

The Darfur Peace Agreement: Part 6 Guarantees for the DPA

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This is the sixth in a series of articles concerning the Darfur Peace Agreement (DPA), explaining how the Agreement was negotiated in Abuja and how it can be implemented. This article deals with the question: how do we know it can work? What are the mechanisms and guarantees?

In the Abuja talks, there was little trust between the negotiating teams from the GoS and the Movements. This was no surprise, given the horrific violence that has occurred in Darfur over the last few years, and the breakdown of previous agreements such as the N’djamenan Humanitarian Ceasefire. The experience of negotiating an end to African civil wars is that the process usually takes at least four years—and in the case of Southern Sudan, it took more than ten years from the adoption of the IGAD Declaration of Principles to the signing of the CPA. It takes many years to build trust, and even then the implementation of agreements faces formidable problems. Everyone concerned with Darfur was not ready to be that patient, and so every effort was made to accelerate the process by providing extra layers of guarantees.

On both sides, there were people who opposed reaching any negotiated settlement. Some members of the Government believed that the Movements were too weak, too fragmented and too unrepresentative of the Darfurian population to be a viable partner in peace. Some argued that the Movements were representing a foreign agenda and were not truly Sudanese. Better, they felt, to allow the war to continue and the Sudan Armed Forces to finish the job. On the side of the Movements, there were some who so distrusted and hated the Government that they believed that peace was impossible without a complete change in the regime, and that any peace agreement would simply postpone the inevitable showdown. Most of the criticism of the DPA from western activists is a variation on the argument, “what use is a peace agreement if the National Congress Party stays in power?”

The rapid conclusion to the DPA negotiations in April-May this year means that, uniquely for an African peace agreement, confidence-building between the parties has to take place after the agreement is signed, not beforehand. The technical experts on the security arrangements talks had

recommended that the GoS and the Movements first sign a ceasefire, and then use the implementation period of the ceasefire for confidence-building, assuming that as the two sides worked together on monitoring the ceasefire, they would build confidence. In principle, everyone agreed that this was the way to proceed. But the sheer scale of the violence in Darfur, the depths of the humanitarian crisis, and the way in which the Darfur conflict was holding up the implementation of the CPA and thereby poisoning the very chances of democracy throughout Sudan, meant that the AU and its international partners decided they had to move more quickly. So, unlike in the South and the Nuba Mountains, where a ceasefire was agreed first, and implemented and monitored while the talks continued, in the Abuja talks the comprehensive ceasefire is part of the overall agreement itself.

Therefore no-one should be surprised that the main criticism of the DPA is “how can this be implemented given that the two sides don’t trust each other?” It is a fair point. The answer lies in looking at the mechanisms for monitoring and verification in the text of the DPA, and the international engagement and international guarantees provided, outside the DPA, by the United States, the UN and other international partners.

One of the first issues raised by the SLM/A and JEM negotiators in Abuja was the weakness of the existing mechanisms for monitoring and verification of the ceasefire. One stumbling block was the continued presence of Chad as a leading member of both the Ceasefire Commission (CFC) and the Joint Commission (JC). At first the Movements objected to this (especially JEM) because of their poor relations with the Chadian Government. Later, Khartoum objected. By the middle of the seventh round of the talks, the Chadians resolved the problem by quietly taking a back seat.

A more difficult problem was enhancing the powers of the CFC and JC themselves, and making sure they operated effectively. Paragraph 250 of the DPA was the outcome of this: it allows the two institutions to take tougher measures against groups that violate the ceasefire, including recommending sanctions against them. The CFC, JC and AMIS are also given much stronger powers for monitoring and verifying all aspects of the comprehensive ceasefire, including the movement of forces, the disengagement and redeployment of troops, and the use of heavy weapons.

Another demand of the SLM/A and JEM was for a much tougher international protection force. At first, the negotiators insisted that they wanted the UN to come in as part of the Agreement itself. But the AU Mediation had no power to deliver this, even if the sides had agreed. Instead, it was agreed that the discussions could include measures for strengthening the AU force—both the military and the police—and that if the GoS agreed to change the AU force into a UN peacekeeping operation, then “UN” would simply replace “AU” at the relevant places in the text of the DPA.

The DPA may not mention a UN force, but the signed Agreement is in fact a prerequisite for any UN force. In 2004 the AU dispatched troops to Darfur on the basis of a very shaky ceasefire—something the UN Department of Peacekeeping Operations would never have done. The UN, with its long experience of peacekeeping, insists that there must first be a peace to keep before it sends troops. The UN only sent troops to Southern Sudan and the Nuba Mountains after the signing of the CPA. Similarly, with the DPA now signed, the UN will consider sending a force to

Darfur. But it needs Khartoum's consent. The main focus of the international politics of Darfur has now shifted from pressing the sides to sign the DPA, to pressing Khartoum to accept a UN force.

The last sections of the DPA deal with the implementation schedules and plan, while Article 33 concerns the Darfur Assessment and Evaluation Commission. These are aimed at putting in place a similar structure for implementation as exists for the CPA. The AU Mediation was well aware that the CPA implementation has lagged. But nobody expected the CPA to proceed on track while the conflict in Darfur raged unabated. It is only with the DPA signed that we can truly expect the spirit of the CPA to become a reality.

The Darfur Assessment and Evaluation Commission is a mechanism for the international community to become closely engaged with all aspects of the implementation of the DPA. It needs to be set up soon. Already there are important deadlines looming, and if the GoS and the SLM/A-Minawi fail to meet them, then the DAEC should examine the reasons for the delay and take whatever action is needed.

