a complete break down of the negotiations if their talks failed, and played to the institutional weaknesses of Sudan by making the process dependent upon two personalities. That is, since a major weakness of Sudanese governance in both the north and south, but particularly the south, is the role of key individuals at the expense of institutions and accountability, then the final phase of the negotiations reinforced this weakness. And finally, it must be stressed that the negotiations were pressed on the SPLM/A and the GoS by the international community and that pressure also provided the background to the Garang-Ali Osman talks. Indeed, Garang acknowledged, 'This peace agreement was reached, not necessarily because the parties wanted to, but because both parties were forced to' (Voice of America, 30 May 2004).

The Garang-Ali Osman talks also produced secrecy and rumours they were making private deals, and even some of Garang's closest colleagues thought that was possible. We cannot know if there were any secret deals or that the talks represented the inauguration of Ali Osman's proposal for a 'political partnership' between the NCP and the SPLM/A, but some of the decisions that came out of their talks suggest it. Thus while the strong resistance of the GoS to proposals for international guarantees of the peace agreement are predictable, Garang's opposition to them is much harder to understand. People close to their meetings report that Garang also opposed the formation of a truth and reconciliation commission, and did not accept the AEC should have a strong mandate and that it report back to IGAD or another international body. One mediator speculated that Garang was comfortable abusing the NCP for its undemocratic practices, but would not want the AEC probing matters of governance or overseeing elections in a south Sudan that might well not meet international standards. Also not easy to understand was Ali Osman's agreement that the Sudanese national army be entirely removed from southern Sudan by July 2007, acceptance of which appeared to acknowledge that it was an army of occupation and its removal would pave the way for the south's independence. While Garang alternately entertained the possibilities of a political partnership with either the NCP or the NDA, Ali Osman's proposal was ultimately more attractive because first, the NCP would be the signatory to the CPA while some leading members of the NDA were known to oppose elements of it, and second, the NCP held state power and the best the NDA could hope for was to ride to power on the backs of the SPLM/A.

Although Garang kept his options open on a full-fledged political partnership with the NCP, he and Ali Osman operated as if they would both be in the presidency and could work out the inevitable problems of the agreement's implementation. Thus the two agreed that critical issues ranging from Abyei to border demarcation would ultimately be deferred to and resolved in the presidency. In the event, many of the most intractable problems facing the implementation of the CPA were placed before the presidency and with the death of Garang and his replacement by Salva Kiir who appears to have a very different understanding of the peace process than the former chairman, are the source of considerable tension. What appeared to be a useful expedient at the time is now haunting the implementation of the CPA.

Simultaneous with the domination of the peace process by Garang and Ali Osman was the growing role of the foreign, and largely American, experts and think tanks who prepared a range of papers and proposals. Probably most significant was the notion of 'two systems, one state'. These documents and the deferral to Garang and Ali Osman served to undermine the efforts of the two negotiating teams to reach common understandings and agreements. As one GoS respondent put it, the foreign experts 'did our homework for us' and increasingly that had the effect of side-lining the negotiating teams. Indeed, the relevance of the meetings of the negotiating teams declined in tandem with rise of the foreign experts and the focus on Garang and Ali Osman. The role of Special Envoy Sumbeiywo and the mediation team also declined,

indeed, they largely lost control of the process and were reduced to a formal presence and repeatedly going to Garang and Ali Osman for updates.

However, the death of Garang left a major gap in the peace process and it is clear that Salva Kiir and his supporters have a different approach. Meanwhile, Ali Osman was, as one SPLM respondent put it, 'a victim of the CPA', in part because with the death of his partner, Garang, he lost considerable authority. In addition, his policy of making concessions in the peace process to win the favour of the Americans and thus to bring about a normalisation of relations between Khartoum and Washington did not bear fruit. While Senator Danforth repeatedly held that the NCP would only move away from its hard line approach if the US could provide positive incentives to the regime, the Bush Administration concluded that it had little room to manoeuvre in the face of the mounting tragedy in Darfur and rising domestic demands for stronger action against Khartoum. As a result, Ali Osman was increasingly attacked by NCP hardliners led by Dr. Nafi Ali Nafi who held that he gave away too much at Naivasha and for the failure of the US to keep its commitment to improve relations, and these criticisms weakened him in the government.

The Sudan peace process started by excluding the participation of civil society and other political parties, narrowed the participation to two elites whose support base was questionable, and ended by restricting it to two individuals, one of whom had been granted virtually complete authority to speak on behalf of all southern Sudanese, and the other came to power by overthrowing a democratically elected government and turned out not to have the power in Khartoum that most had thought at the time. But virtually all the participants in the peace process and its analysts saw this diminution of the peace process to two people as its high point. However, the peace process placed almost all its eggs in the basket of Garang and Ali Osman and when the former died and Ali did not have the power in the NCP that was thought, the fragility of the process was quickly exposed.

### **The challenge of an inclusive peace process**

From its beginnings in the early 1990s the IGAD Peace Initiative was narrowly focused on the SPLM/A, and the GoS and this has proven to be its biggest weakness. While the NDA, other political groups in both the north and south of the country and civil society organizations repeatedly requested formal or observer status in the negotiations they were rebuffed. And this failure to widen the peace process has contributed to many of the problems that have emerged in the post-CPA period. Special Envoy Daniel Mboya attended a woman's peace conference in Maastricht, Netherlands early in the process and was sympathetic to bringing elements of civil society into the peace process (although not to sit at the negotiating table because that was not permitted under the mandate), but this was opposed by the GoS and that position was supported by the Government of Kenya. Unlike Mboya, from the outset General Sumbeiywo was opposed to civil society having a role and defended the peace process against widespread allegations that it was not inclusive. Pointedly he said, 'In this negotiation there is inclusivity. We have attempted to include other people in the south and the north so it is not a monopoly of the SPLM/A and the government' (quoted in Potter, 2006). While some political parties and elements of civil society were consulted by the parties, the evidence for his claim is lacking. Sumbeiywo then went on to say that the process will be tested at the ballot box, which, as will be argued below, is problematic.

Although both the SPLM/A and the GoS have at times appeared sympathetic to the interests of some of the other parties, they did not want them to have an acknowledged role in the peace process, and that included their closest allies. The GoS opposed bringing the NDA to the negotiating table because it feared being ganged up on, while the SPLM/A in turn feared that members of the NDA might make common cause with their northern brothers and their participation would detract from the north-south focus of the negotiations. Meanwhile, the major ally of the GoS, and indeed the group largely fighting the SPLA, was the South Sudan Defence Force, a broad grouping of liberation fronts and militias that formally joined the government's camp with the signing of the Khartoum Peace Agreement in 1997. The GoS knew that pressing for SSDF engagement in the negotiations would be opposed by the SPLM/A, and in addition feared that the SSDF might make common cause with their southern brothers in the SPLA. However, a senior

official from the SSDF did serve as a member of the GoS team negotiating the security arrangements, although he never actually participated in the negotiations. Significantly, however, this official was not invited to the crucial final round in late September 2003. As a result, the peace process never engaged in negotiations an armed group comparable in size and military capacity to the SPLA, and this was soon to pose a major threat to the CPA.

Political parties, other than the NCP and SPLM, were also denied participation in the Sudan IGAD peace process. Government negotiators held that the political parties were not ready for inclusion, although if that was the case it was due to years of government repression. It was also alleged that the major political parties did not strongly press for a place at the negotiating table because they did not believe the peace process would be successful and their participation would give the government and the talks a measure of legitimacy that was not warranted. Umma Party leader, Sadig Al-Mahdi, was supportive of the process from the beginning, but concluded it would only reach a bilateral agreement, after which there would be need for wider consultation leading to a national agreement. The DUP under Osman Al-Mirghani was influenced by the Egyptians who did not believe the peace process would be successful and supported its continuing links with the SPLM/A through the NDA and hence did not demand a place at the bargaining table. However, in the event one opposition respondent said that 'Garang forgot his NDA membership and told Mirghani that the SPLM would represent their interests'.

A negotiator for the GoS claimed the government 'took on board' the principles behind the Asmara Declaration and 'in substance these opposition parties were involved', but their presence would have been more convincing than such professions. It is also true that the NCP encouraged fractures in the Umma Party and DUP and then gave members of these dissident groups positions within the government. In addition, it gave positions to a number of fledgling southern groups and to the United Democratic Salvation Front (UDSF), in theory the political wing of the SSDF (Young, 2006). The GoS negotiating team also regularly contained southerners, including Dr. Riek Macher who attended sessions in Nairobi in 1997 and Addis Ababa in 1998. The notion, however, that the government was a coalition, as was sometimes argued, is disingenuous.

Civil society was also denied participation in the negotiations. Northern Sudan had one of the most developed and politically active civil societies in Africa in the post-colonial era, but by the late 1980s it had followed the general pattern of NGOs becoming service oriented and heavily dependent on funding from the international community (Hassan Abdel, 2006). In the south much of civil society was a creation of the international community and was externally driven in the context of humanitarian intervention and as a result did not have deep roots (Young, 2002). With the rise to power of the NIF in 1989 severe restrictions were placed on the political activities of NGOs, and the SPLM/A was only marginally more accommodating to civil society in the areas under its control. By the time the IGAD peace process began taking off there was some easing of pressures on civil society. But the more nuanced approach of the government also led to the emergence of NGOs in the north which were thinly veiled instruments of the NCP, while in the south a parallel but much weaker process was underway.

In the final stages of the negotiations the mediators, the GoS, and the SPLM/A became increasingly aware that to achieve acceptance and gain legitimacy the peace settlement needed the support of the Sudanese public. As a result, the SPLM/A began to respond to demands of southern civil society, one of which was a strong commitment to self-determination, and attempt to allay the fears of the NDA that its interests were not being considered in the negotiations. The GoS in turn took various non-governmental groups, including members from the leading opposition parties, civil society groups, nationally known figures, tribal leaders, and even Sufis to Naivasha. However, their role was limited to providing legitimacy for an agreement that had almost been finalised, and as one member of the GoS admitted, 'it was largely an exercise in public relations'.

At no point did either the SPLM/A or the GoS accept the principle that they were accountable to constituencies beyond their parties for the positions they took in the negotiations, nor did they accept these

groups or others from the broader Sudanese society participating directly in the peace process. There is also no indication that either the Sudan IGAD Peace Secretariat mediators, the ambassadors from the IGAD countries that served as envoys in the peace process, or the representatives of United States, Britain, Norway and Italy who participated in the negotiations, considered the lack of broader participation a critical obstacle to the peace process. Indeed, many clearly saw it as an advantage.

Summarising the role of civil society in the peace process, Hassan Abdel pointedly said,

‘Civil society influence on the Naivasha process that led to the CPA was ultimately very limited. Like the northern opposition political parties, civil society was marginalized, perceived by the government as backing SPLM/A positions on the main stumbling blocks in the negotiations: religion and the state, wealth redistribution, democratic transformation and accountability. Moreover, the other IGAD countries shared similar views to Sudan on the roles and rights of civil society, whose engagement in briefings and informal sessions was only made possible after the wider international community became involved. Various civil society meetings and fora created for civil society actors, such as the series of meetings convened by Justice Africa in Kampala from 1999, were to a significant extent a response to the exclusion of civil society groups from the peace talks’ (quoted in Potter, 2006).

According to one diplomat close to the process, both the SPLM and the GoS ‘viewed civil society as the enemy’, although it would be more accurate to conclude that they viewed their own civil society as an enemy and that of their opponents as potentially an ally. Thus the SPLM welcomed elements in the north which called for secularism, while the NCP encouraged southern civil society which challenged Garang’s claim of hegemony. The mediators were not unsympathetic to civil society, but they were just ‘not particularly concerned’ as one member of the Secretariat put it. They feared, however, that the presence of civil society groups would serve to harden the positions of the parties.

The mediators’ narrow and ultimately negative view of civil society (which was largely shared by the observers) failed to appreciate that the engagement of civil society was an antidote to the hegemonic claims of both parties and could serve as allies to the mediators. There was also a general lack of appreciation of the need for the two parties to communicate with their constituencies and without that consultation, reaching a quick agreement between the parties would only serve to delay, and probably intensify, problems at a later stage. Thus the failure of the SPLM/A to appreciate the sentiments of the people of the Nuba Mountains and South Blue Nile made for an easier passage at Machakos, but as a result the political explosion took place outside the formal negotiations. Likewise, agreement was reached on the Abyei dispute, only to have the government refuse to implement the Abyei Border Commission’s report when it caused outrage among its Missiriya supporters.

Moreover, the need for north-south reconciliation if the commitment of the negotiators to a united Sudan was to be achieved could only be realised by involving the Sudanese people, and the starting point was civil society. Although the IGAD Secretariat did propose a reconciliation component to the CPA, it was opposed by the GoS and later by the SPLM. Both parties knew they had committed major crimes during the course of the civil war which would be discussed in public forums taking up reconciliation and they were reluctant to see that happen. Indeed, at one point there was an agreement between the SPLM and the GoS to give them-selves a blanket amnesty for crimes committed during the course of the war, but the mediators convinced them that such an agreement was illegal under international law and could not be enforced. Nonetheless, at least one senior SPLM/A negotiators acknowledged that it was a mistake not to have emphasised reconciliation during the negotiations because it has made relations with other parties more difficult. Even when entertained, however, reconciliation was viewed as an ‘add-on’ and when it faced opposition, was largely dispensed with.

Although never explicitly stated, it would appear the argument for narrow-based talks was based on a number of contentions. First, it was held that the all-encompassing nature of the negotiations made the process very complex, and hence the participation of additional actors might make the process unworkable. No doubt it was also feared that if the door was opened to additional participants in the negotiations, it would be difficult to close it. Second, the mediators feared enlarging the numbers around the bargaining table would inevitably increase the leaks of what was held to be confidential information, and this in turn

could be used to galvanize dissent that could disrupt the process. Indeed, this also explains the secretive nature of the negotiations and the strict means by which the media were controlled. Third, there was a strong view by Sumbeiywo and the Secretariat that 'small was good', and hence a desire to keep participation at a 'manageable' level, by which it was meant that it could better be controlled. As one observer said, 'it was hard enough trying to broker a deal between two parties and that the addition of others would have made things impossibly complicated'. Indeed, in hind sight there is a tendency to justify the exclusion of other groups by comparing the situation in the Darfur talks at Abuja where large numbers participated and the result was chaotic.

Engaging civil society in the peace process, either formally in the negotiations, or more plausibly through a parallel process would have been messy, and as its critics assert, would have complicated an already difficult process. It would also have meant that there would be less secrecy surrounding the talks. (Although the secrecy around the peace process reinforced the widespread perception that it was elite-driven, and hence undermined its legitimacy.) Engaging civil society would also have necessitated serious research to determine the authenticity of the various organisations considered for participation and to make proposals on the best way to involve them in the process. However, contrary to the vision of chaos at a negotiating table encumbered by countless members of civil society that was presented by those opposing such participation, most members of NGOs were simply calling for participation in a broader peace process. Accepting that civil society was necessary to the success of the peace process and having its members at the table are two very different things.

Even acknowledging the weaknesses of Sudan's civil society, it could still have played a constructive role in the peace process and served to reduce or eliminate some of the problems that increasingly have come to light in the post-CPA period. High on this list would be overcoming the lack of democratic legitimacy of both parties, and this problem was particularly striking given the failure of the Addis Ababa Agreement of 1972 which floundered because opposition parties were able to contend that the agreement did not have the support of the Sudanese people (Lesch, 1998). The Umma Party and the DUP, which undermined that agreement, no longer have the authority of three decades ago, but the lack of democratic legitimacy of the parties to the IGAD peace process is the same. The engagement of civil society would also have brought women into the peace process. Their absence was striking, further undermined the legitimacy of the process, and they could have brought an important perspective to the talks. Moreover, the lack of ownership by the northern population represents a major weakness of the IGAD peace process, and could have been overcome by involving civil society in the peace process. As one opposition respondent noted, 'no one is defending the CPA in the north'.

The failure of Sudan as a state in the post-colonial era is in many respects the failure of its elites and their pursuit of an unaccountable politics divorced from the lives of the common people. Indeed, the wars in the south, east and west of Sudan can largely be attributed to the successive failures of the country's elites in their various political guises as democrats, socialists, liberationists, military men, or Islamists. Abdelwahab El-Affendi has noted, 'One of the most significant developments which affected Sudan during the last three decades has been the progressive fragmentation of Sudanese politics generally, and of Northern Sudanese politics in particular' (Abdelwahab, 2007). While almost all the initiatives for radical and democratic change in Sudan have come from the periphery, the agents of the periphery have not to date had the political skills to carry their demands through to implementation. Indeed, one SPLM respondent in this research noted that 'while everywhere in the outlying regions there is evidence that new political configurations and a new awareness is taking form, as yet the emerging parties are in their infancy'.

And by not engaging Sudanese civil society and failing to make the Sudanese people feel part of the peace process, the IGAD mediation had the unanticipated and wholly unconstructive effect of giving life to the top-down, illegitimate, and no longer viable political culture of the country. This is particularly apparent in the north where the leading parties, the Umma Party and the DUP, are still suffering from their poor performance in the 1986-89 coalition government and failure to end the country's civil war. The resort of

the NIF to a military coup in 1989 made clear the conclusion of their own leadership that they could not come to power through fair and democratic elections.

In the south the situation is worse. A great number of political factions and tribal and regional based organisations have taken form, but virtually none of them could be considered genuine political parties. In conditions of war and extreme under-development power has grown out of the barrel of a gun and the focus of the struggle has been as much about achieving a hegemonic position in the south as in challenging northern governments and the inequitable distribution of power and wealth. As a result, there have always been two wars under way in the south: south-south and north-south, although it was sometimes hard to distinguish them in practice. The second war was the focus of the IGAD mediation which completely ignored the first war, but it was the first war that probably caused the most suffering to the people of southern Sudan. And it was the intra-south war that did so much to discredit the elites of the region. Anyone in the south in the wake of the 1991 split in the SPLM/A would have heard southerners complain bitterly of the 'war of the doctors', by which they meant Drs. John Garang, Riek Macher, and Lam Akol. The legacy of that bitter conflict had not died when the equally destructive (and related) conflict between the SPLA and the SSDF came to the fore, further undermining the authority of the southern elites.

It was these increasingly discredited elites from the north and south that the IGAD based its mediation on. And while their demonstrated military muscle meant they could not be ignored, the peace process served to give them a stature internationally they had long since lost in Sudan. Just as participation in international bodies and organisations have given states in the developing world a measure of legitimacy despite their fragility, mediations such as that of IGAD have served to raise declining elites and cast them into the esteemed roles of peace makers and statesmen. Broadening the peace mediation to include civil society would not only have given a measure of legitimacy to a process that was discredited in many circles simply because it relied entirely on northern and southern elites, but it would have given the mediators a much needed basis from which to critically assess the rhetoric and analysis of these elites. Just as IGAD is by definition a state-centric organisation, the peace process that it oversaw was elite-centric, restricting participation to a state elite in north Sudan and a would-be state elite in the south. The entire exercise was thus inherently conservative and had the effect of trying to establish a basis of governance for parties that were increasingly being passed over by their own people. Moreover, as one observer in the negotiations noted, the mediators 'never quite got to the conclusion that the parties were too exclusive to achieve sustainable peace in Sudan'.

