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DEFINING THE CRISIS IN THE SUDANS

Lessons from the African Union High-Level
Panels for Sudan and South Sudan

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List of Abbreviations

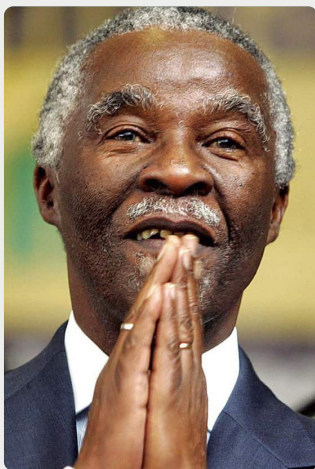
AMIS	African Mission in Sudan
ARCISS	Agreement on the Resolution of the Conflict in South Sudan
AUHIP	African Union High-Level Implementation Panel
AUPD	African Union High-Level Panel for Darfur
CPA	Comprehensive Peace Agreement
DPA	Darfur Peace Agreement
GoS	Government of Sudan
ICC	International Criminal Court
IGAD	Intergovernmental Authority on Development
JBVMM	Joint Border Verification and Monitoring Mechanism
JEM	Justice and Equality Movement
JPSM	Joint Political and Security Mechanism
NCP	National Congress Party
PSC	Peace and Security Council
RSF	Rapid Support Forces
RSS	Republic of South Sudan
SAF	Sudan Armed Forces
SDBZ	Safe Demilitarized Border Zone
SPLA	Sudan People's Liberation Army
SPLM	Sudan People's Liberation Movement
SRF	Sudan Revolutionary Front
UAE	United Arab Emirates
UNAMID	UN-AU Mission in Darfur
UNISFA	United Nations Interim Security Force for Abyei
UNMIS	United Nations Mission in Sudan
UNSC	United Nations Security Council

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Foreword *by Thabo Mbeki¹*



This booklet tells an important story about the efforts of one group of Africans, ultimately called the AU High-Level Implementation Panel for Sudan and South Sudan (AUHIP), to help the peoples of both Sudan and South Sudan to resolve their major strategic problems.

This group was originally formed by the African Union (AU) in 2009, mandated to present a report to the AU on how to resolve the violent conflict which had broken out in the Darfur region of Sudan in 2003. It was called the AU High-Level Panel for Darfur (AUPD).

The AUPD presented its report on Darfur to its principal, the AU Peace and Security Commission (AU PSC), meeting at Heads of State and Government level in 2009. The meeting accepted the report, including its Recommendations.

Accordingly, the AUPD Recommendations became AU policy.

The AU PSC then mandated the Panel to facilitate the implementation of the AU policy positions, formerly the AUPD Recommendations.

It, therefore, changed the name of the AUPD to the AUHIP. At this point, the required implementation referred to the one country of Sudan. Later, it referred to the two countries of Sudan and South Sudan, after the latter seceded from Sudan and became an independent State in 2011.

This succession of names of the AU Panel suggests that it must have existed for a significant period of time.

In fact, the AU Panel, under its different designations,

has been working with the Sudans for over a decade to date. Though it has significantly slowed down its work during the last few years because of the important changes which took place in Sudan in 2019, with the removal of the government led by President Omar al-Bashir, it has not been dissolved by the AU PSC.

And yet, it would be correct to say that the fact of violent conflicts which continue to afflict both Sudans demonstrates that the protracted intervention of the AU Panel to help both Sudans successfully address their major challenges has not succeeded.

The 2009 ‘Report of the African Union High Level Panel on Darfur’ (AUPD) contains a Preface I wrote as the Chairperson of the Panel, and said, *inter alia*:

“During its extensive interactions with its Sudanese interlocutors, inside and outside Darfur, the Panel repeatedly heard that the conflict was, in reality, a manifestation of a broader crisis affecting the whole of Sudan. This larger problem was described as the consequence of the development of a colonial and post colonial socio economic system in which a minority of the population, concentrated in and around Khartoum, maintained a stranglehold over political power and economic resources”.

“As a result, the greater geographic part of Sudan, and the millions of Sudanese who reside in these areas, have been condemned to political disempowerment and domination, economic underdevelopment, and marginalisation. This has affected all parts of Sudan – the South and the North, the West, and the East ...”.

“Sudan is one of the most diverse countries in Africa, in terms of race, colour, culture, language, religion, level of development and many other factors. Its unity, therefore, requires that its development, in all aspects, should be based on the principle and practice of unity in diversity. However, the manner in which it developed during the colonial and post colonial periods has made this impossible. Thus, its diversity has served as a centrifugal rather than a centripetal force”.

¹ Chairperson of the AUPD and AUHIP.

Many in Africa and the rest of the world often say that Ghana was the first sub-Saharan country to gain independence in 1957. This is factually incorrect. The first such country was Sudan in 1956.

The reason for this ‘misconception’ among many people is that they did not accept as legitimate the independence of Sudan and, therefore, the legitimacy of the sovereign State born of that independence.

A year before its independence, in 1955, a civil war broke out in Sudan. People in Southern Sudan took up arms to demand that the colonial power, Great Britain, should only grant independence to Sudan as a federal country. That federation would give enough autonomy to Southern Sudan to ensure that it was not oppressed and exploited by Northern Sudan.

The colonial power ignored this demand and granted Sudan independence as a unitary State, even as the civil war continued.

This is why so many, to date, have refused to accept that Sudan was the first sub-Saharan country to gain independence from colonial rule.

As I have indicated in my Preface to the AUPD Report, I said that,

“Sudan is one of the most diverse countries in Africa ... (but) its diversity has served as a centrifugal rather than a centripetal force”.

In the same Preface, I said “It is the inequality historically embedded in Sudan, and its attendant consequences, that led to the armed uprisings in South Sudan, Darfur, and Eastern Sudan, each targeting the central power which had denied them access to political power and a fair share of the national wealth.

“It is true that the central power may have the possibility to defeat and suppress armed insurrections, which occur in the periphery.

But it is equally obvious that, sooner or later, these insurrections would recur as long as the basic social and economic structure of Sudan remained unchanged”.

Unfortunately, the fact of the immense diversities of both Sudan and South Sudan means that both countries are characterised by a variety of immense structural fissures.

It is the failure to bridge and close these fissures that led to the violent conflicts, some of which are relatively new, and others persist to this day.

And it is exactly the depth of these fissures that makes it difficult to bridge them through negotiations.

It was exactly because this was an immense structural fissure that it became impossible to stop the movement of Southern Sudan towards secession, resulting in the birth of the independent Republic of South Sudan in 2011; this was despite the stated goal of the belligerents in the North/South armed conflict “to make unity attractive”.

Between them, the two Sudans share borders with nine other African countries. They are also part of the very fragile area of the Horn of Africa.

The peace and stability of the Sudans are, therefore, of vital importance to the stability of a vast area of our Continent and of Africa itself.

Accordingly, as Africans, we have no choice but to collaborate with the sister peoples of Sudan and South Sudan to help them identify, bridge, and close the immense structural fissures I have mentioned.

I trust that this booklet will be of great assistance in this regard.

Thabo Mbeki



Patron
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INTRODUCTION

Overview

Prospects for Peace in the Sudans

Overview

In 2024, Sudan and South Sudan are in a calamitous condition. Neither state is currently viable. The people of each country are suffering a humanitarian catastrophe. Famine conditions exist in many parts, portending societal disruption and, in extreme cases, collapse. Sudan is torn by a war that appears as devastating as intractable. Barely more than a decade after achieving independence with high hopes, South Sudan is a land of misery. When South Sudan seceded, the leaders in Khartoum and Juba vowed to work together to achieve 'two viable states'. Until that promise is fulfilled, there cannot be legitimate governments and people's basic needs, let alone the higher aspirations, cannot be met.

Peace in the Sudans is essential for the people of the two countries, Africa, and the world. This report explores the challenges faced by the African Union High-Level Panel for Darfur (AUPD) and its successor, the AU High-Level Implementation Panel (AUHIP) (hereafter, 'the Panel') during the period 2009-14 in trying to achieve this goal and why that experience is relevant to the Sudans today and to peacemaking in Africa.

The Panel was the AU's most ambitious, comprehensive, and sustained engagement in peace, reconciliation, democratisation, and seeking the viability of states. Its experience provides a living library for addressing complex political conflicts. The Panel's work will be comprehensively detailed in a forthcoming book, *Negotiating the Sudans*.²

The Panel developed and applied a methodology to the challenges of peace, justice, democracy, and state viability. This began with consulting the people of Darfur to define the problems they faced. Accordingly, the Panel defined the crisis as 'Sudan's crisis in Darfur', to be resolved by a nationwide process of democratisation in which the people of Darfur would gain their correct place in a country long disfigured by inequality and intolerance. The Panel also identified specific issues of reconciliation and local peace that could be resolved only by the communities of Darfur themselves once the shooting had stopped and conducted in a manner that would render armed groups and militia subordinate to the civilian community agenda.

In dealing with the Sudan as a whole on the eve of the referendum in southern Sudan, the Panel defined the challenge as having two fundamental components. First, after secession, Sudan and South Sudan would both be African states characterised by diversity, each with the challenge of achieving a government that was democratic and fully respectful of diverse ethnic and religious identities. Second was achieving 'two viable states', which were at peace internally and with one another, and meeting the economic aspirations of their people, including through cooperation with one another and with their African neighbours, and with sufficient autonomy to be able to determine their national goals and strategies.

The Panel engaged politically in a manner consistent with the norms, principles, institutions, and procedures of the African Union, drawing upon its Constitutive Act and other solemn commitments undertaken by the AU and its member states.

² Alex de Waal and W.J. Berridge, *Negotiating the Sudans: The African Union High Level Panels in the Sudan, 2009-2014*. Cornell University Press and US Institute of Peace, Forthcoming 2025.

Translating these norms and principles into action requires technical expertise but is not a technical process. It requires all parties involved to share the fundamental political analysis and to come to a common judgement about how to make those norms and principles a living political reality. Among the essential components of a viable state is national ownership of the goals and strategies for the country's future.

The exuberance of the people of South Sudan at the time of independence showed that they aspired to a democratic, developmental state and expected their country's African and global partners to do their utmost to support them in achieving those goals.

In Sudan, the non-violent, nationwide popular uprising of 2018-19 made clear the desire of the people for a country under democratic civilian leadership, characterised by diversity and committed to resolving national problems by dialogue. That goal was repudiated by the military coup of 2021 and is becoming more remote with the devastation of civil war.

The Panel was also mandated to address the challenges of peace and security across the Horn of Africa, including the region's position within the 'Red Sea Arena', marked by intersecting global and regional contests. Rivalrous political, economic, and security strategies of the Middle East's middle powers have become drivers of the conflict in Sudan. The resolution of the conflict in South Sudan requires cooperation among its neighbours.

Introduction and Context

In the new Millennium, Africa's leaders began assembling an African peace and security architecture. This was an urgent practical task in the face of civil wars and mass atrocities, including genocide, military takeovers, and humanitarian emergencies. Even while Africa's new institutions were under construction, immediate action was needed to address deadly conflicts. Among the first and biggest challenges for the Continent's peace and security agenda was Sudan and, specifically, the war and atrocities in Darfur. In early 2004, Darfur was the topic of the earliest meetings of the AU Peace and Security Council (PSC), which decided to deploy peacekeepers in Darfur.³

The conflict in Darfur arose from long-standing inequities of governance and development in the country, which were inherited from the colonial era and were unresolved by successive independent governments.⁴ Two armed movements, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM), fought against the Government of Sudan (GoS), which mobilised a militia known as the Janjaweed to spearhead its counter-insurgency. The conflict entangled Sudan's neighbours and became internationalised partly as a result of widespread outrage at the mass atrocities perpetrated against civilians. The AU responded, consistent with its obligations to resolve conflict, end grave abuses against the civilian population, and seek accountability. It dispatched peacekeepers, the African Mission in Sudan (AMIS), which later transitioned to the UN-AU Mission in Darfur (UNAMID). It convened negotiations that resulted in the Darfur Peace Agreement (DPA), which was unsuccessful in obtaining the support of most of the armed groups.

³ Statement of the Chairperson of the Commission on the Occasion of the Solemn Launching of the African Union Peace and Security Council, Addis Ababa, 25 May 2004.

⁴ Salah Hassan and Carina Ray, eds. *Darfur and the Crisis of Governance in Sudan: A critical reader*. Cornell University Press, 2009; Alex de Waal, (ed.) *War in Darfur and the Search for Peace*, Harvard University Press, 2007.

