SUDAN'S BEST CHANCE FOR PEACE:

HOW NOT TO LOSE IT

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SUDAN'S BEST CHANCE FOR PEACE: HOW NOT TO LOSE IT

EXECUTIVE SUMMARY AND RECOMMENDATIONS

On 1 September 2002, two weeks into the second phase of the peace negotiations in Machakos, Kenya, the Sudanese government suspended its participation in the talks being brokered by the Inter-Governmental Authority on Development (IGAD). This followed the capture, after a series of battles, of the southeastern Sudanese town of Torit by the Sudan People's Liberation Movement/Army (SPLA).

The Machakos talks represent the best chance for peace the Sudanese people have had since the beginning of the war nearly two decades ago, and the interruption is dangerous. The government has reached an historic fork in the road as it deliberates next steps. Two scenarios are possible. Either those officials benefiting from the status quo will torpedo the peace process and intensify the war, or those who see the far greater benefits of peace will ensure that the government returns to the table and seeks a negotiated end to the war. The rebel SPLA movement, bedevilled by competing tendencies towards war and peace, faces a similar moment of truth.

If an attitude persists that without peace on their terms war should continue, the outlook is bleak. Forceful diplomacy by the mediators and the application to both sides of increased international leverage will be required to bring the parties back to the negotiating table and to forge an agreement to end one of the world's most intractable conflicts. The first order of business should be to arrange mutual informal commitments to cease major offensive actions for the next half-year to break the dangerous battlefield dynamic and give negotiations a chance.

Despite widespread international scepticism, IGAD scored a major breakthrough during the first phase of talks. The parties reached agreement on the "Machakos Protocol" of 20 July 2002 for dealing with one of the most important issues driving the conflict, self-determination for southern Sudanese, by means of a referendum that will pose the alternatives of continued national unity or secession for the South at the end of a six-year interim period during which laws in the North will be based in part on *Sharia* law while those in the South will be secular. (The basis of law for the central authority that will also exist during this interim period is still disputed, as is the legal status of non-Muslims in the North.)

These are not new positions for the parties. What is new is that they have incorporated them in a jointly signed document in the context of a serious peace process from which it will be difficult to backtrack without significant diplomatic costs. It is a significant achievement for the partnership between the IGAD mediators, led by General Lazaro Sumbeiywo of Kenya, and involving envoys from Eritrea, Ethiopia and Uganda, a quartet of active international observers representing the U.S., UK, Norway, and Italy, and the United Nations.

The government's early agreement to a self-determination referendum with an independence option surprised almost everyone. Its possible motivations are varied, even partially contradictory. They range from a survival decision driven by calculations about the need to make inroads into the constituencies of the larger sectarian parties by showing it can deliver peace, oil and prosperity, through a desire to obtain greater oil revenues and

debt relief, to uncertainty about U.S. intentions in possible further stages of its "war against terrorism". They may also include tactical judgements, at least among the harder line elements of the regime, that early agreement on a single big issue provides an opportunity to split the SPLA from its northern allies or to paint the SPLA as the intransigent side responsible for the eventual breakdown of the negotiations.

The signing of the Machakos Protocol had a catalytic effect on internal political dynamics, not all of it positive. While grassroots support for a comprehensive peace is growing across the country, the government, the SPLA and the northern opposition parties are all aggressively seeking to use the new situation to undermine each other, and politics are becoming more polarised by the day. The Machakos process has also revived dormant hard-line tendencies, or uncovered hidden ones, on both sides that will have to be overcome if the parties are to reach a final deal.

The remaining negotiations will be very difficult since the agenda includes complex issues that have heretofore been little discussed. The two largest remaining obstacles are arrangements for internal security and for the areas adjacent to "the South" that are also in armed revolt. Other difficult issues involve wealth and power sharing, human rights, and serious structural reforms of the state.

For peace to come, it is crucial that the mediators encourage, and the parties accept, proposals that genuinely give Sudan's long-term unity a chance. To ensure that Southerners have confidence and commitment to put down their weapons, there will have to be security arrangements acceptable to the SPLA and provisions for substantial redistribution of national power and wealth. The agreement must vest the SPLA in national development and governance, not just control of a southern regional government.

Khartoum is simply unlikely to sign, or maintain its commitment to, an agreement that does not provide a reasonable prospect that the South will in the end vote to keep the country together. It is critically important that the mediators put forward proposals that will – if implemented fully – create favourable conditions for unity. They must, accordingly, take the time to develop compromises as complex as necessary to ensure their lasting acceptance. Additionally, the mediators must use the break in

negotiations to address the status of the areas adjacent to the South that are in armed revolt.

The foundation upon which any peace agreement must be built remains the agreement already achieved – the referendum. It is the SPLA's absolute requirement. So long as they have it, the rebels should be willing to accept creative proposals on other points that give unity a chance. The prospect of the South voting, after six years of transition, for independence is a strong incentive for Khartoum to implement the terms it signs.

It is not just North-South issues that have been tearing Sudan apart, and if an agreement in the end is only a narrow power sharing deal between the SPLA and Khartoum along geographic lines, it is unlikely either to last or to maintain the country's unity. A further crucial dimension not yet seriously addressed at Machakos is how to bring into the process the views of other Sudanese groups deeply disaffected with the present government – the SPLA's northern allies (the National Democratic Alliance, NDA), the Umma Party and other political parties and key members of civil society from North and South.

Peace is indeed within reach but much work remains to be done, not least by the U.S., which must lead other international actors in organising multilateral leverage and then using it judiciously to move the parties through all the crucial decision points still ahead.

RECOMMENDATIONS

To the IGAD Envoys, the IGAD Secretariat, and the International Observers:

1. Maintain commitment to the Machakos Protocol in its entirety, most particularly the self-determination referendum after the six-year interim period that gives the South the options of unity or secession, and enshrine international guarantees about the modalities and timeframe for the referendum in the final agreement.

2. In order to bring the parties back to the negotiating table, seek an informal commitment from both to undertake no major offensive action for the next six months, and when the parties return to Machakos begin negotiating the terms of a

comprehensive ceasefire as part of the overall agreement.

3. Make every effort to bring the views of other political actors – particularly the Umma Party and the opposition coalition National Democratic Alliance (NDA) – and civil society formally into the process, including by:

   (a) seeking their views on each major issue during the negotiations by setting up a consultative mechanism, based in Nairobi and parallel to the Machakos process;

   (b) ensuring that an all-inclusive constitutional review process takes place early in the six-year interim period after an agreement and before a self-determination referendum in the South; and

   (c) scheduling free and fair multiparty elections – at local, regional and national levels – to ensure a transition to democracy but in ways that do not threaten the stability of the agreement and the fragile post-agreement internal political dynamic.

4. Focus mediation efforts on developing creative proposals designed to make unity attractive to referendum voters if the peace agreement is implemented fully and faithfully, including

   (a) on state and religion, maintain that the "consensus of the people" will be the source of legislation in the national constitution, or remain silent on the source of legislation; press for exemptions from *Sharia* for non-Muslims living in northern states;

   (b) on power sharing, use formulas that maximise meaningful SPLA and broader southern involvement in the central government and fundamentally reform structures that are discriminatory and exclusive;

   (c) on wealth sharing, prioritise the use of national resource revenues, especially oil, in national economic and social development programs that promote joint or cooperative development of North and South;

   (d) on internal security arrangements, allow the SPLA operational control of the South within a national army of equals, with significant power sharing in the central military and security institutions, joint patrols in sensitive areas, and joint training and modernisation, as well as facilitation of demobilisation and the monitoring of joint exercises by the international community;

   (e) on a ceasefire, arrange for the deployment of an international observer mission in ways that promote cooperation between the parties, particularly through joint patrols that include the observer mission; and

   (f) on the status of the contested areas adjacent to the South (Abyei, the Nuba Mountains, and the southern Blue Nile), affirm a mechanism for determining the wishes of the inhabitants, and create special arrangements for these areas to take into account their history of severe marginalisation and their unique present circumstances.

To the International Observers (U.S, UK, Norway and Italy and United Nations) specifically:

5. Play a leading role in stimulating the supportive efforts of other key members of the international community, for example by pressing Egypt at a high level not to reactivate its joint initiative with Libya but rather to adopt a more constructive approach based on the shared objective of achieving fundamental reforms in Khartoum that will increase the prospect of keeping Sudan together.

6. Craft a multilateral strategy of incentives and pressures that can be deployed at the request of the IGAD mediation team when one or the other party is being intransigent or undermining the negotiations. The first major task will be to bring the government of Sudan back to the negotiating table.

7. Take the lead in supporting donor efforts to prepare Southerners for the interim period by immediately embarking on a serious program of capacity building and skills training for the SPLA and others involved in governance.

Nairobi/Brussels, 17 September 2002

SUDAN'S BEST CHANCE FOR PEACE: HOW NOT TO LOSE IT

I.   INTRODUCTION: A DANGEROUS INTERRUPTION

For the first time since the National Islamic Front (NIF, now National Congress) seized power in 1989, negotiations have produced an opportunity to resolve the nineteen-year old Sudanese civil war. The Inter-Governmental Authority on Development (IGAD) mediation team, led by Kenyan General Lazarus Sumbeiwyo,[1] has garnered agreement on a framework document – the Machakos Protocol of 20 July 2002 – that presents a possible foundation for peace[2] and moves the parties farther down the negotiating track than they have ever been. A subsequent meeting between President Omar al-Bashir and SPLA Chairman John Garang a week after the signing increased momentum for a final agreement.

The bulk of the work, however, lies ahead,[3] and it has been interrupted by the government's suspension of participation in the IGAD process in the aftermath of the SPLA's capture of the garrison of Torit in southeastern Sudan.[4] The government is using its suspension to build pressure on the SPLA for some kind of cessation of hostilities and as a means to recapture the initiative in the process, which some in Khartoum feel has been lost to a hostile mediation. Having to cope with political and military unrest within its own constituencies and serious political challenges from internal opponents, as well as an Egyptian government that has suddenly been energised by the peace process, the beleaguered government appears more at ease in an environment of renewed calls for Jihad and total mobilisation. Jihad comes with a convenient political survival kit that the al-Bashir regime knows expertly how to use. In other words, the political dynamic has shifted since the Machakos Protocol, and further compromises will be much harder to extract from the government.

The fall of Torit strengthened hard line elements in Khartoum opposed to the negotiations, or at least to talking while the fighting – which during the rainy season favours the insurgents – continues. Publicly demanding clarification on several SPLA positions as a pretext for pulling out of the talks,[5] Khartoum

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[1] Kenya chairs the IGAD peace committee but the process has been closely supported by envoys from Eritrea, Ethiopia and Uganda, as well as observers from the U.S., UK, Norway, Italy and the United Nations (the Special Adviser to the Secretary-General on Africa). The round of talks that concluded with the signing of the Machakos Protocol was the first time observers have been present at IGAD negotiations. IGAD's Secretariat, supported by helpful resource persons, has played a vital role. General Sumbeiwyo's able leadership and forceful diplomacy at the end of the first phase helped achieve acceptance of the Protocol.

[2] The Machakos Protocol represents the agreed portion of a larger working document called the "Framework Agreement" that the mediators hope will develop into a comprehensive agreement. Only the Protocol was agreed and signed.

[3] "The devil is in the details" is a common refrain among those involved in the mediation.

[4] Torit has strategic significance but there are additional reasons for the government's strong reaction to its loss. SPLA conduct during the battle was deemed particularly offensive, including alleged executions of prisoners. Many in Khartoum are said to be incensed that the government is constantly accused of human rights violations while the SPLA largely escapes criticism. Army officers felt humiliated by the defeat, and the sons of some high-ranking government officials reportedly were among the casualties.

[5] *Press Release: On the Government of Sudan Decision to suspend the IGAD Talks,* Embassy of Sudan, Nairobi, 3 September 2002.

has re-affirmed its commitment to the battlefield and promised to recapture Torit.

The government justified its withdrawal from the peace talks on three grounds: first, that the SPLA was taking positions contrary to the spirit of the Machakos Protocol by calling for a confederal arrangement and re-opening the issue of state and religion by asking for a *Sharia*-free capital; secondly, that the SPLA was putting new items on the agreed agenda by questioning the status of the Nuba Mountains, southern Blue Nile and Abyei; and thirdly, that the escalation of fighting marked by the capture of Torit damaged the atmosphere and reinforced the need for a cessation of hostilities during negotiations.