### **A peace process without trust**

Contrary to traditional African approaches to resolving conflicts which emphasise trust building, the Sudan peace process made no explicit attempt to build trust between the parties to the conflict, either during the formal negotiations, or in the post-CPA period. Moreover, while traditional approaches attempt to reach out to people in conflict and engage them in confidence and trust building exercises, this was entirely absent in the Sudan IGAD peace process. While it is not clear that trust could ever have developed between the parties, it is clear that it could only come about through extensive meetings and debates and not through a resort of the mediators to legalise, the imposition of strict time-tables, and the establishment of a vast array of commissions and other bodies. This difference is best illustrated by comparing the Naivasha and Wunlit processes. The latter was carried out by southern Sudanese churches and traditional leaders to overcome years of conflict and hostility between the Dinka and Nuer, and by building trust through the airing of grievances and the introduction of healing processes it contributed enormously to reconciliation between the two tribes. Although weakened as a result of modernisation, a recent study of conflict management and resolution in the Horn found indigenous modes of conflict resolution and their emphasis on reconciliation frequently highly effective (Cliffe and White, 2002).

However, neither the SPLM nor the GoS wanted civil society and the traditional authorities, who would have highlighted the issues of trust and reconciliation, to have a role in the peace process and the mediators and the US led quartet appeared to share these sentiments. A Truth and Reconciliation Commission along the lines of that in South Africa was widely supported by civil society, but in the end it was written off by

Garang and Ali Osman who held that it would undermine the peace process and clearly did not think they had to play the role of democratic politicians and sell the agreement to their constituents. Not only did the parties not trust one another, but they also did not trust the people of Sudan. As a result, no constructive efforts were made during the course of the peace process or since the signing of the CPA to seriously confront the pain, trauma, bitterness, and distrust that the war inflicted on the population. And this failure constitutes one of the biggest threats to the sustainability of the peace process.

While trust did develop over time was between Special Envoy Sumbeiywo and the negotiating teams and there was clearly trust within the Secretariat, at almost every other level it was absent. There was frequent tension, if not distrust, between Sumbeiywo and the observers, although that difficult relationship may have served to demonstrate to the parties that the special envoy was committed to protecting them from outside interests and hence to cement his ties with them. However, the periodic difficulties between Sumbeiywo and the observers masked a high level of agreement between them on the course and objectives of the mediation. There were also many tensions between the parties and the observers. The SPLM generally viewed the observers in a positive light, although one member considered them weak and ineffectual, while the GoS saw them as biased and interfering.

Crucially, however, trust never developed between the parties, and on the surface this is surprising since the Sudanese of both the north and south are known for their capacity to maintain good personal relations across political and other divides. But the insistence from the beginning by the SPLM/A leadership that they needed an agreement which would permit them to maintain their army through the entire peace process could not be a more stark statement of their distrust of the GoS. Indeed, in rejecting the notion that the UN would protect the south from any violation of the CPA, Dr. John Garang said, 'Our guarantee is organic. The fact that Southern Sudan will have its own separate army during the interim unity in addition to the integrated forces and other security forces, is the only fundamental guarantor and indeed the cornerstone for the survival of the Comprehensive Peace Agreement' (quoted in Arop Madut-Arop, 2006).

The SPLM/A viewed the GoS as the worst in a long line of northern governments that lied to southerners and dishonoured agreements. As a result, they were constantly on their guard and suspicious. The GoS in turn viewed the SPLA's capture of Torit during the negotiations as indicative of their lack of commitment to the process. They also pointed to the rising power of the Darfur-based Sudan Liberation Movement/Army (SLM/A) that was supported and encouraged by the SPLA as proof that it was talking peace but had not disavowed the option of over-throwing the government. Moreover, they never doubted the separatist sentiments of most of the SPLM negotiating team.

But significantly there was also distrust within the negotiating teams. This was less evident on the SPLM/A side where Dr. John Garang maintained a strong hold over his colleagues during the course of the negotiations. However, the lack of trust between Dr. John and different elements of civil society and other southern parties largely explains the SPLM/A's opposition to their participation in the peace process. And that also applied to the NDA. Distrust and discontinuity was more apparent on the GoS side. Not only did they have a large number of negotiating team leaders over the course of more than a decade, and each had their own style of leadership, but they also had markedly different approaches to fundamental issues. That was most apparent when the GoS's Ali Al-Haj came close to endorsing self-determination for the south and entertaining a compromise on the issue of Shar'iah during the first rounds of negotiations in the mid-1990s, only to be withdrawn from the talks and for the government to emphatically reject self-determination and any compromise on Shar'iah. (The fact that these compromises would be at the core of the CPA makes clear that Ali Al-Haj was not mistaken, but he did not have the backing, trust, and understanding of his colleagues.) And during the late 1990s the NIF divided between the Bashir and Turabi wings which had different approaches to these issues. There were also markedly different attitudes to basic issues between Dr. Ghazi Salahdien who oversaw the agreement on the Machakos Protocol and First Vice President Ali Osman Taha over elections (the former preferred them sooner and Ali Osman later), security arrangements (Dr. Ghazi Salahdien preferred a continuing role for the national army throughout the interim period and Ali Osman accepted its withdrawal in the second year), a political agreement with the SPLM/A (Dr. Ghazi

Salahdien was opposed, while Ali Osman supported it), and other issues. And just as Ali Al-Haj was condemned by his colleagues for his concessions, Ali Osman was also accused of giving away too much in the negotiations.

Distrust not only affected relations between the various actors in the peace process, but is also reflected in their output, the protocols. Indeed, the peace process was shaped by the Anglo-American legal culture where law and legal procedures are emphasised in the absence of trust and indeed, one SPLM negotiator said trust was not necessary to reach an agreement. Seemingly every issue and contingency is identified and catered for in the protocols and the result is a massive and complex CPA, which is hard to understand and its implementation is extremely difficult to assess. Within the Anglo-American legal culture alleged breaches of an agreement are referred to accepted judicial bodies which have both the capacity to rule on the complaints and to order policing authorities to ensure their rulings are implemented. However, no such accepted judicial organs or police exist in Sudan and hence the resort to this sophisticated legal culture in the absence of trust has largely proved ineffective.

The last months of the peace process were devoted to working out the details of the implementation of the agreement (known as the modalities of implementing the peace), and more than at any stage of the peace process this period emphasised the lack of trust between the parties. One journalist respondent referred to these documents as the 'modalities of distrust' as the representatives of the SPLM and the GoS set about giving the peace agreement a strong legalistic character with the formation of commissions and committees and the agreement on a multitude of time-tables. In retrospect one of the observers said this emphasis on legalism was a 'waste of time' and held that more time in the negotiations should have been devoted to agreeing on principles. Although considerable effort was to go into the implementation modalities, they were to prove to be one of the major weaknesses of the entire peace process since there was less than full commitment to them and no recourse to any judicial body with the authority to issue punitive measures when they were breached.

While trust cannot be expected at the start of negotiations between parties who have long been at war, the experience of the Sudan IGAD peace process is that if trust is not developed at some point, the deliberations and resulting agreement will remain highly unstable. In this light a consideration of the problem of the SSDF in the peace process is instructive. Although international intervention in the peace process was premised on the desire to end human insecurity in southern Sudan, by stipulating that the OAGs in the south had to be disbanded within one year of the signing of the CPA (and that largely referred to the SSDF) the Security Arrangements Protocol of the CPA had the initial effect of raising tensions between the SPLA and the SSDF (Young, 2006). While the GoS wanted to use the SSDF to undermine the peace process and appeared to know that it could not be dissolved within one year, Garang consistently opposed the integration of the SSDF into the SPLA and appeared not to appreciate the danger of the situation. A Kenyan and Sudanese respondent quoted a senior SPLM/A official at the time as saying that, 'Garang wants a minor insurgency' as a means to maintain control in the south, an approach not unknown in the Horn. However, since the SSDF posed a far bigger threat than that, it is more likely that Garang saw a much larger challenge to him politically by integrating the SSDF into the SPLM/A and concluded the problem could be contained by appealing to his American friends to bring pressure on the GoS when the SSDF almost certainly would still be on the ground after one year. One person close to the negotiations on the Security Arrangements said the mediators were well aware of the threat posed by the SSDF and considered a number of approaches to forestall the impending conflict. However, an observer said that the mediators viewed the return of Riek Macher to the SPLM/A as solving the 'Nuer problem' and they did not have the intelligence capacity to appreciate the military significance of the SSDF.

With Garang vehemently opposed bringing the SSDF into the peace process, and given strong backing by the US, there was no prospect that the problem posed by the SSDF would be acknowledged and acted upon. While some US allies at the negotiating table foresaw the impending danger, they became increasingly exhausted by the lengthy process and like the Americans just wanted to see the peace agreement signed so they could go home, and in fact many of them left the negotiations even before its formal end. In any case,

the decision to dissolve the SSDF set the organisation on a collision course with the SPLA. The only reason this did not happen is that with the death of Dr. John, Salva Kiir came to power with a different and conciliatory approach to dealing with the SSDF as represented by the Juba Declaration.

The Juba Declaration was in the first instance a response to the widespread demand of southern Sudanese that their leaders resolve their differences peacefully and end the insecurity that made their lives intolerable. With only minimal input from the Kenya based Moi Foundation Salva Kiir from the SPLA and Paulino Matieb from the SSDF came together and quickly established a relationship of trust and agreed on the principles underlying their agreement (Young, 2006). Even without a formal agreement tensions between the SSDF and the SPLA rapidly declined. The final document, the Juba Declaration of 8 January 2006, is short, easily understood, and without legal jargon. And unlike the CPA, in the year since it was signed it has resulted in a marked decline of insecurity. The lesson to be drawn is that the trust that underpinned the Juba Declaration is a more effective means to overcome tensions and disagreements between former enemies than resorting to legalise and unaccepted institutions which was the course followed in the IGAD peace process.

While key elements of the power-sharing and wealth-sharing protocols, together with the commitment to conduct a referendum on self-determination, did address major concerns of people in the south and hence provided a basis for ownership, the peace process did nothing to build trust between southerners and northerners. People in the north had trouble identifying with the peace process and the CPA because they saw few benefits in it accruing to them. Expressing these sentiments, one northern Sudanese said, 'the agreement was between big men and the *khwadjaat* who isolated the Sudanese'. The peace process did not produce trust between the negotiating parties, and they in turn gave trust a low priority and rejected measures which would have engaged the broader population in a collective healing exercise and encouraged trust. The dangers of this omission were made patently clear when in the wake of Dr. John Garang's death on 30 July 2005 Africans in Khartoum rioted while the Arab population of the city cowered in their houses, only later to join the state security apparatus in revenge attacks on the Africans. Not for many years had the divide between Africans and Arabs in Sudan seemed so wide and this occurred only six months after the signing of the CPA, an agreement designed to build a new basis of unity and mutual trust in the country.

### **IGAD Secretariat and the media**

In a peace process characterised by an emphasis on efficiency, control, and exclusion, it is not surprising that relations with the media were poor. Under Special Envoy Daniel Mboya there was no clear policy on the media and almost anyone associated with the peace process could speak to the media on behalf of the Secretariat. Wanting to end this free-for-all General Sumbeiywo made each party sign an agreement which acknowledged he alone could talk to the media about progress in the talks, and since no press officer was ever appointed he became the de facto spokesperson for the peace process. His philosophy with regard to the media was straight forward. He rarely spoke to the media and said, 'I do not believe in mediating through the media at all. I do not have a public relations officer because that encourages the media' (quoted in Potter, 2006).

Mediating through the media and having a policy which recognised the important role of the media in analysing, criticising and communicating the results of the mediation are two very different things. The media representatives who covered the peace talks said that Sumbeiywo 'kept them in the dark completely' while another said that 'he viewed us as the enemy'. The result was that the media were left to skulk around the hotels in which the negotiations took place and periodically received briefings from Sampson Kwaje on behalf of the SPLM/A and Sayid El Khatieb on the side of the GoS. Sometimes the Kenyan Foreign Minister would issue a statement. During the final phase of the negotiations the GoS hand-picked a number of Khartoum-based journalists and paid their expenses to visit Naivasha. Not surprisingly the Sudanese media coverage of the peace process was poor. Certainly the Sudanese media was handicapped by a measure of government censorship and the private newspapers could ill-afford to have offices in Kenya, but that did not detract from the high level of interest in Sudan that could not be met.

Entirely absent from the Sudan mediation was any appreciation of the right of the Sudanese to know about a process being carried out in their names and which would have a dramatic effect on their future well being. Not that Special Envoy Sumbeiywo was alone; his values and inclinations in this regard clearly matched those of the two negotiating teams and – perhaps more surprising – the liberal Western states of the quartet. The widespread view was that the media was irresponsible and could not be trusted. There may have been some truth to this view, but it would also be true to say that some mediators, negotiators, and observers were irresponsible and no one ever suggested they be kept out of the peace process. The media was not seen as being important to the process, not appreciated as a medium by which developments in the peace process would be conveyed to the Sudanese public, and more significantly, not understood to be a means by which that public could have some impact on the peace process.

As with the case of the inclusion of other political forces and civil society, the media could well have been a valued tool in furthering the stated interest of the Sudan Secretariat in broadening the peace process, developing a sense of Sudanese ownership, and gaining legitimacy. The fact that it was not raises doubts as to the sincerity of these claimed objectives. It is even harder to understand how any viable reconciliation could be carried out when the people of Sudan were permitted so little knowledge of the peace process. The widespread view in the post-CPA period that the Sudanese, and in particular those in the north, do not have any sense of ownership of the peace agreement derives in part from the concerted effort to keep them in the dark about the process.

### **Democratic accountability and the national election**

In the absence of a broad-based peace process it was argued that democratic accountability could be achieved through national elections, but that is very doubtful. Special Envoy Sumbeiywo said, ‘After three years all the parties will get the chance to compete for power through the electoral process’ (quoted in Potter, 2006). The SPLM/A has taken a similar position, arguing that instead of criticising the CPA, civil society and the political parties should exploit the new freedoms to organise and prepare for the forthcoming elections. Although the US consistently opposed a broadening of the peace process that would give it democratic legitimacy it nonetheless repeatedly – and contradictorily - emphasised its support for a democratic transformation in Sudan based on free and fair elections. But even setting aside the limited nature of the political opening, from its inception the notion of elections being a crucial means for the Sudanese to pass judgement on the peace process has been problematic at best, and disingenuous at worst. First, this raised the question of sequencing since it was agreed that the elections would take place before the end of the third year (i.e. by December 2008) of the agreement and that meant postponing any democratic reckoning. Later in the modalities of implementation the parties agreed to put off the elections for another year, which is indicative of their lack of commitment.

There have been moves by both the GNU and the GoSS Assembly to enact democratic constitutions and create a regime of respect for human rights, but the fact remains that two and one half years after the signing of the CPA interference of the press in both the north and south is common, freedom of association is limited, non-government political parties face harassment, civil society is controlled, particularly in the north, and the security organs in north and south Sudan continue to dominate the life of the people. Thus without dramatic changes in the intervening period the elections will be pursued in an environment where democracy has not developed roots and political repression still remains common. While southern Sudanese saw the peace process as the means to gain self-determination, their counterparts in the north hoped it would serve as a vehicle to initiate a democratic transformation. The fact that the elections have been postponed and that basic freedoms are still being challenged has led to a steady decline in support for the CPA in the north.

In the wake of the Machakos Protocol with its ringing endorsement of democracy, Dr. Ghazi Salahdien proposed moving quickly to holding national elections. While his proposal had more to do with the partisan advantages he saw for the NCP which he assumed was better prepared for an election than the SPLM, the proposal had the merit of rapidly placing in power governments in the north and south that should have

democratic standing and the legitimacy to carry forward the peace process. There is no denying the organisational and political difficulties of moving so quickly to an election, but it was not these concerns that led both the SPLM/A and NCP to reject the proposal. Very simply neither party wanted to test its support before the Sudanese electorate and instead favoured not holding any elections until after the 2011 referendum on self-determination. In the face of the mediators' contention that elections were necessary to give the peace process legitimacy, the SPLM argued – in the words of one negotiator - that it was a liberation movement and did not need a mandate. Another negotiator asked, 'What would be the effect on the peace process if the SPLM/A lost?' A number of southern intellectuals, including the imminent Abel Alier, apparently argued forcefully against the holding of presidential elections on either a Sudan-wide basis or just in the south, because they would be too destabilising. Despite this opposition, the mediators and observers were adamant that there could not be an agreement without a commitment to hold elections.

Another difficulty arises because many of the basic conditions are unlikely to be in place in time to hold an election by the end of the fourth year of the CPA. Thus the north-south border demarcation commission was only established in February 2007, and its work is far behind schedule and its members acknowledge they are unlikely to complete their mission by their deadline of the end of 2007 (Choal Deng, Chairman of the Unity State Land Commission, Bentiu, 22 February 2007). One need only note that the Sudan-Ethiopia Border Commission expects to take seven years to complete its work under more favourable conditions to appreciate how unrealistic it is to expect that the north-south border, which is beset with problems, can be completed in less than a year. Sudan is also planning on carrying out a national census as a prelude to the elections, but the census, according to its southern chairman, cannot be completed until the border demarcation is carried out and the outstanding issue of the Abyei border is resolved (Issiah Choal, Chairman of the South Sudan Commission on Statistics and Census, Juba, 5 March 2007). Based on the assumption that the border demarcation will be completed by the end of 2007, the census in the south is planned for January and February 2008. Almost certainly that schedule will not be met, and if the census is not carried out by mid-year the south will be beset by rains and cannot be conducted until the following year, again assuming that the border demarcation is completed (Ibid.). There is also the problem posed by the limited number of Internally Displaced Persons who have returned to the south and hence will not be counted as southerners in the census. A further problem will be the difficulty, if not impossibility, of conducting elections in many parts of Darfur if that conflict continues. That the democratic accountability of the CPA is to be based on elections when the pre-conditions for holding them have such a weak basis should have been anticipated by the mediators and negotiators.