Africa has a long history of peace initiatives in Sudan. The country's first civil war (1955-72) was ended by a mediation effort under the auspices of Emperor Haile Selassie of Ethiopia.⁵ Negotiations to end Sudan's second civil war (1983-2005) were mediated by the Intergovernmental Authority on Development (IGAD), resulting in the Comprehensive Peace Agreement (CPA).⁶ This promised the democratic transformation of Sudan and the exercise by the people of southern Sudan of their right of self-determination while committing the GoS and Sudan People's Liberation Movement (SPLM) jointly to 'make unity attractive'. The objectives of national democratisation and self-determination for southern Sudan, each extremely challenging in its own right, were to be accomplished in parallel. The leader of the SPLM, Dr John Garang de Mabior, had an ambitious vision for a 'New Sudan' involving both political and economic transformation that would make unity attractive for all. Along with Vice President Ali Osman Taha, he was co-author of the central agenda of the CPA. Following Garang's untimely death in July 2005, General Salva Kiir Mayardit assumed the leadership of the SPLM and the first vice-presidency of Sudan. Pres. Kiir's priorities were reconciliation and unity among southern Sudanese and achieving self-determination.

The challenge of implementing the CPA was made still harder by the conflict in Darfur and intrusive international interventions. But by 2008, the Darfur conflict had not been resolved. The prosecutor of the International Criminal Court (ICC) issued an arrest warrant for President Omar al-Bashir for crimes in Darfur,⁷ raising worries that he and the ruling National Congress Party (NCP) would be prepared to sacrifice the CPA to protect their position. Through its Constitutive Act, the AU was committed to peace, democracy, and accountability, as well as to intervening in the case of grave circumstances, such as war crimes. However, the AU needed a doctrine and strategy for how to reconcile the diverse initiatives—for peace, for civilian protection, for democracy, for justice—that threatened to overwhelm the country and cancel each other out. The AUPD was constituted accordingly with the aim of identifying the path towards a solution.⁸

The Panel consisted of three former heads of state: President Thabo Mbeki (South Africa) was in the chair, with President Abdulsalami Abubakar (Nigeria) and President Pierre Buyoya (Burundi) as members, supported by a small staff. It cooperated closely with international stakeholders, including IGAD, neighbouring states, the United Nations, the United States, the European Union, the League of Arab States, China, the United Kingdom, Norway, and others. The Panel was to become the most sustained and ambitious peace mission in the AU's history to date.

On the basis that the first duty of the mediator is to define the problem, the Panel conducted research and consultations, including a series of town hall meetings with citizens from all walks of life, to explore all aspects of the conflict. This led to the Panel defining the Sudanese problem in three overlapping ways.⁹ First was the identification of the Sudanese crisis in Darfur, which could be resolved only by national democratisation and a more equitable and inclusive governance of diversity. This was the core analysis of the AUPD report. Technical aspects of the challenge in Darfur, including deploying peacekeepers to protect civilians and ascertaining the correct legal mechanisms for accountability, were important but secondary.

⁵ Abel Alier, *Southern Sudan: Too many agreements dishonoured*. Ithaca Press, 1990.

⁶ Sarah Nouwen, Laura James and Sharath Srinivasan, *Making and Breaking Peace in Sudan and South Sudan: The Comprehensive Peace Agreement and Beyond*. Oxford, Oxford University Press, 2020.

⁷ ICC, Office of The Prosecutor, *Situation in Darfur, The Sudan: Public Document, Public Redacted Version of the Prosecutor's Application under Article 58*, The Hague, 14 July 2008.

⁸ African Union, Peace and Security Council, 142nd meeting, *Communiqué*, 21 July 2008. PSC/MIN/Comm(CXLII).

⁹ African Union High-Level Panel on Darfur, 'Darfur: The Quest for Peace, Justice and Reconciliation, Report of the African Union High-Level Panel on Darfur (AUPD)', October 2009.

After the Panel was re-mandated as the AUHIP, it continued its research, consultation, and analysis, leading to additional elements to the definition. The second element was that when Sudan split, it would split into *two African countries*, each characterised by diversity, not into two entities respectively—and antagonistically—defined as ‘Arab’ and ‘African’. This was the central theme of President Mbeki’s lectures in Juba and Khartoum on the eve of the referendum in southern Sudan.¹⁰ Third was that the challenge of secession was the achievement of *two viable states*. Viability entailed that the two countries were at peace internally and with one another, were able to meet the aspirations of their people for development and welfare and possessed sufficient autonomy to be able to set their own national goals and strategies. This was adopted as the overriding principle for the post-referendum negotiations.



Thabo Mbeki (centre), former President of South Africa and Chairperson of the African Union High Level Implementation Panel on Sudan (AUHIP), speaks with participants at a public lecture delivered by Mr. Mbeki at the Nyakaron Cultural Center in Juba, capital of South Sudan, two days before the South’s referendum on self-determination. (source: media.un.org)

The AU PSC adopted the AUPD report in October 2009. It then gave the AUHIP a new mandate to assist the Sudanese parties in implementing its recommendations along with all outstanding elements of the CPA.¹¹ As the referendum on self-determination in southern Sudan neared, the AUHIP assumed the role of facilitating talks on post-referendum arrangements. These negotiations covered a host of issues, each of them technically complex, up against a non-negotiable deadline.

The independence of the Republic of South Sudan on 9 July 2011 was a historic event for the South Sudanese, the Sudanese, their neighbours, and the African continent as a whole. Independence Day was a celebration. Sudan recognised the new state. However, the work of the AUHIP was not finished. Many issues were unresolved at the time of secession, including economic arrangements and the two countries’ common border. The perennial issue of the contested area of Abyei was not only unresolved but made more pressing by violent clashes and armed takeover by the Sudan Armed Forces (SAF). The Panel was also faced with a new conflict in the ‘Two Areas’ of South Kordofan and Blue Nile. Relations between Khartoum and Juba were rapidly souring. This culminated in armed conflict along their common border in April 2012, whereupon the PSC and UN Security Council additionally mandated the AUHIP to engage the two States to resolve the disputes between them.¹² Protracted negotiations culminated in the signature

¹⁰ Speech by Thabo Mbeki, Chairperson of the AUHIP, for the University of Khartoum: Friendship Hall, Khartoum, 5 January 2011; Speech by President Thabo Mbeki, Chairperson of the AUHIP, at the University of Juba, Juba, 7 January 2011.

¹¹ African Union Peace and Security Council, 207th Meeting at the Level of the Heads of State and Government, 29 October 2009, Abuja, Nigeria, Communiqué, PSC/AHG/COMM.1(CCVII).

¹² AU PSC, 319th Meeting, Communiqué, PSC/MIN/COMM/3.(CCCIX), 24 April 2012; UN Security Council Resolution 2046, 2 May 2012, S/RES/2046.

of eight Co-operation Agreements in September 2012 by Presidents al-Bashir and Kiir,¹³ which are highly detailed and substantive treaties covering a wide range of inter-state relations. The Panel followed up by facilitating subsequent talks that led to detailed modalities for implementation.

The Panel was, first and foremost, an exercise in political accompaniment of the Sudanese and South Sudanese parties as they endured an exceptionally challenging period. This entailed several different roles. The Panel facilitated negotiations. It acted as a mediator, helping formulate positions. It was pressed to act as arbiter, determining solutions, but took that role in a very limited manner and with the utmost reluctance. The Panel brought technical expertise from Africa and around the world, especially from multilateral organisations, to support its mission.

A distinguishing feature of the AUHIP was its adherence to multilateral principles and practices. At all times, the Panel was mindful of its mandate from the AU PSC and, latterly, the UN Security Council, along with other international partnerships. It sought faithfully to adhere to the norms and principles of the UN Charter, the Constitutive Act of the AU and other relevant UN and AU commitments.¹⁴ Foremost among these norms was inclusivity, engaging multiple Sudanese and South Sudanese stakeholders as well as neighbouring countries and international stakeholders. Faced with new challenges and changing circumstances and working within the AU's institutional structures that were themselves under development, the Panel fashioned its activities with the intention of both solving the problems at hand and strengthening the African peace and security architecture.¹⁵

The Panel's experience is important in its own right, as a pivotal element in the history of Sudan and South Sudan, in the story of the AU's development, and as an exercise in complex multilateral peace-making. The Panel's engagement with the Sudans tested and developed a range of mechanisms for peace-making, with both specific and universal lessons. Partly because the Panel's *modus operandi* was to avoid negotiating in public and to insist that any successes arising from its engagement were attributed to the Sudanese parties, not to the facilitator, its role has not been documented sufficiently. The Panel's experience is also highly relevant to the crises faced by Sudan and South Sudan today.

Defining the Problem in Darfur

Inaugurating the work of the AUPD in March 2009, Pres. Mbeki remarked that 'our first duty is to define the problem'. The Panel convened an expert seminar and met with Sudanese leaders and other high-level individuals engaged in Darfur. Among the first questions posed by Pres. Mbeki was, 'What do the people of Darfur have to say?' On learning that they had not been asked, he resolved to consult them. Consequently, the major activity of the AUPD was a series of means of town-hall meetings organised by the Darfur-Darfur Dialogue and Consultation,¹⁶ facilitated by UNAMID, on the basis of a commitment from Pres. al-Bashir that it could travel anywhere and speak with anyone without any interference.

¹³ The Co-operation Agreement between The Republic of Sudan and the Republic of South Sudan, 27 September 2012.

¹⁴ Among them especially: (1981); The New Partnership for Africa's Development (NEPAD) (2002); The Protocol Relating to the Establishment of the Peace and Security Council of the African Union (2004); The African Charter on Democracy, Elections and Governance (2007); and the Mechanism for Interaction between the Peace and Security Council and Civil Society Organisations in the Promotion of Peace, Security and Stability in Africa ('Livingstone Formula') (2008).

¹⁵ The impacts can be seen, inter alia, in the AU Transitional Justice Policy (2019).

¹⁶ A mechanism established by the 2006 Darfur Peace Agreement and administered by the AU.

Over forty days, the AUPD held the most extensive, frank, and wide-ranging consultations with the people of Darfur and others in Khartoum undertaken by any actor. It ventured to places where the GoS could not go, including areas held by the armed movements and camps for internally displaced persons (IDPs) that were off-limits to the security forces. It spoke with leaders of the nomadic Arab communities, who had been ignored and often denigrated by the international community separately from the GoS. The Panel listened to the views of Darfurians on peace, reconciliation, justice, and Darfur's place in Sudan. They found that neither the government nor the armed movements were offering solutions but that if the people themselves were directly empowered, they could articulate a way ahead.



Thabo Mvuyelwa Mbeki, President of South Africa and Chair of the African Union High-Level Panel on Darfur (AUPD), visits Khartoum with Panel members. (source: media.un.org)

In its report, *Darfur: The Quest for Peace, Justice and Reconciliation*,¹⁷ the AUPD defined the problem as 'the Sudanese conflict in Darfur', locating its origin in the historical marginalisation of Darfur within the Sudanese polity. It identified two necessary processes. The first was reconciliation and negotiation among the people of Darfur themselves to resolve disputes between the communities. All participants agreed that there was a host of questions that could be solved by Darfurians and only by Darfurians meeting together. The second process was Darfurian participation in national democratisation and the resolution of national questions.

The report identified a route to a Global Political Agreement in which representatives of the people of Darfur would agree on the settlement of the issues that had divided them and divided them from their compatriots elsewhere in the country. On the question of justice and accountability, the Panel recommended the establishment of hybrid courts whereby those accused of grave crimes should be prosecuted under Sudanese law in courts that also included African and other international judges and prosecutors. The Panel made no determination on the issue of whether the GoS should surrender Pres. al-Bashir to the ICC on the basis that this question could be answered only by the Sudanese themselves. In retrospect, the AUPD report did not sufficiently emphasise the dangers of the militarisation of Darfurian society and the power accruing to the militia licensed by the GoS. At the time of the AUPD, the Janjaweed militia that had been used to spearhead the devastating counterinsurgency of 2003-05 had fragmented,¹⁸ and the Rapid Support Forces (RSF) had yet to emerge. Indeed, the militia led by Commander Mohamed Hamdan Dagolo, known as 'Hemedti', was in rebellion at that time. The Panel did not fully convey the peril that a capable, well-resourced paramilitary could pose for the Sudanese people and state.