Coinciding with the suspension, the government cracked down on independents and opposition in Khartoum. Journalists have been arrested, editors questioned, and the daily editions of certain papers confiscated. The regime arrested hundreds of supporters of a key opposition group, and a huge demonstration was organised in the capital in support of Jihad.[6]

Both sides, however, have quietly reiterated their commitment to the peace process.. The IGAD mediation team and international observers expect talks to resume in early October, and visits by General Sumbeiywo and members of the secretariat to Khartoum and South Sudan in the meantime will try to use the break to move the process forward.

Nevertheless, to ensure that negotiations do restart, some understanding will likely be necessary between the parties regarding military action. The SPLA will not agree to a cessation of hostilities. It feels compelled to improve its defensive position against a major government dry season offensive – perhaps the largest yet, given the purchase of new military equipment – that is anticipated for January if the talks fail. The SPLA will not risk a formal ceasefire while it has a temporary tactical advantage without some assurance that the government will not shortly be in a better position to resume the offensive. At the same time, the government want some guarantee against another embarrassing Torit.

The longer that provocative military action continues, including the government's ongoing high altitude bombing in Equatoria and the SPLA's

mobilisation in the same region, the more the battlefield can undermine diplomacy.[7] Consequently, the mediators need to seek as a first order of business informal commitments from the parties to cease major offensive actions for the next six months. That would cover the periods of greatest advantage for both parties: the fall rainy season for the SPLA, and the January-March dry season for the government. Having both forces in a defensive posture would reduce the likelihood of any major conflagration and neutralise seasonal advantages. The commitments could serve as a bridge to a formal ceasefire, about which talks should begin as soon as the Machakos negotiations resume.

In previous reporting,[8] ICG focused on mechanisms of the peace process itself, in the belief that a comprehensive agreement would not be possible without an appropriate infrastructure for negotiations that included serious higher-level diplomatic support, wider participation of Sudanese parties, and a strategy for employing serious international leverage. Such a structure now substantially exists, though the process must still take into account other Sudanese voices, and incentives, and pressures still need to be coordinated internationally and deployed.[9] This report concentrates on the substance of a possible deal. It first looks at the Protocol, the motivations of the parties in agreeing to it, and its political fall-out, then at possible compromises on the outstanding issues.

Since before independence, self-determination and governance issues have been at the heart of the struggle. The institutionalisation of Islam-based politics with introduction of *Sharia* in 1983 and implementation of a strict Islamist agenda by the National Islamic Front/National Congress Party since 1989 have led to further polarisation between the government and the SPLA, and further estrangement between the government and the mainstream branches of northern opposition. Southern Sudanese have radicalised around support for an independence referendum, and northern

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[6] Press Release by Human Rights Watch, 11 September 2002.

[7] ICG interviews with diplomats, 11 and 12 September 2002.
[8] See ICG Africa Report N°39, *God, Oil and Country: Changing the Logic of War in Sudan,* 28 January 2002; ICG Africa Report N°42, *Capturing the Moment: Sudan's Peace Process in the Balance*, 3 April 2002; ICG Africa Report N°48, *Sudan: Organising for Peace as the War Escalates,* 27 June 2002; and ICG Africa Media Release, *Sudan peace talks in Kenya: a shaky chance for peace,* 12 August 2002.
[9] See ICG Report, *Organising for Peace*, op. cit.

opposition elements increasingly demand a return to democracy. Despite numerous negotiations, there had long been no breakthroughs on underlying causes of the conflict. The government's acceptance of IGAD's Declaration of Principles (DOP) in 1997 appeared significant but proved a ploy to buy time for an isolated regime that was under military pressure.

Although there is widespread sentiment in the South that the government signed the Machakos Protocol for similar reasons,[10] recent developments have pushed the warring parties to consider a political settlement seriously.[11] They have a common incentive. If they conclude and implement a peace agreement, they believe they can dominate Sudanese electoral politics for at least the next decade since they will have delivered peace, oil wealth, and development. But many hurdles remain.

Sudan's war is a national one. Even specific remedies for southern grievances require national changes. Mediation efforts that focus solutions on the South alone cannot succeed.

The Machakos Protocol reached credible compromises on a number of key issues, particularly self-determination for southern Sudanese, elements of religion and state, and the length of the interim period before the South's self-determination referendum.[12] But the remaining issues have received little attention and will be tough nuts to crack. The suspension of the second phase of talks reveals their delicate and difficult nature and the widening gap in the negotiating positions as both hard-line and marginalised elements mobilise to undercut a peace process that disadvantages them. The atmosphere is further complicated by perceptions on both sides that they may have compromised too much in the Protocol.

In summary, the remaining issues are:

Status of areas adjacent to the South. Khartoum does not want to address through IGAD the contested areas of the Nuba Mountains, southern Blue Nile and Abyei.[13] The SPLA demands that the South and these areas be treated as a bloc and thus subject to some kind of referndums. The positions are totally divergent, and both sides claim heavy internal pressures not to compromise. The mediators and observers should use the current break in negotiations to send a fact-finding mission to those areas to develop a ground-based proposal.

Power sharing. There has been no agreement on an appropriate division of powers between central and regional entities – the states and the southern regional government. The parties have agreed in principle to a bicameral legislature at the national level but they still need to decide how and when this will be established. They must agree on the distribution of representatives in each house by region or state, as well as the procedures by which they will be chosen. In addition, the parties must agree on a system for national leadership during the interim period, and whether/when elections will be held in a way that does not exacerbate internal divisions or threaten implementation of the agreement.

Wealth sharing. Both sides are optimistic that a deal can be reached on this. The discussion will likely boil down to ownership of the oil resources, with agreement possible on a percentage of shared revenue. The SPLA wants the oil located in the South to belong to the regional entity, which could then pass a percentage to the national government. Khartoum wants it to belong to the national government, which would distribute a percentage to the regional government. At stake is the ability to decide future concessions and ownership if the South secedes.

Independent judiciary and human rights. International conventions on human rights need to be entrenched in the constitution and the independence of the judiciary guaranteed.

Internal security and ceasefire arrangements. This may be the most difficult remaining issue. If the parties sign a comprehensive peace, Southerners feel it is imperative that the government withdraw its troops. Khartoum wants to maintain a military presence in the South in case the agreement breaks down and war resumes. International monitors will

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[10] ICG field visits to southern Sudan, July and August 2002.
[11] See ICG Report, *Capturing the Moment*, op. cit., for a thorough analysis of the motivations driving the parties.
[12] Critical for the SPLA's acceptance of six years for the interim period was inclusion of an evaluation mechanism to assess implementation at the mid-point.

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[13] Labelled by the SPLA as the "other marginalised areas", these regions have been involved in active armed struggle against the government since early in the civil war.

be necessary, but if separate armies are maintained, it will be difficult to persuade the government to leave entirely. The continued presence of its troops would constitute a dangerous flashpoint and constant reminder for Southerners that they were still "ruled" by the North. This would not be conducive for ensuring unity beyond the six-year interim period.

International guarantees. Serious regional and wider international guarantees are needed to secure a deal, including an observer mission to monitor implementation and certainty of repercussions for a side that breaks the agreement.

Although self-determination was expected to be the spoiler, all these issues will make or break a peace agreement. Within them are the details of a peaceful coexistence that requires revolutionary changes in thinking about the structure of the state, control of its assets, and rectification of centuries of inequities.

How the mediators steer these issues will help determine whether Sudan's unity or its balkanisation will be prioritised, which will in turn determine whether Khartoum can ultimately agree to, and implement, a peace deal. This is an open question that the mediators and leading members of the international community can influence considerably – through their negotiating tactics, strategic use of leverage, intelligence gathering, and, ultimately, their seriousness.

The most powerful leverage for moving the parties toward peace and for promoting Sudan's unity involves ensuring that a self-determination referendum based on the Machakos formula is maintained in a final agreement and is conducted at the end of the interim period.[14] Southern Sudanese will continue the war, no matter the cost, if this is not part of the deal. Mixed signals by the mediators will undercut chances for agreement.[15]

In order to ensure that Southerners and others fighting against the government have enough confidence to put down their weapons, the parties will have to agree on deep reforms in the central government, grant the SPLA control of security arrangements for the South, and provide for a sharing of national power. For the government to have that same level of confidence, a similar effort will have to be made to craft compromises that prioritise unity in all these.

With meaningful compromises, from self-interest or international pressure, peace is indeed possible. However, an escalation in fighting can unravel the progress made thus far.[16] After the fall of Torit, President al-Bashir stated "We declared general mobilization, I gave the army a free hand to move out in all directions, to use all its weapons, with no restraint, no restrictions, whatsoever". Even more ominously, al-Bashir said he felt betrayed by Garang.[17]

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[14] The details of the referendum must still be negotiated by the parties. Even an overwhelming vote for independence would require further negotiation between the government and the SPLA over issues such as borders and division of national assets before it could be given effect.

[15] There has been worrisome wavering by some observer country diplomats, who have questioned the clear timetable for a referendum on unity or secession. One asked, "Are they going to have the vote automatically? How would the vote be triggered"? ICG interview, 25 July 2002. Even if informal and unauthorised, such questioning of the central success of the Machakos Protocol could undermine the chance for an ultimate agreement.

[16] The military situation and relief response in western Upper Nile will be addressed in a forthcoming ICG briefing paper.

[17] "Sudan President Orders Talks Team Home Ahead of Unrestrained War", *Agence France-Presse,* 2 September 2002. See also "Sudan's Bashir says Jihad in the South until peace", Reuters, 5 September 2002.

II. THE MACHAKOS PROTOCOL: RATIONALE AND REACTION

The signing of the Machakos Protocol has changed the political dynamic inside Sudan. The government, the SPLA and the northern opposition parties are aggressively using the peace process to undermine each other, and politics are steadily becoming even further polarised. As it compromised on issues that for more than a decade it proclaimed were non-negotiable, the government had to scramble to calm mounting dissent within its core constituency and fight back increasingly bold political opponents. Religious scholars and hard line army officers are the most significant internal opponents of the Protocol. The former charge that peace is being pursued at the cost of *Sharia*, and the latter say publicly that they have reservations about negotiating with the SPLA in general and the terms of the Machakos Protocol specifically. While frantically shoring up its own ranks and attempting to redraw the negotiation parameters, the ruling National Congress Party is also fending off mounting challenges from the political opposition, the Popular National Congress and the Umma Party. The SPLA is also beset by internal pressures related to the peace process, with harder line elements pressing extreme positions.

A. WHY THE PROTOCOL WAS SIGNED

The most significant diplomatic development since an earlier mediation was aborted by the 1989 coup, the Machakos Protocol of 20 July 2002, contains provisional agreements[18] on several vital issues (self-determination, religion and state, structure of the national government), and creates both significant momentum for peace throughout Sudan and misgivings among key elite constituencies who feel either left out by the process or potentially disadvantaged.

The most important compromise is the government's acceptance of a self-determination referendum in southern Sudan that offers an option of secession. The government has agreed to this before, in the peace it made in Khartoum in 1997

with southern splinter factions and, indeed, in its own 1998 constitution, but never in a way that compels it to implement the commitment. Given the high profile nature of the Machakos negotiation, it will be much more difficult to walk back from this position unless the entire initiative collapses.

The referendum is to be internationally monitored and held after a six-year interim period to choose unity or independence. The specific arrangements for the contested North-South border areas of Abyei, southern Blue Nile (alternatively known as the Funj area), and the Nuba Mountains have not been decided. There will also be a six-month pre-interim period during which an independent Assessment and Evaluation Commission will be established, made up of the parties and representatives from relevant regional and international partners. It is to make unity as attractive as possible to the South, by helping to monitor and evaluate implementation of the agreement and correcting obstacles as they arise.

Not dealt with in the Machakos Protocol, and meant to be the subjects of the next round of negotiations, were power and wealth sharing arrangements, internal security and ceasefire modalities, human rights, and international guarantees. The relationship between state and religion (only partially defined in the Protocol) must be further debated, as well as the critical issue of the disposition of the contested areas bordering the South.