A further difficulty arises because the GNU dominated National Assembly passed legislation in early 2007 that precludes parties from contesting the election unless they support the CPA, and this undermines the ability to ascertain the views of the Sudanese people on the peace agreement. While almost all the parties in the country endorsed the broad thrust of the CPA, many in the Umma and DUP have argued that the agreement went into areas beyond its competence. But under the Political Parties Law parties can be dissolved which do not accept the country's constitution, which is based on the CPA. It is not difficult to appreciate the concerns of the SPLM/A that a party or parties could come to power in Khartoum that did not accept the CPA and this could lead to the collapse of the peace process and even a return to war. But the legislation is by any standards undemocratic and demonstrates a distrust of the people of Sudan, a distrust that was a constant theme of the negotiating process. Interestingly in 2005 Sadig Al-Mahdi posed what he called a worst case scenario in which the SPLM/A and the GoS claim to have a comprehensive agreement and a national unity government and whoever opposes them would lose their rights, and so create a confrontational situation (IRIN, 5 October 2005). Thus the implicit promise of the IGAD mediators that the Sudanese people would have an opportunity to express their views on the peace process through elections has been undermined, albeit by an act of Sudan's National Assembly over which they could not exert any control.

Another problem pointed out by many interviewees during the course of this research is that given the lack of trust between the parties to the agreement, the enormous divisions in the country, and the high stakes involved, elections are more likely to precipitate conflict than bring the disparate communities together and

lay the basis for Sudan's long-delayed democratic transformation. Moreover, there is a widespread view among the leadership of the SPLM/A and the NCP and many international observers that a defeat for either party would have highly destructive consequences for the peace process and the country. It is also lost on no one that both the SPLM and NCP are parties that came to power through violence, have never won fair elections, and in the case of the SPLM has never even participated in an election before. There is thus a widespread fear that bribery, intimidation, vote rigging, control of the media, and the completely unequal capacity of the various parties to compete, will carry the day to the disadvantage of democratic process in both the north and south of the country. As diplomat respondent bluntly put it, 'people haven't agreed to their own suicide'. In any case, it is widely assumed that no matter how the Sudanese cast their votes, ultimately the elites of the SPLM/A and the NCP will determine the power-sharing arrangement, just as they did during the peace process, perhaps along the lines of the political agreement first proposed by Ali Osman to Garang. Indeed, although Salva Kiir has shown little enthusiasm for a NCP-SPLM partnership, he also has not rejected the idea, has permitted a number of joint party structures to form, and despite a rhetoric of solidarity with other oppressed groups, has to date done little formulate an alliance of the opposition parties. As a result, a grand NCP-SPLM coalition which would overwhelm the opposition cannot be discounted. And since there is every reason to conclude that the international backers of the peace process are more interested in the continuity of the peace process than in fair and democratic elections, their actions are unlikely to be seriously challenged from that quarter.

### Quartet

Critical to the unfolding peace process was the role of the 'Quartet', the four countries that provided the political backing for the peace process and sat in on the negotiations as observers. Norway and Italy derived their membership from being co-chairs of the IGAD Partners' Forum (IPF), while the US and Britain appear to have assigned them-selves leading roles in the process. The SPLM/A welcomed the US playing a leading role in the peace process because Garang had forged close relations with Washington and looked to the Americans to provide needed pressure to move the peace process forward, later to help with the implementation of the agreement, and provide financing for post conflict reconstruction. But the GoS also supported this major role of the US for a number of reasons: first, it felt that it was the only country that could bring the needed pressure to bear on Garang to sign an agreement, and second, Khartoum wanted to improve relations with Washington. Moreover, it feared that without an improvement in relations Washington might increase assistance to the SPLM/A or even attempt to carry out regime change.

The GoS assumed the US had concluded the balance of power was shifting against the SPLM/A as Khartoum was able to devote increasing oil-derived resources into buying sophisticated military technology with which to fight the war. As a result, the peace process was a last and best chance for the SPLM/A to win in negotiations what could no longer be won on the battle field. (The outbreak of a major war in Darfur would change that assessment, but by then the die had been cast.) Khartoum's assessment was probably correct and the impact of rocketry, fighter jets, and the home grown production of small arms and even artillery was having an impact in the war. Indeed, Malik Agar, SPLM/A Governor of South Blue Nile, concluded that if the movement failed to disrupt the oil flow and Khartoum was to use this financial windfall for the next 3-4 years then 'the SPLA would lose the war' (Malik Agar, Kurmuk, 16 March 2001) and his projection fits closely the shift of the SPLM/A from a focus on the military front to the peace process. The GoS also calculated that if the US was kept out of the peace process the SPLM/A would in any case turn to it for support every time a crisis occurred in the negotiations, and should the process break down completely, the US could again become a major threat to the survival of the government. As a result, although there was a certain amount of scepticism in the GoS about US promises to move towards establishing normal bilateral relations with Sudan if it promised to cooperate on terrorism and reach a peace agreement, Khartoum felt that it did not have any option except to engage in the peace process and support the US playing a leading role in it. As a result, there was no denying the US a place at the negotiating table and there was a consensus of those interviewed that it had the most influence in the peace process.

Norway, in the view of most of those interviewed for this research, followed the US in terms of influence, and this was largely due to the energy of its personnel, in particular International Development Minister Hilda Johnstone, although this view was not shared by those in the government camp who resented her blatantly pro-SPLM/A stance. According to one GoS respondent, 'Norway was completely biased to the south and viewed its role as a crusade.' To the surprise of many, given its long engagement in Sudan, it was generally agreed that Britain did not have much influence over the peace process. Britain was held to be more sympathetic to Khartoum, an assumption that only bears up if compared to the other countries. It is true that its former Ambassador to Sudan, Alan Goulty, and Britain's appointee as an observer, was accused by the SPLM/A of being sympathetic to Khartoum (in part because of his mistaken belief that southern self-determination could not be negotiated with the GoS), but the fact that he was subsequently declared *persona non grata* and forced to leave the country would at the least suggest that the GoS did not always share this view. The British did have close relations with leaders in the north, particularly those in the Umma Party, but by no stretch of the imagination could they be considered supporters of the NCP. Italy was the odd man out, and while it was a major financial contributor to the peace process, by consensus it was viewed as the least active.

The self-promotion of these four countries in the peace process, however, was not without controversy. The IPF countries felt that they collectively should be recognised as the backers of the IGAD peace process and instead found they were largely side-lined. However, in the circumstances they could do nothing except serve as a cheering squad, contribute to the financing of the negotiations, and attempt to make up for some of the weaknesses created by this structure by pursuing peace supporting measures outside the formal process. However, it left a continuing residue of bitterness.

### Observers

Initially the observers were restricted to the four countries that took the lead in supporting the negotiations, but later observers were accepted from the AU and UN. In each case these countries or organisations were permitted two observers. At the start of the negotiations the observers appeared to make their presence felt simply by conveying the notion, as one diplomat put it, 'the world is watching'. Later the observers became more active and the quartet took the lead in particular areas. For example, Norway organised seminars on human rights, while Britain brought in military personnel to provide instruction on security arrangements.

While the quartet ascribed itself a leading role in the peace process, and apart from some grumbling on the part of the IPF this was accepted, the selection of other observers was more controversial. In the earlier period there were not many prospective candidates, but after the signing of the Machakos Protocol and the widespread view that the peace process was taking off, their numbers dramatically increased. Many groups and countries wanted to be at the table of a successful peace process and thus to reap the political accolades. First in line were the AU and the UN, and acceptance was quickly reached as these organisations were held to be critical to the implementation of the peace agreement, and that proved to be the case with the UN, but not the AU. Other organisations, however, like the Arab League, Egypt, South Africa, France, and the EC, were the subject of considerable debate.

Initially Egypt and the Arab League, which usually deferred to Cairo on issues related to Sudan, were convinced that the IGAD peace process would not succeed and did not press for a place at the negotiating table. Later the Arab League contended that the involvement of one of its member states – Sudan – in the peace process made its presence necessary, but this application was not accepted. In arguing for its approval at the negotiating table Egypt said that it was impacted as much by the war as any of the IGAD countries and would also be impacted by the peace agreement. Egypt's concerns were virtually identical to those that underpinned the Joint Libyan Peace Initiative only a few years before. South Africa's application, it was reasoned by some, had to be refused or else the rejection of Egypt and the Arab League would be hard to justify. The European Commission argued that as the major donor it should be represented in the negotiations, but the appeal was not accepted, probably because two of the Quartet members were in any case members of the EC. It is clear that the US and its allies, together with Sumbeiywo, wanted to limit

participation in the negotiations, to both reduce the complications involved and to better exert control over the process.

The rejection of Egypt and the Arab League nonetheless left a residue of bitterness, concern that an angry Egypt was well placed to threaten the viability of any agreement, and accusations in some quarters that Norway in particular treated them poorly. By rejecting the Arab League and Egypt it was argued the negotiating table that included the regional envoys, the AU, the quartet which were broadly supportive of the SPLM/A, and also a Secretariat led by a Kenyan general, was heavily weighed against the GoS. There may well have been convincing arguments for denying these countries a place at the table, but these judgements left bad feelings and furthered the widespread view that the entire process was elitist and exclusionary. Indeed, the fact that the peace mandate did not make clear who could sit at the table as observers, and the Secretariat did not produce its own rules on the issue, led to the view that decisions on participation were either arbitrary, or due to the power of the organisations in question. One participant said that ultimately 'only political pressure and the giving of money' earned a place at the table.

The assessment of those interviewed during the course of this research of the observers in the Sudan peace mediation was mixed, with members of the government negotiating team generally viewing them in a critical light and their counterparts in the SPLM being more favourably disposed. Since for the most part the observers were held to be sympathetic to the SPLM/A this conclusion is what would be expected. Some respondents accused the observers of complicating the process, detracting from the role of the region, competing to get credit for the achievements of the process, and making deals behind closed doors. The views of the Special Envoy on this question were contradictory. On the one hand he said that the role of the observers 'was very positive, except each country had its own perceptions of what the resolution would be', and on the other he complained that the role of the Americans were 'very difficult' because they were 'addressing local politics' (quoted in Accord, 2006). According to a diplomat in the negotiations, Sumbeiywo held the view that 'the responsibility of the observers was to observe and to help when needed, but not to negotiate'. In part Sumbeiywo had trouble with the observers because unlike the advisors and resource people who were entirely dependent upon him, the observers were effectively free agents and that was something, as he acknowledged, he never accepted. Pointedly he said, 'I lead the process. Sometimes I disagree with people, people who want to take over from me. But I refuse to let them. I need to have everybody on board and everybody must listen to me. I will listen to them but the final word is mine' (quoted in Potter, 2006).

One GoS negotiator who viewed the observers in a particularly negative light said they were 'only there for curiosity', and were time-consuming, distracting and frequently caused him to get angry. He thus appreciated the efforts of Sumbeiywo to guard the integrity of the process and keep them at arm's length. Advisor 'Fink' Haysom also noted that, 'At times the parties would ask us to 'liberate' them from the various envoys in attendance yet at the same time of course they were arranging their own bilateral meetings with them' (quoted in Accord, 2006).

In one celebrated case the special envoy threatened to have the American observer, Jeff Millington, shot (Waithaka Wailhenya, 2006), and on another occasion threatened to unleash the hippos on him. While the US was held to exert the most influence over the process, it was also the subject of the most criticism. One negotiator said that the US observer at Naivasha was impatient. There was a marked difference, however, in the attitudes of the negotiating teams with the GoS viewing them critically, while the SPLM appreciated their role. However, another person close to the negotiations accused the US of being 'fixated on deadlines', again in response to domestic concerns. In particular, US Secretary of State Colin Powell caused a stir when after visiting the talks at Naivasha in October 2003 he announced 'a promise from the leaders to conclude a final deal by the end of December', apparently so that the leaders of the parties could attend a signing ceremony on the White House lawn (Potter, 2006). One of the mediators said the US agenda was clear: 'They were putting pressure on the parties because they wanted to claim success in the peace process in time for the State of the Union Address in January 2004' (Ibid.). Although destabilising, the GoS was quick to appreciate that these pronouncements meant little and was never intimidated by them. For its part, the US was convinced the process could proceed faster, Sumbeiywo was too slow to initiate

direct talks between the parties, and as a result, and to the anger of the special envoy, the US got both parties talking to one another. The American view was that the US 'had the power and so it should use it'. In defending what he admitted was a 'heavy handed approach' an American close to the peace process said the achievement of an earlier peace agreement would have increased the prospect of a resolution of the Darfur conflict. Although even he acknowledged that, 'dealing with the Americans was not easy for the mediators'.

Sometimes, however, the observers could be directed and GoS negotiator, Dr. Mutrif Siddig, spoke in one instance how Sumbeiywo '...spread his wings, and in this case his wings were the observers, who played a crucial role. It was they who could apply pressure and incentives by talking about a peace dividend' (quoted in Potter, 2006).

Although Sumbeiywo's relations with the US observers were sometimes tense, he never failed to recognise the critical role the US played in the negotiations and apparently expressed fear that Powell in particular might step down or that Bush would lose the US election and new officials would be appointed that might adversely affect the peace process. He and others also appreciated the leverage that the US, and to a lesser extent Britain and Norway, were able to apply by engaging President George Bush, Secretary Colin Powell, Prime Minister Tony Blair, and Norway's Hilda Johnston. 'Fink' Haysom said, 'The US representatives would pressure us because they too were under real pressure to deliver because of US domestic politics but we also needed them and worked with them. They applied vital leverage' (quoted in Accord, 2006). And this again alerts us to the fact that the observers, donors, and other outsiders involved in the peace process are not – as they would sometimes have us believe – disinterested, but have political interests that may conflict with the needs of the parties and community in conflict.

### **Advisors, Resource Persons, and Envoys**

Under its mandate the Sudan IGAD Secretariat had the authority to employ advisors and resource persons and utilise ambassador-envoys from the region. The Secretariat utilised three advisors who were directly responsible to General Sumbeiywo: 'Fink' Haysom, a South African constitutional lawyer, an expert in the field of conflict-resolution and an advisor to Nelson Mandela, Julian Hottinger, a Swiss diplomat with experience in the Northern Ireland peace process, and Dr. Susan Page, an American lawyer drawn from the US diplomatic service, who assumed responsibility for the legal drafting of the protocols (Porter, 2006). Although both Haysom and Hottinger had other responsibilities they were generally in attendance throughout the negotiations. Haysom had originally been selected by Ambassador Mboya, specifically because of his experience in South Africa, while Sumbeiywo chose Hottinger.

Haysom played a major role in drawing up some of the protocols. However, his background in the South African peace process, which he repeatedly referred to, was resented by the GoS negotiating team members who did not see them-selves fitting into the role of exploiting whites versus the blacks of southern Sudan. Hottinger, meanwhile, was reserved, a career diplomat who was considered an excellent technician, but did not play a leading role in the peace process. Susan Page, an American diplomat, served as the legal advisor and also carried out administrative functions. She was strongly resented by the GoS negotiators who viewed her as a US agent. One of the most remarkable aspects of the Secretariat is that none of its advisors was an expert on Sudan, and in the view of most that included Sumbeiywo as well. The selection of these advisors, however, reflected the short-term conflict-resolution approach of the mediation which rejected deep analysis or a commitment to long-term structural change which would have necessitated advisors with different qualifications.

As permitted under the mandate Special Envoy Sumbeiywo had the authority to bring various resource people into the process to provide needed background for the Secretariat and the negotiating teams. Of particular importance were World Bank representatives brought in to consider if and how Western and Islamic systems of banking could co-exist, experts on wealth-sharing and oil production and revenues, advisors on security and DDR, and power-sharing, as well as those with expert knowledge of Abyei, Nuba

Mountains, and South Blue Nile. Few of these experts stayed for any length of time with the Secretariat, but significantly they were responsible to Sumbeiywo, and not to IGAD. Employed as experts, the resource people were generally accepted by the parties and were only rarely the subject of controversy.

According to the mandate of the Sub-Ministerial Committee on Conflict Eritrea, Ethiopia, and Uganda were permitted to send peace ambassadors to the negotiations and in practice this meant that their respective ambassadors to Kenya also served as envoys. Although providing the link between the region and the peace process, the ambassador-envoys were not accountable to IGAD. They had some loyalty to Special Envoy Sumbeiywo and the Secretariat, although they did not work at or for the Secretariat. Instead, they were at all times responsible to their home governments and since relations between many of the countries in the region were tense this complicated the mediation, even if they usually rose above partisanship. In particular, relations between Ethiopia and Eritrea were very acrimonious as a result of their war; Sudan-Uganda relations were difficult the overt support given by Uganda to the SPLM/A while the GoS supported the Lord's Resistance Army (LRA), and Kenya-Uganda relations were competitive because their desire for one-upmanship in the peace process and in East Africa. Moreover, all the ambassadors came from countries that had experienced Khartoum supported Islamist terrorism and hence were not sympathetic to the regime. The difficulties, however, often arose because of their relations with one another, to the extent that one of them said that 'we could not say what was deep in our hearts'. The SPLM was accused by one GoS negotiator of trying to use these contradictions, and while not successful, the ambassador-envoys were never able to completely overcome their distrust with one another. Although they did not work at the Secretariat and tended to keep to their own company, their relationship with the Secretariat was usually amicable. Nonetheless, there were flair-ups and the occasional walk-outs by ambassadors who were upset at what they perceived as the high-handedness of the special envoy.

But the ambassador-envoys were also individuals who brought their own experience and abilities to the peace process and that varied enormously and changed over time as result of transfers. It was noted by observers that while Ethiopia played a leading role in the earlier period of the mediation, its level of engagement steadily declined. One diplomat explained this by noting the difficulty in confronting Khartoum when Addis Ababa was anxious to maintain good relations with the regime. However, Eritrea did not appear to have the same problem and its ambassador-envoy, Mohamed Ali Omaro, was considered by many to be one of the strongest diplomats in the peace process, in large part because of his experience in dealing with the SPLM/A and the NCP GoS. On the government's side, however, he was viewed as being 'totally biased in favour of the SPLM/A'. There was a greater agreement that Uganda's first envoy, Francis Buatagira, was sincere, objective, and consistently worked hard at his job. One member of the negotiating team said that although a quiet man who kept away from the lime light he was a more effective diplomat than Sumbeiywo. On balance most respondents in this study found that the ambassador-envoys were a useful component of the mediation and provided an important link to the region.

### **Limits of mediation**

Critical to the course of the IGAD Sudan peace mediation is the answer to the question of whether mediators are completely bound by the stipulations and demands of the parties to the conflict, or do they have the capacity to strike out on their own? If they are bound by the requirements of the parties, they may give legitimacy to a process leading to disaster, while if they strike out on their own they will at the least be accused of denying the parties ownership of the process and possibly bringing about its collapse. The IGAD mediation team clearly chose to be bound by the parties and apparently with little introspection as to the alternatives or consequences. Special Envoy General Sumbeiywo said, 'The conceptualisation has to come from the parties them-selves rather than from without ... you have to get them to have ownership of the agreement' (quoted in Accord, 2006). Ownership, as defined by Sumbeiywo, is ownership by the parties, not by the communities they professed to represent.