¹⁷ AU High-Level Panel on Darfur, 'Darfur: The Quest for Peace, Justice and Reconciliation, Report of the African Union High-Level Panel on Darfur (AUPD)', October 2009.

¹⁸ Julie Flint, 'Beyond "Janjaweed": Understanding the Militias of Darfur', Small Arms Survey, Sudan Working Paper 17, 2009.

The AUPD presented its report to the PSC in October 2009. At that meeting, Africa's heads of state and government hailed it as the definitive analysis of the Sudanese challenge. They adopted it as the official AU policy for Sudan. The PSC then gave the Panel a new mandate as the AUHIP.¹⁹

Regrettably, although the AUPD report was referenced in the UN Security Council's regular meeting on Darfur, it was not adopted by the UNSC. The UN and AU did not see eye-to-eye on Darfur, and their failure to align their principles, priorities and strategies handicapped the implementation of the AUPD recommendations. The UN's priority was to run its vast peacekeeping operation, and the US showed little interest in national democratisation, prioritising the secession of South Sudan. The GoS took the opportunity to utilise its 'divide and rule' tactics, perfected over decades.

Defining the Problem in Sudan

The mandate of the AUHIP was to implement the recommendations in the AUPD report, both at the national level and the Darfur level, to facilitate the Sudanese parties' completion of all outstanding issues in the CPA 'in the context of the democratisation of Sudan'. This required the Panel to define the problem facing Sudan in the final years of the CPA and adopt a method of work appropriate to that challenge.

The CPA promised two things, each of them separately challenging but astonishingly difficult to achieve at the same time. One was a transition to democracy, and the other was self-determination for southern Sudan. Elections were set for April 2010 (after long delays), and the referendum in southern Sudan was scheduled for 9 January 2011 (a date that the southern Sudanese would not postpone). Although the GoS and SPLM committed themselves to support unity, as the CPA approached its final year, it was clear that the outcome would be secession.

The Panel framed the challenge of secession around the questions of identity and viability. It insisted that when Sudan split, it would become two African countries, each characterised by diversity, not into two entities respectively—and antagonistically—defined as 'Arab' and 'African'. This posed an acute challenge for the GoS because many of its supporters were prepared to contemplate the secession of South Sudan on the assumption that this resolved the problem of diversity in Sudan, leaving northern Sudan with a singular Arab-Islamic identity. The original sin of post-secession Sudan, at the very moment of recognising the Republic of South Sudan as an independent sovereign state, was that this hardline view translated into a repudiation of any political partnership with the constituencies of the SPLM within northern Sudan, especially in the 'Two Areas' of the Nuba Mountains (South Kordofan) and Blue Nile.

Meanwhile, some South Sudanese leaders, while defining themselves as 'African' and wanting to join Africa's club of nations, did not consider themselves bound by the rules and norms of the AU, feeling that their singular experience granted them an exemption. Militants in South Sudan believed that they could make territorial claims on the north, above and beyond the parts of the boundary line already under negotiation. Some also harboured an agenda of regime change in Khartoum, hopeful that the Americans would back them.

¹⁹ African Union Peace and Security Council, 207th Meeting at the Level of the Heads of State and Government, 29 October 2009, Abuja, Nigeria, Communiqué, PSC/AHG/COMM.1(CCVII).

The viability question rested on an economic foundation. Crucial to this was an agreed plan for Sudan to escape from its enormous accumulated international debt, which required the lifting of sanctions, and a formula for South Sudan to pump its oil through the northern Sudanese pipeline to Port Sudan. In talks between the GoS and SPLM on the eve of the referendum, aiming to achieve a Framework Agreement for how to resolve post-referendum issues, the two parties agreed that ‘two viable states’ would be the overriding principle governing their interactions. Although the logic of mutually-beneficial economic arrangements was clear to both north and south, both were also ready to sacrifice it to gain military and political advantage over the other. Disagreements and conflicts over Abyei, other border areas, and a host of other issues translated into reciprocal weaponisation of economic policies, leading both countries down the road of economic crisis.

The Panel’s engagement with the Sudans did not cease with the completion of the CPA in July 2011. It continued, facilitating negotiations over the unfinished business of north-south relations for a further two years. The complexity of the issues, along with unfolding events, meant that it was not possible for the Panel to draw a clear line under its activities, heralding success. The culmination of the negotiations was a summit meeting between Pres. al-Bashir and Pres. Kiir, held in Addis Ababa, Ethiopia, in September 2012, resulted in the signing of a raft of Co-operation Agreements.²⁰ However, there was still unfinished business, both on areas of disagreement (notably Abyei) and on the implementation of what had been agreed upon.

As the Panel wound down its activities in 2013-14, it also received a mandate to engage on the wider peace and security challenges of the Horn of Africa.²¹ As the regional strategic context changed, with Middle Eastern states taking an active interest in Sudan and its neighbours, the scope of the Panel’s engagement expanded to the other shore of the Red Sea. In turn, a fourth element in the definition emerged. This could be called the ‘*Red Sea Arena rivalry in Sudan*’. The ‘Red Sea Arena’ refers to the theatre of contestation involving the littoral states of the Red Sea and the Gulf of Aden and nearby states and global powers with commercial or security interests in the sea lane and its adjoining shorelines. It is an ‘arena’, defined by contestation rather than shared institutions, with circles of actors ranging from the littoral states and the adjacent countries to global powers. In these interlocking rivalries and conflicts, the norms, principles and institutions of the African peace and security architecture are swamped by the commercial, security and geopolitical interests of others.

Sudan is one of several epicentres of the contest in the Red Sea Arena—others include Yemen and the tensions and disputes among and within the states of the eastern Horn of Africa. South Sudan is embroiled in these contests by virtue of its geographical position in the Nile Valley. The roles played by Egypt, Saudi Arabia, and the United Arab Emirates, along with others, in the current Sudanese war cannot be ignored. Neither the AU, IGAD, nor the UN has developed a strategy for engaging in this element of the Sudanese crisis.

²⁰ The Co-operation Agreement between The Republic of Sudan and the Republic of South Sudan, 27 September 2012. This consists of eight protocols.

²¹ AU PSC, 397th meeting at the level of Heads of State and Government, New York, 23 September 2013. Communiqué. PSC/AHG/COMM/2.(CCCXC VII).

SECTION 1

Activities of the AU High-Level Implementation Panel

Prospects for Peace in the Sudans



Activities of the AU High-Level Implementation Panel

The Darfur Political Process and the Doha Talks

In accordance with its proposals in the AUPD report, the Panel tried to convene the Darfur-Darfur Conference and subsequently, when that did not happen, sought to set up an inclusive ‘Darfur Political Process,’ intending that this provide a forum in which civilian actors in Darfur would have prime place over armed groups. This did not succeed. The UN and key international actors, including the US, preferred a strategy focused on the armed groups. The GoS was fearful of the implications of a unified position among Darfur’s Arabs and non-Arabs and wanted to postpone democratisation indefinitely, and so was content with this. The result was the prioritisation of talks in Doha, Qatar, that led to the Doha Document for Peace in Darfur in 2011, which was not a peace agreement but rather a technical template on which peace theoretically could be built.²² By this time, Sudan was facing a new set of national challenges with the secession of South Sudan, and a stand-alone agreement for Darfur was insufficient. It was not until 2014 that the UN Security Council resolved to address the conflict in Darfur in a manner integrated with the Sudanese crisis as a whole, by which time it was too late.²³

The 2010 General Elections

The April 2010 general elections were a neglected but essential element in the CPA, vital for a more inclusive and democratic future in northern and southern Sudan. In the north, the Panel focused on encouraging the maximum participation by political parties, with a view to them fulfilling their responsibilities of representing their constituents in national political processes. The Panel drafted a code of conduct for political parties and endeavoured to convene a conference of all political parties. Mutually-distrustful, the ruling NCP and the opposition did not agree to come to the table. Bitter accusations multiplied on each side, with the opposition and civil society groups accusing the NCP of rigging the process. Most of the opposition parties boycotted the election. The SPLM did not take a unified position, participating in elections in the south and Blue Nile (where it won the governorship) but not in most of the north. In southern Sudan, which had much less historical experience with political parties, the Panel’s focus was on the responsibilities of parties and of individual candidates, including adopting a code of conduct. This was a seminal public education exercise. However, in both north and south, the elections ended up consolidating dominant party rule by the NCP and SPLM, respectively, resulting in elected assemblies that were less diverse than the preceding interim ones.

Initiating North-South Negotiations

The AUHIP mandate was open-ended, and it was expected to respond to unfolding circumstances. There was a timeline of fourteen months to the referendum in southern Sudan in January 2011, with a further six months to conclude the CPA. The AUHIP had an extensive—and expanding—list of tasks.

The Panel helped the parties and other partners with preparations for the referendum in southern Sudan.

²² Doha Document for Peace in Darfur, 11 May 2011. See: Rosalind Marsden, ‘Peacemaking in Darfur and the Doha Process: The role of international actors,’ in Sarah Nouwen, Laura James, and Sharath Srinivasan, eds. *Making and breaking peace in Sudan and South Sudan: the comprehensive peace agreement and beyond*. London, British Academy, 2020.

²³ UN Security Council Resolution 2148, 3 April 2014.

The Panel came late to this task and played a secondary role. It resolved a dispute concerning the formation of the Southern Sudan Referendum Commission. Laying to rest fears of political interference or destabilisation from Khartoum or organisational chaos, the referendum was held on schedule on 9 January 2011 in a peaceable and celebratory atmosphere. It was a remarkable achievement.

Post-Referendum Negotiations



The Panel facilitated negotiations between the GoS and SPLM on future north-south relations. This began with a focus on the underlying principles that the goal should be ‘two viable states’ and that the social ties among Sudanese, north and south, should be protected.

Talks on post-referendum issues began only months before the referendum. The accelerated timetable, the overstretch of the negotiators, and the complexity of the questions made the timeframe far too truncated. The Panel focused on drafting a Framework Agreement covering the major questions. Most of the text was agreed including the overriding principle of ‘two viable states’.²⁴ However, the SPLM refused to sign the Framework Agreement due to continuing disagreement over Abyei.

Security Arrangements

Absolutely essential to the principles of ‘two viable states’ and harmonious post-secession co-existence was preventing armed conflict. Security arrangements were, therefore, a priority.

The Panel initiated negotiations between the two parties’ defence chiefs over security arrangements in anticipation of the establishment of the Joint Political and Security Mechanism (JPSM), focusing on border security, the dissolution of the Joint Integrated Units (whereby SAF and SPLA battalions were co-located in key areas), the disengagement of northern forces from South Sudan and SPLA forces from northern Sudan, and related issues. This included establishing a Safe Demilitarized Border Zone (SDBZ) and a Joint Border Verification and Monitoring Mechanism (JBVMM) under the AU and UN.²⁵ These mechanisms were slowly put in place, and for a period of time, the JPSM was the only functional forum for discussion between Sudan and South Sudan.

The most contentious security issue, entirely neglected during the CPA period, was the future status of citizens of one country serving in the armed forces of the other. The southerners in the SAF were let go by the GoS, which was relatively unproblematic. But the SPLA included two full divisions, one from South Kordofan and one mostly from Blue Nile, and numerous soldiers from the Two Areas serving in other divisions. This was a landmine waiting to explode.

²⁴ Framework for Resolving Outstanding Issues Relating to the Implementation of the Comprehensive Peace Agreement and the Future Relations of North and South Sudan, 13 November 2010, (finalised but not signed).

²⁵ Agreement between the Government of the Sudan and the Government of Southern Sudan on Border Security and the Joint Political and Security Mechanism, 29 June 2011.

Drawing the Boundary

The Panel worked according to the principle that African boundaries should be ‘soft borders’. The continent’s borders are mostly arbitrary lines inherited from the colonial period, and the line dividing northern and southern Sudan was no exception. The territorial integrity of states needs to be balanced with the needs of local communities that straddle borders and migrate or trade across them. This is emphatically the case where those borders are drawn through lands that were previously a single country, bisecting peoples who were, until recently, fellow citizens.

The Panel encouraged the *ad hoc* Technical Boundary Commission to complete its tasks of delineating the north-south border on the map, demarcating it on the ground, and compiling a report on the disputed border areas to submit to Presidents al-Bashir and Kiir so they could make a final decision. Very little progress was made. This was due to the technical complexity of the issues and acrimony over the disputed areas. South Sudan introduced new territorial claims shortly after independence, while Khartoum did not want to give an inch and deliberately conflated the temporary security line with the final legal boundary, especially over the ‘14 Miles’ area that separated Darfur from South Sudan. Ultimately, the two agreed that an AU team of experts should prepare a report.