The government's agreement to the self-determination referendum was surprising on a number of levels. First, it had repeatedly argued both publicly and privately that it could not agree to anything that might compromise unity. In the absence of significant international pressure, it was unexpected that Khartoum made the commitment so early in the negotiations. Secondly, an earlier, leaked draft that indicated an approach that did not acknowledge southern concerns had created a firestorm within the southern Sudanese community and deepened SPLA scepticism about the process. Finally, President Bush's special envoy, former Senator John Danforth, had been attempting to dampen southern self-determination aspirations, aligning himself with Egypt and Khartoum to build government confidence that independence would not be a serious option.

The partial agreement on religion and state provides "that religion, customs, and traditions are a source of moral strength and inspiration for the Sudanese

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[18] Provisional because much is in the nature of a framework, with details to be filled in, and, as customary in such negotiations, nothing is final until everything is final.

people".[19] The agreement also outlines in detail the specific rights of religious belief and practice that each side would protect. However, it was made possible by creating a system whereby *Sharia* and national consensus could remain as a basis for legislation affecting the North, while the South would essentially be exempt. This grants the South the ability either to enact alternate legislation or refer a *Sharia*-based law to the national government, which would then enact national legislation that is not based on *Sharia* unless the law in question receives the approval of a two-thirds majority in the proposed Upper House.[20]

The SPLA's compromise on the religion and state issue means the Protocol implicitly endorses the premise that application of *Sharia* in the North is the will of the majority of northern Sudanese. This may not be the case. Between 1983 and 1985, *Sharia* laws were applied only by military courts under a state of emergency. A significant reason for the popular uprising that toppled the Nimeiry government was widespread rejection of the religious laws. The NIF had to stage a coup in 1989 when the laws were put at risk by the peace process. However, this issue is not completely closed, because the Protocol envisaged "consensus of the people" as the source of legislation in the North along with *Sharia*. The government interprets "consensus of the people" in the context of the Islamic notion of scholarly consensus (*ijma*), which does not require pluralistic democratic institutions, but it could also mean a democratic system, in which a legislature could make laws without reference to *Sharia*.

The SPLA's agreement to the Machakos Protocol can be explained by its success in winning clear commitment to a self-determination referendum with an independence option at the end of the interim period. This secured provisionally its constituency's primary objective. The SPLA made a number of important concessions as well. It accepted a relatively lengthy interim period.[21] Most

importantly, it accepted *Sharia* as the basis of law in the North, thus codifying retreat from its advocacy of a purely secular state.[22] Nevertheless, it gave up nothing it tangibly controlled, compromising instead on principles, some of which, such as a secular Sudan, would have required the downfall of the current government.

The SPLA also sees the advantages of striking a deal with the ruling party that would allow these two entities to control the interim period and would provide the South with the foundation for the referendum. Some diplomats believe that the SPLA has forsaken the broader interests of its allies in the NDA – which are focused on the most inclusive and democratic transition process possible – for a partnership with the National Congress Party that reduces potential competition for power.[23] If this analysis is correct, it exposes a key weakness in the SPLA's assessment of the ingredients for a successful peace deal. Without an inclusive process and interim period that includes elections to legitimise authority, the SPLA would risk the fate of other principally southern rebel groups that have tried to implement past bilateral agreements: another dishonoured deal. The best guarantee against such an outcome is for the SPLA to reach out and liberalise, within both its own movement and the proposed southern regional government, as well as to support a transition to democracy that will help ensure broad-based support for the peace agreement.

The government's motivations for signing the Machakos Protocol were more complex, and are indicative of how it might pursue resumed negotiations. A top regime official gave the idealistic interpretation:

> There is an attitudinal change towards peace that needs to be acknowledged. We are learning from experience. Sudan is too big to be controlled by one political power. The satisfaction of power is not just through politics, but also through social services, charities, and businesses. Everyone has a role to play.[24]

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[19] Machakos Protocol, 20 July 2002.
[20] Ibid.
[21] This compromise was particularly difficult for the SPLA to accept as the longer its military wing is substantially demobilised or absorbed into a larger national structure, the longer it could be expected to take if it had to be reconstituted to resume the war because the agreement ultimately failed. Most SPLA leaders believe that their military, not international good will, is the best guarantee

that the government would respect a provision to permit a referendum or otherwise implement a peace deal.
[22] And retreat from the position in the IGAD Declaration of Principles.
[23] ICG interviews, August and September 2002.
[24] ICG interview, 16 August 2002.

However, key officials within the ruling party appear to have differing agendas and calculations. The more moderate and hard-line elements come together in their mutual desire to retain power and manage future change in Khartoum. Top leaders apparently have made a fundamental survival decision to move forward on the peace front as a result of a host of factors, including:[25]

❑ The National Congress Party assesses that peace is its ticket to long-term political prosperity. By signing the Machakos Protocol, it refashions itself as the party of peace and attempts to expand its base at the expense of the larger Umma and Democratic Unionist parties. The recent agreement with the splinter Umma factions of Mubarak al-Mahdi and Ahmed al-Mahdi denotes an intensification of that strategy.

❑ Khartoum remains on the U.S. list of state sponsors of terrorism and is uncertain of what this might mean in the post-11 September environment in which Washington has overthrown the Taliban regime in Afghanistan and threatens to attempt the same in Iraq. Recent allegations about shipments of al-Qaeda gold to Sudan reinforce the uncertainty of a potential U.S. response.[26] The government anticipates that a peace agreement will lead to normalisation of relations and an end to U.S. sanctions**.**

❑ The government figures, correctly, that a peace agreement will unlock major development assistance and debt relief from bilateral and multilateral sources, particularly the World Bank[27] and IMF.

❑ The government has to an extent reduced its ties with former allies in the Middle East in its drive to normalise its relationship with the U.S. and broader international community, and needs, therefore, Western replacements for lost friendships and resources.

❑ Oil revenues will remain stagnant until the area of exploitation can expand into what is currently the active war zone. The Holy Grail for the government, therefore, is at least a ceasefire. To secure this it is prepared to make significant compromises that do not threaten its hold on power.[28]

❑ Oil revenues can help integrate the economies of North and South during the interim period, creating a new dynamic for unity.

❑ Key members believe that Sudan, once free of the civil war, can become a major power in Africa and a bridge to the Middle East.

❑ The agreement to grant the South a referendum does not automatically translate into that region's unilateral ability to secede. Complex negotiations would still be required between the SPLA and Khartoum in the event of a vote for secession. The latter may hope that it would be able to undermine a vote for independence through negotiations on the details.

Vice President Taha further explained the government's motives to a group of Egyptian editors:

> Three reasons pushed Sudan to sign on the Machakos Protocol with the SPLA. First, the discovery of oil and the emergence of important American interests in this field;[29] second, all discussions between Northerners and Southerners in Sudan have confirmed that the achievement of peace requires granting Southerners the right of self-determination; and the third reason relates to the decision of external powers, and particularly the U.S., that peace must be achieved in Sudan.[30]

Taha added, "If the price of the unity of Sudan required that I abandon my post as Vice-President of Sudan for John Garang, I will do it". He told the

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[25] Many of these motivations were identified by ICG in relation to the window of opportunity for peace that opened after 11 September. See ICG Report, *God, Oil and Country,* op. cit.
[26] *Washington Post*, "Al-Qaeda Gold Moved to Sudan", 3 September 2002.
[27] The Bank is already preparing project proposals and is ready to seek funding as soon as a final peace agreement is signed. The U.S. government has maintained over the past eight years that no multilateral funding should go to Sudan under present conditions.

[28] One African diplomat said, "The government wants peace at any price; they want to do business". ICG interview, 5 August 2002.
[29] As one key European diplomat summarised, "They need stability for the chance to exploit the oil and develop their country", ICG interview, 29 July 2002.
[30] See www.sudanile.com/news4.html, 31 July 2002.

editors that the government would implement the largest development plan in Sudan's history to entice Southerners to opt for unity.[31]

But more complex motives also drive key regime leaders, some of whom feel that their advantaged position is put at risk by any peace deal. From the perspective of these officials, the Machakos Protocol and the peace process provide an opportunity to continue a divide-and-conquer strategy through negotiations that reduce the conflict again to its minimal North-South dimension. They want to break the alliance between the South and the contested adjacent areas as well as between the SPLA and the northern political parties in the NDA, who feel excluded by IGAD and somewhat marginalised by Garang.

Without altering fundamental power relationships, National Congress Party leaders would have six years to entice the SPLA through generous entitlements, including posts and control of economic resources. This extension of the regime's long-standing "peace from within" strategy, aimed at co-opting all opposition, may put a different slant on Taha's willingness to yield the vice-presidency to Garang. "If it implemented democratisation, the regime would sign its own death warrant – so the northern Sudanese majority is left out, as are southern parties other than the SPLA", argues *Africa Confidential*.[32]

According to this perspective, if the government makes peace through IGAD, the ruling party would ally with the SPLA and breakaway factions of the northern parties to maintain power and sizeable economic interests. During the interim period, it could focus on creating divisions to make the South appear ungovernable by the SPLA and pretences for delaying any referendum.[33] Most international actors involved with Machakos would have moved on, leaving Khartoum to deal with new, less

knowledgeable diplomats. The government would by then have the relationship with the U.S. it craves and have ended its isolation, while gaining a welcome respite from active war. One analyst concluded:

> The government is bending to tremendous external and internal pressures, but will bounce back at the right moment. The regime is very pragmatic. It will justify the unjustifiable under Islamic teaching by the "jurisprudence of necessity". Machakos is a diktat of necessity.[34]

It is also possible that some in the government were motivated to sign the Machakos Protocol to demonstrate flexibility and in the expectation that the SPLA will now paint itself into a corner by putting forth what the mediators will consider extreme positions. Khartoum would then be able to say that it had already made the fundamental compromise on self-determination and thus was not responsible if the negotiations nonetheless collapsed. Advocates of this theory argue that the NIF does not need the international capital that would come from increased oil production and multilateral aid, as it satisfies requirements by acting as a money laundering centre for international Islamist circles.

To some extent, this may be happening. The SPLA has indeed hardened its position on the issue of the areas adjacent to the South. The government, however, lost potential international sympathy by walking away from the talks rather than maintaining the high ground from which to argue more persuasively for a ceasefire.

B.   BUILDING MOMENTUM: THE AL-BASHIR/GARANG MEETING

The meeting between President al-Bashir and SPLA Chairman John Garang on 27 July 2002 was their first. Brokered by Ugandan President Yoweri Museveni, it focused on the peace talks and the Machakos Protocol. The leaders also discussed the role of the regional actors and a ceasefire. The personal chemistry was reportedly good, and both were optimistic the other would engage more seriously in the peace process.

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[31] Ibid.
[32] *Africa Confidential*, vol. 43, N°15, 26 July 2002. This view is challenged, however, by the government's advocacy in Machakos for elections early in the interim period.
[33] A legal expert on the government's negotiating team explained at a rally in Khartoum that Southerners have no entitlement to self-determination under international law. ICG interview with eyewitness, August 2002. Some regime supporters argue that the Evaluation Committee created by the Protocol will be able to certify that Khartoum implemented its end of the bargain, rendering the referendum moot. *Al Sharq al Awsat*, 1 August 2002.

[34] ICG correspondence, 5 August 2002.

The meeting symbolised a mutual seriousness that was absent from previous peace talks and was indicative of the internal and external pressures that each leader was apparently under to produce an agreement. Numerous previously scheduled meetings had fallen apart. The decision to meet, and the positive reports, helped build momentum for the process, not least because it was held in Uganda and brokered by President Museveni, the SPLA's main supporter.

Discussion about the nature of the relationship between the ruling party and the SPLA was a feature of the session. Al-Bashir proposed a strategic alliance, while Garang countered with a partnership to implement any agreement.[35] Despite al-Bashir's offer, there is uncertainty about this in Khartoum where those opposed to any accommodation with the SPLA are a threat to his power. They might find political and military friends in Cairo, although Egypt would have to balance a desire to undercut an agreement with understanding that those who wish to continue the war also advocate a stronger line on the state and religion issue and have links to Egyptian extremist and terrorist elements. According to a top Khartoum government official:

> We can't exclude the possibility of some working together to undermine the agreement but those voices are not as sizeable as before, and now the threat comes from outside the ruling party. And we thought about an alliance with the SPLA during the interim period, but this would not be palatable to the international community and the Sudanese people. We need elections first. A political partnership could emerge after that.[36]

Some in the government and SPLA alike clearly see the benefits of a serious partnership based on shared interests. But the history of such partnerships between Khartoum-based political entities and southern parties is not promising. The partnership on which the 1972 peace agreement was based lured southern leaders into favoured positions but did not help the South, and the war resumed in 1983. The 1997 partnership between the ruling party and the principally Nuer southern splinter factions accommodated a few leaders but furthered divisions within the South. The pattern is well established, and the SPLA would do well to remember it. Unless

the process and agreement are more inclusive, with democracy at their centre, a National Congress Party/SPLA partnership could be remembered in the same way as those failed initiatives.