Special Envoy Sumbeiywo cannot be criticised for expressing this view, which represents the mainstream approach to mediation. But accepting this limited role reduced the objective of the mediators to finding the

lowest common denominator linking the positions of the two protagonists, as was done in the Machakos Protocol. And as noted above, finding that compromise essentially gutted the analysis that underpinned the DoP and ensured that the resulting process and agreement would not be comprehensive. Moreover, a wider perspective in the circumstances was not possible because civil society and other parties – that would have provided for, or insisted upon it - were not permitted to participate in the peace process. In addition, there were no constraints posed by public opinion since the negotiations were shrouded in secrecy and the media kept at arms length. And as noted above, there was a virtual consensus among the mediators, observers and the governments behind them, and the negotiating teams on limiting the engagement in the negotiations.

The negotiating teams favoured a methodical piece-meal approach. The Machakos Protocol was something of an exception, but it was short and its vision was far more limited than the DoP upon which it was supposedly based. The next attempt at a broad approach to the peace process was the Nakuru Framework and it was roundly condemned by the GoS. The message was clear: the peace process was to be limited, it was to go forward as one GoS negotiator said ‘step by step’ and the Sudanese parties, and not the Secretariat, were to play the leading role in it.

Indeed, the resilience of Special Envoy Lazaro Sumbeiywo in the peace process does not lie in his vision because there is no indication that he had one. Rather it lies in the fact that he successfully adapted to the interests of the strong-willed negotiators of the SPLM/A and the GoS who did not want vision, aggressive leadership, intellectual grand-standing, or the production of grandiose proposals. Instead they wanted – and got - a go-slow piece-meal unimaginative process and the environment to carry out their endeavours largely free from the overt pressures of outside interests. Indeed, it is striking how often negotiators (particularly those from the GoS) voiced their appreciation of the strong role Sumbeiywo played in containing the observers and other outsiders. And when in the final months the Sudanese actors led by John Garang and Ali Osman took charge, the special envoy faded into the background. There is no doubt that this simple but always clear and disinterested approach contributed significantly to moving the process ahead and reaching an agreement where few could have expected one when the process began.

However, many problems followed from this limited view of the mediators’ role, and the most dangerous was that at the least made the resolution of conflicts elsewhere in the country much harder to resolve, and may have even contributed to them. Put differently, in the end the IGAD mediation team and the US and its allies were successful in reaching a signed agreement, and since that was the task they were assigned, they were given considerable credit. But if they cannot be accused of causing the intra-south conflicts, and those in the west and east of the country, at the least their mediation did nothing to resolve them, and arguably it exacerbated them and made their ultimate resolution more difficult. The contention repeatedly made by diplomats in Nairobi at the time of the negotiations that the SSDF would accept the CPA requirement that it dissolve clearly did not happen as envisaged. In the view of many the only reason that the SPLA and the SSDF did not go to war was that Garang died and his successor, Salva Kiir, had long held a much more conciliatory approach to the SSDF (Young, 2006).

Moreover, the claim that there would be a second stage to Naivasha, which was also widely maintained by diplomats close to the mediation at the time, was false, does not appear in the CPA, and the CPA did not produce the momentum for a second stage. And the further contention that the CPA provided the framework and the incentive for the peaceful resolution of conflicts elsewhere in the country, and notably in Darfur, has not been borne out. Sumbeiywo said in language that most diplomats at the time would have affirmed, ‘If the agreement [i.e. the CPA] is properly implemented it will resolve the other conflicts in Sudan. The agreement means there is somebody else joining the government in the centre which in turn means the government will not be able to continue marginalizing other areas of the country as it has done in the past’ (quoted in Potter, 2006).

Chris Abong’o of the University of Nairobi, however, was closer to the truth when he said at the time that the emergence of armed insurgency groups in Darfur exposed the narrowness of the Naivasha peace agreement (Kenny, 2004). Sharath Srinivasan drew a similar conclusion:

'International concern was overwhelming for pushing the IGAD peace process towards a full peace agreement and planning for peace. Calls for a greater focus on Darfur between February and April 2003 were met with suggestions that excessive advocacy was a peace spoiler. Yet conflicts in Darfur and the IGAD peace process were interconnected. Despite a cessation of hostilities agreed between the SPLM and Khartoum in October 2002, considerable strategic hardware and personnel assistance flowed from the SPLM to Darfuri rebels from 2002 onwards and was present during the El Fasher attack' Srinivasan, 2006)

However, most analysts followed Sumbeiywo in concluding that the best means to resolve the conflict in Darfur was to reach a rapid agreement in the south (See Kenny, 2004, de Waal, January 2005, and various reports of ICG).

Advisor Fink Haysom took a slightly different tack, and while implicitly acknowledging that the process was not inclusive, argued that the agreement does 'permit the involvement of other parties when it comes to designing the new constitution' (quoted in Accord, 2006). But that argument is largely disingenuous since only a fraction of the membership of the commission to formulate the interim constitution would be drawn from parties other than the NCP and the SPLM/A. Not surprisingly the Umma Party and others refused to participate in a project whose outcome was never in doubt. Moreover, the power-sharing arrangements embodied in the agreement could not be changed and they largely made the achievement of a sustainable and comprehensive peace agreement all but impossible. By leaving only a 14% share in national power to be divided (after assigning 52% to the NCP, 28% to the SPLM/A and a further 6% to southern parties in the north) among the large majority of the population in the north, rebels in the west and east had no room to buy into the central government and were in practice restricted to negotiating for power in the local sphere. Not only has this result not been accepted by the rebels of the periphery, but it is strengthening secessionist tendencies that could eventually bring about the dismemberment of the country. Darfuri rebel leader are increasingly emphasised regional self-determination as they came to realise the limited prospects of assuming a major role in the centre they felt they had a right to based on their region's large population. In the wake of the signing of the CPA former Prime Minister Sadig Al-Mahdi summed up the situation when he said that the parties have, 'clad them-selves in a kind of iron jacket that is not capable of accommodating others' (IRIN, 5 October 2005).

The question that cannot be satisfactorily answered is whether the mediators and the US and its allies understood the likely dangerous consequences of such a narrow mediation and the constraints imposed on any peace processes that would follow in its wake. The Sudan IGAD Peace Secretariat had the authority and finances to hire resource people to produce their own independent analysis which would have brought such problems to their attention, but there is no indication this was done. General Sumbeiywo took an extensive tour of Sudan in the aftermath of the Machakos Protocol where he met leaders of the opposition parties and the SSDF. And when asked what he would do differently, the Special Envoy said, 'I would go earlier in the negotiations to the ground, to find out what the people want, which is not necessarily the same as what the negotiating team is presenting' (quoted in Accord, 2006). This begs the question of why go 'to the ground' if the mediators are in any case bound by the parties, as he has also said. And if he was so interested in ascertaining 'what the people want' why was he adamant about restricting the negotiations to the GoS and SPLM/A? But setting that aside, there can be little doubt that the people of south Sudan, and particularly those in Greater Upper Nile, would have pressed for a resolution of the SPLA-SSDF conflict. And had he met with northern Sudanese outside the ruling party they would have made him aware of the potentially disastrous consequences of the southern peace process on resolving armed conflicts in the east and west of Sudan and demanded a genuinely comprehensive peace process with a clear emphasis on democratic transformation.

By the time Sumbeiywo was touring Sudan decisions had already been made and there would be no broadening of the peace process. Indeed, it appears that the point of this trip was not to consider the concerns of the Sudanese about how the peace process was unfolding, but instead to gather material with which to challenge the parties. The objective was not to change the rules of the game, much less the nature of the game, but to better enforce discipline and keep the parties on the pre-defined track. In particular, his tour took place when the peace process was faltering and to prepare for the ill-fated Nakuru Framework.

There is also no indication that the outbreak of the war in Darfur and the ensuing humanitarian crisis which took place during the last year of the IGAD mediation in any way affected the course and content of the negotiations. Indeed, as an analyst pointed out before the signing of the CPA, 'The price of the agreement in the south has been the exclusion from the peace process of all but two parties, the government and the SPLM' (Ryle, 2004). There is also no evidence the IGAD mediators drew the conclusion of most analysts, namely that the same conditions that produced the conflict in the south were producing a similar conflict in the west and a less virulent one in the east.

And what of the US and its allies who laid the groundwork for the negotiations? With their wealth of personnel and resources they could not fail to appreciate the needs of southerners for a peace process that engaged the SSDF, the demands of the northerners for an inclusive peace and a rapid democratic transformation, and the demands of the Darfurian and eastern rebels for a place at the peace talks in Naivasha. Either they believed their own claims, which in retrospect can be seen as totally unrealistic, that a peace agreement in the south would open the doors to a peaceful resolution of the conflicts in Darfur and the east, or – and this seems more likely – their positions were not based on objective analysis, but on the desire to nail down an agreement in the south and fear that the war in Darfur could upset the IGAD negotiations. Indeed, GoS sources interviewed during this course of this research report that the US encouraged military action by the government in Darfur that would end the rebellion because it threatened the IGAD peace process. The Americans have labelled this allegation 'utter fabrication'. In any case, the US assessment that going forward with the IGAD peace process, even with the failings that were becoming increasingly apparent and turning a blind eye to the on-going slaughter in Darfur, better met their objectives than changing course on the mediation and risk losing a signed peace agreement.

Viewed from the perspective of two and one-half years after the signing of the CPA the weaknesses of the peace process are increasingly apparent and many closely involved in the process assert that they were aware of the problems at the time, but could not do anything. The mediators, as noted above, claim they were largely agents of the parties, their hands were tied, and striking out on their own would have lost them the confidence of the parties, and would have led to accusations they were denying the parties ownership. But in retrospect their limited conception of their role and responsibilities is being questioned by at least some at the negotiating table. One respondent said, '... if the mediators were to come to the conclusion that a peace agreement has so serious flaws that it becomes inapplicable or unsustainable they should take responsibility not to support the process any more. This is a difficult choice to defend with public opinion though which is why the US and the UK rushed through the 'hyper-exclusive DPA'. A diplomat accused the mediators of being unduly cautious and spoke of the, '... denial of the mediator's responsibility to help the parties to resolve their differences.' Indeed, one of the striking aspects of Special Envoy's mediation is the contrast between his tough stance with the observers and the timid manner in which he approached the parties.

### **How much authority did the mediators have?**

No mediator has absolute power to dispense with a problem as he or she sees fit, but to better understand the IGAD mediation it is helpful to take note of the constraints posed by outside groups, and this will be done in ascending order of influence.

Although IGAD received the mandate for conducting the mediation, provided the mechanism for the mediation, gave it legitimacy, and received funding, it had the least influence on the mediation of any of the groups considered here. The mandate, as noted elsewhere, was clear in giving IGAD the authority to conduct the mediation and establish a secretariat, but after that power largely passed to the Government of Kenya. IGAD's continuing role was not made clear and the CPA did not provide for it to play any role in the post-peace agreement period. Moreover, it appears to have had no say in the appointment of the chief peace envoy whose selection was formally made by President Daniel arap Moi. And while the mandate stipulated that Sumbeiywo must report back to the IGAD Secretariat it would appear that was only a nominal charge and he understood that the real power holders lay elsewhere. This is perhaps best

exemplified by the request by IGAD to have the official English and Arabic versions of the CPA turned over to them as the official sponsors of the negotiations. Sumbeiywo refused and only permitted the IGAD representatives to have their pictures taken holding the documents, after which he resumed possession of them.

The next level of influence was that of the ambassador-envoys and more importantly the ministers they reported to. The authority of the ambassadors did not derive from IGAD which had no way to control them and did not pay their salaries, but instead from the fact that they also represented governments that had real political weight. But just as the ambassador-envoys were divided by the conflicts between their various countries, these conflicts were mirrored in the Council of Ministers and they undermined their capacity to act in a united fashion. Into that gap stepped the Kenyan Government which oversaw the peace process and Sumbeiywo. And it must be emphasised that General Sumbeiywo was not simply a Special Envoy, but was also a senior military officer in the Kenyan army and a peace ambassador and as such he represented his government. He thus could not escape the fact that his actions in the peace process would have an impact on Kenya's relations with its neighbouring countries, and those relations were always complicated and sometimes tense.

The third level of influence is linked to the second, namely that Sumbeiywo was appointed by the President of Kenya. The Sudan IGAD Secretariat, however, fell under the jurisdiction of the Ministry of Foreign Affairs and later Regional Affairs, and this situation complicated things. Under President Moi, a close confidant, Sumbeiywo's position was secure, but during the course of his tenure as Special Envoy national elections in December 2002 removed Moi and brought to power a government led by Mwai Kibaki. Kibaki viewed Sumbeiywo as a Moi loyalist who had spent much of his career devoted to keeping the former autocrat in power and hence could not be expected to have the same confidence in him as Moi. As a result, he was ordered retired from the army. With Sumbeiywo's departure as head of the army some members of the new government sought to remove him from the role of Special Envoy. But he received the full support of Kalonzo Musyoka, the Foreign Minister, who was initially retained by Kibaki. However, when Kalonzo Musyoka was removed, rumours again circulated that Sumbeiywo would be replaced.

In response the US and other members of the international community pressed the Kibaki government to retain Sumbeiywo and they were successful. But Sumbeiywo's position was made clear: he held it at the behest of the Kenyan Government and could be removed at President Kibaki's pleasure. However, there is no indication the in-coming government, any more than the out-going Moi government, had any strong views on how the Sudan mediation should be conducted. Like other members of the international community and IGAD, Nairobi simply favoured reaching a peace agreement as rapidly and as expeditiously as possible. And while Sumbeiywo's position as special envoy would remain secure for the remaining period of the peace process, he would never again have the same accessibility to the presidency that he had under Moi. In any case Kibaki did not have Moi's interest in Sudan or his hands-on style of leadership.

Moving up the chain in terms of influence were the foreign donors who funded the peace process and paid part of the salaries of the mediators. These countries were members of the IGAD Partners' Forum. Their frustration at the mishandled financing of IGAD and the slow and what was perceived as the disorganised mediation of the previous special envoy, Ambassador Daniel Mboya, led to a rising crescendo of complaints and ultimately his removal. The donors made clear they wanted efficiency and accountability in the operation of the peace process. And they repeatedly stated that without better administration in the Secretariat and progress in the peace process the funding would stop. In the event, most of the administrative and financial side of the process was taken away from IGAD and 'sub-contracted to the Kenyan Government and GTZ' as one diplomat put it and a Kenyan official later confirmed the accuracy of that assessment. In the wake of Mboya's removal and the re-organisation of the financing there was every reason to take the threats of the donors seriously. The fact that the lead donors also included the US and its allies was lost on no one. Indeed, Sumbeiywo is credited with moving quickly to bring order to the Secretariat, and although sometimes at odds with the observers, he was at all times careful to maintain good relations with the donors.

Beyond the donors was the power exerted by the US and to a much lesser extent its allies in the peace process. For the most part, the influence of Britain, Norway, and Italy was limited, while US influence was widely felt, although not easily calculated. The significance of the US to the peace process was in the words of one diplomat 'inevitable given its status as the sole super-power' and also given the timing of its intervention, while Presidential Advisor Ghazi Salahdien said that the US was as integral to the peace process as the SPLM/A and the GoS (Khartoum, 26 May 2004). The US did not usually lead or dominate the actual peace process and there is only minor evidence of direct American manipulation of the negotiations, and hence the claim that it 'brokered' the talks is not strictly speaking true. But its influence was felt at many levels and probably most significantly by contributing enormously to the context in which the peace process took place and the climate of the talks.

US interests in Sudan developed throughout the 1990s in response to the concerns of human rights activists, the Congressional Black Caucus, the Christian Right, and the companies that had first developed the oil industry in Sudan, but were forced to leave because of the SPLM/A insurgency and could not return because of the US imposed embargo. Increasingly, however, and before the traumatic events of 9/11, the US was concerned at the growing linkages of the NIF with radical Islamist causes internationally and its support of Iraq in the first Gulf War. The US was also upset at evidence that the NIF's security services were implicated in the attempted assassination of Egyptian President Hosni Mubarak in Addis Ababa in June 1995 (*Middle East Times*, 10 September 1995). Flexing its muscles the US pressed for the expulsion of Osama bin Ladin from Sudan and the NIF promptly complied. It followed this up with Clinton's issuance of a Presidential Executive Order imposing unilateral sanctions against Sudan in 1997. The political temperature rose higher after the attack on American embassies in Nairobi and Dar Es Salaam in 1998. The US responded by launching missile attacks on bases of Osama bin Ladin in Afghanistan and on a pharmaceutical plant in Khartoum, which was accused – almost certainly falsely – of producing chemical weapons. Along with provision of USD 20 million worth of military equipment for the 'front line states' of Ethiopia, Eritrea, Uganda, and logistical and military support for the SPLM/A (through third parties), the Khartoum bombing left little doubt that the Clinton Administration wanted to overthrow the NIF.

Indeed, the NIF leadership understood that if it did not placate the Americans it could find itself at war with the world's only superpower. Appeasement was easier to accomplish after the expulsion of the more aggressive Turabi wing from the party in the late 1990s, and the NIF quickly agreed to cooperate with the American security agencies which carried out extensive investigations in Sudan. While the conclusions drawn from these investigations and the nature of the relations between the US and Sudanese security services have never been revealed, they appear to have figured in the decision of the Americans to end their efforts to violently overthrow the regime and to conclude that the NIF was a cowered group that would continue to spout Islamist slogans, but could be kept in line.

This change in policy largely coincided with the advent of George Bush to the presidency. And while the human rights activists and the Black Caucus attracted the most attention of the Clinton Administration, under Bush it was the Christian Right, to a lesser extent, the oil industry, and increasingly and most significantly, US security and intelligence interests. The Christian Right had long sympathised with the plight of the southern Sudanese who were turning to Christianity in growing numbers and by extension the SPLM/A, which in turn saw these politically well connected Christians as valued allies in Washington. President Bush himself drew inspiration from religious groups in his home town of Midland, Texas, where church leaders pressed him to deepen the US engagement in Sudan. Bush also had a close personal friendship with the well known evangelist Billy Graham and his son, Franklin, who operate their own NGO, Samaritan's Purse, in Sudan.

The US oil industry was well placed to influence the Bush Administration since the president and a number of his leading colleagues had close links with the industry. The oil industry was upset that the benefits of its efforts at establishing the industry in Sudan were being reaped by a handful of Asian companies and Talisman Company of Canada. The American oil companies saw, however, that without a peace agreement

the US Congressional embargo would continue. Thus it can be surmised that the oil companies urged Bush to achieve a peace agreement in Sudan that would permit the embargo to end and provide the necessary security for them to consider operating in Sudan. The oil industry's interests thus dovetailed with government policy which linked US security to diversifying its energy sources away from the unstable Middle East and increasing its share of oil from Africa.