In addition to the international involvement in general assessment and evaluation, the DPA provides for a Security Advisory Team, drawn from an international organization (such as the UN) or a foreign country, to play a leading role in implementing the final status security arrangements. Details of this can be found in Paragraphs 395-398. The inclusion of the SAT was a big concession by the GoS and a major win for the Movements' negotiators. The SAT will serve as an impartial referee on the implementation of such things as the integration of the Movements' fighters, the restructuring of the PDF and police, and the disarmament and demobilization process.

The most important page of any peace agreement is the last page—the signature page. In the case of the DPA, as with the CPA, the signatures of the Sudanese leaders are followed immediately followed by the signature of the witness (Dr Salim Ahmed Salim) and the guarantors, including the AU's own leaders (President Olusegun Obasanjo, President Denis Sassou-Nguesso and President Alpha Konare) and a long list of international guarantors (beginning with US Deputy Secretary of State Robert Zoellick and British Development Secretary Hilary Benn). What do these people and their governments bring to the DPA, to ensure that it is properly implemented?

The first thing to note is that the DPA does not change or supplant any of the existing UN Security Council Resolutions concerning Darfur. The situation in Darfur will still be raised regularly at the UN Security Council. The GoS is still obliged to disarm the Janjaweed and to permit humanitarian supplies to reach all people in need. The arms embargo is still in force. The DPA does not change the mandate of the International Criminal Court. UN Security Council Resolution 1591 empowers the Council to impose sanctions—such as assets freeze or travel ban—on any individual who violates the arms embargo or obstructs the peace process.

The Movements' negotiators in Abuja didn't raise these issues. They didn't need to. They were already in place and nothing in the DPA could change them in any way. The DPA is silent on some of the most important issues facing Darfur, not because they were forgotten, but because they were dealt with elsewhere.

With the DPA signed and in effect, UN Security Council Resolution 1591 can now be applied to any individual who obstructs the implementation of the DPA. This is an amazingly tough measure. It is the first time an Africa peace agreement is backed up by such a strong mechanism. The first targets of any such sanctions are likely to be those political and military leaders who flout the ceasefire and launch military attacks aimed at blocking the DPA.

The DPA gives AMIS extra powers for protecting civilians and monitoring the obligations of the GoS and the Movements to do the same. But, as it is widely known, AMIS has too few troops and materiel to be able to do this job properly. It is essential that AMIS is expanded. If Khartoum can agree to a UN force, it is essential that it is large and well-equipped.

A final level of guarantee for the implementation of the DPA is the political commitment of the highest level of international leaders. President George W. Bush wrote personal letters to both Abdel Wahid al Nour and Minni Minawi, assuring them of his commitment to the faithful implementation of the DPA. Bush's letters specified his particular concerns with power-sharing and security arrangements. In addition, international donors are already pledging major funds for the rehabilitation and reconstruction of Darfur. Bush also wrote to President Omer al Bashir, indicating that the signing and implementation of the DPA would be a prelude to improving relations between the U.S. and Sudan.

The greatest misgiving of the Movements over the DPA is their lack of political control of the Darfur States. Although the TDRA is controlled by the Movements' nominees, the Movements have only minority representation in the State legislatures and executives. This is of course only an interim provision until the 2009 elections, but many in the Movements fear that they will not be able to compete fairly in those elections. The AU and international community are well aware of these concerns, and in Abuja there were extensive informal discussions about what needed to be done to allay these misgivings. It was recognized that the process of free and fair elections begins with the national census and the compilation of the electoral roll, and includes the assurance of a free press and freedom to campaign, with all parties having access to the media, right the way through to the fairness of the voting on election day and counting of votes thereafter. There is immense international goodwill for Darfur and determination to make sure that Darfurians exercise real democracy when the votes are cast in three years' time.

On the final afternoon of the Abuja talks—5 May—President Obasanjo, U.S. Deputy Secretary Zoellick and British Development Secretary Benn met privately with Abdel Wahid at length and produced every possible guarantee that an African or western government can produce. These were not enough for Abdel Wahid, who still refused to sign. Abdel Wahid demanded that the Americans intervene in Darfur as they had done in Bosnia. He forgot that even when NATO sent troops to Bosnia, they did not win the Bosnians' war for them—the Bosnians still had to accept a peace deal that was much less than they had wanted. After the Dayton peace agreement, in which the Bosnian Government gave away huge areas of territory to the Serbs, the Bosnian President Alia Izetbegovic said, "This may not be a just peace. But it is more just than continuing the war."

The international partners are also well aware that while the National Congress Party has a formidable electoral machine, the Movements have very little in the way of a party organization. They don't have party offices, vehicles, magazines, and the other necessary infrastructure for mounting a political campaign. Their people don't have the skills of organizing civilian parties,

publishing newspapers and running campaigns. For these reasons, international donors are actively considering how best to assist the Darfur Movements with capacity-building for their forthcoming transformation into civilian parties. Many international donors came forward with offers of this kind of support in Abuja.

The ultimate guarantees on any peace agreement are the good faith of the parties who sign it, and the determination of the people themselves to ensure that peace is assured. The DPA comes with some of the strongest guarantees of any peace agreement in modern times. But it is the hard work and determination of the Sudanese people that will make it a reality. The Movements' leaders who have signed the DPA, or signed a Declaration of Commitment to the DPA, have taken a courageous step. They have trusted that their people will back them in peace and democracy.