However, the fall of Torit and the suspension of the peace talks have put at least a temporary halt to talk of partnership. According to one member of the government delegation:

> The capture of Torit was a humiliation for the government. After the meeting between the President and Garang there was a real sense that a partnership could work, and that Garang had the interests of a united country at heart. President al-Bashir stood up for Garang in Khartoum. But the capture of Torit caused a feeling of humiliation, and it will be very difficult to return to the negotiating table while that feeling remains. So we will mobilise to restore Torit and other towns, to deal a blow against Garang.[37]

C. THE POLITICAL IMPACT OF THE PROTOCOL AND CURRENT ATTITUDES TOWARDS THE PEACE PROCESS

The signing of the Machakos Protocol and the meeting between al-Bashir and Garang that followed raised great expectations of imminent peace. The government came under internal pressure to open up the peace process to the political opposition and the NDA. The president and his top aides did their best to hedge, resulting in conflicting signals from senior officials in late July on options for the new round of talks and beyond.[38] Ultimately, the negotiations remained bilateral.

There are also strains within the army. Just as a major bombing of civilians in the South greeted the signing of the Nuba Mountains ceasefire in January 2002, a late July government offensive in the oilfields of Western Upper Nile, which displaced tens of thousands of people, and the escalation of fighting in Eastern Equatoria, signalled a continuing commitment by Khartoum to the military option.

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[35] ICG interviews, August 2002.
[36] ICG interview, 16 August 2002.

[37] ICG interview, 5 September 2002.
[38] See for example "Sudan Minister Says Peace Talks Need Widening", Reuters, 29 July 2002; and a statement by the presidential peace advisor on the same day to the effect that "Next Peace Talks Will Be Confined Only to Government and SPLA", *Khartoum Monitor*, 29 July 2002.

The same can be said of the SPLA's capture of Torit. The government is expected to try to recapture Torit as well as Kapoeta (lost in June), before returning to the negotiating table.

On his return from the meeting with Garang, al-Bashir asserted that Machakos should be limited to the main fighting forces, but that both parties could bring to Nairobi delegations of its political allies if it so wished, though only in a "consultative" capacity. Similarly, he brushed aside reference in the Protocol to a "national" government by stating that each side was free to appoint its political allies to interim cabinet positions.[39]

If the president's power sharing scenario prevailed, the SPLA could invite the NDA into the interim government, but at the expense of its own quota of senior posts. The government would presumably have less of a sacrifice to make since it is allied with weaker, breakaway factions of Umma and the DUP. That would mean the burden of representing the NDA's regional parties, the mainstream DUP, and the trade unions would fall on the SPLA and might also suggest that the main Umma Party would be left out in the cold.

However, political party leaders and civil society activists, both in the North and abroad, seriously challenged the apparent calculations of the two sides after the first phase of talks and have been intensifying their push for genuinely broader participation. Their main argument is that the only way to safeguard the peace is by building a genuine national consensus around it. One Umma Party member cautioned, "Peace has to be agreed upon by everybody and in a democratic atmosphere, otherwise it will not last".[40] Democracy, argued many analysts, is the best guarantee for peace.[41] If

both sides and the mediators continue to exclude other Sudanese voices from the table, and if the SPLA focuses too singularly on self-determination without reform at the national level, any agreement risks being hijacked during the long interim period by non-democratic forces not responsive to the burgeoning peace constituencies.[42]

1.   Government

Immediately after signing the Machakos Protocol, the government launched a mass media campaign to market it as a victory. Discreet briefings were held in state security bodies and the ruling party's mass organisations. Senior ministers and Vice President Taha fanned throughout the Arab world and beyond to describe the Protocol and build support for it. The diplomatic offensive encountered its biggest hurdle in Egypt, when President Mubarak cancelled a meeting with Taha, signalling a brewing bilateral crisis (see below).

An important dimension of this diplomatic offensive was its appeal for rich Arab countries to support the peace process through economic investments in the South during the interim period. Ibrahim Omer al-Amin, the Secretary-General of the National Congress, told a press conference in Damascus that such investments would play a major role in implementation of the Protocol and preservation of Sudan's unity.[43] He pledged that the government would use the interim period to convince Southerners that unity was the better option.

This contrasts with the ruling party's propaganda during the heyday of its militancy that pictured Sudan as an Islamist bridgehead in Africa. It then argued that it was the religious and "civilisational" duty of Arabs and Muslims elsewhere to underwrite the Jihad enterprise. The government now seeks major Arab investments in the region[44] but although

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[39] "Al-Bashir Confirms the Participation of Political Forces in the Peace Process", *Sudanile* online newspaper, 28 July 2002, available in Arabic at http://www.sudanile.com/news1.html. Presidential peace advisor Ghazi Salahuddin Attabani explained that the NDA is not considered a party to the negotiation under IGAD's mandate. See "Khartoum Suggests its Acceptance of the Participation of the Opposition in its Negotiations with Garang as Consultants*", Al-Sharq al-Awsat*, 29 July 2002, in Arabic.
[40] "Sudan Hails Peace Deal, Opposition Wants Democracy", Reuters, 21 July 2002.
[41] Haidar Ibrahim Ali, "The Guarantee for Peace is Democracy", *Sudanile* online newspaper, 25 July 2002, available in Arabic at http://www.sudanile.com/news8.html. Also ICG interviews, August 2002.

[42] The 1972 peace agreement began to unravel when major political parties that were not part of the negotiations were later brought into the government.
[43] Following up a decision at the March 2002 summit of Arab leaders, Arab Foreign Ministers at the recent Arab League conference in Cairo agreed to set up a board of directors to supervise a U.S.$450 million fund for development and infrastructure projects in Sudan. See: "Arab League sets up special Sudan peace committee", Agence France-Presse, 5 September 2002.
[44] "Ibrahim Omer in a Press Conference in Damascus: Arab Investments in the South Will Achieve Sudan's Unity", in Arabic, *al-Bayan*, 30 July 2002, posted at:

the means have changed from war to economics, its objectives remain assimilation of Southerners into Arab culture and Islamic religion. The SPLA is concerned about this but must be careful not to adopt an overly protectionist trade policy that would hinder investment and development.

There was an aura of some desperation about attempts to draw maximum political capital from the peace process. A day after signing the Protocol with the SPLA, the ruling party held an extraordinary meeting in Khartoum in which it endorsed the draft agreement reached earlier with the breakaway Umma Party faction led by Mubarak al-Mahdi. As the second phase of talks got underway in Machakos, it authorised the government to bring Umma dissidents into the cabinet and welcomed into its own membership Mohamed Sir al-Khatim al-Mirghani, a prominent dissident DUP leader and cousin of the NDA's chairman.[45] Bringing Umma and DUP defectors into the fold had the trappings of a manoeuvre to weaken the two leading traditional parties while maintaining the illusion of broader support for the agreement with the SPLA.

Reflecting this dual agenda, the government on 27 July 2002 prevented a delegation of Umma Party members from central Sudan loyal to deposed Prime Minister Sadiq al-Mahdi from entering the capital, where they intended to pledge support to their leader. Sadiq al-Mahdi branded the heavy-handed security operation "a violation of … the Machakos agreement … and of all international relevant conventions".[46] Reacting to the defection of its leader, a DUP spokesman accused the government and the ruling party of conspiring to weaken opposition parties.[47]

There is growing divergence between grassroots support for peace and elite opposition to specific elements of the process. Although peace is a widely supported objective in the North, the government faces rising criticism from influential constituencies, including army and security officials and clerics. Aside from splits within the National Congress Party, there are increasing verbal attacks and demonstrations by the northern opposition, the Egyptians, and some imams in the mosques, all for different reasons. "We don't fear any of these threats", said one leading government official. "We didn't collapse when we were weak and isolated. And with international support for the peace process, we won't be blamed when we apply reasonable measures to counter those trying to undermine peace".[48]

The continuing rivalry between President al-Bashir and Vice President Taha is part of the internal positioning and posturing. Some officials fear they will lose their posts and access to resources, or even be charged with war crimes. Both al-Bashir and Taha are pushing the peace agreement internally to their constituencies and beyond. Their camps accept that the status quo ante would have led to a rupture, but great care will have to be taken to ensure that the peace dynamic does not also lead to further cleavages in a ruling party already hurt by the split with Hassan al-Turabi.

Following the loss of Torit, the army referred in an official statement to its initial "reservations" on the Machakos Protocol, explaining that it had given in to the political leadership because of strong popular support for the peace process, while warning that it was time to respond to SPLA belligerence. Awareness of these tensions even before Torit led Sadiq al-Mahdi to caution, "a power founded in a coup d'état would always be vulnerable to a counter-coup. There are rumours of a coup engineered by some who are opposed to these [emerging peace] formulas. Peace will [only] earn its legitimacy from democracy".[49]

Rumours of a coup d'état are symptomatic of unrest within the military. The government's strong response to Torit could well be an attempt to pre-empt trouble or to calm hardliners unsettled by the

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www.hornofafrica.de/arabisch/v01_alsudan/f074.html.

[45] See 'Sudan Readies Cabinet Reshuffle to Bring In Opposition Defectors", Agence France-Presse, 14 August 2002. See also *al-Ray al-Aam*'s "The Leadership Bureau Authorises Participation of Mubarak's Group", and "Mohamed Sir al-Khatim: I Joined the National Congress After Serious Consideration and Out of Conviction", in Arabic, 14 August 2002, at www.rayaam.net/news1.html and www.rayaam.net/news4.html respectively.

[46] "Al-Mahdi Accuses the Sudanese Government of Violating its Agreement with his Party by Preventing Loyalists from Meeting him", *al-Sharq al-Awsat*, 28 July 2002.

[47] "Al-Mirghani's Party Accuses Government of 'Conspiring' to Dislocate Opposition", in Arabic at www.rayaam.net/news4.html, 16 August 2002.

[48] ICG interview, 30 August 2002.

[49] "Al-Mahdi Warns of Coup Led by Opponents of Machakos Agreement, Confirms Chances of Alliance with Garang Are Real", *Al Sharq Al-Awsat*, in Arabic, 29 August 2002.

direction in which the negotiations were moving. If it now has to be courted to return to the talks, it may well seek to reopen earlier concessions.

Attempting to create the appearance of inclusiveness, al-Bashir issued a presidential decree on 11 August 2002 liberalising restrictive legislation on registration and activities of political groups. The measure applies only to parties already registered and all parties that were represented in the 1989 parliament toppled by the NIF. The main opposition parties have challenged the legitimacy of the current law by refusing to register under it.

Under the amendment, parties must renounce the use of force, commit to a peaceful transition of power, dissolve their armed wings if applicable, conduct political activities entirely within Sudan, and abide by the constitution and laws. It stopped short of recommitting Sudan to multiparty democracy. Instead, it appeared tailored to induce the return from exile of the DUP and the Communists since the ban continues to apply to parties with branches outside Sudan. Also still banned are parties not represented in the 1989 parliament and those with arms, such as the SPLA.[50] Opposition parties had a mixed reaction. Some vowed to use the new space to push for additional democratic freedoms, while others suspected that the amendment was timed to allow the group led by Mubarak al-Mahdi to operate on the eve of its inclusion in the government.

Even as his government proclaimed its inclusiveness and reshuffled the cabinet to welcome new political allies, al-Bashir cracked down on those who challenged the National Congress Party. The decree he issued on 18 August to extend the house arrest of Hassan al-Turabi for another year was apparently timed to abort an imminent constitutional court order to release the Islamist leader.[51] Repression was the only response to PNC calls for the release of al-Turabi and the right to exercise the relative free assembly and speech that other political players appear to enjoy of late. Threats within its own ranks and beyond would explain the obvious eagerness of the ruling Islamist faction to micromanage political life in anticipation of a power sharing arrangements with the SPLA.