However, in the wake of the Islamist attacks on the US, acquiring information on Islamist groups through cooperation with the Sudanese security services, protecting allies in the region from Islamists, and deepening engagement in the Sudan peace process all flowed from the growing perception that America's security was linked to the course and outcome of conflicts like that in Sudan. And all of these endeavours could be subsumed as part and parcel of the 'war on terrorism'. Concern with human rights, humanitarianism, and outlets for American stockpiles of grain for needy Sudanese figured in US calculations, but 9/11 had the effect of making security and the pursuit of the 'war on terrorism' the major objective of US foreign policy. This was most graphically indicated when Salah Gosh, the NCP's top security official, was flown by a CIA plane to New York and Washington in April 2005 so that he could be thanked for his role in assisting the US Government in its war on terrorism ('Los Angeles Times' 29 April 2005). With widespread speculation that Salah was near the top of the list of those being investigated by the International Criminal Court for crimes against humanity for his activities in Darfur, it was clear that the 'war on terrorism' was driving US policy in Sudan. Against that background, the US found it expedient to heighten its engagement in the peace process by, first, utilising the framework of IGAD; second, operating through a Quartet of loyal allies, and accepting the local management of the process by Kenya, which had long done the bidding of Britain and the US. What had been a genuinely regional peace initiative became, with trappings to provide the necessary legitimacy, an American sponsored, if not led, process.

Corresponding to the rise in significance of the US and its allies was the virtual withdrawal of Ethiopia from the peace process and the increasing marginalisation of Eritrea in the region, the two countries that had taken the lead in the earlier phase of the IGAD peace initiative. While the Ethiopians and Eritreans used both political and military means to press forward a resolution to the Sudan conflict in the mid-1990s, the US under the Bush Administration believed it could work with the Islamists and achieve its ends through negotiations. And while the regional powers pursued their objectives at a country-wide level and saw a role for the northern opposition in the process, the Americans focused almost entirely on the south and looked for a quick buy-in of the northern opposition after successful peace negotiations between the NCP and the SPLM/A. There is also no doubt that the American assessment was strongly influenced by Dr. John Garang, in whom they had enormous confidence and to whom they looked to play a leading role in post-conflict Sudan. This approach meant that the US found it very difficult to respond constructively to the rapidly developing Darfur crisis, and when Garang died their policy virtually collapsed.

While the UN Secretary General concluded that the war in Darfur had produced the greatest humanitarian disaster in the world and the US State Department found that the GoS had carried out acts of genocide in Darfur, the Americans were slow to suggest any policy initiatives and indeed were anxious that nothing be done that could threaten the on-going IGAD peace process or their valuable intelligence links with Khartoum. In the lead up to the signing of the CPA the government over-rode the cease-fire and launched major attacks on rebel positions in Darfur, which deepened the humanitarian disaster. Nonetheless, the US and its allies were consistent in supporting a narrow-based peace process that excluded wider participation, including that of the Darfurians. And having supported a peace process that involved turning over virtually all power to the NCP and SPLM/A, the US has insisted that the grievances of others in Sudan be taken up through equally narrow-based processes to ensure that they do not threaten the CPA.

US policy on Sudan was also strongly influenced by the close personal relations of three of their leading officials with Garang – Brian de Silva in the Department of Agriculture, Roger Winters at USAID, and Andrew Natsios, formerly in USAID and currently the special envoy of President Bush. Strongly committed to Garang over many years, they were instrumental in both advising Garang on how to win the acceptance and later support of the USG and to convince the American Government that a rebel leader

widely assumed to be a communist could become a valued ally. Indeed, they never failed to boost the image of Garang, to the point that he acquired a personality cult in some circles of the US by the late 1990s.

Despite the influence of de Silva, Winters, and Natsios on US policy and their attachment to the plight of the people of the Nuba Mountains and Abyei, they were not able to have the concerns of these areas acknowledged in the Machakos Protocol, or through the parallel peace process led by the Special Envoy to ensure that SPLM/A promises of self-determination for Nuba Mountains and South Blue Nile were kept. The three Americans, however, were slightly more effective on the issue of Abyei, but here they worked from the commitment made in the Addis Ababa Agreement of 1972 that the people of the region would get a referendum on whether they wanted to be part of the north or south and were able to achieve the same provision, and to gain agreement this vote would take place simultaneously with the southern referendum on self-determination. However, the parties were not able to reach an agreement on the borders of Abyei and instead resorted to the expedient of leaving it to a commission where foreign experts would cast the deciding vote. Not surprisingly the stipulations of this protocol have not to date been realised and stand at the forefront of the current political crisis between the SPLM/A and the GoS.

In the face of such strong American institutional and personal influence any mediation would have its authority circumscribed. While the Special Envoy gained legitimacy among the parties because of his unstinting efforts to contain the observers and protect the negotiators from them, he and the parties operated in an international context over which they had little control and were constantly subject to pressures that emanated outside the formal structure of the peace process. That said, although there were differences between Special Envoy Sumbeiywo and the US and other members of the international community, there is no indication he held any alternative conception of the mediation or its objectives.

### **Conclusion**

The background to IGAD's engagement in the Sudan peace process was its formation as IGADD, and as noted, the impetus for this largely came from international donors, and the same donors also favoured the organisation taking an active role in peace building. As a result, Western donors financed IGAD's enhanced capacity to carry out peace building, and then the mediation efforts for the conflicts in Somalia and Sudan. In support of these Western efforts, the UN and the OAU, and in particular South Africa and Kenya, called for regional and sub-regional units to assume the leading role in peace-building. But the experience of IGAD has been one of administrative and political weakness on the one hand, and the domination of the resulting peace process on the other by the US and its close allies operating through Kenya, a state which has a history of subservience to Western interests. Although it provided a measure of legitimacy and a formal structure, the IGAD Secretariat had almost no other role in the Sudan peace process. The financing was largely funnelled through the Government of Kenya and GTZ, the Special Envoy reported to Nairobi, and IGAD had no control over him. The Secretariat staff reported to the Special Envoy, the observers were responsible to their respective countries, as were the ambassador-envoys. The Council of Ministers rarely questioned the Kenyan led mediation. Moreover, IGAD had no capacity to structure the peace process, influence its course or objectives, and was not even permitted under the CPA to play a role in the post-conflict era.

Although not clear in the actual negotiations, the real power behind the peace process largely lay with the US. And the US held contradictory objectives; on the one hand it wanted to build up the mediation and security capacity of the AU and its sub-regional components like IGAD so that they could be given increasing responsibility for security concerns on the continent, in particular the war on terror, and on the other, President Bush and his administration wanted to reap political benefits in the domestic forum for their leadership in the peace process, particularly at a time when the US was being widely criticised for its aggressive policies in Iraq and elsewhere in the Moslem world. In the event, by the time the agreement was reached in January 2005 US television screens were filled with images of the tragedy in Darfur and celebrating the peace in the south would appear cavalier and not provide the desired political pay-off. Indeed, it would make clear the limited nature of the achievement.

Although the US did not usually appear to dominate the negotiations, it was instrumental in bringing both the parties to the table. After the collapse of its principal benefactor, the Derg, the SPLM/A increasingly looked to the US Government and powerful groups within the country like the churches for support and this in turn gave Washington considerable leverage over the rebels. Washington's influence over Khartoum derived from the military threat it posed, more broadly the desire of the Islamists in the post-Turabi era to have conciliatory relations with the US, and its capacity to influence Garang and the SPLM/A. But the US was able to influence the approach to the mediation and thus to ensure that the outcome met Washington's policy needs. Foremost in the post-9/11 period was the focus on security and that meant a peace agreement that would produce stability and permit the US to maintain its intelligence relationship with Khartoum. Complicating the peace process by broadening it, or emphasising a democratic transformation which would undermine stability and could threaten the intelligence-sharing relationship with the NCP, thus had to be opposed. The fact that this stance met the needs of other interested groups, including the NCP, made it easier to pursue.

There was a need to ensure that the mediators, parties, observers, and backers from the international community accepted a narrow conception of peace which largely reduced the process to finding and agreeing to suitable mechanisms to stop the armed conflict. Any consideration of the structural causes of the conflict was carefully avoided, even though as Nathan and others have argued, it is necessary to focus more on the structural causes of violence than on violence per se, and to distinguish between symptoms and causes of intra-state crisis (Nathan, 2001). Despite this warning, the approach employed in the Sudan mediation is favoured by most mediators because limiting the scope of the mediation and its objectives is more likely to reach agreement and do so in a timely fashion. The danger, however, is the agreement may not prove sustainable, not be comprehensive, or address in a conclusive way the underlying causes of the conflict. And hence it risks a return to war or the establishment of a new status quo that offers little improvement over the one that produced the conflict in the first place.

Haugerudbraaten identifies two fundamentally different approaches to peace building. The first is characterised by 'short-term involvement of the international community, centralism and political measures primarily undertaken by external agents, even though attention is paid to the consent and support of the indigenous players', while the second approach entails 'long-term efforts by mainly indigenous actors to promote political and economic development, and a sustainable solution to the root causes of the conflict' (Haugerudbraaten, 1998). According to Bendana the first approach is 'broadly applied by multilateral organisations as well as governments North and South, [it] tends to be top-down, externally and supply-driven, elitist and interventionist [and such interventions are] inherently conservative [and seek] managerial solutions to fundamental conflicts over resources and power [and] to modernise and re-legitimise a fundamental status quo' (Bendana, 2002.)

In a study of conflict in the Horn, Cliffe and White made a similar distinction between approaches that emphasise immediate action to halt violence and involve mediation, negotiations, facilitation, conciliation, leading hopefully to disarmament and demobilisation, and those that are long-term actions designed to remove the structural causes of conflict, transform relationships, change attitudes and bring about lasting peace (Cliffe and White, 2002). The point to be made here is simply that there are very different understandings of peace making and those who led the IGAD peace process (whether knowingly or not) followed a conservative and short-term approach. However, the fact that the conflict in Sudan could not be reduced to a north-south problem but involved much of the country and had been under way for most of the country's five decades since independence made clear that it was a product of major structural faults. A broader understanding of the causes of violence that afflicted much of Sudan (and not just the south) such as those suggested by notions of marginalisation, centre-periphery conflicts, and riverine dominance were never considered. Moreover, genuine analysis of the conflict was clearly not a priority given the composition of the Secretariat which did not include any permanent staff with real expertise on Sudan.

There is also a perceptual difference at work between approaches which largely concentrate on the surface, reject historical and political analysis and have a utilitarian focus, and what could be called historical-

political approaches, which point to the need for a deeper analysis and aspire to understanding the nature of the problem, placing it in context, and achieving a sustainable peace. Although not a perfect comparison, the DoP had a 'deeper analysis' in the words of Sumbeiywo, while the Machakos Protocol was functional, problem-solving, and geared to meeting the key needs of the negotiating teams. This latter approach did not consider whether the solutions reached would overcome the problems which produced the conflict in the first place and did not attempt to reach a sustainable or comprehensive peace, despite rhetoric to the contrary. The problems that bedevilled Sudan since its formation as an independent state were simply reduced to arising from groups using violence to struggle for power, and hence the task of the peace makers involved reaching agreements between the two groups at the negotiating table to stop the fighting. Not surprisingly two SPLM respondents referred to the CPA as in effect 'an extended cease-fire' and a third as 'a temporary agreement'.

Critically the mediators and other involved in the peace process did not appreciate or were not prepared to respond to the fact that the conflicts bedevilling Sudan were intimately related and could not be artificially separated. Moreover, SPLM/A propaganda on marginalisation and the impact of the on-going negotiations had the effect of encouraging revolts elsewhere in the country. In the wake of the Marchakos Protocol I wrote,

'the southern problem to a large extent only represents the tip of an ice-berg of resentment and grievance that is increasingly coming to the fore among the marginalized groups throughout Sudan. Indeed, the very successes of the peace process are encouraging rising demands from marginalized groups. Because it has been able to effectively mobilize large numbers in armed struggle, the Darfur-based SLM/A has assumed the lead role in the revolt from the peripheries. Moreover, the SLM/A's rhetoric of 'marginalisation', 'domination of the riverine tribes', an appeal for 'the separation of state and religion', an end to the policies of 'divide and rule', and a demand for 'democratic governance', bears a striking resemblance to that of the SPLM/A. If nothing else it alerts us to the fact that many people in Sudan feel aggrieved and if they are not convinced that their interests are being seriously entertained, they have before them the example of the SPLM/A that armed struggle can produce political benefits. The fear is already growing from the tribes of the west to the equally impoverished groups in the east, that the political and resource pie is being divided at a table – that is the IGAD peace process – to which they have not been invited. All of this suggests that the building of a democratic Sudan is not a luxury, but the best – and perhaps only – insurance that the many aggrieved groups in Sudan do not take up arms' (Young, 2003).

Another problem with the Naivasha mediation is that it was inconsistent, using tools and approaches designed to affect immediate changes and end the violence, while ascribing to objectives like 'making unity attractive' and democratic change that could only be realised in the long-term and involved structural change and transforming relationships and attitudes. Thus far from achieving democracy the major impact of the peace process was to reinforce the power of the state and those groups that dominated it by effectively guaranteeing their existence for the six and one half years of the peace agreement. The objective of the mediation then was largely reduced to finding space in the state at the centre for the SPLM/A and creating a state in the south. However, by reinforcing the power of the state and its exploitive relationship with the peripheries, including the south, the mediation undermined its other stated objective of making unity attractive.

The commitment to reconciliation was both weak and uneven. There has been no north-south reconciliation to date and the south-south reconciliation was meagre and ineffective. Sometimes called South-South Dialogue, this effort at reconciliation was carried out by the Moi Foundation in the immediate post-CPA period under General Sumbeiywo, but was deficient at best and at worst appeared designed to win support for the CPA and the SPLM/A. The post-CPA meetings between the SPLA and the SSDF held under this rubric may have even exacerbated tensions between the two armed groups and brought them closer to war.

In addition, while claiming a commitment to democratic change, the mediation pursued this objective using undemocratic approaches. The participation of civil society was dismissed without any significant debate. Other political parties were more problematic, but were still refused participation in the negotiations, and the media – one of the few means to develop links with the Sudanese public – was treated with contempt. In the final phase of the peace process when the humanitarian crisis was reaching its height in Darfur the issue of the participation of its rebels was discussed at UN headquarters in New York, but the US and Garang were able to resist the pressures and convince Sumbeiywo not to invite them. Apparently Garang won over

the UN and the Americans to the notion that he could resolve the problem outside the peace process after the CPA was signed. No doubt he also looked to the humanitarian crisis and heightened level of conflict in Darfur, which he had worked hard to stimulate, as an important means to exert pressure on the NCP at the negotiating table. Unfortunately he did not live long enough to try his hand at peace-making in Darfur, although tens of thousands died and many more were displaced before his demise in July 2005. However, such a late involvement of the Darfurians in the IGAD peace process would not have fundamentally changed the narrow focus of the mediation, nor would it have produced a long-term perspective or commitment to structural change.

While Garang was able to convince many in the international community that he held the key to the resolution of the Darfur conflict (something that in any case they wanted to believe), it would appear that was not the main reason that the SLM/A and JEM were kept from the negotiating table at Naivasha. They were denied a place in the peace process for the same reason that civil society and the other political parties were denied participation, that is, because it was feared that they would complicate the process, almost certainly delay its resolution, and maybe even make resolution of the north-south conflict impossible. Although perspectives would change as the extent of the humanitarian disaster in Darfur unfolded and became a major issue in the US, in 2004 ending the fighting in south Sudan, and claiming a major role for Washington in that task offered more political benefits than getting immersed in Darfur or permitting that conflict to disrupt the southern peace process which was within sight of being successfully completed. Indeed, the pre-occupation of the Americans with time tables and deadlines were not only a product of their desire to complete the process, but based on fear that other conflicts in Sudan threatened to undermine the north-south process.

It must also be stressed that the SPLM/A and the NCP government never initiated the IGAD peace process; at each phase of the twelve year engagement by IGAD (1993-2005) they were led to the negotiating table by outsiders. And in the end it cannot be said conclusively they were fully committed to the process or to the final result, the CPA. The SPLM/A has always looked to foreign supporters (Young, 2005b) and since the collapse of the Derg, the US has been at the top of its list, while after the NCP's early and disastrous efforts to propagate a global Islamist revolution, it too has been anxious to mend its relations with the international community led by the sole super-power, the US. Indeed, one GoS negotiating team member acknowledged that the negotiations were an 'elaborate exercise for the benefit of the international community', another said in similar words that the SPLM/A 'accepted the negotiations because we are part of the international community and couldn't reject the intervention of IGAD', while a third said that 'they [the negotiations] were never serious', and a fourth SPLM negotiating team member held that the CPA was a 'paper agreement that didn't constitute solutions'. As a result, there remains a marked suspicion that the involvement of both parties in the peace process had more to do with satisfying external agents than with a genuine commitment to resolve the civil war in a sustainable fashion.

Many of the negotiators assumed the Americans viewed the peace process in a similar cynical fashion, that they too understood its basic weaknesses, but were only anxious to use the process and agreement to make political gains domestically and to serve as a vehicle to pursue their foreign policy objectives in Sudan and the region. And while the Americans would not want a return to war they probably understood that was a distinct possibility. This hard-nosed realism was only tempered by their naïve faith in Dr. John Garang, who they seem to have genuinely assumed could as First Vice President in the national government bring an end to the war in Darfur and keep the country united by becoming president through elections. While some of Garang's closest supporters thought he might be able to solve the Darfur conflict, although no one knew how, few thought that he would ever be permitted to assume the presidency, no matter what the level of support he had among northern Moslems.

Indeed, although outwardly very sophisticated, one of the weaknesses of the peace process was its unrealistic faith in and dependence on Dr. John Garang. Garang was the hope of the US and many in the international community, and repeatedly they deferred to him and assumed he could pull numerous rabbits out of the hat: resolution of the conflict in Darfur, containing the Islamist impulses of the NCP, winning the

presidential elections, overseeing Sudan's democratic transformation, and keeping the south in a federal Sudan against the wishes of the majority in the SPLM/A. Even the tough minded NCP politicians claimed that although the peace process was heavily weighed against unity they accepted it because they believed Garang would ensure that unity prevailed. For the mediators and observers their finest moment was facilitating the Garang-Ali Osman talks. But with Garang's passing, the hopes placed in him died as well. The fault was to look to individuals and not broad-based structural change to bring about the desired sustainable peace.

The marked scepticism about the peace process by negotiators from both the GoS and the SPLM/A, but particularly the latter, is not entirely surprising in the Horn of Africa where war is the more likely road to sustainable peace than negotiated settlements. Thus the conflicts between the EPLF and the Derg, and between the EPRDF and the Derg were resolved with only minimal resort to negotiations, and – like Sudan – these token efforts were also largely done to impress the international community. Indeed, the Eritreans and Ethiopians now acknowledge they never placed any hopes in a negotiated end to their conflicts. The civil war in Uganda pitted Yowri Museveni's National Resistance Movement/Army (NRM/A) against a succession of Ugandan governments and ended with the overthrow of Tito Okello. Successive efforts by IGAD to achieve a negotiated settlement to end the conflict in Somalia have not to date succeeded. The international community placed great hopes in the CPA to serve as a door-opener to end the conflict in Darfur, but the Darfur Peace Agreement collapsed within days of its signing. Only the Eastern Sudan Peace Agreement (ESPA) is holding, but it is largely an agreement between the governments of Eritrea and Sudan and is ultimately subject to their interests in keeping the agreement alive (Young, 2007).