The Challenge of Abyei

The Panel devoted much energy to seeking a resolution of the status of the Abyei Area, the focus of a long-standing dispute. The Panel’s starting point was that the problem of Abyei was a legacy of the colonial period that should be transcended by embracing the idea that it could be a ‘bridge’ between north and south.²⁶ It recognised that the best options for Abyei all lay within a wider context of a ‘soft border’ and north-south cooperation.

Abyei area was transferred to Kordofan, in northern Sudan, in colonial times, though the majority of the residents, the Ngok Dinka, have a close affinity to the south. This vexatious anomaly was not resolved, even by the CPA formula of promising a referendum in the area.²⁷ No formula for who should be eligible to vote in that referendum was agreed upon, and Abyei’s status was left suspended while the southern Sudanese went to cast their votes. The Panel’s view was that this matter could be resolved only by political decision at the highest level and encouraged the two Presidents to assume their responsibility. The Presidents did not do so, leaving the negotiations—or lack thereof—in the hands of their subordinates from Abyei, who had opposing hardline positions.

On the eve of independence, armed conflict erupted in Abyei. Following a clash between armed units, SAF invaded and occupied Abyei, looting and burning the town and driving out its Ngok Dinka residents. In an emergency step, the Panel and the Ethiopian Prime Minister and Chair of IGAD, Meles Zenawi, convened a summit meeting. This did not resolve the underlying dispute but resulted in an agreement on temporary arrangements for Abyei,²⁸ including a peacekeeping mission (the UN Interim Security Force for Abyei (UNISFA)) and temporary administrative arrangements. This was a holding operation which continues to this day. Repeated efforts to achieve a final status settlement have been thwarted.

²⁶ Francis Deng, *Frontiers of Unity: An experiment in Afro-Arab cooperation*. London, Routledge, 2009.

²⁷ Douglas H. Johnson, ‘Why Abyei matters: the breaking point of Sudan’s Comprehensive Peace Agreement?’ *African Affairs* 107, no. 426 (2008): 1-19.

²⁸ Agreement between the Government of Sudan and SPLM on Temporary Arrangements for the Administration and Security of the Abyei Area, 20 June 2011.

The Challenge of the ‘Two Areas’

The ‘Two Areas’ of South Kordofan and Blue Nile lie within northern Sudan but contain substantial populations, especially the Nuba, the Ingessena and several other minority groups, which supported the SPLM. Passionate advocates of unity, these communities feared they would be politically orphaned in any break-up of Sudan.²⁹ The Two Areas are also home to Arabs, Fellata and others and are the most diverse parts of Sudan regarding ethnicity and faith. The Panel addressed the challenge of the Two Areas in line with the principles that northern Sudan’s African character required an embrace of diversity and that cooperation between South Sudan and Sudan was important to secure a political settlement.

The CPA provided for a process known as ‘popular consultations’, in which residents expressed their views on the governance arrangements contained in the CPA. Those arrangements and the popular consultations were workable only in the case of national unity or a GoS commitment to accommodating diversity. The inevitable crisis came to a head in the wake of state elections in South Kordofan, which were held with extraordinarily bad timing just before the secession. The NCP candidate was declared the winner by a narrow margin. The SPLM disputed the election results. With the status of the SPLA soldiers from the Two Areas also unresolved, following a SAF order that they disband or go to South Sudan—which they rejected out of hand—armed conflict erupted. The Panel immediately convened the GoS and the leaders of the SPLM from the Two Areas in Addis Ababa.

The initial plan was a cessation of hostilities. When this failed, the Panel focused instead on a Framework Agreement that committed the two political parties involved—the NCP and the newly-constituted political-military entity of SPLM-North—to establish a partnership and take joint steps to resolve the conflict.³⁰ However, regrettably, Pres. al-Bashir repudiated the Framework Agreement, condemning South Kordofan and Blue Nile to years of armed conflict and humanitarian calamity, poisoning relations between the GoS and the RSS, and preventing normalisation of relations between the GoS and key members of the international community.

The war spread to Blue Nile State a few months later. The SPLM-N also joined forces with JEM and SLM/A to form the Sudan Revolutionary Front (SRF), which declared the goal of regime change in Khartoum. Given that the Doha Document for Peace in Darfur was the internationally-mandated template for Darfur, and the UN only mandated the AUHIP to negotiate over the Two Areas, it is unsurprising that repeated attempts to mediate a resolution did not succeed. Meanwhile, the humanitarian crisis deepened. In partnership with the League of Arab States, the UN and Ethiopia—whose Prime Minister Meles Zenawi always insisted that civilians should never be denied relief assistance—the Panel pushed for an agreement on humanitarian access. When the GoS obstructed humanitarian aid to the starving, the US began discreetly providing cross-border aid from South Sudan, informing the GoS but not challenging Khartoum in public. International lawyers concurred that the sovereign entitlement of the GoS gave way in the face of the obligation of saving lives.³¹

29 Guma Kunda Komey, *Land, Governance, Conflict and the Nuba of Sudan*. James Currey, 2010; Benedetta De Alessi, ‘The CPA Failure and the Conflict in Southern Kordofan and Blue Nile states.’ *Revista UNISCI* 33 (2013): 79-91.

30 Framework Agreement between Government of Sudan and Sudan People’s Liberation Movement (North) on Political Partnership between NCP and SPLMN, and Political and Security Arrangements in Blue Nile and Southern Kordofan States, 28 June 2011.

31 Obstruction of essential humanitarian assistance can be a war crime, as affirmed in UN Security Council resolution 2417 (April 2018). Consequently, the principle of non-indifference, enshrined in the Constitutive Act of the African Union (2002), Article 4(h), is applicable. See also, *inter alia*, Roberta Cohen and Francis Deng. *Sovereignty as responsibility*. Oxford University Press, 2016; Guernica 37 Chambers, ‘2014 Is Not 2022: Why the Continuation of UN-Coordinated Cross-Border Aid into Syria Absent a UN Security Council Resolution is Lawful,’ American Relief Coalition for Syria, 2022. <https://www.crossborderislegal.org/>

Nationality and Citizenship

The peoples of the united Sudan were mixed. No clear lines could be drawn to differentiate one group from another. The Panel insisted that it was impossible to ‘unscramble the egg’ that was Sudanese identity and that citizens should not be victimised by secession.

The Panel was worried that the secession of the South would be carried through at the expense of citizens, who might be uprooted and even become stateless. The Panel explored options and facilitated negotiations on nationality and citizenship, intending to ensure that no one should be rendered stateless and the rights of nationals of one country in the other should be respected. Contrary to the expressed preference of the Panel, the two Parties agreed on very sharply-defined criteria for citizenship that stripped Sudanese citizenship from anyone eligible to vote in the referendum in southern Sudan, with no option of dual citizenship or of choosing between the two. It was a draconian and inhumane measure. Fortunately, the worst-case fears of statelessness did not materialise, as South Sudan offered citizenship to all those deprived of Sudanese citizenship. The Parties did, however, agree on the ‘four freedoms’ for one another’s citizens—freedom of work, residence, movement, and property ownership. The Panel pursued parallel processes with the GoS and the new Republic of South Sudan (RSS) on their respective citizenship laws.

Oil and Economic Arrangements

All recognised that Sudan and South Sudan would be economically viable only if they cooperated. Because the great majority of Sudan’s oil was in the south, post-secession Sudan faced a potentially calamitous drop in revenue and hard currency. South Sudan wanted to maximise its revenue from its oil, paying fees for using the pipeline through the north and the terminal at Port Sudan in line with international commercial rates. Sudan insisted that special arrangements were needed because South Sudan had achieved independence with zero debt—the north having taken that burden in its entirety—and because it had built the infrastructure. Khartoum’s strongest bargaining chip was that alternative pipelines to the East African coast were not commercially viable, with a price tag of \$2 billion or more. An overall formula for ‘transitional financial arrangements’ was adopted, according to which Sudan’s financial gap of about \$10 billion over three and a half years would be met equally in three parts by Sudanese austerity measures, international assistance, and ‘transitional financial arrangements’ whereby South Sudan paid substantial fees to the north.

However, acrimony between the GoS and SPLM over issues including Abyei blocked action. After southern independence, relations soured further over reciprocal destabilisation, while the GoS gave up hope that the US would proceed with removing sanctions and lifting the state sponsor of terror designation. In December 2011, Khartoum began unilaterally diverting South Sudanese oil to its refineries and ships in Port Sudan, which it intended to sell illegally. In response, South Sudan decided to shut down its entire national oil production. It spurned a Panel proposal for a deal based on the previous formula for ‘transitional financial arrangements’ on the table at that time. The oil shutdown accelerated the economic crisis in both countries. In the short term, it brought the two countries to armed conflict and damaged both. Each side calculated that it would be hurt by economic warfare, but the other would be hurt more. It was a disastrous calculation by both.

Ending the Border War and the Roadmap to Co-operation Agreements

Hostilities erupted between the two states in April 2012 in the area of Heglig, claimed by South Sudan. The exact spark for the fighting is disputed, but SPLA forces attacked from their bases south of the border and overran the town of Heglig along with its oil wells and pipeline. Sudan declared that it had been invaded. Fighting raged, with both sides calling up more forces. The two countries were on the brink of all-out war.

The AU PSC was immediately seized by this. It demanded a ceasefire and adopted a communiqué, including a Roadmap for the resolution of all outstanding issues within three months.³² It passed the matter to the UN Security Council, which swiftly adopted resolution 2046, which replicated the PSC Roadmap.³³ This was a remarkable example of AU leadership breaking through the impasse that then prevailed between the US and Russia at the UN Security Council, an exemplary case of making use of AU peace and security mechanisms. The Panel was thereby mandated by both the AU and UN to resolve outstanding issues between Sudan and South Sudan.

Between June and August 2012, the Panel facilitated negotiations between the GoS and RSS on all outstanding issues, leading to agreement on the key issues in dispute on oil and transitional financial arrangements.³⁴ Several problems impeded these negotiations. First, the GoS, under the direction of its military, insisted that all security issues be concluded favourably before it was ready to talk about the oil issue. In short, Khartoum felt that Juba had committed economic suicide, which would not enable it to have life-saving revenue flows until Sudan obtained extremely robust security guarantees. The northern generals took the position that every small security issue, including the minor matter of the exact position of the centreline of the SDBZ in the '14 Miles' area, admitted no compromise. They also sought an assurance that South Sudan had cut ties on all financial and military matters from the SPLM-North—an assurance that Juba did not provide with the clarity demanded. Meanwhile, South Sudan's delegation did not want to make any agreement on financial matters without first resolving the question of Abyei in its favour.

After reaching an agreement on the oil and finance issue, the Panel scheduled a summit meeting between the two Presidents for September 2012. The plan was to agree on all outstanding matters. This required intensive negotiations, first to ensure that the summit actually happened and then to resolve the differences between the two, which were many and bitter. Success was finally achieved, and a series of agreements was signed.³⁵ This was a wide-ranging, detailed, and historic set of treaties that governed almost all significant elements of inter-state relations. The eight protocols are more comprehensive than those in place between most neighbouring countries in Africa. In law and legislation, it is a model. Shortly after its independence, South Sudan had defined its relationship with the successor state in a manner unmatched elsewhere.

³² AU PSC, 319th Meeting, Communiqué, PSC/MIN/COMM/3.(CCCXIX), 24 April 2012.

³³ UN Security Council Resolution 2046, 2 May 2012.

³⁴ AU PSC, 329th meeting, Addis Ababa, 3 August 2012, 'Communiqué', PSC/PR/COMM.(CCCXXIX).

³⁵ Co-operation Agreement between The Republic of Sudan and the Republic of South Sudan, 27 September 2012.

Unfinished Business After the September 2012 Summit

The Panel continued efforts to resolve the status of Abyei and to implement the provisions of the agreement on temporary administration. Pres. al-Bashir and Pres. Kiir failed to agree on a final settlement in summits in September 2012 and January 2013. The Panel proposed a formula for holding a referendum in Abyei, which was accepted by South Sudan but rejected by Sudan.³⁶ Both Parties were intransigent in taking the steps needed to put in place a workable local administration.

At the time of deepest acrimony between Sudan and South Sudan, the Panel chaired meetings of the JPSM and established an *ad hoc* mechanism to investigate and adjudicate allegations of destabilisation by one state against the other. For much of this period, the JPSM was the only forum in which the two States engaged each other regularly on key issues.