2.   SPLA

The aftermath of the Protocol revealed more starkly than ever the competing pressures facing the SPLA. The armed elements in the Nuba Mountains and southern Blue Nile pushed vigorously for a maximal position regarding referndums for these areas; the largely Nuer Sudan People's Democratic Front (SPDF) fears that the Machakos process has overtaken its merger agreement with the SPLA (see below); a newly emboldened southern civil society is increasingly vocal, including on democratisation; ethnic minorities in the South are advocating greater states' rights; the southern Sudanese diaspora continues to exert pressure; and the NDA demands a greater role in the talks and the interim arrangements.

The SPLA addressed two main priorities in the break between the Machakos rounds: raising awareness of field commanders and political cadres about the process, and reassuring the NDA. The majority of southern constituents were assuaged with the agreement on self-determination. NDA concerns were clearly not met, though Garang dismissed suspicions that the SPLA has moved away from the goal of a reformed, secular North:

> Just going for the independence of the South is simplistic. If that is all that we wanted we would have accepted the Machakos provision on self-determination as an end in itself and concluded negotiations there. The self-determination provision in the Protocol was actually attained because of our objectives of a New Sudan, which involves our allies in the North. The problems of the South are addressed by making changes in the centre, not by remaining on the periphery.[52]

Initial meetings to win support for the Machakos process from southern constituencies and field commanders were held in Nairobi and throughout southern Sudan. The SPLA leadership meeting found strong support for the self-determination clause, but also strong criticism of the geographical definition of southern Sudan. Many commanders made clear they would not sacrifice their allies in the Nuba Mountains and southern Blue Nile for an agreement only on southern self-determination.[53] Pro-independence southerners criticised the interim

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[50] "Sudan President Lifts Parties Ban", *Associated Press,* 10 August 2002.
[51] "Sudan President Slaps New House Arrest Order On Ousted Islamist Leader", Agence France-Presse, 18 August 2002.

[52] ICG interview, 12 August 2002.
[53] ICG interview, 10 August 2002.

period as too long.[54] Having witnessed peace talks come and go, many southerners are withholding judgement until the remaining issues are negotiated.[55]

Southern civil society groups have enthusiastically welcomed the agreement. After a coalition had responded to the leaked early draft by bringing written responses directly to Machakos, there has been renewed interest and growing optimism that their views can be heard.[56] However, there is concern among non-SPLA Southerners that the agreement does not go far enough in ensuring a democratic South, or including other southern political groups in government.[57]

Public support has come from such other southern political groups, notably the Union of Sudan African Parties (USAP)[58] and the SPLM/United.[59] However, the peace agreement signed between the government and the South Sudan Liberation Movement (SSLM) the day after the Machakos Protocol has raised some concerns that the government may continue a divide-and-rule strategy.[60]

One potentially serious problem for the SPLA is its lack of expeditious movement to complete the merger with the SPDF, the mostly Nuer southern splinter group with which it signed an agreement earlier in 2002. SPDF members complain that the SPLA has been slow in implementing the process, and the meeting between Garang and SPDF leader Riak Machar to hear the results of a joint committee's work has been unduly delayed. If elements of the SPDF renounce the merger, this would open the door to further fissures within the SPLA at a time when southern unity is a prerequisite for maximising negotiating leverage. "If the SPLA doesn't accelerate the merger", warned one Nuer leader, "then this gives the government a huge opportunity to divide the South".[61] The SPLA should move vigorously to conclude the merger process, which includes dealing with organisational reform.

3. NDA

The Protocol initially raised strong suspicions within exiled northern opposition circles in Cairo about the future of their alliance with the SPLA and the role of the NDA in a process clearly constructed as bilateral. The NDA's one-week leadership council meeting that opened in Asmara on 7 August 2002 showed growing concern over the SPLA's monopoly role at Machakos.

With all NDA factions present, DUP Chairman Mohamed Osman Al-Mirghani asked in his opening speech that the second phase of talks be delayed to allow for NDA participation. A spokesman for the government, which has adamantly opposed any NDA role,[62] responded that "The political forces could translate the final agreement into reality in the next phases. There is no link between the current talks and political participation".[63]

The NDA leadership meeting proved decisive, nonetheless, for allowing Garang to reassure his northern allies that Sudan's unity would remain an SPLA priority if the North showed genuine commitment to equality and justice during the interim period. The final communiqué strongly endorsed the Protocol and gave the SPLA a "conditional mandate" to negotiate for the NDA during the second phase. It also asked the SPLA to submit any final agreement for leadership council approval before signature.[64] Moving immediately to implement those decisions, the NDA tasked a permanent team of five to lay out its positions on the next issues and be available to advise SPLA negotiators. The NDA's negotiating positions call

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[54] ICG interview in Nairobi, 23 July 2002.
[55] Southern Sudanese interviewed by ICG during field trips in the South in July and August 2002 were highly sceptical of the regime's intentions.
[56] ICG interview in Nairobi, 18 July 2002.
[57] ICG interviews, July and August 2002.
[58] "Union of Sudan African Political Parties statement on Machakos Protocol", *Khartoum Monitor* website, 25 July 2002.
[59] "SPLM/United Press Statement on the Machakos Protocol", 26 July 2002.
[60] *Justice Africa*, "Prospects for Peace in Sudan", June-July 2002, p.6.

[61] ICG interview, 29 August 2002.
[62] See: "Sudan: NDA at a turning point", *al-Hayat*, http://www.alhayat.com/pages/08/08-07/07P05.pdf, in Arabic. Prevention of the internal secretariat of the NDA from travelling to the leadership meeting in Asmara was also part of this government effort to keep the NDA out of the process. In addition, al-Bashir threatened to invite the government's southern allies to the talks if the SPLA insisted on including the NDA.
[63] See: www.rayaam.net/news1.html, 8 August 2002.
[64] "The NDA Leadership Welcomes the Machakos Protocol; No Ceasefire Prior to Final Agreement Between Khartoum and NDA", *Al-Sharq al-Awsat*, 13 August 2002,

for a comprehensive solution with due regard for democratisation and human rights and for requiring opposition participation in drafting the interim constitution and forming the interim government.[65]

It appears, therefore, that the SPLA indirectly represents the NDA in the still bilateral process. Given its exclusion from the table, the NDA faces the challenge of reinstating democratisation and human rights on the agenda, and ensuring their inclusion in the interim institutions. The Machakos Protocol provides for an inclusive National Constitutional Review Commission but groups not part of that accord have the daunting task of pressing for their views to be taken into account in the Commission's mandate, the criteria for its membership, and the laws that need to be amended to transform Sudan from a one party state to a multi-party democracy.

Threats out of Asmara to activate the "eastern front" appeared to be just rhetoric. Al-Mirghani alienated the Beja Congress, a key player on that front, by refusing to endorse replacement on the leadership council of its representative who returned to Sudan. The Beja, who are ardent Khatmiya followers (the Muslim sect from which the DUP draw their traditional support), have drifted away from the DUP to revive their regional and ethnic party, which includes a more credible armed faction than the DUP's own.

The NDA welcomed a senior envoy of Sadiq al-Mahdi's Umma Party to its meeting and resolved to intensify internal and external pressures on the government to open up the peace process and ensure that democratic transformation is included in the agenda of the interim period. It directed its internal secretariat to coordinate with the Umma Party and the PNC and to broaden its office to include all NDA factions inside Sudan, as a step towards mobilising the masses that the NDA says is necessary to bring the government to its point of view. This rapprochement paved the way less than a week later for a well attended public ceremony on 19 August at Umma Party headquarters during which representatives of several opposition parties, civil society organisations, and national figures signed a memorandum spelling out shared views of the Machakos process. This unified position essentially

seizes on the peace process to press for a full return to democracy.[66]

Diplomacy was another immediate priority. The NDA announced three senior delegations to explain its position on the peace process in Washington, London, Oslo, Rome, Cairo, Tripoli, and Nairobi, and urge that the process be opened up.[67]

Two important dynamics were on display in Asmara. First, attempts by the government to weaken the NDA by luring away the SPLA – a move the NDA is countering by pushing for inclusion in the Machakos process. Secondly, the growing ambition of opposition groups to shape the peace process, including the interim period after an agreement, rather than leave the field to the SPLA.

However, the NDA has as yet been unable to put together a serious and sustained effort to influence the mediators. No formal committee was formed to travel to and remain in Machakos or Nairobi and provide consistent input. It remains to be seen whether the NDA is capable of this basic step during any next phase of talks.

4.   Umma Party

While voicing cautious support of the Machakos Protocol, Sadiq al-Mahdi is positioning himself and the mainstream Umma Party for a comeback by pressing the democratisation and broader participation issues. The former prime minister is saying that he will support any agreement that deals with the South, but not elements that address national issues. Since the signing of the Protocol, he has kept a busy schedule of interviews in a consistent campaign that attained a new level with announcement on 19 August of a joint position on the peace process of the Umma Party, the NDA, and civil society. Al-Mahdi hosted and led the ceremony. The Umma Party also published a paper on 22 August detailing its own strategic vision of the peace

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[65] "Conditional Mandate to Garang for the Completion of the Machakos Talks", *Al-Ittihad,* in Arabic, www.alittihad.ae, 12 August 2002.

[66] "Political Forces and Civil Society Organisations Sign Memorandum on Machakos at a Huge Public Rally at the Headquarters of Al-Mahdi's Party", *Al-Bayan*, 20 August 2002, in Arabic, at: www.hornofafrica.de/arabisch/v01_alsudan/f011.html.
[67] "NDA Delegations To Visit Seven Capitals To Explain Position On Peace Process", in Arabic, at www.rayaam.net/news2.html, 14 August 2002.

process[68] and calling for additions to clarify Protocol ambiguities:

❑ National, northern and southern constitutions should be fine-tuned to correspond to Sudanese aspirations for basic human rights, and the peaceful contest of power through free elections.

❑ The powers of the federal government should be limited to national sovereignty, currency, armed forces, planning, and the constitutional judiciary. All other powers should be allocated to the states.

❑ There should be a national unity government, as outlined in the Joint Egyptian-Libyan Initiative (JELI), during the transitional period.

❑ Oil revenues should be split equally between the area where natural wealth is located, the fund for equitable development, and the national treasury.

❑ A phased program should be implemented for the armed forces until the issue of voluntary unity is settled. Phase one would coincide with the ceasefire, during which the armed forces should be redeployed according to the model set by the Nuba Mountains agreement. During phase two, linked to the interim period, distinct [southern and northern] units should operate as allied forces under a unified command, such as NATO's. Phase three would depend on the referendum's outcome. In the event of a vote for unity, the armed forces would be merged according to a program elaborated during the interim period to avoid past mistakes and guarantee a genuinely national army. Paramilitary forces [such as the PDF and other government militias] should be disbanded and disarmed according to a program that should also provide for reintegrating combatants

❑ Negotiations could remain bilateral as long as provisions were made to render the final technical stage of the process agreeable to all national forces. The mechanism to attain that consensus should be a national forum

representing the parties freely elected to the 1986 parliament, the current ruling party and its allies, the SPLA and its allies; unions, the media, and national figures who contributed to the peace process.

According to press reports, an estimated 300,000 people and a convoy of 500 vehicles welcomed Sadiq al-Mahdi during his early September visit to el-Obeid, capital of Kordofan.[69] While broadening its popular base, the Umma Party also reconciled with the internal leadership of the NDA, reaching a formal agreement on 28 August to work jointly for the restoration of democracy, basic freedoms, and human rights.

Through intense mobilisation around the peace theme, the mainstream Umma Party is obviously positioning itself for a political comeback after the costly defection to the government camp of several leading figures as well as rank and file members. It is aggressively pushing the democratisation and broader participation agendas in a bid to gain the status of a full partner to the peace process. Its immediate and medium range priorities are thus to rebuild itself, assert its legitimacy, and challenge the government's plans to marginalize it. Returning to power through the ballot box appears to be the long-term objective. The pro-democracy tide unleashed by the Umma Party's popular campaign for democratisation appears to have persuaded the government to use less confrontational approaches in tackling what is emerging as a formidable challenge.[70]

The government continues to attempt to win over leading figures of the party. After enticing Mubarak al-Mahdi, Sadiq's cousin, in late August it reached an understanding with Sadiq's uncle and long-time competitor for the position of Imam of the Ansar religious sect, Ahmed al-Mahdi. Politically he is largely irrelevant, but his defection symbolically tarnishes the entire Mahdi legacy. In exploiting these family feuds, the ruling party is showing its expertise in playing rivals against each other. It hopes ultimately to define inclusiveness as

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[68] Subsequent quotes are from the text of the paper published under the title "Al-Mahadi's Party Crystallises a Strategic Vision of Peace", *al-Bayan*, 22 August 2002, at: www.hornofafrica.de/arabisch/v01_alsudan/f005.html.