This less than positive experience with peace-making in the Horn should serve as a caution against undue optimism or faith in the arts of diplomacy and mediation. It also makes clear that mediation efforts do not for the most part have the support of antagonists in the region, no matter what they might say publicly. As a result, there is a marked discrepancy between the claims of the diplomats on the Sudan peace process and the actual realities. Indeed, the over-selling of the CPA and the expressions of optimism that passed the bounds of realism are contributing to the current disillusionment with peace-making efforts in their entirety. And drawing from the above analysis this is at least in part due to the limited nature of the intervention and the failure to appreciate that the major conflicts in the Horn are a result of structural problems which cannot be resolved on a sustainable basis by a focus which is directed at simply stopping the fighting. It is thus time for a new approach to peace-making and peace-building in the Horn of Africa.

### **Lessons to be learned**

While this analyst has taken a critical view of the Sudan mediation, most of those interviewed during the course of this interview – the parties in conflict, observers, resource people, ambassador-envoys, the Secretariat staff, the Government of Kenya, and the donors who funded the peace process (but notably not members of civil society and other political parties) - were largely satisfied with the process, although not necessarily with the results.

Most members of these groups approved IGAD's broad mandate to carry out the mediation. This made clear the commitment at the highest levels of IGAD to the mediation and as a result it was never in dispute. There was also widespread agreement on the establishment of an effective functioning Secretariat. The negotiations required such a mechanism, the Secretariat had a sufficient mandate to carry out its responsibilities, and under Special Envoy Sumbeiywo it was well managed. Such a level of organisation is clearly needed in any effective peace process.

It was also appreciated that the appointment of a special envoy with close relations with the president of Kenya was helpful in the conduct of the mediation at many levels. Almost all of the respondents favourably contrasted the lack of such supportive relations under Ambassador Mboya with the positive relations between General Sumbeiywo and President Moi. The danger is that senior military officers in the Horn hold their positions at the pleasure of the head of state, and should the head of state change, as was the case

in Kenya, the officer (or it could as easily be a senior civil servant or politician) could be replaced (as was almost the case with Sumbeiywo) and that could seriously interfere with the mediation. To reduce this possibility it would be helpful if IGAD could have a role in the appointment of the special envoy (so that he could not be arbitrarily dismissed), and where feasible that the special envoy be a national figure, and hence less subject to the pressures of changing political conditions.

There was widespread support for the participation of the ambassador-envoys in the peace process. This involvement was held to provide a valued contribution to the mediation because of their knowledge and skills, as well as serving to link their countries in a direct way to the negotiations and – it was hoped – ensure the support of their countries for the resulting agreement. This system, with perhaps minor modifications to recognise the significantly increased work loads imposed on the ambassadors, should be used in any future mediation.

A difference between the engagement of the regional actors in the peace process (the special envoy and ambassador-envoys) and many of the observers from the international community is that while the former only devoted part of their time to the process, many among the latter group were able to devote all of their time to the peace process. Special Envoy Sumbeiywo (who also carried the responsibility of head of the army until he was retired by President Kibaki) was clearly over-worked in the early period of the mediation and the ambassadors were often pressed to work beyond levels consistent with making good judgements. Thus the experience drawn from the Sudan mediation suggests the need for full-time special envoys and regional peace ambassadors.

The donors were satisfied with the financial management of the peace process under Special Envoy Sumbeiywo. Their conclusion was influenced by the problems experienced during the earlier mediation, and the fact that much of the financial management in the latter phase was handled by the Kenyan Government and GTZ. This subject has not been considered in the detail it deserves in this evaluation, but it not only relates to financial management and the organisation of the Secretariat, but also raises the issue of the independence and control of IGAD and member states over the peace process. To the extent that outside countries and organisations control the financing there is a real danger that they may also exert unacceptable levels of influence over the peace process, a subject taken up below.

Many of the negotiators and even more among the observers, analysts, and donors appreciated the orderly way in which the negotiations were conducted and they attributed this to the leadership of Special Envoy Sumbeiywo. Indeed, not only did order contribute to the objectives of the mediation, but the timely production of agreements (protocols) generated confidence.

Flexibility was another attribute of the mediation that was appreciated by many. Thus when the attempt to provide a broad framework on the way forward (the Nakuru Framework) was strongly attacked by the GoS, it was quickly dispensed with and the mediators adapted the piece-meal approach preferred by the parties. And significantly by so doing they reached agreement on most of the components of the Nakuru Framework. Moreover, when Garang and Ali Osman began assuming a central role in the negotiations, the mediators acknowledged their reduced role and adapted to the new circumstances. Flexibility, however, should not be confused with the responsibility of the mediators to lead the peace process, a concern that will be addressed below.

For the most part there was an appreciation for the professionalism of the advisors utilised in the mediation. It is more difficult to generalise about the resource people since many people were involved and they had different abilities and experience, but the need for such people was universally acknowledged. One of the problems, however, is that since the special envoy and the Secretariat staff did not themselves have an in-depth knowledge of Sudan when the mediation began, it is unclear how the decisions were made to bring in experts and on what basis they were able to assess their reports.

These are among the features of the mediation that both deserve praise and should serve as lessons to be learned. Indeed, given widespread satisfaction in both the peace process and its final product, the CPA, by the parties, Quartet, donors, and ambassador-envoys, it almost behoves this analyst to ask why the peace process is widely acknowledged to be in a state of crisis. The glib answer sometimes given is that the crisis is not due to any weaknesses of the peace process and the CPA, but because of implementation failures by Sudanese leaders in the aftermath of the agreement. However, this evaluation has concluded that the narrow approach of the mediation, the focus on ending the violence without sufficient consideration as to whether the agreement would be sustainable, and the failure to bring critical groups into the peace process produced many of the problems that later arose. Thus the crisis in the post-CPA period can largely be attributed to the IGAD mediation, and therefore many of the lessons to be learned derive from its weaknesses.

While including the positive features of the Sudan mediation, the negative lessons and the analysis above constitute an alternative approach. It is thus proposed that these lessons form the basis for developing a set of principles or model mediators and the belligerent parties would be obliged to follow in any future IGAD sanctioned mediation, a notion approved by Nathan in a recent analysis (Nathan, 2004). Such an approach would feed into IGAD's current efforts to formulate a Peace and Security Strategy, and would have a number of advantages:

- First, it would make clear the commitment of IGAD to sustainable and comprehensive peace in the region, which necessarily involves structural change and democratic transformation and the use of appropriate forms of mediation to reach these objectives.
- Second, the approval and application of this model would provide a means by which IGAD could exert a measure of influence over the peace process, something it was not able to do in the Sudan mediation. The utilisation of the model should not be seen as an attempt to exert direct control over the mediators who need the ability to operate flexibly, but it would guide or frame their mediation.
- Third, IGAD's formulation of an appropriate mediation model would increase the sense of regional ownership of the process and reduce the prospects that countries outside the region could impose their own models of mediation.
- Fourth, the model would make clear to the parties and the inhabitants of the conflict zone how their problems are going to be confronted and provide assurances they will have a role in their resolution.
- Fifth, just as Senator Danforth in his report attempted to ascertain whether the parties were seriously interested in peace before advising President Bush to engage in the peace process, by making them aware in advance the nature and scope of the IGAD mediation, it would help the parties decide whether they were prepared to accept the challenge. And by so doing it would make clear to IGAD whether it should invest its precious political capital in carrying out a mediation process. IGAD's political capital is not infinite and the organisation and region should not take up a peace process simply because of the extent of the humanitarian tragedy. There must also be grounds to believe that the mediation would have a reasonable prospect of success. Nathan makes the same point: 'the moral impulse to alleviate suffering does not constitute a sufficient basis for action. External interventions must also be based on a pragmatic assessment of their potential effectiveness' (Nathan, 2001).
- Lastly, by formally identifying a model or approach to be used in the mediation, it would be easier to match the model and the special envoy and be assured that he or she could work within that framework.

The first lesson to be drawn is the need for the mediation team to clearly state its objectives and the methodology used to reach them. The Sudan mediation team never did this, and while aspiring to objectives like making unity attractive and democracy, both of which necessitated structural change in Sudanese society and the state, it used a methodology that focused on the short-term needs of the negotiating parties. This was deemed the quickest and easiest means to reach an agreement, but as evidenced by the problems that have arisen since the signing of the CPA, it did not give enough attention to whether its objectives would be realisable and sustainable. All efforts were directed to getting a signed agreement, after which the Sudan IGAD Secretariat was closed and the mediators went their separate ways. As Bendana has noted, '... internationally mediated negotiation processes may lead to a 'peace' that fails to address the forces that gave

rise to liberation movements. In the end both the theory and practice of peace building must correspond to the reality of people living in states of oppression...' (Bendana, 2003).

To lead the peace process the mediators must fully understand the nature of the conflict and the broader national and even regional context in which it takes place. And while not denying the capability of the internationally recognised advisors to the peace process, their expertise was in mediation and legal drafting, and not Sudan. As a result, they did not have the background to carry out the needed analysis of the conflict, understand the intimate connection between the conflict in south Sudan and those underway elsewhere in the country, and appreciate that these conflicts could not be arbitrarily separated. Thus a second lesson learned is the need for the mediation team to include people with knowledge and experience of Sudan and for them to carry out the necessary broad-based analysis and for the mediation to be shaped by those studies.

The experience of the Sudan peace process suggests the need for the proposed IGAD statement of mediation principles to endorse a forthright commitment to structural change and democratic transformation. The holding of fair and internationally supervised national elections as soon as possible after reaching a final agreement is one element of what must be a continuing and sustained process of democratisation. While there is no denying the difficulties involved in realising such a commitment, there is also no ignoring the fact that peace in the Horn has been achieved through war, not mediation. And if the mediation is not to be geared to reaching an agreement that soon unravels, the mediators must recognise that endemic conflict, such as that in Sudan, cannot be reduced to conceptions, such as Arabs versus Africans, Moslems versus Christians, and focus on ending the violence. Instead such conflicts are the product of a dysfunctional and unrepresentative state. And a mediation that is not directed to altering the character of that state in fundamental ways cannot expect to be effective or endure. Nathan identifies the main structural conditions in Africa producing conflict – and hence which need to be addressed in any mediation - as being authoritarian rule, marginalisation of ethnic minorities, socio-economic deprivation and equity, and weak states that lack the institutional capacity to manage political and social conflict effectively (Nathan, 2001). Added to this in the Sudanese context is the importance of cultural oppression.

Another concern drawn from the Sudan mediation is the threat it posed to Sudanese and regional sovereignty. The Horn was an area of great power rivalry during the colonial era between the British, French and Italians, and during the Cold War between the West and the Eastern Bloc. And as we have seen, IGADD and IGAD were largely created at the stimulus of donors and powerful international groups and later they pressed the organisation to take an active role in peace-building. Led by the US they structured the Sudan peace process, financed it, provided political and military pressures at various times on the parties, helped impart the approach utilised, served as observers, and had a major role in orchestrating it. Their participation in the peace process was directed to bringing an end to the Sudan conflict, but this effort involved issues of governance, creating political institutions, defining their authority, and establishing links between political units and the international community, all of which can pose a threat to national and regional sovereignty. Moreover, there is ample evidence from the growing role of Kenya in providing military bases to Western powers, to intelligence cooperation between Khartoum and Washington, to the close security relationship between Addis Ababa and Washington in Somalia, to the French and American bases in Djibouti to make clear the major interests of the US and its allies in the region relate to security and the war on terror. As a result, there is reason to fear the Horn could become a focus for international conflict, just as it was during the Cold War. De Waal points out that, 'it is their [governments of the region] failure to resolve their internal and inter-state problems that has allowed the region to become prey to external agendas', but nonetheless cautions that 'the war on terror is to preserve a political status quo which includes indefinite militarization of US domestic and global governance' (de Waal, 2007).

Against that background there is a need for IGAD and the mediators to be responsive to the threat to regional and state sovereignty posed by the involvement of the international community in peace processes. While appreciating the need for international engagement in regional peace processes, IGAD should endeavour to maintain the independence of the countries experiencing mediation and ensure that its peace-

making efforts reflect the needs of the people of the region and are not compromised. And this concern should be reflected in the proposed IGAD statement of principles.

Against this background, the self-selection of the Quartet to provide the political backing for the negotiations is a matter of concern. Not only did the Quartet's dominant role in the process cause bitterness among their IPF colleagues, it also narrowed the perspective of the mediation and meant that most of the observers were allies of the US, and as a result the mediation served as an entry point for them to exert influence in the region. As well as agreeing on criteria for the selection of observers, and it is suggested this be done by IGAD as part of its proposed peace-building model, there also needs to be a critical analysis of how international observers can contribute to the peace process in ways which do not compromise the sovereignty of the country in question and the region.

This study strongly endorses the involvement of civil society in the peace process. That does not mean the various representatives of civil society and political parties need to sit around the same table. But it does mean that creative measures must be found to bring the diverse elements of society into the peace process. Efforts need to be exerted to engage traditional leaders who often have long experience at conflict resolution and considerable legitimacy. In addition, the virtual absence of women in the peace process is not only embarrassing, but denies the contribution they could have made. It is thus proposed that IGAD make clear in its model statement of principles the need for the participation of women both at the negotiating table and in the broader peace process. Instead of imposing quotas, the guarantee of involvement by civil society in the peace process in which women assume a major role in Sudan, would go far to rectify this imbalance and bring an added and welcome perspective. Many of the problems now facing the IGAD peace process, such as the failure to carry out wide ranging programs of reconciliation, the absence of a sense of ownership of the process, particularly in the north, the lack of sympathy at the grass roots to 'making unity attractive', and the inability to link the peace process in the south to those in the west and east, stem directly from the limited engagement in the peace process of the Sudanese people.

While on the one hand there is a rationale for limiting those employed by the Secretariat to manageable numbers, keeping the numbers to a minimum should not be used as an excuse for ignoring elements of society that are critical to achieving a sustainable peace the mediation, such as civil society. Nor can the involvement of civil society be precluded because it would unduly complicate the mediation, which was also argued. Civil society participation in the peace process must be recognised as critical to achieving sustainable peace and for post-conflict peace building efforts, in particular, reconciliation. It must also be appreciated that civil society's role is not restricted to service delivery, but has an important advocacy role. And since the special envoy in any mediation is under enormous work pressures, one way to ensure the fullest and effective participation of civil society in the peace process would be to appoint a deputy special envoy whose primary responsibility would be to propose effective means to bring the interests and perspectives of civil society to bear in the peace process, link its engagement to the development of horizontal and vertical approaches to reconciliation, carry out assessments of its components, and report directly to the special envoy.

Sumbeiywo said that in retrospect he wished he had gone to the ground in Sudan much sooner than he did. Indeed, it is proposed that mediation staff regularly travel in Sudan and meet local authorities and a wide selection of the general population to acquaint them-selves with the conflict, ascertain the sentiments of the people, and provide frank briefings on the course of the peace process. Often in the negotiations there was an air of unreality as subjects were taken up that appeared to have little bearing to the conditions of the people in south Sudan, or conversely that the concerns of the Sudanese were not being addressed in the negotiations. While the suggestion of one SPLM respondent that the negotiations should have been conducted in southern Sudan may not have been practical, it does emphasise the need to ensure that the peace process is not divorced from the people whose problems it is attempting to resolve. In addition, the peace process in Sudan would have benefited by the Secretariat employing researchers who would regularly travel in Sudan and report their findings to the special envoy and other members of the mediation team.

There was general appreciation that the Special Envoy endeavoured to be impartial in his dealings with the parties and to constrain the activities of the observers when he viewed them as a threat to the integrity of the peace process. However, that should not mean that the mediators should permit the proceedings to be entirely driven by the parties, particularly when they can be expected to focus on their short-term needs. A greater knowledge of Sudan and a commitment to a broader set of objectives than those of the parties would hopefully encourage the mediators to challenge the parties and assume a more activist leadership role. This study has pointed out that the Sudan mediation was strongly influenced by broader political developments, a mandate, IGAD, the Kenyan Government, the donors and IPF, and most significantly by the US. These factors placed limits on the mediation, but the team further circumscribed its role by contending they were bound in their activities by the parties. This assessment rejects that conclusion and holds that the mediators should assume a leadership role in which they attempt peace-making within the proposed IGAD statement of principles and they should be prepared to walk away from the mediation if they conclude that the parties are pursuing a course that is in opposition to these principles and the achievement of a sustainable peace.

Basing the peace process on a commitment to structural change and democratic transformation would create its own dynamic, but two that deserve mention here are reconciliation and media relations. Although the Secretariat did make some proposals, reconciliation was not emphasised during the peace process because the GoS was opposed, the SPLM was lukewarm, and the mediators did not appear to appreciate its significance and link it to reaching a sustainable peace. In the event, a National Reconciliation Process was agreed to, but the lack of seriousness of the commitment is made clear by the fact that two and one half years after the signing of the CPA it has not been activated. Indeed, this lack of commitment to carry out far-reaching reconciliation among a people caught up in a vicious war for more than two decades expresses graphically the limited nature of the mediation and goes far to explaining why the peace process is currently floundering. Many interviewees noted the importance of reconciliation to not only overcoming past pain, grievances and creating a sense of ownership of the process by the population, but held it would also contribute to the goals of making unity attractive, introducing democracy, and even encouraging good governance.

Reconciliation as proposed and envisaged here must be locally owned to ensure that it reflects the values and concerns of the indigenous people and is not coloured by foreign notions. De Waal points out the danger of reconciliation processes being co-opted in a Sudanese context in which the upper echelons of the tribal administration are part of the government's administrative and political structures (de Waal, 2007). Moreover, '...reconciliation means peace-building, contributing to the capacity of actors to listen to each other and to engage non-violently. Reconciliation is not an end itself but a means towards sustainable national development and participatory democracy' (Bendana, 2002). Reconciliation should be an essential element of every peace process and should be between the parties in conflict and their respective constituencies, and within the broader community. Further, these efforts must be on-going. Reconciliation should be included in the IGAD peace-building model with the details and timing left to the mediators in discussion with civil society and the parties.

A commitment to democratic transformation would necessarily lead to a constructive approach to the media. The dismissive manner in which the media was treated during the mediation was consistent with a peace process that was pursued over the heads of the Sudanese and focused entirely on the needs of the elites. An IGAD model of peace-building that gave central place to democratic change would recognise the media as a critical element in building democracy, an important vehicle for information and debate, and a critical component in peace-building. The special envoy would be advised to adapt this statement of principles to his or her particular situation and to appoint a media officer.