After the 2012 Co-operation Agreements, the Panel hoped that with relations between Sudan and South Sudan normalising, it would be possible for internal dialogue within each State to resume. The goal was democratic reform in each country. This agenda was quickly overtaken by events in South Sudan, where Pres. Kiir did not take up the Panel's proposal to facilitate negotiations within the SPLM to resolve the deepening divide, which erupted into violence in December 2013.

National Dialogue

The Panel adopted and fashioned the idea of popular consultation, contained in the CPA and national dialogue, as complementary to the formal practices of electoral democracy. As well as pioneering a consultative approach in Darfur, the Panel championed the popular consultation in Blue Nile, held after the 2010 elections, and encouraged similar dialogues in the states bordering the north-south boundary during a short-lived process known as *tamazuj* ('blending').

The Panel supported efforts by political leaders and civil society groups in South Sudan to debate the country's proposed constitution and other key issues. Unfortunately, these efforts were aborted with the outbreak of civil war in December 2013. In due course, those efforts will need to resume.

In post-secession Sudan, the Panel encouraged the NCP, civilian parties, and armed opposition groups to come together in a process of national dialogue. The participation of political parties was particularly important as they had a historic role in the country's politics dating back to the colonial era. They have longevity, organisational capacity, and legitimacy, and their very purpose is to articulate a political vision for the nation. Civil society organisations could give voice to a generation that felt disenfranchised by the legacy parties. The vision was that an inclusive national dialogue, independently chaired, would debate all issues of national concern. In the event, the NCP ensured that the national dialogue was postponed until after the 2015 elections, which it won handsomely due to opposition boycotts. When the national dialogue finally got underway, Pres. al-Bashir insisted that he should chair the proceedings, which fatally compromised its integrity. The Panel did not participate. Despite this unfortunate precedent, the concept of a national dialogue, or its variant such as a constitutional conference, remains highly salient in contemporary Sudan.

³⁶ Agreement between the Government of the Republic of Sudan and the Government of the Republic of South Sudan for the Resolution of the Final Status of Abyei, 25 September 2012 (not signed).

SECTION 2

Multilateralism in Action

Prospects for Peace in the Sudans



Multilateralism in Action

The Panel was a paradigm of multilateralism. Its activities illuminated the design and potential of the African peace and security architecture. Its partnerships with the UN and others demonstrated how multilateral institutions could function effectively. The Panel was created at the historic high point of liberal multilateralism in a location where that model of peace-making was at its most intense. The international community pursued multiple objectives—peace, protection of civilians, justice, democratisation, and self-determination—which did not always fit together. In March 2005, the UN Security Council passed three different resolutions on Sudan, the first congratulating the GoS and SPLM on the CPA and establishing UNMIS, the second on peace and civilian protection in Darfur, and the third referring crimes in Darfur to the ICC.³⁷ The Council's inability to adopt a single, unified resolution on Sudan dramatically illustrated the problem of conflicting objectives. Indeed, the initial stimulus for the PSC to convene the Panel was to address some of the problems arising from the overreach, even hubris, of liberal peace-making.

Defining the AU Position and Process

The Panel was informed by key principles contained in the foundational commitments of the African Union.³⁸ The inception of the AUPD was informed by Article 4(h) of the Constitutive Act, non-indifference, alongside Article 4(m), respect for democratic principle and the rule of law, and Article 4(p), rejection of non-constitutional change in government. The work method was informed by Article 4(c), which states the participation of the African peoples in the affairs of the Union. Each of these principles needs to be considered holistically. The initial aim of the AUPD was for the Sudanese citizens, especially in Darfur, to work in accordance with the democratic process and the rule of law, rejecting any non-constitutional change of government, to find an agreed solution to the requirement of accountability for grave violations, in the context of peace and reconciliation.

The Panel worked in accordance with AU procedures in a practical demonstration of African methods and principles. In accordance with Article 2 of the Protocol Relating to the Establishment of the PSC, the Panel worked under the PSC as the highest authority for peace and security within the structures of the Union. In accordance with Article 10(3)(c) of that Protocol, the Panel submitted its reports through the Chairperson of the Commission regularly and comprehensively to the PSC. The Panel Chair and Members also reported verbally and engaged in discussions at PSC sessions. The reports and communiqués of the PSC are rich and substantive.

In accordance with Article 16 of the PSC Protocol, the Panel harmonised its activities with IGAD, consulting regularly with its Chairperson and its envoy for Sudan. In accordance with Article 17, the Panel, through the PSC, cooperated and worked closely with the UN Security Council, the Special Representative of the Secretary-General for Sudan and head of UNMIS, the Joint Special Representative and head of UNAMID, and subsequently the UN Special Envoy for Sudan and South Sudan. Additionally, UNSC Resolution 2046 of May 2012 required the Panel to report directly to the Security Council. In addition, the Panel engaged closely with the League of Arab States.

³⁷ UN Security Council Resolutions 1590 (24 March 2005), 1591 (29 March 2005) and 1593 (31 March 2005).
³⁸ Constitutive Act of the African Union, 2002.

During the years of the Panel's work, the practices of the AU peace and security mechanisms were a work in progress. The three Panel members saw one of their key tasks as demonstrating how these mechanisms were intended to function: a practical education for the diplomatic community and continental civil servants in the workings of the AU's institutions of peace. It should be clear from the above that 'African solutions' cannot be seen as consisting solely of a process and purported solution led by Africans but should be seen as a process designed and implemented in accordance with Africa's norms, principles, and institutions.

In 2010, the AU Commissioner for Peace and Security, Ambassador Ramtane Lamamra, took the initiative to establish the Sudan Consultative Forum. This was jointly chaired by Commissioner Lamamra and his counterpart, UN Under-Secretary General for Peacekeeping, Alain Le Roy.³⁹ The Forum involved all Sudan's international partners in a single forum for information sharing and exchange of views. It was an effective mechanism, ensuring that all international partners were kept informed. Alongside the Forum, the AU and UN held joint coordination meetings. Regrettably, it was discontinued after 2013.

The United Nations

The UN Security Council possesses the ultimate authority and responsibility for matters of international peace and security. The UNSC was already seized by the situation in Sudan as a whole and the situation in Darfur in particular, holding sessions and adopting resolutions on Sudan from 2004 onwards.

Unlike the AU PSC, the UNSC did not adopt the AUPD report as UN policy in 2009 and did not at that stage mandate the AUHIP or require it to provide reports. This meant that the Panel was unable to achieve a coordinated or harmonious international approach to implementing its proposals for Darfur. The Sudan Consultative Forum proved useful but did not succeed in aligning policies on Darfur.



Abdulsalami Abubakar, former President of Nigeria and member of the African Union High-level Implementation Panel (AUHIP) on Sudan, addresses a meeting of the Sudan/South Sudan Consultative Forum. (source: *media.un.org*)

³⁹ African Union-United Nations High Level Meeting on Sudan, 7 May 2010, Communiqué.

By contrast, on matters relating to the negotiations between the GoS and SPLM and between Sudan and South Sudan, the coordination between the Panel and the UN was exemplary. During 2010-11, the Panel collaborated closely with Ambassador Haile Menkerios in his roles as SRSG for Sudan and, subsequently, Special Envoy for Sudan and South Sudan. The coordination involved a complementary division of labour in pursuit of common goals. This reached its zenith in April 2012 with complete alignment and coordination between the AU PSC and the UNSC and, by extension, between the AU Commission and the UN.

Another instance of coordination was in June 2011, when the Panel, in partnership with Ethiopia and the US, obtained a decision and mandate from the UNSC for the UNISFA. This was expeditious in that the resolution was obtained extremely rapidly, and the peacekeeping force deployed unusually quickly. It was unique insofar as the mission had a single troop contributing country—Ethiopia—which took a significant risk in dispatching its forces, and that the mandate of the mission was derived unaltered from the text negotiated between the parties rather than being determined by the UN secretariat itself. This required high-level, coordinated leadership and trust between the AUHIP, Ethiopia, the US, and the UN.

IGAD and Its Chairperson

The Panel had a close working relationship with IGAD through its Chairperson, the Ethiopian Prime Minister Meles Zenawi, from its inception until his untimely death in August 2012. At every turn, from mandating the AUHIP, through the emergency summit on Abyei and the dispatch of troops for UNISFA, to efforts to resolve the war in the Two Areas and provide unconditional humanitarian assistance to the starving, Prime Minister Meles played an important role with strategic acumen, decisiveness, and discretion. He was trusted by all. Until his very last working day, he remained engaged. His last meeting before leaving Addis Ababa for medical treatment was with a GoS delegation, and one of his final messages from hospital was that there should be no compromise on humanitarian access to the starving in the Two Areas.



Meles Zenawi, Prime Minister of Ethiopia and Chair of the East African development organization IGAD (Intergovernmental Authority on Development), addresses the High-Level Meeting on Sudan held at UN Headquarters. (source: media.un.org)

Meles's successor, Prime Minister Hailemariam Dessalegn, continued in that role, supported by IGAD Special Envoy for Sudan Lissane Yohannes. Ethiopia possessed a unique position as the anchor of peace and security for the Horn of Africa, and it took seriously its obligations as host of the AU and Chair of IGAD to provide diplomatic, political, and military resources in support of AU and IGAD peace efforts. This was undertaken without claiming the limelight or seeking plaudits, the antithesis of 'populist peacemaking',⁴⁰ with a measure of its effectiveness being that the Parties claimed that the successes were their own.

⁴⁰ Eliab Taye, 'Ethiopia's Pivot from Institutionalized Regional Diplomacy to Populist Peacemaking,' Edinburgh, PeaceRep, and Somerville MA, World Peace Foundation, Occasional Paper, 2024.

The United States

The US was a major protagonist in the politics and peace processes in the Sudans. The US had played a prominent role in pressing the GoS and SPLM to negotiate the CPA. It was in a position to offer significant inducements to the GoS, including the prospects of lifting sanctions and removing Sudan from the list of state sponsors of terror. Members of the Administration and Congress had been outspoken supporters of the SPLM and the Darfurians and had condemned the GoS, including declaring genocide in Darfur. The AUPD was set up just as the Administration of President Barack Obama was developing a new Sudan policy, which prioritised the secession of South Sudan with an outcome of two viable states.⁴¹

Ambassador Princeton Lyman was appointed as Special Envoy. Amb. Lyman and his team developed a close working relationship with the Panel, characterised by mutual confidence and respect.

The US offered the GoS a roadmap to normalising relations, including lifting sanctions, in return for enabling the referendum to proceed according to schedule and recognising the result. The GoS fulfilled this condition, but subsequent actions, such as its attack on Abyei and its refusal to allow unhindered humanitarian access to civilians in the Two Areas, meant that the US did respond with significant moves towards normalisation.

Other International Actors

The guiding principle of the Panel's engagement was that all international actors should have access to the Panel and information about its activities. No one should feel excluded or in the dark. The Panel had an open door to diplomats from numerous countries—near neighbours, more distant neighbours, donors and creditors, and any country with interest in Sudan and South Sudan. Pres. Mbeki participated in World Bank meetings on Sudan with a view to promoting debt relief and assistance packages. The Panel engaged with all of the states bordering Sudan and South Sudan. It kept the AU PSC members regularly informed. It briefed the AU Assembly of Heads of State and Government. The League of Arab States was a consistent and supportive partner. China was reluctant to engage in the internal affairs of a sovereign state, but during the negotiations over oil issues, it approached the Panel in a spirit of constructive partnership and played a constructive role.

The Panel drew on technical expertise from around the world on the criteria of relevance and competence. Staff members and specialists hailed from a range of African countries, including Botswana, Ethiopia, Kenya, Mauritania, Rwanda, South Africa, Uganda, and elsewhere. The AU Border Programme provided an expert team. The African Development Bank and World Bank seconded specialists. Specialists in oil, economics, law, and other issues came from the Netherlands, Norway, the UK, and the US.

⁴¹ The White House, 'A Comprehensive Strategy for Sudan', 19 October 2009.

SECTION 3

Assessing the Panel's Record

Prospects for Peace in the Sudans

3

Assessing the Panel's Record

Experience from the Panel and Sudan's long history of wars and efforts to resolve them point to six key preconditions for reaching a peaceful settlement. These are: (1) agreeing on a definition of the problem; (2) internal cohesion and leadership within each party; (3) economic and budgetary expansion; (4) inclusiveness; (5) a single credible process; and (6) timing.