[69] "Record Crowds Welcomed al-Mahdi in North Kordofan", *Al-Bayan* (UAE), in Arabic, 3 September 2002.

[70] The post-Torit crackdown discussed above has been directed primarily at Turabi's PNC and the independent press. The government has largely refrained from attacks on Umma, elements of which it continues to attempt to entice into its camp.

involving people like Ahmed al-Mahdi rather than the elected representatives of the Umma Party.

5. DUP

Aside from its role as Chair of the NDA, the DUP had its own internal response to the Machakos Protocol. Its chairman, Mohamed Osman Al-Mirghani, and other spokespersons welcomed the Protocol as a step forward but objected to "partial and bilateral" solutions. The party also called for closer coordination between the IGAD and the Joint Egypt-Libya initiatives to fix "negative" aspects of the Protocol, namely the lack of a comprehensive political agreement and the apparent exclusion of Egypt, a historic DUP ally, from the mediation team. Pushed for an immediate reaction soon after the signing of the accord, al-Mirghani commented ambiguously: "Unless the agreement means handing over the South to Garang, he would still be my ally".[71] Al-Mirghani later acknowledged he was effectively part of the negotiations because Garang regularly briefed him and sought his opinion during critical junctures.

As the NDA's Asmara meeting closed, the Fatah (Conquest) Forces, the armed wing of the DUP, announced that they were breaking away to form the National Revolutionary Forces.[72] The split exposed tensions within the DUP over armed struggle to achieve a comprehensive political settlement. Emergence of the new armed group appeared likely to free the hand of those in the NDA wishing to expand the "liberated areas" in eastern Sudan, but also conveniently increased the DUP's margin of manoeuvre if it chooses to operate politically inside the country under the latest amendments to the laws governing political activities (see above).

6. Sudanese Allied Forces (SAF)

SAF, which is engaged in a process of integration with the SPLA, welcomed positive aspects of the deal, pointed to remaining hurdles, and warned that "partial negotiations could only lead to partial peace deals". It recalled that it was engaged in the war not only to remove the "totalitarian" NIF regime, but also to help bring about a "New Sudan", democratic, united, and respectful of human rights and the rule of law. It therefore supported a comprehensive peace in which all political forces participated. Its leader, Abdel Aziz Khalid, explained that the Protocol would not affect the SPLA merger, which will lead to the formation of a political party.[73]

7. Popular National Congress (PNC)

Hassan al-Turabi's PNC charged in a 23 July 2002 statement that the Machakos Protocol ignored the opinions of all Sudanese political forces, North and South, inside the country or in exile, and also earlier initiatives, such as the Asmara Declaration and the Memorandum of Understanding the PNC signed in 2001 with the SPLA in Geneva. While welcoming a step towards peace, the PNC pointed to neglect of guarantees of basic freedoms and democracy, and expressed strong suspicions that the National Congress would prevail in the North as a totalitarian power, and the SPLA would dominate the South.

The PNC is also unhappy about the government's apparent concessions on the non-application of *Sharia* laws in the South and agreement to a separate constitution there, which it sees as a precursor of independence. It expressed strong objection to abrogation of the 1998 constitution, which it said could be amended to accommodate a peace deal. Finally, it warned that lack of participation would preclude broader consensus around the agreement, conditioning its future on the survival of the current regime.[74] Whatever conciliatory tone was in this initial statement gave way by late August to a harsh,

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[71] "Al-Mirghani Demands Participation of Neighbouring Countries in the Settlement", in www.hornofafrica.de/ arabisch/v01_alsudan/f034.html, in Arabic, posted on 23 July 2002. See also: "DUP Hopes the Agreement Would Lead to a Comprehensive Settlement in Sudan, and Commander of SAF Calls For Solution Involving All Political Forces", in Arabic, *al-Sharq al-Awsat,* 23 July 2002.
[72] "Al-Mirghani Forces Split From the DUP and Apply for NDA Membership Under New Name", *Al-Sharq Al-Awsat*, 14 August 2002. The new armed movement immediately applied for inclusion in the NDA's leadership council and executive bureau.

[73] Ibid. See http://www.sudan.net/community/subscribe.html and SAF's Web site for the electronic petition.
[74] "PNC: Statement on Agreement Between the Government and the SPLA in Nairobi on 20 July 2002", 23 July 2002, posted at: www.ncsudan.org/bayanelsalam.htm, accessed on 17 August 2002.

point-by-point critique of those provisions to which the PNC objects.[75]

Since the signing of the Machakos Protocol, the PNC has repeatedly pointed to the inconsistency of the government continuing to detain its top officials for having signed a memorandum of understanding with the SPLA in 2001. The government in early August offered to release the charismatic al-Turabi if he avoided the press and did not attack its policies during the negotiations, but Turabi rejected this.[76] Instead, he gave a rare interview to a United Arab Emirates newspaper on his assessment of the peace process.[77] Relations between the former allies deteriorated further when al-Bashir renewed al-Turabi's detention for another year, prompting spontaneous and at times violent demonstrations by PNC members.[78]

The PNC's opposition to the Machakos process intensified in the second phase of talks. A dozen top PNC officials and roughly 200 supporters were rounded up, and some prosecuted, for alleged involvement in "terrorist attacks" on government and ruling party officials, including throwing a teargas canister into the house of a minister. Turabi was moved from house arrest to Khartoum's Kober prison. While initially reacting with hardly disguised threats of violence, the PNC later reiterated its rejection of violence and its support of the ongoing peace efforts.[79]

8.   Egypt and Libya

President al-Bashir made personal calls to the leaders of the two countries soon after the Protocol was signed, then, deeply concerned about their reactions, sent emissaries. Information Minister

Mahdi Ibrahim gained Moamar Gadhafi's public support for the Protocol, so Egypt lost its most reliable ally in opposing the deal. Gadhafi commented after the call from al-Bashir that "we will not be more Sudanese than the Sudanese themselves"[80] and later appeared to brush aside Egypt's concern for its water security, suggesting a widening gap between the two countries. He credited the success of the first round of the negotiations collectively to IGAD and the Joint Egypt-Libya Initiative,[81] and sent a high level delegation to Asmara in August to attend the NDA discussions of the Protocol.

The government also invited African Union Secretary General Amara Essy to Khartoum where he issued a positive statement that took another card out of Cairo's hand.[82] By the time Ibrahim and Vice President Taha, already in Cairo on a more technical, bilateral matter, were ready to deliver their briefing, the Egyptians could anticipate that they had no African allies for any effort to hinder the Machakos process.

Taha's failure to meet with President Mubarak during a state visit that lasted for three days was a clear signal of Egyptian frustration. Instead, an unnamed official told a Sudanese newspaper that Egypt was counting on a summit between al-Bashir and Mubarak to discuss the Khartoum-SPLA agreement that might ultimately lead to southern secession. Egypt was worried about this, the official said, because another state at the sources of the Nile

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[75] "Explanatory Memorandum of the Machakos Protocol", Popular National Congress, 17 August 2002, in Arabic, posted at www.hornofafrica.de/arabisch/v01_alsudan/f004.html.

[76] "Turabi Rejects Conditional Release Offer", in Arabic, at www.sudanile.com/news2/html, 12 August 2002.

[77] "From His Jail, Turabi Assesses Machakos Accord and Eulogises the Inghaz Regime", *Al-Bayan*, in Arabic, at www.albayan.co.ae/albayan/2002/08/17/sya/15.htm, posted on 17 August 2002. See also Turabi's assessment of the Machakos Protocol, "Precedents and Implications of Sudan's Peace Project", 23 July 2002, posted at:
http://www.ncsudan.org/ turabiarticle.htm.

[78] "Sudan Charges Opposition Members With Terrorism", Reuters, 23 August 2002.

[79] Al-Bayan, "Al-Turabi Party Warns Government against Pursuing Persecution of its Activists", 28 August 2002.

[80] "Gadhafi: "We Will not be More Sudanese than the Sudanese Themselves", posted in Arabic at: www.hornofafrica.de/arabisch/v01_alsudan/f029.html.

[81] "Gadhafi is Not Worried About the Agreement", *al-Bayan*, 31 July 2002, posted in Arabic at: www.hornofafrica.de/ arabisch/ v01_alsudan/f067.html. The Libyan leader said of Egypt's water concerns: "The Nile doesn't belong to Sudan or Egypt, it belongs jointly to nine riverine countries, none of which could individually conduct activities affecting the Nile waters without the consent of the others. The Nile is governed by international agreements". He also poked holes in the other argument that Egypt had raised to justify its reservations: " [The right to] self-determination is already enshrined in the Sudanese constitution, and self-determination doesn't mean secession".

[82] A principle of the African Union is the inviolability of borders, a principle that might be considered in question if the Machakos formula was deemed insufficiently protective of Sudan's unity.

could threaten its national security.[83] Egyptian National Security Advisor Osama al-Baz was more direct, calling the self-determination referendum "a contagious phenomenon that would spread to surrounding countries".[84]

Egypt fears the Protocol could lead to Sudan's partition and creation of "an obscure entity" that would reduce Egypt's share of the Nile waters.[85] Analysts also saw evidence of concerns that the agreement would entrench the Islamists in the North and hence adversely affect relations.[86]

Egypt's lack of interest in IGAD until the Protocol was signed signals a deeper problem between it and Kenya. General Sumbeiywo made four trips to Egypt, and President Moi visited President Mubarak in June 2002, but Cairo never sent anyone of stature to Kenya. Egypt declined Kenya's invitation to observe the process as it wished to remain a co-mediator (with Libya).[87] In addition, it never expected the IGAD process to amount to anything and was genuinely surprised by the Protocol. It was especially confused after listening to U.S. Special Envoy Danforth tell it that Washington preferred internal guarantees for Southerners rather than a secession option – an option it believed the U.S. would block.[88] Nevertheless, key Egyptian officials have said publicly and privately that they will work through the Machakos process to make unity appealing to the South.[89]

Some analysts, however, believe it inevitable that Egypt will interfere in the peace process. "The real problem is the generals", said one Khartoum-based Sudanese actor. "They have tried unsuccessfully to

prepare the ground for unseating the government. They will use any elections at the same time as they will use covert means to change the government in Khartoum. The chances of success for Egyptian destabilisation are higher than before as the system begins to open up".[90] The suspension of negotiations in early September was immediately followed by the formation in Cairo of a "Sudan Peace Commission", made up of nine Arab League countries, designed to boost peace efforts while ensuring that unity is prioritised.[91] At the same time, Egypt and Libya met with the government of Sudan to explore reactivating their initiative. If this happens, it will damage IGAD efforts and demonstrate that Khartoum has returned to a divide and rule strategy of encouraging competing peace initiatives. It would also signal failure of U.S. efforts to forge a credible working relationship with Cairo on Sudan and to persuade it that the IGAD process – and the Machakos Protocol – are not separatist at heart.

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[83] "An Egyptian-Sudanese Summit Within Days to Discuss the Machakos Agreement", *Sudanile*, in Arabic, available at www.sudanile.com/news3.html.
[84] Agence France-Presse, 31 July 2002.
[85] See: "Indications of Different Egyptian and Libyan Positions on Nairobi Accord", *al-Bayan*, in Arabic, posted at www.hornofafrica.de/arabisch/v01_alsudan/f100.html.
[86] See for further detail: "Sudan: Arabs Briefed on Sudan Plan Amid Fears Over Nile Waters, Islamists", Agence France-Presse, 29 July 2002.
[87] ICG correspondence, August 2002.
[88] Sugarcoating of self-determination by some Washington officials continues even after signature of the Protocol. It avoids the reality that self-determination has been agreed to by all Sudanese parties, who see it as necessary to make a unified Sudan possible and consider that the South will continue to fight if the secession option is removed from a peace package.
[89] Correspondence with ICG, 1 September 2002.