The narrow focus of the Sudan mediation, the pressures from all corners for the rapid achievement of a signed agreement, and the lack of expertise of the Secretariat meant that the mediators were either not fully aware of the possible negative implications of their efforts on other groups in south Sudan and elsewhere in the country, or were not forceful enough to press for the necessary adjustments to the mediation. In particular, the humanitarian crisis in Darfur that unfolded during the last year of the peace process not only

made clear the limited focus of the mediation and the danger it posed to the viability of the north-south peace process, it also suggested that the work of the mediators in dividing the spoils of state power between only two parties exacerbated the conflict. Contrary to the claims of the defenders of the CPA that it would produce peace agreements elsewhere in the country, by leaving so little power at the centre to be bargained for it made sustainable agreements with the rebels in Darfur and other groups in the north almost impossible and appears to be stimulating secessionist sentiments. Likewise, there is no indication that the mediators fully understood the implications of their agreement to dissolve the OAGs within one year, a decision that threatened to unleash an intra-south civil war between the SPLA and the SSDF.

Against that background it is proposed that a necessary component of any IGAD led mediation is that it consider the broader and long-term implications of its efforts and appreciate that its work should not be viewed in isolation, but as part of a whole that at the least includes the entire country and may have implications for the region. The notion, proposed by one respondent during the course of this research, that mediators should be guided by the dictum of 'do no harm', and that a member of the mediation team specially be tasked with that responsibility, should figure in the proposed IGAD model of mediation. Nathan has drawn a similar conclusion and said, 'the design of every external intervention in an intra-state crisis should include a rigorous assessment of the potential for that intervention to not fuel conflict, intensify inequality, or otherwise exacerbate the structural cause of violence' (Nathan, 2001).

One area in which distrust developed early in the negotiations was over the cessation of hostilities and the authority of the body tasked with overseeing it. First, it is essential at the start of negotiations to agree on a wide-ranging ceasefire. Second, the body monitoring the ceasefire must have the authority to both publicise the breaches and bring them to the attention of the highest authority in the region for further action. The Verification and Monitoring Team (VMT) was assigned the responsibility for overseeing the Cessation of Hostilities during the peace process, but it could only report on breaches of the agreement and did not have the authority to institute punitive measures, and this caused enormous frustration. Indeed, this corresponds to my own experience with the Civilian Protection Monitoring Team (CPMT) and leads to the conclusion that punitive measures, if handled judiciously, could play a role in encouraging accountability and reducing distrust and cynicism during the mediation. While the details of the measures need more consideration, the party at fault should first be identified and moral suasion and publicity used. But if that does not prove effective then the matter would be referred to the Conflict Committee of IGAD which would attempt to resolve the problem, and if the Committee was not successful the matter would be passed successively higher until it reached the IGAD Heads of State for disposition. The principle would be to make the military authorities responsible for any ceasefire agreement signed by referring breaches to ever higher levels of authority, and by so doing it is hoped this would bring about a resolution of the problem and create a more conducive atmosphere during the negotiations.

A similar concern was expressed that the Assessment and Evaluation Commission does not have sufficient authority, and having investigated a breach in the agreement, has no means to ensure the guilty party would act on it or suffer consequences. It was also not clear to whom or what body the AEC should report, since the present system where it reports to the presidency is widely held to be ineffective. The argument was made by respondents during the course of this research that the AEC should report to IGAD, and although there is no provision in the CPA that suggests such recourse, Tom Vraalsen, Chairman of the AEC, presented a report to the IGAD Council of Ministers in their meeting of 13 April 2007 in Nairobi on matters pertaining to his work at that body's request. And it can be assumed that his report expressed major concerns about the implementation of the CPA because after it was delivered the Council of Ministers issued a Communiqué calling for a Summit of the Heads of State to consider the implementation of the CPA. The decision by the Council of Ministers was only possible because the GoS delegation was represented at the meeting by a low level delegation and Khartoum subsequently expressed its strong disapproval. The fact that the AEC was not given the authority to punish guilty parties or report to IGAD or another international body with legitimacy is largely due, as noted earlier, to the decisions of Garang and Ali Osman. But it is clear the original principle to support the establishment of the AEC was sound, such bodies should be an integral part of all future agreements, and they should report to IGAD.

Related to both of these issues was widespread annoyance that the Sudan IGAD Secretariat was summarily shut down upon the signing of the CPA. Although donors had expressed a willingness to continue financing the body as a means to monitor the implementation of the agreement, a decision was made by the Government of Kenya to end the affairs of the office. And in the absence of any provision in the CPA for the role of the Secretariat in the post-conflict era it is not clear how it could continue. Again there was either not sufficient consideration given to this matter or there was strong opposition to any continuing IGAD engagement in the peace process. But it is also consistent with the mediation approach utilised which focused solely on stopping the fighting and reaching a signed peace agreement. Nonetheless, a number of respondents said that as a guarantor of the CPA the IGAD Secretariat had a role in the post-agreement period, and the fact that it was not playing it was due to a lack of initiative and responsibility on its part.

While the international participants in the Sudan peace process were exhausted before the signing of the CPA, the bad news is that the Sudan peace process was rushed and an important lesson to be learned for future mediations is that if the resulting agreement is to be sustainable then the process must not be a horse race to reaching an agreement and instead will probably be longer. In particular, the period devoted to face-to-face negotiations was brief and the latter phase of the negotiations was undercut by the focus on the Garang-Ali Osman talks. Moreover, the emphasis should shift from laborious debates on legalistic issues to a focus on agreement of principles, trust-building, engaging civil society and other actors, and devoting considerable time for the parties to meet their constituencies in their home areas. Ultimately there is a choice between a relatively rapid march to a peace agreement that may well unravel and then necessitate the devotion of considerable time to putting it back in place and re-building trust, or supporting a genuinely comprehensive peace process which will inevitably be very slow, but increases the prospect of it being sustainable.

Following from this, a final lesson to be learned from the peace process is that IGAD should make a clear break from international practice and not hold a big ceremony to commemorate the signing of a peace agreement. Such ceremonies convey the entirely wrong message that the peace process is over and everyone can go home, assured that the conflict has been resolved. There is a wide body of literature which makes clear that problems of implementation of the agreement are often the cause of its collapse, and so it should be made absolutely clear that the peace process is continuing. As one GoS respondent noted, 'it is a mistake to assume that the signing of an agreement is synonymous with peace'. Indeed, there needs to be far more emphasis on process and less on a signed agreement. There should be space for continuing dialogue to respond to unanticipated problems and to reaffirm and reform relationships. And if the role of the international community in such peace-making efforts is to be fully disinterested and genuine it must help create this space.

Despite the major efforts of the mediators and an international team of supporters and experts, the final peace agreement could not begin to resolve all the outstanding problems between the parties and equally significantly of those Sudanese who were not represented in the negotiations, but whose interests must ultimately be acknowledged if peace is to prevail. The importance attached to such signing ceremonies follows directly from the limited and Western notion of peace that has been criticised throughout this evaluation. While it is appreciated that peace signing ceremonies provide an opportunity for the parties, mediators, donors, international backers, and a host of others to congratulate them-selves and reap the political benefits, IGAD is advised to break from conventional practice. Instead, less elaborate ceremonies should be held throughout the country which express the achievements of the peace process and its continuing objectives within a local and meaningful context and involve traditional leaders, elders and dignitaries.

To summarise, many positive lessons can be drawn from the Sudan mediation in the areas of organisation, management, financial accountability, maintaining the integrity of the mediation, developing good relations with the international community, and using a structure that linked the parties with the regional organisation and international community. However, ultimately the mediation lost sight of the need for an agreement

that would be sustainable and provide a basis for peace-building in the rest of conflict-ridden Sudan. Many of the problems of implementation of the agreement and the bleak assessment of those interviewed during the course of this research are due to a peace process that was not informed by an in-depth understanding of Sudan, did not appreciate a sustainable peace in Sudan necessitated structural change, gave short shrift to democracy and inclusivity, and made no effort to understand the long-term consequences of its efforts. It must be stressed that this short-sighted approach to peace-building and desire to reach an agreement as quickly and expeditiously as possible was supported by virtually all the participants in the mediation and the diplomats and analysts who followed it. However, if one fundamental lesson can be drawn from the Naivasha process it is that efforts at peace-building based on short-cuts and the failure to recognise the need for deep-seated change to end endemic conflict will not be sustainable.

In light of that background, a number of lessons have been identified that together constitute the outline of an alternative approach, and hence the proposals detailed above should not be considered one-off items, but part of a whole, and underpinned by a different philosophy than that which informed the Naivasha process. At the core of this alternative approach to peace-building is the necessity of structural and democratic change in Sudan. And this entails a long term commitment by IGAD, and one that appreciates that the signing of an agreement is only a stage in a much longer process. In the words of Alejandro Bendana, ‘... peace is more than the cessation of military hostilities, more than simple political stability. Peace is the presence of justice and peace building entails addressing factors and forces that stand as impediments to the realization of all human rights’ (Bendana, 2003).

## **Bibliography**

### **Selected Interviews**

Attalla Beshir. Executive Secretary, IGAD Secretariat. Khartoum. 24 March 2007.

Anne Maria Madsen. Political Affairs Officer. Embassy of Denmark. Nairobi. 27 April 2007.

Abdelrahman Ibrahim Elkhalfa. Legal Advisor to the GoS Negotiating team. Khartoum. 3 April 2007.

Abdul Mohammed. Chairman, Inter-Africa Group and long time analyst of Sudan. Khartoum, 30 March 2007.

Alan Bones. Charge d’affaires. Embassy of Canada. Khartoum. 8 April 2007.

Alex de Waal. Justice Africa, academic and long time analyst of Sudan. Khartoum 24 March 2007.

Ali Mahmoud Hussenien. Internal leader of the Democratic Unionist Party. Khartoum. 7 April 2007.

Cameron Hume. US Ambassador to Sudan. Khartoum, 28 March 2007.

Chirino Hiteng. Member of the SPLM negotiating team and currently Undersecretary of the Ministry of Regional Cooperation. Juba. 17 April 2007 and 5 May 2007.

Chris Abong’o. Lecturer. University of Nairobi. Nairobi. 27 April 2007.

Daniel Mboya. Ambassador and former Special Envoy Sudan IGAD Secretariat. Nairobi. 28 April

[www.Sudantribune.com](http://www.Sudantribune.com)  
2007.

David Guok. GoSS MP and former Defence Minister in Anyanya. Juba. 23 May 2007.

Dirdeiry Mohamed Ahmed. Member of the GoS negotiating team and former acting ambassador to Kenya. Khartoum 5 April 2007.

Fabiene Hara. Deputy Director, Department of Political Affairs, UNMIS. Khartoum. 12 March 2007.

Faisal Mohamed Salih. Free lance journalist and former Editor of *El Adwa* newspaper. Khartoum 1 April 2007.

Gerard Prunier. French academic and long time analyst of Sudan. Addis Ababa 19 March 2007.

Ghazi Salahdien. Presidential Advisor to the Government of Sudan and formerly leader of the GoS negotiating team in Naivasha. Khartoum, 29 March 2007.

Choal Deng. Chairman. Government of South Sudan Land Commission. Bentiu. 22 February 2007.

David Mozersky. Researcher International Crisis Group. Khartoum. 13 May 2007.

Elhaj Hamed. Executive Director Social and Human Development Consultative Group. Khartoum. 27 March 2007.

Harun Ruun. Former Chairman of the New Sudan Council of Churches in Nairobi during the Sudan IGAD Peace Process and currently Presidential Advisor to the Government of Sudan. Khartoum, 25 March 2007.

Hildebrand Bijeveld. Journalist. 'The Juba Post'. Juba. 16 May 2007.

James Lony Ngundeng, Colonel Office of the Deputy Commander in Chief SPLA, Lt. Gen. Paulino Matieb. Juba. 16 April 2007.

Jeremy Brickhills. Resource Person for DDR and the Cease-fire. Sudan IGAD Peace Secretariat. Nairobi. 2 May 2007.

John Ashworth. Anglican priest and Sudan peace activist. Nairobi. 1 May 2007.

John Luc. Minister of Sport and Culture, GoSS, and former member of the SPLM negotiating team. Juba. 20 April 2007.

Joshua Olewe Nyunya. Institute of Diplomacy and International Studies. University of Nairobi. IGAD researcher of Somali peace process. Nairobi. 2 May 2007.

Julia Ake Duany. Undersecretary for Parliamentary Affairs. GoSS. Juba. 21 May 2007.

Justin Yac. Minister for Cabinet Affairs, GoSS, and former member of the SPLM negotiating team. Juba. 18 April 2007.

Issiah Chol Arual. Chairman. Southern Sudan Commission for Census, Statistics and Evaluation. Juba. Juba. 5 March 2007.

Kalonzo Musyoka. Former Kenyan Foreign Minister who oversaw much of the peace process. Nairobi. 2 May 2007.

Lam Akol. GoS Minister of Foreign Affairs. Khartoum. 28 May 2007.

Mohammed Latif. Sudanese journalist and director of Teeba Press who covered the IGAD peace process. Khartoum 27 March 2007.

Malik Agar. SPLM Minister of Investment and member of the negotiating team. Khartoum. 9 April 2007.

Martin Kenyi. Brigadier General SPLA and former military leader of the Equatoria Defence Force of the SSDF. Juba. 23 April 2007.

Marv Koop. Director Pact-Sudan and former UN authority on Abyei and IDPs. Juba. 15 April 2007.

Michael Makuei Lueth. Minister of Legal Affairs and Constitutional Development, GoSS, and former member of the SPLM negotiating team. Juba. 20 April 2007 and 24 April 2007.

Michael Wal Duany. MP GoSS, Professor of Political Science, Indiana University, former leader of the South Sudan Liberation Movement. Juba. 23 April 2007.

Muawia Hamid Shadad. Executive Director of Sudan Environment Conservation Society. Khartoum. 27 March 2007.

Mustafa Ismael. Former GoS Foreign Minister and currently Presidential Advisor. Khartoum. 17 May 2007.

Mutrif Siddig. Member of the GoS negotiating team and Under Secretary, Ministry of Foreign Affairs. Khartoum. 7 April 2007.

Nhial Bol. Editor in Chief. *The Citizen*. Juba. 17 April 2007.

Paul Murphy. Former Director Pact-Sudan and long-time Sudan analyst. Khartoum. 16 May 2007.

Peter Adwok Nyaba. SPLM Member of the Council of the Regions. Khartoum. 10 April 2007.

Michael Ranneberger. US Ambassador to Kenya and former Deputy Assistant Secretary of State for African Affairs. Nairobi. 2 May 2007.

Riek Macher. Vice-President of the Government of South Sudan and former member of the SPLM negotiating team. Juba. 16 April 2007.

Robert M. Ngesu. Head. Horn of Africa Division. Kenya Ministry of Foreign Affairs. Nairobi. 27 April 2007.

Sadig Al-Mahdi. Former Sudan Prime Minister and Leader of the Umma Party. Omdurman. 25 May 2007.

Safwat Fanous. Chairman Political Science Department, University of Khartoum. Khartoum. 27 May 2007.

Sayid El Khatib. Spokesperson and member of the GoS negotiating team. Khartoum. 4 April 2007.

Shumann, Peter. Regional Representative UNMIS Southern Sudan. Juba. 17 April 2007.

[www.Sudantribune.com](http://www.Sudantribune.com)

Steven Loyatum. Director. Kenyan Southern Sudan Liaison Office. Office of the President. Nairobi. 30 April 2007.

Susan Page. Head, Rule of Law Division UNMIS. Legal advisor to Sudan IGAD Secretariat. Khartoum.. 2 April 2007.

Teshome Toga. Ambassador. Speaker of the National Assembly Ethiopia. Former Ethiopian Special Envoy to the IGAD Peace Secretariat in Nairobi. Addis Ababa 17 March 2007.

Theopolis Ochang. Minister of Health. GoSS and former leader of the Equatoria Defence Force. Juba. 18 April 2007.

Tom Vaarlson, Chairman. Assessment and Evaluation Commission. Khartoum. 13 May 2007.

Qtbi Mahdi. Former GoS Minister, Presidential Advisor, NCP official. Khartoum. 24 May 2007.

### **Email correspondence**

Alsir Sid Ahmed. Sudanese journalist who wrote on the Sudan IGAD peace process. 24 March 2007.

David Mozersky. Researcher. International Crisis Group. 12 April 2007.

Alan Goult. Leader of British delegation to IGAD peace talks, former ambassador to Sudan and current ambassador to Tunisia. 17 April 2007.

### **Telephone interviews**

Sara Pantuliano. Resource Person on Nuba Mountains. Sudan IGAD Peace Secretariat. 27 March 2007

Jeff Millington. Former US Charge d'affaires to Sudan and US Observer to the IGAD peace negotiations. 10 May 2007.

### **Selected books and articles**

Abdelwhab El-Affindi. 'The Impasse in the IGAD Peace Process for Sudan: The Limits of Regional Peacemaking?' *African Affairs*. 100, 581-599. 2001.

Abdelwhab El-Affindi. 'The View from the North: The CPA's Hopes and Multiple Disappointments.' Conference on Peace And Security in the Horn of Africa. Inter-Africa Group and the Center of Policy Research & Dialogue. Addis Ababa. 12-13 March 2007.

Abdul Mohammed and Alex de Waal. 'Africa's New Multilateralism: Towards a Framework for Regional Peace and Security in the Horn.' Conference to launch an IGAD Strategy for Peace and Security In the Sub-region. Khartoum. August 2005.

Accord and Concordis International. *Peace by piece: addressing Sudan's conflicts*. [www.c-r.org/our-work/accord/sudan/index.php](http://www.c-r.org/our-work/accord/sudan/index.php). 2006.

Adam Azzain Mohamed and Khalid El Amin, 'Conflict Prevention, Management & Resolution: Capacity Assessment Study for the IGAD Sub-region, Prepared for IGAD, (October 2001).

A.H. Abdel Salam and Alex de Waal. *The Phoenix State: Civil Society and the Future of Sudan*. Lawrenceville NJ. Red Sea Press. 2001.

Arop Madut-Arop. *Sudan's Painful Road to Peace*. Nairobi. Booksurge LLC. 2006.

Assembly of Heads of State and Government. 'Agreement Establishing the Inter-Governmental Authority on Development (IGAD). Nairobi. 21 March 1994.

Bendana, Alejandro. 'What Kind of Peace is Being Built? Critical Assessments from the South.' IDRC. Ottawa. January 2002.

Bendana, Alejandro. 'Reconciliation: A Political and Structural Perspective.' [www.transcend.org](http://www.transcend.org). 14 November 2006.