Agreeing on a Definition of the Problem

The three main pillars of the Panel's definition of the problem in the Sudans have been outlined, namely: (1) identifying the Darfur crisis as the Sudanese conflict in Darfur; (2) recognising that the division of the country would result in two African states, each characterised by diversity; and (3) the overriding principle of achieving two viable states.

The Panel's interactions with Sudanese and South Sudanese citizens, beginning with the consultations in Darfur, indicated a consensus around these elements of the definition. The exception was hardline individuals aligned with the Just Peace Forum and the *al-Intibaha* newspaper, who advocated for an exclusive Islamist, and generally Arab, identity for post-secession northern Sudan.

The Panel did not achieve international consensus on its definition of the Darfur problem. The definitional disagreement was over whether there should be a Darfur-centric process only or a national-level political process but on the primacy of politics itself. The Doha Document for Peace in Darfur may be an excellent technical framework, but it is owned by the mediators rather than the parties, even more so than the much-maligned 2006 DPA.⁴² Additionally, when the AUPD was set up, the dominant international template for peace in Africa focused on large military peace support operations, which were seen as principally technical and security exercises. Political action was to support peacekeeping missions, not *vice versa*, and UNAMID was an example. The AUPD sought to reverse this approach but did not succeed. A few years later, the UN's High-Level Independent Panel on Peace Operations emphasised the primacy of politics,⁴³ as did the World Peace Foundation report to the AU on peace missions.⁴⁴ In the meantime, the consequence was that there was no unified effort to resolve the Darfur crisis, which rumbled on. The GoS identified the alternative to anarchy as the militarisation of Darfur, and its approach was to build up the RSF.

The Panel, the UN, and the AU, along with other key international partners, agreed on the elements of the definition of the north-south challenge. Haile Menkerios, head of UNMIS, agreed that politics should drive peacekeeping. Princeton Lyman, US Special Envoy, agreed. This allowed for a cohesive approach, notably during the 2012 conflict between South Sudan and Sudan. However, other preconditions for success were not met.

⁴² Laurie Nathan. *No Ownership, No Peace: The Darfur Peace Agreement*. London School of Economics: Crisis States Research Centre, 2006.

⁴³ United Nations, Report of the Independent High-Level Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people, June 2015. UNGA, A/70/95 and UNSC, S/2015/446.

⁴⁴ World Peace Foundation, *African Politics, African Peace*, Report submitted to the AU by the WPF, 2016.

Internal Cohesion and Leadership

Presidents al-Bashir and Kiir, as leaders of Sudan and South Sudan, bore the primary responsibility for identifying and implementing solutions to their problems. The Panel could not and did not dictate solutions, believing that the only sustainable agreements would be those owned by the parties themselves.

Repeatedly, paths towards solutions were blocked by internal divisions within each party. This lack of cohesion, alongside the failure of leaders to lead, was best exemplified by the impasse over Abyei, where the two Presidents refused to bring their lieutenants into line, allowing them to exercise veto power over any resolution of the dispute and thereby holding hostage the entire Sudan-South Sudan negotiations. Deep rifts were evident within the GoS, which contained different camps, some advocating for conciliation and others for a punitive stance towards the south. The SPLM leadership was torn between those whose priority was winning the independence of a viable South Sudan in partnership with Sudan and those who believed that the new nation could only truly be free with regime change in the north.

These problems continued in both countries after the Panel disengaged. The inability of the SPLM to manage internal disputes led to civil war, and the polarisation among the South Sudanese communities during that war impeded resolution. In Khartoum, Pres. al-Bashir managed political and economic challenges using short-term expedients that worsened the underlying problems, and after his overthrow, Sudan's military and political leaders were unable to set a new direction for the nation. Such a lack of strategic leadership was nothing new. Over the decades, the Sudans have been troubled by a lethal combination of leaders who are weak but skilled manipulators in pursuit of their own power. Constantly obsessed with the tactical manoeuvres of politicking, preoccupied with the who's who among their political class, they have been unable to design and implement policies for the long term or impart national visions that are more than slogans. This is a debasement of politics, reduced to managing a turbulent political marketplace.⁴⁵

Economic and Budgetary Expansion

The standard formula for peace agreements is a division of power and wealth between the formerly-belligerent parties. This is possible when the funds are available to reward the political decision-makers and their constituents. The economic background to the CPA was Sudan's oil boom, the anticipated dividends from peace, and the normalisation of relations with the Bretton Woods Institutions and the US. This boom expanded the 'political budgets' of the NCP and SPLM, creating a 'political bull market' that allowed them to bring more members of the political elite inside the tent and put more soldiers on the payroll.⁴⁶ However, this model does work in a 'political bear market' when economic prospects are dim and budgets are contracting. Those at the centre of power need to reduce the numbers inside the tent or use coercion to cut the price of loyalty.

Sudan's economic contraction was evident in the months immediately after secession. The GoS took desperate measures, including illegally diverting oil to its refineries and for sale. The RSS was furious, and in response, it shut down its entire national oil production. For a country that relied on oil revenues for 97 per cent of its revenue and well over half of its GDP, this caused an economic contraction of extraordinary proportions.

⁴⁵ Alex de Waal, *The Real Politics of the Horn of Africa: Money, war and the business of power*. Cambridge, Polity, 2015.

⁴⁶ Alex de Waal, Benjamin Spatz and Aditya Sarkar. 'Situating the Contribution of the Political Marketplace Framework to Peace Processes' *PeaceRep*, University of Edinburgh, 2023.

The two countries waged an economic war against one another, dragging them both down. Even when South Sudan resumed oil exports in 2013, it never resumed full production, and its income was hit by the collapse in oil prices the following year. Sudan could only partly compensate for the loss of oil with a boom in gold mining, but much of the gold was smuggled and did not benefit the treasury. It also suffered from the failure of the US to remove sanctions, which would have enabled debt relief.

South Sudan imploded first. The oil shutdown gamble was intended to extract major concessions from Khartoum, but it backfired. As it came under severe economic stress, the RSS signed an agreement in September 2012, substantively similar to the one it had rejected in January.⁴⁷ But then the GoS refused to reopen the pipeline, demanding full implementation of the border security regime and other concessions. Pres. Kiir had a weak hand. His government was desperately short of revenue, and he also needed funds to lubricate the political machine.⁴⁸ Pres. al-Bashir pressed Pres. Kiir to dismiss many of his cabinet members and replace them with people acceptable to Khartoum, and Kiir complied. Along with rivalries over who should be the SPLM candidate for the elections scheduled for 2015, this sparked a political struggle among the SPLM leaders. The intra-party dispute exploded into violence and civil war in December 2013.

When armed conflict erupted in Juba, neighbouring countries and the international community responded remarkably quickly. A delegation of IGAD foreign ministers, along with AU and UN envoys, travelled to Juba within days, followed immediately by American and other international diplomats. They met with Pres. Kiir and spoke on the phone to Vice President Riek Machar, who was now in the bush leading a large fraction of the national army and associated militia that became the SPLA-in-Opposition. The IGAD foreign ministers issued a strong statement that pressed for an immediate end to the fighting and an ambitious plan for putting South Sudan back on track. This was a logical and commendable response to the immediate crisis. It did not succeed.

Having failed to secure a ceasefire, it would have been appropriate for the mediators to have paused to reflect, make an effort to define the crisis and identify root causes and strategies for addressing them. However, having begun with a certain framework, the mediators did not revise that framework even when the reality dawned that this was a long-term conflict rooted in deeper problems.

As the war deepened, South Sudan's political economy reverted to patterns of forcible extraction of resources familiar from the civil war of the 1980s and 1990s.⁴⁹ But international peace-making efforts were designed on a template that assumed major inflows of resources. This was one of the factors that doomed the Agreement on the Resolution of the Conflict in South Sudan (ARCISS), drawn up in 2015.⁵⁰ The IGAD mediation team comprised skilled and committed diplomats, under the leadership of Kenya's General Lazarus Sumbeiywo and Ethiopia's Seyoum Mesfin, with the support of the 'Troika' of the US, UK and Norway as well as the UN, European Union and others. Its problem was neither a lack of political will nor a shortage of competence, but its model did not fit the political realities. The mediators could not escape the framework consisting of standard-formula power sharing, allocation of wealth and security

47 Agreement between the Government of the Republic of Sudan and the Government of the Republic of South Sudan on Oil and Related Economic Matters, 27 September 2012.

48 Alex de Waal, 'When Kleptocracy Becomes Insolvent: Brute causes of the civil war in South Sudan'. *African Affairs* 113, no. 452 (2014): 347-369.

49 Joshua Craze, 'From Petrodollars to Licenses: South Sudan's post-oil political economy.' *Environment and Security* (2024): 2.3, 392-411.

50 Agreement on the Resolution of the Conflict in South Sudan, 17 August 2015.

arrangements, with justice and democracy added as lower-order priorities. The ARCISS was criticised as an imposed deal⁵¹ and a 'payroll peace' based on material incentives for the belligerents.⁵² Neither the formal commitments in the text nor the informal bargains among the signatories could be implemented without vast financial inflows—which were not in prospect and did not come. After the collapse of the agreement, the key interlocutors in the next round of talks were the parties' external sponsors, namely Pres. al-Bashir and Pres. Yoweri Museveni of Uganda. The resulting Revitalised ARCISS⁵³ was based on a more realistic model of power and money, but neither Sudan nor Uganda had the resources or political focus to follow through on implementation.

After secession, Sudan received neither the hoped-for transfers from South Sudan nor did it obtain debt relief. It, therefore, also found itself without the budget needed to run the state apparatus and operate its political machine.⁵⁴ After popular protests threatened an 'Arab Spring' style uprising in 2013, the GoS rolled back plans for austerity measures that might have helped balance its budget. A large and avaricious military sector worsened the scarcity of funds. Instead of using the end of oil as an opportunity to develop the productive sector, such as small-scale agriculture, Sudan embarked on a gold rush. Across the country, seams of gold were mined by artisanal minors using simple technologies. Initially in Darfur and then nationally, gold intensified armed conflict, as militia commanders and army officers, often cutting deals with unscrupulous foreign investors and smugglers, used force to secure their slice of a shrinking economic pie. Gold served both as the object of violent competition and the means of financing it. The central government, trying to buy the gold itself, ended up with an inflationary monetary policy that further worsened the downward economic spiral.⁵⁵ In turn, this fuelled unemployment and high prices of essentials such as fuel and bread. Anger over this was one factor bringing citizens onto the streets under the slogan, 'down with the rule of thieves'.⁵⁶

The civic uprising in Sudan was followed by two agreements, neither of which was designed in light of the dire economic situation, and neither of which helped to resolve it. The Khartoum Constitutional Declaration that heralded power-sharing between the generals and a civilian cabinet headed by Prime Minister Abdalla Hamdok gave the military a free hand to consolidate its economic power. The cabinet set up a committee to expose and reverse the 'empowerment' (*tamkiin*) whereby the army, security forces and paramilitaries controlled the most profitable sectors of the economy, but when that committee came close to finalising its report, General Abdel Fattah al-Burhan and General Hemedti combined forces to annul it, in the process also mounting a coup. The Juba Agreement for Peace in Sudan, signed in 2020 with several armed movements, was premised on major inflows of money to pay for all the positions allocated to the rebels and the ambitious programme of integrating their fighters into the national army.⁵⁷ Given that the needed budgetary expansion was unlikely, the implicit pact was that the leaders of the signatory parties, including

51 Jok Madut Jok. 'South Sudan's Elusive Peace: Between local drivers of violence and the actions of external actors.' In Amir Idris (ed.) *South Sudan: Post independence dilemmas*, London, Routledge, 2018, pp. 74-91; Zach Vertin, *A Poisoned Well: Lessons in mediation from South Sudan's troubled peace process*. New York: International Peace Institute, 2018.

52 Alan Boswell and Alex de Waal. 'South Sudan: The perils of payroll peace'. Conflict Research Programme, London School of Economics. 2019.

53 Revitalized Agreement on the Resolution of the Conflict in South Sudan, 12 September 2018.

54 W. J. Berridge, Justin Lynch, Raga Makawi and Alex de Waal, *Sudan's Unfinished Democracy: The promise and betrayal of a people's revolution*, London, Hurst, 2022.

55 Ibrahim Elbadawi and Kabbashi Suliman, 'The macroeconomics of the gold economy in Sudan' Economic Research Forum Working Paper Series, 1203, June 2018.