[90] ICG interview, August 2002.
[91] "Arab League sets up special Sudan peace committee", Agence France-Presse, 5 September 2002.

III. RESOLVING THE OUTSTANDING ISSUES

Assuming that the government returns to the negotiating table, the Machakos Protocol provides a firm foundation and significant momentum for a final agreement. Its provision for a self-determination referendum is the best assurance that whatever is in a peace deal will be implemented. Now the mediators need to complement that fundamental element with proposals that prioritise maintenance of unity after the six-year interim period.

Getting to "yes" will be more likely with a comprehensive package than sequentially. The government may have to move more on one issue, the SPLA more on another. Looking at issues inclusively and arranging trade-offs, rather than dealing with each individually as in the past, allowed the mediators to identify compromises on self-determination and state and religion. Negotiations should progress as far as they can on single topics, then the mediators should develop a global proposal.

Both parties must be also be more forthcoming if negotiations are to succeed. The SPLA must rethink some of the extreme positions it has been staking out, which appear to put in question its commitment to the integrity of the Protocol. The government's latest proposals were tokens that did nothing to begin to persuade Southerners they should remain in a united Sudan at the end of the interim period.

A. STATUS OF THE OTHER CONTESTED AREAS BORDERING THE SOUTH:

Even before the government's walkout, the SPLA had literally stopped the second phase of the IGAD talks in its tracks by insisting on resolving the status of three areas that require special consideration due both to their history and the ongoing fighting: Abyei and the Nuba Mountains in southern Kordofan, and the Ingessana Hills in southern Blue Nile. The SPLA pressed very hard, and the government responded equally vociferously. The mediators recognised that in order to have a comprehensive agreement some mechanism will be needed to deal with these areas but what that will be remains highly controversial.

The government has opposed consideration of these areas in the IGAD context, arguing that the latter's mandate is limited to the South, as defined at independence in 1956. It totally opposes referendums outside the South, or even further measures for autonomous self-government, arguing that the Protocol, though silent on the definition of "South Sudan", already makes clear the area subject to the referendum and that more voting would promote secession.[92] Other officials point out that the SPLA controls only a part of the Nuba Mountains and southern Blue Nile, thus raising the prospect of divided administration during the interim period. Furthermore, the government believes the SPLA uses this issue for tactical advantage on southern-specific issues, and thus is not inclined to compromise. Nevertheless, it has expressed willingness to look at issues "specific and peculiar to these areas" to ensure that the agreement is comprehensive, but only in ways that emerge from existing processes, such as upgrading the Nuba Mountains ceasefire, accommodating SPLA leaders in current structures, or providing extra reconstruction aid.[93]

The SPLA says with increasing stridency that its constituencies demand that these areas be addressed in IGAD. Its official position is that five regions should be under the southern government during the interim period: Bahr al-Ghazal, Upper Nile, Equatoria, the Nuba Mountains, and southern Blue Nile, and that the last two, along with Abyei, should vote on where they belong before the South's referendum. The presence of SPLA leaders from the Nuba Mountains and southern Blue Nile on its negotiating team in Machakos strengthens SPLA resolve to push for some form of referendum in these areas.[94] As long as the self-determination principle is met, however, there are many possible compromises.

An SPLA regional congress in the Nuba Mountains and an early August 2002 SPLA leadership meeting both endorsed the position that the Nuba Mountains

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[92] A top government official insists: "We will never accept any referendum for those regions. Neither will we accept special arrangements there. Their issues can be addressed through local and national elections during the interim period". ICG interview, 16 August 2002.
[93] ICG interview, 30 August 2002.
[94] "We will have to have agreement on this issue in order to get a final deal", warned one top SPLA official. ICG interview, 16 August 2002.

should remain with the South during the interim period and have a self-determination referendum. One Nuba official explained:

> There are basic differences between us and Khartoum. There is a cultural war between the Islamic centre and the Nuba people. This war has political, economic and social components. The government wants to abolish the Nuba and African culture. They have tried to impose their vision of an Arabised and Islamised identity on us, but we cannot accept it.[95]

Representatives of the Nuba and southern Blue Nile fear that the SPLA will be under great international pressure to abandon them and accept a deal based only on the traditional South. The NDA's northern parties will not support the referendum aspirations of these populations. After making concession on self-determination for the South, the government will claim that it has compromised as far as it can, and further referndums would balkanise the country. One Nuba leader commented, "We feel that a deal that leaves us out will give Khartoum the chance to cut us off from the South and then strike at us".[96]

Years of depredations at the hands of successive Khartoum governments have driven these areas into protracted revolt, and their demands have become more extreme with each offensive. The mediators will have to take into account the popular sentiment and not underestimate the SPLA's will. "We are trying to solve the problem of war, not the borders of the South", Garang declared.[97]

Accordingly, the principle of self-determination for these marginalised and contested areas must be affirmed in some way – perhaps through the constitutional review process. Special power sharing arrangements should be negotiated to make unity more attractive and to convince armed elements to participate in implementation of any agreement. The IGAD mediators proposed in 2000 that the Nuba Mountains and southern Blue Nile vote to determine their administrative and political status within a united Sudan,[98] but this may both be insufficient for SPLA forces there to lay down their arms and

unacceptable to the government. As strong as the sentiment is for referndums, the government will be unalterably opposed to any voting beyond that already in the Protocol, fearing the opening of a Pandora's Box.

Given Abyei's unique history, however, the residents there should be allowed to vote on whether to go with the North or the South. The Nuba Mountains and southern Blue Nile are more complex cases, and a different means of determining the desires of their residents may be needed. This may mean first creating and guaranteeing specific elements of autonomy during the interim period, a shared governance between Khartoum and the SPLA because of the existing divided authority there. Serious investment in reconstruction would be essential during the interim period, as well as special security arrangements that build on the Nuba Mountains ceasefire, and then some kind of conference during the latter half of the interim period to work out remaining special grievances.

The break in negotiations provides mediators and the international community an opportunity to devise a formula for these areas that is acceptable to both parties. The SPLA and the government each argue that the other does not represent the interests of the people of these regions.[99] Although the government opposes dealing with this issue under IGAD, it would welcome any initiative during the current pause that works towards a solution that could then be incorporated into a final, comprehensive agreement under IGAD.[100] One suggestion would be for the mediators to undertake a fact-finding mission in the Nuba Mountains and southern Blue Nile and present the parties with findings, and suggestions based on the wishes of the local people.

B. MOVING FORWARD ON STATE AND RELIGION

The Machakos Protocol provides important but partial solutions to this perennial issue. It envisages a unique situation, within a federal framework, whereby *Sharia* law and the "consensus of the people" would inform national legislation applicable to the North, while a regional consensus and values would inform legislation applicable to the South. Where existing national legislation is based on

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[95] ICG interview, 9 August 2002.
[96] ICG interview, 10 August 2002.
[97] ICG interview, 12 August 2002.
[98] IGAD Advisory Non-Paper 1: Self-Determination, October 2000, p. 5.

[99] ICG interviews, August and September 2002.
[100] ICG interview, 5 September 2002.

Sharia, the South would have the option to introduce separate legislation based on southern values – essentially a veto over and ability to shape national legislation. The final peace agreement, as well as the interim arrangements to be formalised by the National Constitutional Review Committee called for in the Protocol, would eventually be integrated into a national constitution. The South would also likely have a separate regional constitution, consistent with the national constitution.

The SPLA argues that what remains to be discussed is the basis for the national constitution. The Protocol allows creation of a regional body for the South to act as a mid-level government (a southern parliament) between state and national levels. The SPLA wants the same for the North, thus allowing the existing constitution to serve as that region's constitution, with *Sharia* as a source of its legislation, while a new secular constitution is created for the nation. Khartoum does not want a mid-level government for the North, arguing that a southern parliament should be the exception within a federal framework.[101] It holds that the 1998 constitution should be revised to act as the national constitution, incorporating the peace agreement and any further agreement forged during the interim period.

The government wants the national constitution to incorporate all sources of legislation, including *Sharia,* and then give each state the option of choosing what is applicable.[102] However, it has indicated that it is prepared to compromise, allowing consensus to be the source of legislation nationally. "It is a necessity that the government compromise on this issue in the interests of peace", said one senior official. "We are not satisfied but we will live with the agreement as specified in the Machakos Protocol. The issue of religion is overused; this will not be a stumbling block".[103] Despite this optimistic assessment, the government argued that the SPLA position for a *Sharia*-free capital city would require re-opening the Protocol, and it presented this as part of its justification for withdrawing from the peace talks.

In order for the government to sell an agreement to its constituencies,[104] therefore, the national

constitution, be it a significant revision of the 1998 version or new, should include careful wording, perhaps in the preamble, asserting the importance of religion to the people of Sudan, as in the Machakos Protocol, without specifically citing religious values as a source for national legislation.[105] State governments in the North could then apply *Sharia* as a basis of legislation consistent with the national constitution.

The significant compromise on this issue – particularly by the government – that would prioritise unity in the interim period and beyond would be to allow the "consensus of the people" to be the source of legislation for the national authority. Combined with veto power vested in the proposed Upper House, this would give Southerners confidence that discrimination will not be at the heart of the Sudanese polity, allow the government to maintain that it protected *Sharia* for majority Muslim states, and be a major confidence-builder for a unity outcome in the self-determination referendum. Finally, exempting non-Muslims in northern states from application of *Sharia* would also boost a unity vote.[106]

Discussion about the national capital should shift from a "*Sharia*-free" zone to developing a special status that would respect all religious beliefs equally. Framing the discussion in this manner would save face for the government, which would no longer be forced to accept the "*Sharia*-free" label, and would allow the SPLA to guarantee religious freedom for the many non-Muslim Southerners in and around Khartoum, as well as for SPLA members who will be operating out of the capital after an agreement.

C.   POWER SHARING

When the government walked out, difficult negotiations were just beginning over the specifics of the process leading to a new or revised constitution, the nature of the chief executive, the degree to which power is to be decentralised,

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[101] ICG interview in Nairobi, 26 July 2002
[102] Ibid.
[103] ICG interview, 16 August 2002.
[104] ICG interview in Nairobi, 24 July 2002.

[105] The precedent in the Machakos Protocol is article 3.2.1: "The National Government shall take into account the religious and cultural diversity of the Sudanese people".
[106] Recently, however, ruling party official Amin Hassan Omer asserted that Christians in the North (including as many as five million southerners living there) would be subject to *Sharia*. *Africa Confidential*, Vol. 43, N°16, 9 August 2002.

whether and when free elections are to be held, and the inclusiveness of a new national government.

The southern regional autonomy that lasted for a decade after the 1972 Addis Ababa Agreement was a precursor of the two systems, one Sudan approach. The accommodation was based on constitutionally guaranteed power-sharing arrangements that were in essence – if not in name – federal, allowing the South large measures of political, administrative, and economic autonomy within a united country. However, an unreformed autocratic centre could ill-afford coexistence with the liberal democracy that the South enjoyed, a realisation that set in motion former President Nimeiri's gradual retreat from the agreement and the start of the current war.

The lesson of the 1972 agreement's lack of guarantees – internal and international – should guide the mediators. For many Sudanese, especially Northerners not represented in the IGAD negotiations, the ultimate objective of any peace process is to dilute the present regime in Khartoum, replacing the ruling party's exclusive authority with a broader government that would create the environment for democracy during the interim period. At the bare minimum, a broad-based government in which all Sudanese parties have a stake must lead during the interim period, some reduction of the powers of the presidency must be negotiated to give democracy a chance, and specific timetables for elections should be established in the agreement itself. Democratisation will ultimately be a key guarantee of full implementation of the agreement and the country's unity.

1.   Division of powers between the national government and states

The mediators have put forward proposals that envision a national government, strong states, and a southern regional government.[107] The SPLA would prefer a very weak national government with a powerful southern regional government and weaker states in the South, and the same structure replicated in the North. As a member of the SPLA delegation stated: "We want the practical powers of a

confederal state, without a confederation".[108] Some in the SPLA argue that the best way for the government to make unity attractive is to cede maximum powers to the southern regional government, thereby making the option of independence seem unnecessary. Conversely, Khartoum would prefer a stronger national government with powers devolved from the centre to the states, arguing that the federal government can provide for the South and make unity attractive without weakening the national structures.