Cliffe, Lionel. 'Regional Dimensions of conflict in the Horn of Africa.' *Third World Quarterly*. Vol. 20. No. 1. 1999.

Cliffe, Lionel and White, Philip. 'Conflict Management and Resolution in the Horn of Africa.' Ciru Mwarua and Schmeidi, Suzanne. *Early Warning and Conflict Management in the Horn of Africa*. Lawrenceville NJ. Red Sea Press. 2002.

Danforth, John. (Special Envoy for Peace), 'Report to the President of the United States on the Outlook for Peace in Sudan,' *Report to the President*, 26 April 2002.

Democracy Now. 'Interview with Los Angeles Times Journalist Ken Silverstein.' 4 May 2005.

De Waal, Alex. 'In Search of a Peace and Security Framework for the Horn of Africa.' Conference on Peace and Security in the Horn of Africa. Inter-Africa Group and the Center of Policy Research & Dialogue. Addis Ababa. 12-13 March 2007.

Government of Sudan. 'Response to the Nakuru Draft Framework.' Press Release. Khartoum. 11 July 2003.

Haugerudbraaten, Henning. 'Peacebuilding: Six dimensions and two concepts.' *African Security Review*. Vol. 7. No. 6. 1998.

International Crisis Group. 'Sudan: Towards an Incomplete Peace.' *Africa Report*. No. 73. 11 December 2003.

International Crisis Group. 'Sudan Endgame.' *Africa Report*. No. 65. 7 July 2003.

International Crisis Group. 'Sudan's Dual Crisis: Refocusing on IGAD.' *Africa Report*. No. 19. 5 October 2004.

Juba Declaration On Unity and Integration Between The Sudan Peoples Liberation Army and the South Sudan Defence Forces. (Juba: January 8, 2006).

Justice Africa. 'Prospects for Peace in Sudan.' Issues: September-October 2004, October-November 2004, January 2005.

Kenny, Gary. 'Beyond a North-South Settlement: Addressing the problems of marginalisation in Sudan.' *Africa Files*. 2004.

Kransteiner, Walter. 'Peace, Conflict, and Mediation in Africa: An Historic Opportunity in Sudan.' Remarks to the Heritage Foundation. Washington. 22 November 2002.

Lesch, A. *The Sudan – Contested National Identities*. (Bloomington: Indiana University Press, 1998).

IGAD(D) Peace Initiative. 'Declaration of Principles.' Nairobi. 20 July 1994.

IGAD. Communiqué Issued by the 26<sup>th</sup> Session of IGAD Council of Ministers. Nairobi. 13 April 2007.

IGAD. 'Structure and Terms of Reference for the Secretariat of the IGAD Peace Process on Sudan.' Nairobi. 21 July 1999.

IGAD Secretariat on Peace in Southern Sudan. 'Modalities on the Task Force.' Nairobi. 3 May 2002.

IRIN. 'Interview with Sadig Al-Mahdi. Omdurman. 5 October 2005.

Los Angeles Times. *Official Pariah Sudan Valuable to America's War on Terrorism*. 29 April 2005.

Martin, Harriet. 'The God-fearing General.' *Kings of Peace: Pawns of War*. London: Continuum, 2006.

Nathan, Laurie. 'The Four Horsemen of the Apocalypse: The structural cause of violence in Africa.' *Track Two*. Vol. 10. No. 2. Cape Town. August 2001.

Nathan, Laurie. 'Mediation and the African Union's Panel of the Wise.' Field, Shannon (ed.). *Peace in Africa: Towards a Collaborative Security Regime*. Johannesburg. Institute for Global Dialogue. 2004.

Nathan, Laurie. 'No Ownership, No Peace: The Darfur Peace Agreement.' Crisis States Research Centre. London School of Economics. 2006.

Norwegian Ministry of Foreign Affairs. 'Oslo Forum 2006.' Oslo. 2006.

Reeves, Eric. 'Who Supports the Nakuru Draft Framework Agreement? No Time for Expedient Ambiguity. Smith College. 24 July 2003.

Roeder, Philip and Rothchild, Donald. *Sustainable Peace: Power and Democracy after Civil Wars*. Cornell University Press. 2005.

Ryle, John. 'Disaster in Darfur.' New York Review of Books. Vol. 51. No. 13. 12 August 2004.

Sadig Al-Mahdi. Personal correspondence with the author. Khartoum. 23 October 2003.

SPLM/SPLA. 'The Nakuru Draft Framework Remains The Only Basis for Negotiations.' Press Release. 25 August 2003.

Srinivasan, Sharath. 'Minority Rights, Early Warning and Conflict Prevention: Lessons From Darfur.' Minority Rights Group International. London. September 2006.

Sudanese Churches. 'Statement on the Right to Self-Determination for Southern Sudan'. London. 6 March 2002.

UNMIS. *The CPA Monitor: Monthly Report on the implementation of the CPA*. www.unmis.org. April 2007.

[www.Sudantribune.com](http://www.Sudantribune.com)

Voice of America. 'Peace Agreement Will Lead to New and Prosperous Sudan Says Rebel Leader.' 30 May 2004.

Waithaka Waihenya. *The Mediator: Gen. Lazaro Sumbeiywo and the Southern Sudan Peace Process*. Nairobi. Kenway Publications. 2006.

Young, John. 'SPLA and Governance.' *Politique Africain*. Paris. December 2002.

Young, John. 'Sudan IGAD Peace Process and Sign Posts for the Way Forward.' African Studies Programme. Institute of Security Studies. Occasional Paper 86. Institute of Security Studies. Pretoria. March 2004.

Young, John. 'South Sudan's Blue Nile Territory and the Struggle Against Marginalisation.' Edited by Kingston, Paul and Spears, Ian. *States Within States: Incipient Political Entities in the Post-War Era*. New York. Palgrave Macmillan. 2004a.

Young, John. 'Sudan: A Flawed Peace Process Leading to a Flawed Peace.' *Review of African Political Economy*. No. 103. Vol. 32. 2005.

Young, John. 'Naivasha and the Search for a Comprehensive Peace in Sudan.' Conference to launch an IGAD Strategy for Peace and Security in the Sub-region.' Khartoum. 1-3 October 2005a.

Young, John. 'John Garang's Legacy to the Peace Process, the SPLM/A & the South.' *Review of African Political Economy*. No. 106. Vol. 32. 2005b.

Young, John. 'Eastern Sudan: Caught in a Web of External Interests.' *Review of African Political Economy*. No. 109. Vol. 33. 2006.

Young, John. 'The South Sudan Defence Forces.' A Working Paper of the Sudan Human Security Baseline Assessment Project of the Small Arms Survey. Graduate Institute of International Studies. Geneva. November 2006a.

Young, John. 'Sudan's Peace Process: Laying the Basis for Future Conflict.' Conference on Peace and Security in the Horn of Africa. Inter-Africa Group and the Center of Policy Research & Dialogue. Addis Ababa. 12-13 March 2007.

## Appendix A

### **Machakos Protocol** **July 20, 2002**

**WHEREAS** the Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army (the Parties) having met in Machakos Kenya, from 18 June 2002 through 20 July 2002 under the auspices of the IGAD Peace Process; and

**WHEREAS** the Parties have reiterated their commitment to a negotiated, peaceful, comprehensive resolution to the Sudan Conflict within the Unity of Sudan; and

**WHEREAS** the Parties discussed at length and agreed on a broad framework which sets forth the principles of governance, the general procedures to be followed during the transitional process and the structures of government to be created under legal and constitutional arrangements to be established; and

**NOW RECORD THAT** the Parties have agreed to negotiate and elaborate in greater detail the specific terms of the Framework, including aspects not covered in this phase of the negotiations, as part of the overall Peace Agreement; and

**FURTHER RECORD THAT** within the above context, the Parties have reached specific agreement on the Right to Self-Determination for the people of South Sudan, State and Religion, as well as the Preamble, Principles, and the Transition Process from the Draft Framework, the initialed texts of which are annexed hereto, and all of which will be subsequently incorporated into the Final Agreement; and

**IT IS AGREED AND CONFIRMED THAT** the Parties shall resume negotiations in August, 2002 with the aim of resolving outstanding issues and realizing comprehensive peace in the Sudan.

Witnessed by:

Lt. Gen. Lazaro K. Sumbeiywo  
Special Envoy  
IGAD Sudan Peace Process and  
On behalf of the IGAD Envoys

**AGREED TEXT ON THE PREAMBLE, PRINCIPLES, AND THE TRANSITION PROCESS  
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE SUDAN  
AND THE SUDAN PEOPLE'S LIBERATION MOVEMENT/SUDAN PEOPLE'S LIBERATION ARMY**

**WHEREAS** the Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army (hereafter referred to as the Parties) having met in Machakos, Kenya, from 18 June 2002 through 20 July 2002; and

**WHEREAS** the Parties are desirous of resolving the Sudan Conflict in a just and sustainable manner by addressing the root causes of the conflict and by establishing a framework for governance through which power and wealth shall be equitably shared and human rights guaranteed; and

**MINDFUL** that the conflict in the Sudan is the longest running conflict in Africa, that it has caused horrendous loss of life and destroyed the infrastructure of the country, wasted economic resources, and has caused untold suffering, particularly with regard to the people of South Sudan; and

**SENSITIVE** to historical injustices and inequalities in development between the different regions of the Sudan that need to be redressed; and

**RECOGNIZING** that the present moment offers a window of opportunity to reach a just peace agreement to end the war; and

**CONVINCED** that the rejuvenated IGAD peace process under the chairmanship of the Kenyan President, H.E. Daniel T. arap Moi, provides the means to resolve the conflict and reach a just and sustainable peace; and

**COMMITTED** to a negotiated, peaceful, comprehensive resolution to the conflict based on the Declaration of Principles (DOP) for the benefit of all the people of the Sudan;

**NOW THEREFORE**, the Parties hereto hereby agree as follows:

**PART A**

(AGREED PRINCIPLES)

1.1 That the unity of the Sudan, based on the free will of its people democratic governance, accountability, equality, respect, and justice for all citizens of the Sudan is and shall be the priority of the parties and that it is possible to redress the grievances of the people of South Sudan and to meet their aspirations within such a framework.

1.2 That the people of South Sudan have the right to control and govern affairs in their region and participate equitably in the National Government.

1.3 That the people of South Sudan have the right to self-determination, inter alia, through a referendum to determine their future status.

1.4 That religion, customs, and traditions are a source of moral strength and inspiration for the Sudanese people.

1.5 That the people of the Sudan share a common heritage and aspirations and accordingly agree to work together to:

1.6 Establish a democratic system of governance taking account of the cultural, ethnic, racial, religious and linguistic diversity and gender equality of the people of the Sudan.

1.7 Find a comprehensive solution that addresses the economic and social deterioration of the Sudan and replaces war not just with peace, but also with social, political and economic justice which respects the fundamental human and political rights of all the Sudanese people.

1.8 Negotiate and implement a comprehensive cease-fire to end the suffering and killing of the Sudanese people.

1.9 Formulate a repatriation, resettlement, rehabilitation, reconstruction and development plan to address the needs of those areas affected by the war and redress the historical imbalances of development and resource allocation.

1.10 Design and implement the Peace Agreement so as to make the unity of the Sudan an attractive option especially to the people of South Sudan.

1.11 Undertake the challenge by finding a framework by which these common objectives can be best realized and expressed for the benefit of all the Sudanese.

**PART B**

(THE TRANSITION PROCESS)

In order to end the conflict and to secure a peaceful and prosperous future for all the people of the Sudan and in order to collaborate in the task of governing the country, the Parties hereby agree to the implementation of the Peace Agreement in accordance with the sequence, time periods and process set out below.

2. There shall be a Pre-Interim Period, the duration of which shall be six (6) months.

2.1 During the Pre-Interim Period:

- a) The institutions and mechanisms provided for in the Peace Agreement shall be established;
- b) If not already in force, there shall be a cessation of hostilities with appropriate monitoring mechanisms established;
- c) Mechanisms to implement and monitor the Peace Agreement shall be created;
- d) Preparations shall be made for the implementation of a comprehensive cease-fire as soon as possible;
- e) International assistance shall be sought; and
- f) A Constitutional Framework for the Peace Agreement and the institutions referred to in 2.1 (a) shall be established.

2.2 The Interim Period will commence at the end of the Pre-Interim Period and shall last for six years.

2.3 Throughout the Interim Period:

- a) The institutions and mechanisms established during the Pre-Interim Period shall be operating in accordance with the arrangements and principles set out in the Peace Agreement.
- b) If not already accomplished, the negotiated comprehensive cease-fire will be implemented and international monitoring mechanisms shall be established and operationalized.

2.4 An independent Assessment and Evaluation Commission shall be established during the Pre-Interim Period to monitor the implementation of the Peace Agreement and conduct a mid-term evaluation of the unity arrangements established under the Peace Agreement.

2.4.1 The composition of the Assessment and Evaluation Commission shall consist of equal representation from the GOS and the SPLM/A, and not more than two (2) representatives, respectively, from each of the following categories:

- Member states of the IGAD Sub-Committee on Sudan (Djibouti, Eritrea, Ethiopia, Kenya, and Uganda);
- Observer States (Italy, Norway, UK, and US); and
- Any other countries or regional or international bodies to be agreed upon by the parties.

2.4.2 The Parties shall work with the Commission during the Interim Period with a view to improving the institutions and arrangements created under the Agreement and making the unity of Sudan attractive to the people of South Sudan.

2.5 At the end of the six (6) year Interim Period there shall be an internationally monitored referendum, organized jointly by the GOS and the SPLM/A, for the people of South Sudan to: confirm the unity of the Sudan by voting to adopt the system of government established under the Peace Agreement; or to vote for secession.

2.6 The parties shall refrain from any form of unilateral revocation or abrogation of the Peace Agreement.

## **PART C**

(STRUCTURES OF GOVERNMENT)

To give effect to the agreements set out in Part A, the Parties, within a framework of a unified Sudan which recognizes the right to self-determination for the people of Southern Sudan, hereby agree that with respect to the division of powers and the structures and functions of the different organs of government, the political framework of governance in the Sudan shall be structured as follows:

3.1 Supreme Law

3.1.1 The National Constitution of the Sudan shall be the Supreme Law of the land. All laws must comply with the National Constitution. This constitution shall regulate the relations and allocate the powers and functions between the different levels of government as well as prescribe the wealth sharing arrangements between the same. The National Constitution shall guarantee freedom of belief, worship and religious practice in full to all Sudanese citizens.

3.1.2 A representative National Constitutional Review Commission shall be established during the Pre-Transition Period which shall have as its first task the drafting of a Legal and Constitutional Framework to govern the Interim Period and which incorporates the Peace Agreement.

3.1.3 The Framework mentioned above shall be adopted as shall be agreed upon by the Parties.

3.1.4 During the Interim Period an inclusive Constitutional Review Process shall be undertaken.

3.1.5 The Constitution shall not be amended or repealed except by way of special procedures and qualified majorities in order that the provisions of the Peace Agreement are protected.

3.2 National Government

3.2.1 There shall be a National Government which shall exercise such functions and pass such laws as must necessarily be exercised by a sovereign state at national level. The National Government in all its laws shall take into account the religious and cultural diversity of the Sudanese people.

3.2.2 Nationally enacted legislation having effect only in respect of the states outside Southern Sudan shall have as its source of legislation Sharia and the consensus of the people.

3.2.3 Nationally enacted legislation applicable to the southern States and/or the Southern Region shall have as its source of legislation popular consensus, the values and the customs of the people of Sudan including their traditions and religious beliefs, having regard to Sudan's diversity).

3.2.4 Where national legislation is currently in operation or is enacted and its source is religious or customary law, then a state or region, the majority of whose residents do not practice such religion or customs may:

- (i) Either introduce legislation so as to allow or provide for institutions or practices in that region consistent with their religion or customs, or
- (ii) Refer the law to the Council of States for it to approve by a two-thirds majority or initiate national legislation which will provide for such necessary alternative institutions as is appropriate.

[sections 4 and 5 are not yet available; indications are that the subjects of these sections are still under negotiation]

## **AGREED TEXT ON STATE AND RELIGION**

Recognizing that Sudan is a multi-cultural, multi-racial, multi-ethnic, multi-religious, and multi-lingual country and confirming that religion shall not be used as a divisive factor, the Parties hereby agree as follows:

6.1 Religions, customs and beliefs are a source of moral strength and inspiration for the Sudanese people.

6.2 There shall be freedom of belief, worship and conscience for followers of all religions or beliefs or customs and no one shall be discriminated against on such grounds.

6.3 Eligibility for public office, including the presidency, public service and the enjoyment of all rights and duties shall be based on citizenship and not on religion, beliefs, or customs.

6.4 All personal and family matters including marriage, divorce, inheritance, succession, and affiliation may be governed by the personal laws (including Sharia or other religious laws, customs, or traditions) of those concerned.

6.5 The Parties agree to respect the following Rights:

- To worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes;
- To establish and maintain appropriate charitable or humanitarian institutions;
- To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- To write, issue and disseminate relevant publications in these areas;
- To teach religion or belief in places suitable for these purposes;
- To solicit and receive voluntary financial and other contributions from individuals and institutions;
- To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religious beliefs;
- To establish and maintain communications with individuals and communities in matters of religion and belief and at the national and international levels;
- For avoidance of doubt, no one shall be subject to discrimination by the National Government, state, institutions, group of persons or person on grounds of religion or other beliefs.

6.6 The Principles enumerated in Section 6.1 through 6.5 shall be reflected in the Constitution.

## **AGREED TEXT ON THE RIGHT TO SELF-DETERMINATION FOR THE PEOPLE OF SOUTH SUDAN**

1.3 That the people of South Sudan have the right to self-determination, inter alia, through a referendum to determine their future status.

2.4 An independent Assessment and Evaluation Commission shall be established during the Pre-Transition period to monitor the implementation of the Peace Agreement during the Interim Period. This Commission shall conduct a mid-term evaluation of the unity arrangements established under the Peace Agreement.

2.4.1 The composition of the Assessment and Evaluation Commission shall consist of equal representation from the GOS and the SPLM/A, and not more than two (2) representatives, respectively, from each of the following categories:

- Member states of the IGAD Sub-Committee on Sudan (Djibouti, Eritrea, Ethiopia, Kenya, and Uganda);
- Observer States (Italy, Norway, UK, and US); and
- other countries or regional or international bodies to be agreed upon by the parties.

2.4.2 The Parties shall work with the Commission during the Interim Period with a view to improving the institutions and arrangements created under the Agreement and making the unity of Sudan attractive to the people of South Sudan.

2.5 At the end of the six (6) year interim period there shall be an internationally monitored referendum, organized jointly by the GOS and the SPLM/A, for the people of South Sudan to: confirm the unity of the Sudan by voting to adopt the system of government established under the Peace Agreement; or to vote for secession.

2.6 The Parties shall refrain from any form of unilateral revocation or abrogation of the Peace Agreement.