56 Magdi el Gizouli, 'Class Dynamics, Dissemination of the Sudanese Uprising.' Noria Research, 2019.

57 Nils-Christian Borman and Ibrahim Elbadawi. 'The Juba Power-Sharing Peace Agreement: Will It Promote Peace and Democratic Transition in Sudan?' Economic Research Forum, 2021.

JEM, SLM-Minawi and several others, would share in the kleptocratic regime at the expense of democratic reform.

The US was a secondary culprit in Sudan's economic slide. By keeping economic sanctions, it prevented economic normalisation. During the period of the Panel's work, it kept moving the goalposts, introducing new preconditions for lifting the sanctions. Each time, as Washington pointed out, the GoS had committed a new human rights violation, but Khartoum drew the conclusion that there was nothing it could do to satisfy the US administration. When al-Bashir was finally removed—not by international pressure but by the Sudanese people—the US committed its most egregious wrong. It failed to provide material support for the democratic revolution, condemning the civilian-led government to preside over an economic crisis of unprecedented depth and thereby sealing the fate of the country's democratic experiment. Only in the last weeks of 2020, when Sudan joined the Abraham Accord and agreed to recognise Israel, did Washington remove the state sponsor of terror designation, by which time it was far too late.

The stark outcome of utter economic failure is famine. The economic and political causes of the nationwide food emergency and mass starvation that unfolded in South Sudan from 2014 onwards and in Sudan after 2023 are the endpoint of the processes described. While in principle, the imminent horrors of mass starvation might make a country's leaders clamour for peace, in practice, the opposite usually happens. As the historian Janam Mukherjee has eloquently written, 'Whenever there is civil war, ethnic violence, communal riots, or any other type of horizontal violence—particularly in the Global South—look for the hunger that preceded it, and it is more often than not very easily found'.⁵⁸ In the Sudans, too, famine strengthens the logic of wars of predation in which the strong profit from the weak. Starvation weakens the prospects for peace.

Inclusiveness

The fourth requirement for a successful peace process is inclusiveness. This has two dimensions: civic and identity-based. The AUPD was an exemplary case of an inclusive, consultative method that engaged civic and identity-based groups. The AUHIP focused on implementing the CPA, which contained a commitment to inclusivity. But this pledge in the CPA was left largely unfulfilled, especially after the 2010 elections consolidated power in the two ruling parties. The Panel always had its door open to delegations from civil society and from groups that felt themselves excluded from the process, but there were few opportunities to make their participation meaningful. The national dialogue in Sudan was not an authentic exercise, a simulacrum of inclusion that convinced no one.

The peace-making literature widely acknowledges that the inclusion of civilian parties, civil society groups, and women is important for a peace process to be legitimate.⁵⁹ However, the bar must be set at a level that does not invite unmanageable processes or unrealistic aspirations. This challenge can be managed in creative ways. There is a storied history of Sudanese and South Sudanese civic input into peace-making through research, collaboration, and citizens' initiatives so that even when the actual negotiations among the political principals are conducted behind closed doors, the issues and norms are those demanded by the wider population.⁶⁰

⁵⁸ Janam Mukherjee, *Hungry Bengal: War, famine and the end of empire*, Oxford University Press, 2023, p. 250.

⁵⁹ Andreas Hirblinger and Dana Landau, 'Inclusive of whom, and for what purpose? Strategies of inclusion in peacemaking'. In *Rethinking Peace Mediation*, Bristol University Press, 2021, pp. 115-138; Alex de Waal, 'Inclusion in peacemaking: From moral claim to political fact', in Pamela All and Chester Crocker (eds.) *The fabric of peace in Africa: Looking beyond the state*, Montreal, McGill, 2017, pp. 165-186.

⁶⁰ A. H. Abdelsalam (ed.) *The Phoenix State: Civil society and the future of Sudan*, Trenton NJ, Red Sea Press, 2000; Alex de Waal, 'Concluding Reflections: Sudan's Comprehensive Peace Agreement: Theories of Change,' in Sarah Nouwen, Laura James, and Sharath Srinivasan, eds. *Making and Breaking Peace in Sudan and South Sudan: The comprehensive peace agreement and beyond*. London, British Academy, 2020.

The embrace of diverse identities is essential to inclusiveness. As Pres. Mbeki insisted in the days prior to the referendum, that post-secession northern Sudan would remain an ethnically and religiously diverse African country. Al-Bashir's decision to repudiate the Framework Agreement for the Two Areas, which would have required the ruling NCP to work with the SPLM-North, was the original sin of Sudan after the independence of the south. That decision condemned the country to internal war and conflict with South Sudan while shutting the door on lifting American sanctions and international debt relief. The path from exclusionary politics to state collapse has rarely been clearer.

Following the civic revolution of 2019, there was an opportunity for an all-inclusive process that combined civic movements and parties alongside the provincial armed movements. That approach was not taken. The 'Quartet' of the US, Britain, Saudi Arabia, and the UAE, along with the AU and IGAD, brokered an agreement between the generals and the civilian Forces for Freedom and Change. The Khartoum Constitutional Declaration was finalised during negotiations in July and adopted to great fanfare in August. It promised that the armed movements would be included in the next stage of the transition to democracy. However, the armed movements suspected that the key issues had been decided in their absence and positions of power allocated without them having a say. When the leaders of those movements began negotiations with the transitional government, they quickly understood that SAF and RSF were the real powers in the land. They cut their deals with the generals. The Juba Agreement was the result, and it weakened the agenda of democratic transformation.

A Single Credible Peace Process

Peace negotiations require that mediators not be rivals but instead converge on a single process. This is a minimum requirement that eliminates 'forum shopping'. But, having a single forum is not sufficient: the process must also be credible. If the consensus among external actors is to support a process based on a flawed definition of the problem, any success it has will be short-lived.

There was no consensus for Darfur. The fact that the AU adopted the AUPD report, but the UN Security Council did not, was an ominous augur. The lack of international consensus on the way forward in Darfur was fatal to peace efforts there.

For the north-south negotiations, the story was different. There was a remarkable convergence of the key international actors around a single process, with the Panel at its centre. Recurrently, throughout the negotiations over the Abyei crisis, the conflict in the Two Areas, and most strikingly, the border war of April 2012 and the subsequent Roadmap and negotiations that culminated in the September 2012 summit, there was a high level of coordination between the AU, IGAD, the UN, and other internationals including the US. At a time when the UN Security Council was deadlocked over Syria, the AU was able to put forward a plan that won unanimous backing. African leadership ensured that, whatever their differences on other issues, Washington DC, Beijing, and Moscow did not obstruct the Panel's efforts and, for the most part, actively supported them.

As soon as war erupted in South Sudan in 2013, the internationals converged in support of the IGAD-led mediation. There was a single mediation process but no clear idea of what peace entailed.⁶¹ This resulted in ARCISS, and subsequently, with Sudan and Uganda as active participants, in the Revitalised ARCISS. It was the very unanimity of the external brokers that made these agreements possible—the belligerent parties had no alternative but to agree. The problem was that the other preconditions for success, beginning with a definition of the problem and including the lack of ownership of the deal, were not met.

A similar problem of unanimity without reflection afflicted Sudan in 2019-21. The Quartet's unified stance, along with the UN and AU's, created a single, unified process. The problem was that the Sudanese problem had not been adequately defined.

Seizing the Moment

There are moments at which peace is possible, amid long periods when it is elusive. The concept of 'ripeness', much debated by conflict resolution scholars, captures this.⁶² The Panel faced intersecting challenges in this respect. First was the Sudanese practice of *tajility*—the politics of delay. Many actors gambled on waiting out their adversaries, along with international mediators, hoping that in due course, with the rotation of the political dials, their stars would align. However, there is also a truism about the Sudans, which is that political circumstances change from week to week, but if visitors return after five or ten years, they will find it unchanged—that is, in a state of turmoil.

The Panel's second challenge was that key deadlines—notably the dates of the referendum and independence for South Sudan—were immovable. Third was the problem of complexity and the related question of whether to focus tactically on the details or strategically on the overall picture. The Sudans suffered local or specific conflicts within the larger conflict, and some of the local or specific conflicts became ripe while others were not, but the principle of 'nothing is agreed until everything is agreed' prevented the fruits of peace from being harvested one at a time. Peacemakers in the Sudans have alternated between the 'peace by piece' approach⁶³ of putting different pieces of the jigsaw in place one by one and the all-in-one holistic approach championed in the negotiations leading to the CPA.⁶⁴

Mediating the Sudans demanded extraordinary patience. The Panel's process might best be described as political accompaniment—keeping talking to everyone in the hope that there would be propitious moments to make a breakthrough.

South Sudan's tragedy was that the moment of independence, when the leadership of the new country had the political capital at home and abroad to make the necessary decisions to set the country on the right path, was squandered. Sudan's tragedy was that the civic revolution of 2019, when long-suffering citizens had peace and democracy within their reach, was sabotaged by corrupt military men, while the international community did not protect the fragile democracy from those generals and their outside enablers.

61 Aly Verjee, "How Mediators Conceive of Peace: The case of IGAD in South Sudan, 2013-2015," in Sarah Nouwen, Laura James and Sharath Srinivasan (eds.), *Making and Breaking Peace in Sudan and South Sudan: The Comprehensive Peace Agreement and beyond*, London: British Academy, 2020, at p. 404.

62 William Zartman. 'Ripeness: The hurting stalemate and beyond.' in Paul Stern and Daniel Druckman (eds.) *International Conflict Resolution After the Cold War*. Washington, DC: National Academies Press. 2000, pp. 225-250.

63 Conciliation Resources, 'Peace by Piece: Addressing Sudan's conflicts,' Policy Brief 18, December 2006. <https://www.c-r.org/resource/peace-piece-addressing-sudans-conflicts-policy-brief>

64 Nicholas Haysom, 'Reflecting on the IGAD peace process.' In Conciliation Resources, 'Peace by Piece: Addressing Sudan's Conflicts,' Policy Brief 18, December 2006, pp. 28-31.

SECTION 4

Prospects for Peace in the Sudans Today

Prospects for Peace in the Sudans

4

Prospects for Peace in the Sudans Today

The scale and nature of the crisis in Sudan defies easy analysis and prescription. There is no obvious framework for political agreement. The preconditions for a successful peace process have yet to be put in place. This section will focus mainly on Sudan. The challenges facing South Sudan, while less visible internationally, are no less grave. The existence of a recognised agreement—the Revitalised ARCISS—conceals the lack of national consensus and the scale of the ongoing violence and humanitarian emergency.

Defining the Problem

Each element of the Panel's definition of the problem remains reconfigured in the current context.

The unresolved Sudanese conflict in Darfur has brought the GoS's militarised non-solution home to Khartoum and the rest of the country. The bitterness of many Darfurians towards the political centre is now reciprocated by hostility towards the RSF militiamen, many from Darfur, who have inflicted atrocities across much of the country. Sudan is failing to manage its diversity. Exclusionary agendas are flourishing. It is in famine and has no clear path to becoming a viable state. The Red Sea Arena rivalries in Sudan, with the involvement of, *inter alia*, Egypt, Saudi Arabia, and the UAE, complicate the prospects of negotiation.

South Sudan has also failed to manage its diversity, and its civil wars have deepened inter-communal animosities, including incubating ethnic supremacism in some quarters. It faces a huge challenge of state viability. It is prey to the meddling of outsiders.

Missing in both countries is a definition of the crisis that foregrounds the total social destruction of intense famine and recognises that the belligerents cause starvation in pursuit of power and profit. In South Sudan, famine was declared after two years of war and pillage⁶⁵ and by 2018, the war and famine were estimated to have cost at least 400,000 lives from violence, hunger and disease—a toll that has surely continued to rise.⁶⁶ No less important than the numbers who perished is the experience of famine as the destruction of a way of life, including loss of livelihoods, the traumatic tearing of the social fabric, and the forging of a ruthless new political economy in which the benefits accrue to those with money and guns.⁶⁷ Mediators are not experts in famine. They have tended to reduce the challenge of famine to a narrow question of humanitarian diplomacy focused on obtaining access routes for aid agencies. This allows the belligerents to instrumentalise both the deprivation and their control over relief.

Sudan has descended into a humanitarian emergency of unparalleled proportions. The rival forces have ravaged the capital, forced millions to flee and caused mass starvation. In 2024, famine conditions existed in Darfur,⁶⁸ and projections for excess death ranged into the millions.⁶⁹ The mediators' approach has been to append humanitarian access issues to negotiations over a ceasefire. This is also not commensurate with the catastrophe.

⁶⁵ IPC, 'South Sudan: Acute Food Insecurity Situation for January 2017 and Projections for February-April 2017 and May-July 2017: Extreme levels of food insecurity and localized famine conditions,' Rome, IPC, January 1, 2017.

⁶⁶ Checchi, F., A. Testa, A. Warsame, L. Quach and R. Burns, 'Estimates of crisis-attributable mortality in South Sudan, December 2013-April 2018: A statistical analysis,' London School of Hygiene and Tropical Medicine, 2018.

⁶⁷ Chris Newton, "'Not Never Again, but Next Time': Armed Conflict and Mass Starvation in South Sudan 2013-2019', in Bridget Conley, Alex de Waal, Catriona Murdoch, and Wayne Jordash QC, (eds.), *Accountability for Mass Starvation: Testing the Limits of the Law*. Oxford University Press, 2022, pp. 155-194.

Joshua Craze. 'From petrodollars to licenses: South Sudan's post-oil political economy,' *Environment and Security*, 2.3 (2024): 392-411; David Keen, *The Benefits of Famine: A political economy of famine and relief in southwestern Sudan, 1983-9*, Princeton University Press, 1994.

⁶⁸ IPC, 'Famine Review Committee: Combined Review of: (i) The Famine Early Warning System Network FEWS NET IPC Compatible Analysis for IDP Camps In El Fasher, North Darfur; and (ii) The IPC Sudan Technical Working Group Analysis of Zamzam Camp North Darfur, Sudan: Conclusions and Recommendations,' Rome, IPC, July 2024.

⁶⁹ Clingendael Institute, 'From Hunger to Death: An estimate of excess mortality in Sudan, based on currently available information,' The Hague, May 2024.

Cohesion and Leadership

The challenges of cohesion and leadership have individual and structural components. The individuals in leadership positions in the Sudans have rarely combined the needed characteristics of courage, charisma, vision, and principle. However, the question also needs to be posed: why are the Sudans so consistently producing leaders who lack the needed qualities?

The turmoil in the Sudans over the last decade, with constant violence and opportunities for enrichment based on pillage, smuggling and extortion, creates an environment in which the most ruthless prosper and those who have the civic virtues of consultation and integrity fall by the wayside. This creates a hierarchy in which those least suited to holding power are most credible in the political arena, including the negotiating chamber. Moreover, what ties each warring party together is not a shared commitment to a political ideology and institutional discipline. Instead, they unify around the exigencies of material rewards while they constantly renegotiate the terms of their loyalty to their supposed leader. This is not a formula for stability and peace.

Economic and Budgetary Expansion

Economic collapse is both cause and consequence of the crises in South Sudan and Sudan. For either country to expect a peace agreement based on the template of power sharing, wealth sharing and security arrangements, first, there must be an assurance of economic and budgetary growth. Notable by its absence from the current peace-making agenda in the Sudans is a comprehensive plan for debt relief and economic development in a sufficiently large, sustained, and credible manner to change the ‘bear market’ logic to one in which citizens and leaders are confident of their future wellbeing.

The trajectory today is alarmingly different. Sudan is caught in a frightening vice of extreme human suffering alongside external support to the belligerents. A society with many utterly desperate people is one in which the constraints on ruthless and inhumane actions are weakened. Meanwhile, generals who enjoy foreign supplies of money and guns can sustain war without limits, even in a ravaged land. For these leaders, when they espy the prospect of a political deal that rewards them—and them alone—with a share of power, money and guns, it may be enough to sign something that they will applaud as a ‘peace agreement’, regardless of the wellbeing of the citizenry.

Inclusion

Both logics of inclusion—civic and identity-based—are necessary for any political process to address the substantive issues of concern to citizens and to reach legitimate outcomes.

In South Sudan, civic actors, including lawyers, journalists, faith leaders and customary chiefs, have carved out spaces in the midst of war and forced displacement that allows for social norms to be asserted and upheld.⁷⁰ There is still a vibrant civic movement demanding democratisation and equity, and its values are reflected in popular opinion.⁷¹

⁷⁰ Rachel Ibreck. *South Sudan's Injustice System: Law and activism on the frontline*. London, Zed Books, 2019.

⁷¹ David Deng, Jan Pospisil, Sophia Dawkins and Christopher Oringa, ‘Elections and Civic Space in South Sudan: Findings from the 2024 public perceptions of peace survey,’ Friedrich-Ebert-Stiftung South Sudan Office, 2024.

In Sudan, since the irruption of war in 2023, civilian parties and civic leaders are, for the most part, bewildered and overwhelmed. At a local level, many have turned to organising local relief with commitment and compassion. However, many of their leaders were misled by the euphoria of the 2019 revolution to truly believe that they could accomplish radical transformation by a supreme act of collective will. After the outbreak of the war, those leaders have been fragmented and vulnerable to polarisation, especially given the warring parties' control over social media. The civilian parties have little material leverage, and their legitimacy rests on their record of resistance against dictatorship. Their comfort zone today is campaigning for democracy rather than articulating a vision for peace.

Historically, Sudanese civil society has been most relevant and effective when it has been at the forefront of analysing the problem and setting an agenda. Its role in the 'south-south' peace and reconciliation processes in the 1990s and 2000s and in injecting human rights and democracy into the agenda that led to the CPA were among its finest achievements. Civilian parties and civil society can return to that tradition.

A Single Credible Process

There is no single credible peace forum for resolving the current civil war in Sudan. Shortly after the outbreak of the war in April 2023, the US and Saudi Arabia launched an effort to bring the SAF and RSF to the negotiating table. This 'Jeddah Process' yielded one important outcome: a commitment to protect civilians, including allowing humanitarian access and avoiding attacking or occupying civilian infrastructure, including medical facilities and residential neighbourhoods.⁷² Neither party has honoured this pledge.

The Jeddah process was a logical first response to the outbreak of violence. However, as with the response to the violence in Juba in 2013, if such an approach does not yield rapid results, it would be better to admit an honourable failure rather than to persist. Without having defined the deeper problems, the limited structure, and agenda of such a process becomes a hindrance. The Jeddah process has adapted in an *ad hoc* manner, first bringing in the AU to provide an African face and engage the civilians in a series of consultations, and later on bringing the UAE as an observer in the Geneva-hosted 'ALPS' (Aligned for Advancing Lifesaving and Peace in Sudan) initiative.

The Jeddah-ALPS process is the leading initiative for addressing the Sudanese civil war. However, in the current global context, US leadership inevitably raises suspicions among other key actors, including China and Russia. Insofar as the crisis is, in part, the Red Sea Arena rivalry played out in Sudan, the US is an actor in that rivalry. Additionally, for the process to be credible, it needs to define the substance of the Sudanese crisis instead of simply sequencing the elements of the package.

Other states and organisations have mounted peace initiatives for Sudan. Each has ostensibly sought to fill a gap in the Jeddah process, but it is hard to escape the surmise that each initiative serves principally to assert the relevance of its sponsor and to neutralise a rival initiative. An effort by IGAD suffered from the absence of unified political leadership in the region and, relatedly, the lack of a common definition of the problem. IGAD focused on bringing the two leaders together on the agenda of a ceasefire, which did not succeed. The initiative also did not include non-IGAD member states such as Egypt and the Gulf states.

⁷² Jeddah Declaration of Commitment to Protect the Civilians of Sudan, 11 May 2023.

An Egyptian initiative engaged all neighbouring states and some major Sudanese civilian groups. While Cairo has gone further than others in exploring the wider political agenda, it is also focused on urgent issues, including a ceasefire, humanitarian aid, and the burden of refugees on neighbouring countries. The AU ‘expanded process’ was born as an adjunct to the US-Saudi process, as an attempt to make that more inclusive. It asserted the need for an ‘African solution’, although the problem is not an exclusively African one, and sometimes the AU Commission appeared motivated by the need to assert its own relevance. The Manama process involved the UAE as a facilitator but lacked the support of Saudi Arabia and the kind of high-level Emirati presence that would have made it effective. The end result of this multiplicity is that the initiatives cancel each other out.

The turmoil across the Red Sea Arena, especially the rivalry between Saudi Arabia and the UAE, is the overarching strategic obstacle to establishing a unified and credible peace process for Sudan and, by extension, a strategy for regional stability that includes South Sudan and other neighbouring states. While Riyadh and Abu Dhabi cannot determine a legitimate political settlement in Sudan, each of them can prevent progress towards such a settlement. For both states and other Middle Eastern and global powers, Sudan ranks low on their list of strategic and urgent challenges. That low prioritisation means little effort has been invested in finding a shared strategy for resolving the Sudanese catastrophe.

Only the multilateral organisations—the UN, AU, IGAD and LAS—have the legitimacy to coordinate. That is not sufficient for them to succeed. Rather, it makes failure avoidable. However, multilateral organisations are often hampered by a focus on process and are anything but nimble. They are usually reluctant to define the problem in a way that could upset any member states—including those sponsoring the belligerents. By comparison, the experience of the Panel in 2010-12 is a positive example of how the African peace and security architecture is designed to function.

Timing

Given the lack of progress in the peace initiatives for Sudan, the dilemma of whether to aim for a holistic agreement or ‘peace by piece’ has yet to arise. The sole pertinent question is how best to sequence humanitarian access, a ceasefire, and political talks. Awaiting ‘ripeness’ is not a humane option when every factor sustaining the conflicts and favouring delay is at work, while the peoples of Sudan see their communities eviscerated, their livelihoods destroyed, their children starved, and their hopes trampled. While the belligerents vow that they can fight indefinitely, the deadline imposed by the logic of famine expires every day.

SECTION 5

By Way of Conclusion

Prospects for Peace in the Sudans

5

By Way of Conclusion

Sudan was created as an independent state laden with explosive unresolved contradictions. Seventy years ago, the burning questions were whether it should be one country or two, whether it should be secular or Islamic, and whether the country's future was best charted under a parliamentary, revolutionary or authoritarian nationalist system. There has never been a single answer to these questions. The independence of South Sudan resolved one question but not others. The fundamental challenge for both states is whether national dilemmas are addressed by talking or fighting. The Sudanese and South Sudanese, north and south, east and west, have near infinite capacities for both. At its best, the Sudanese people's capacity for debate and inquiry was talking their nation into being, with all its ambiguities and imperfections. At their worst, the leaders of the Sudans, and many of their followers, dedicated their energies to inflicting hurt on one another and wounding their nations. The peacemaker's task is, at its most basic, to encourage talking and discourage fighting. Peacemakers could never enable the Sudanese and South Sudanese to ascend to heaven, but they could stop them from descending into hell.

The Panel did not enter the Sudans with answers. It had neither templates nor formulae for peace. Rather, its guiding principle was that political differences should be talked through. Keeping the Sudanese and South Sudanese talking, rather than reaching for their guns, demanded urgency and patience, statecraft, and candour. For Mbeki, Abubakar and Buyoya, this entailed listening to all involved, from the humblest citizen to heads of state, reflection and analysis, political accompaniment of the leaders, and a principled commitment to the norms and principles of the African Union and the United Nations. The Panel never said no to dialogue. The successes of the Panel's processes were keeping the discussion alive; its failures were when dialogue was blocked or when a commitment to continuing to talk was undermined by scheming obstinacy or short-circuited by the false allure of violence.

Today, the immediate questions have changed, as have the interlocutors and the fora for dialogue. For Sudanese and South Sudanese to talk their way to a peaceful future requires new approaches. The conflicts of today are rooted in the past but shaped by the present. Social media is corroding the civility that formerly characterised the public sphere. The powerbrokers now include the middle powers of the Red Sea Arena, which have yet to recognise properly their interests in and responsibilities for ending the Sudanese catastrophe and finding a formula for peace and stability in the Nile Valley and the Horn of Africa.

In the years since the AU and its peace and security architecture were designed and since the major activities of the Panel, much has changed in global politics and economy, and much has happened in the Horn of Africa, including Sudan and South Sudan. Tragically, the promises of peace and democracy have been squandered more than they have been seized. Nonetheless, the norms and principles of the AU endure. They were forged in the dark days of war, famine, genocide, and military rule in the 1990s when African leaders resolved that they needed to solve their own problems because no one else would do it for them.

The institutions built two decades ago need to adapt to changing circumstances, even while adhering to enduring norms and principles. The AU High-Level Panel showed how those norms, principles and institutions could be fashioned into relevant practices. That needs to be done again. Despite all the setbacks, the aspirations of the Sudanese and South Sudanese to live together in peace and a spirit of inclusiveness are undimmed.

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