The government considers the southern regional government an unnecessary anomaly that it conceded to the SPLA but will not repeat in the North. The implications are that each side is pushing for maximum state powers in the other's region. For example, the government urges strong powers for the southern states, preferably equal to those of the northern states, while the SPLA would like to see weak states in the South with many state powers elevated to the regional government. Conversely, the SPLA finds itself in a position where it must advocate strong northern states in order to minimize the powers of the centre, which the government would like to strengthen relative to the northern states.[109]

There are arguments on both sides but ultimately decentralisation will have to be meaningful at the state level, the southern regional entity will require real powers to govern, and the centre will need to be sufficiently important to draw key SPLA leaders willing to vest themselves in the national polity. According to a member of the government delegation, "We can give the states strong powers, but within a federal system, and we cannot fight for unity at our expense".[110] The centre's constitution should elaborate human rights, an independent judiciary, and other elements of democratic institutions. But it must create decentralised governmental mechanisms to enforce these, not expect the national government to do so. This would promote a healthy relationship between the centre, the southern government, and the states in a decentralised system.

There are warning signs in the current system. Federalism as applied today in Sudan is an ineffective response to the country's deeply rooted

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[107] The SPLA prefers to call the southern entity a "southern government", not southern regional government, and calls the smaller units in the South "regions" rather than "states". However, for the purposes of this report and for the consistency of the structure, this report will use the terms southern regional government and states.

[108] ICG interview in Nairobi, 23 July 2002.
[109] ICG interview, 4 September 2002.
[110] ICG interview in Nairobi, 26 July 2002.

inequities. Instead of accommodating its ethnic, religious, and cultural diversities, it has exacerbated them through aggressive assimilation into an official version of Islam and Arabism. One devastating result is the revival of ethnic separation and mobilisation in the areas of northern Sudan that border the South, where the government has organised Arab groups in its war against the SPLA through calls for Jihad. In places like the Nuba Mountains, southern Blue Nile, southern Kordofan, and southern Darfur, the co-option of some ethnic groups into the People's Defence Forces has reinforced ethnic identities and gradually led to an arms race as other less favoured groups sought to acquire the type of small arms that the government issues to its allies. Deadly interethnic conflicts have increased as people resort to firearms to settle disputes over family affairs, land claims, or grazing rights.[111]

The existing federalism has also failed to correct the chronic socio-economic imbalances between the dominant centre and marginalised periphery, instead gravely accentuating these by concentrating oil wealth into the hands of the regime's followers. Finally, the present federalism is centre-heavy, as it allocates to the federal government powers that usually vest in the states in federal systems, such as the police, prisons, and wildlife. "That is the Addis Agreement and the Khartoum Peace Agreement", said one leading participant in the latter who has since re-joined the SPLA. "In those models, the North is the centre and all of the power is in Khartoum. Rather, we have learned that the centre should be all of us, the North is the North, and the South is the South".[112]

In this context, the government's advocacy of devolution of maximum powers to the southern states – and equating the powers of these states with those in the North – is aimed at putting the SPLA on the political defensive. The ethnically based governments that will exist at the state level will be ripe for external manipulation by outside interests

aiming to weaken the SPLA. Ultimately, the goal would be to weaken the South by stoking internal divisions and eventually to bring all effective power back to a northern-dominated central government.

Others in the region and in the diplomatic community support this idea as a way to democratise the South or circumvent the SPLA's absolute authority. Some southern leaders have vowed to fight for maximum devolution, whether to the three southern regions proposed by the SPLA or to the ten states proposed by Khartoum. The reality is that the SPLA will adjust and defend its power at whatever level, which will likely result in greater instability and repression, as has been the case with some SPLA governors outside of Dinka majority areas. Furthermore, pushing power in the South down to the states would undermine SPLA efforts to become a national political party. The SPLA would instead have to focus on defending its southern turf from a system set up to facilitate northern manipulation. Encouraging the SPLA to become more than a southern party and to share power in the southern government are critical prerequisites for a successful peace agreement. Devolving too much power to the southern states would defeat both objectives.

Ultimately, ethnically mixed and balanced entities and governing arrangements are crucial to consolidating peace in the South. Conversely, emphasising ethnically based states in the South would promote infighting, draw attention away from the national level, and increase prospects for a secession vote. Besides the right structures, the best antidote to southern tensions will be an SPLA commitment to share regional power, to create democratic means of representation, and to carve out a meaningful role for the states. If the SPLA protects power structures that are deemed exclusionary by key southern groups, there will be significant trouble during the interim period.

Just as the government's demand for significant devolution to the southern states will likely not fly, the SPLA's demand that its southern regional government be replicated in the North is unrealistic. The SPLA believes that there can be no equality if the northern states identify with the national government while the southern states answer to the southern regional government. However, democracy at the state level – North and South – is vital for implementation of any peace agreement. Service delivery is what matters to civil populations. Making state government more participatory and responsive

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[111] For example, see "Sudan: 'Armed Group' Burns Three Villages in Darfur; Several People Said Dead", Republic of Sudan Radio, BBC Monitoring, 2 April 2002. In Late May, Rezeigat warriors attacked the neighbouring Ma'alia, killing at least 50 villagers to avenge the killing of a Rezeigat policeman by a Ma'alia policeman in a personal dispute. See "Sudan: State Official Warns of Tribal Clashes of Grave Consequences", *Al-Sharq al-Awsat*, posted at www.hornofafrica.de/arabisch/v01_alsudan/f082.html.
[112] ICG interview, May 2002.

will have a positive impact. At the national level, service ministries such as health, education, and transportation have traditionally been ignored and undercapitalised. The parties with regional interests, including the SPLA, should concentrate as much on these ministries as on the more prestigious ones when portfolios are distributed since success of the agreement – and political fortunes – will largely hinge on whether the quality of life improves.

2. Central institutional arrangements

Real power sharing in the centre is vital to a successful agreement. Senior SPLA officials and Southerners representing other parties should be integrated fully into the national government in order to guarantee the changes needed there and help make national policy. SPLA governors and unit commanders can focus on the southern regional authority, while more junior SPLA elements can choose between national or regional positions. If there is real power sharing, the national capital should retain prestige, not least to attract the SPLA to the national polity to the maximum extent possible and so reduce the secession incentive. "Who gets what post will be one of the toughest issues in the current phase of talks," overstated one diplomat before the government's early September walkout[113] but the traditional "Southerner as number two in every office" pattern must not be repeated. The SPLA and other parties must get significant ministerial posts in a broad-based interim government.

To prioritise unity and increase commitment to the reformed national polity, real authority will have to be given to Southerners and representatives of other political parties. Institutions will have to be restructured to make them more accountable and participatory. This will require a new approach to staffing and hiring. Decades of institutionalised discrimination have concentrated administrative authority in the hands of bureaucrats representing a small segment of the population. The SPLA recognizes that a much more open system is needed that represents a wider set of constituencies and ensures fair representation in all ministries.[114] If its energy and top talent is fully invested in an all-powerful southern regional administration, it will likely be predisposed to support secession when it is

time for the referendum. If its energies are at least meaningfully turned to the national level, however, and benefits are gained from real power sharing at the centre, there is a greater likelihood it will support unity.

Power sharing must be built into any constitution in concrete, measurable and verifiable ways. The parties have agreed in principle that the national government include a bicameral legislature, with a lower house reflective of state populations and an upper house with equal representation from all states (likely with greater participation from the South than the number of southern states suggests).

The goal of the constitutional reform process must be to establish a lasting structure for deciding issues. If the constitution focuses on this in a way that promotes unity through a democratic and inclusive decision-making process, it will promote unity. This, more than anything else, requires the participation of all political forces, well beyond those represented by Khartoum and the SPLA.

A constitutional conference or review process must be held early in the interim period, therefore, that involves all political parties as well as civil society in resolving outstanding issues and ratifying a new political order. Many issues presumably will have been dealt with in the government-SPLA negotiations but the broader instance will help expand support and so minimise the likelihood of spoilers disrupting the agreement. The Machakos Protocol has laid the groundwork for an inclusive process by providing for a National Constitutional Review Commission that is "representative" during the pre-interim period, and for an inclusive Constitutional Review Process during the interim period. Quantifying inclusiveness will be challenging, as one government official previewed: "We have agreed the Review Commission should be representative, but mainly from the two negotiating parties".[115] Asserting that it will not allow any issue addressed in the Protocol to be reopened, the government strongly opposes a constitutional conference, while the NDA urges the SPLA to push for it.[116]

Inclusiveness is key in promoting unity. An unrepresentative NIF-SPLA "national unity government", with the NIF in exclusive control of

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[113] ICG interview, 5 August 2002.
[114] ICG interview, 22 August 2002.

[115] ICG interview, August 2002.
[116] ICG interviews, August 2002.

the North and the SPLA of the South, would likely promote independence as well as alienate the bulk of the Sudanese electorate. Once again, the power sharing system should entice the SPLA to become a national party, part of a national government that makes real policy for the admittedly smaller role of a national government in a decentralised system.[117] Regional and state governments should be inclusive as well, involving Northerners and Southerners beyond the NIF and SPLA.

3.   National Leadership

One model of leadership at the top of the national government during the interim period envisions a rotating presidency, which could involve the major northern political parties. Another postulates a collective executive or presidential council with representation from all parties. The latter was used during democratic periods in post-independence Sudan (1956-1958, 1964-1969, 1986-1989) when a Council of State represented different constituencies. Yet another possibility would leave the current structure intact but provide internationally monitored elections throughout the country to decide both the new national parliament and national leadership. A rotating presidency would involve the SPLA most directly in the national government and make it much easier to sell unity to the South at the referendum. Elections, of course, would vest other parties in the agreement.

4.   Democratisation through Elections

There is a great deal of debate within both the government and SPLA as to how elections should be addressed. They would give legitimacy to the agreement and its signatories and allow more inclusive governance but they also could be destabilising too early in the process and allow parties that disagreed with the peace deal to undermine it if they won significant power.

The mediators have put forward proposals that foresee elections early in the interim period. Most analysts expected that the government would oppose

this on the basis of its perceived disadvantage in a free and fair election. However, its position at Machakos has been supportive. A top government official said that his delegation would press for early elections:

> The issue of concern to Sudanese is elections. Participation will be secured through elections. That is how we can address the concerns of those who feel this is not an inclusive process. We need to allow anyone to contest the elections. It is better to be inclusive. We could even lose and go into the opposition.[118]

This position results from confidence that its National Congress Party will be seen as the party that delivers peace, oil revenues, and national development, as well as that it can manipulate any electoral process.[119]

The SPLA is less enthusiastic about early elections, believing that inclusiveness can be secured during the interim period more effectively in other ways. "We need to keep the two parties as the main implementers of the agreement", said one top SPLA official. "If others come to power, they could have different ideas about what to do in a peace agreement".[120] The SPLA wants to prioritise implementation of the interim arrangements and preparation for the referendum. It worries that a major commitment to elections could undermine these objectives, exacerbate divisions in the South, and weaken its hold on power. Key figures, still cautious about the transition from military to civilian rule, do not want the added complication of an early electoral test. They also fear the re-emergence of ethnic divisions, some of which their own movement exacerbated in its early years, others of which the government has promoted during the last decade.

The current SPLA proposals, however, are not sufficient to replace elections as the principal means for diversifying representation and creating democratic legitimacy. Providing opportunities for

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[117] A spokesman for the SPLA said that the movement would transform itself into a political party open to all the Sudanese after the signing of the peace agreement. The spokesman explained that active SPLA participation in the North would encourage unity. See: "Sudanese rebel spokesman says movement will become party, Garang will return", *Al-Sharq al-Awsat*, 8 August 2002.

[118] ICG interview, 16 August 2002.
[119] Some analysts think the government's confidence is unwarranted. "The ruling party has no credible chance of winning any free and transparent elections, since they have thrived only under military rule", asserted one Sudanese observer. "The ballot will trim it to its natural size of a dwarf, and that is what its opponents are seeking, not its outright elimination". ICG correspondence, 4 September 2002.
[120] ICG interview, 16 August 2002.

other parties to gain a few seats in the proposed national assembly combined with vague promises about accommodation in the executive branch are simply inadequate. The government's concept is moderately more robust. It proposes a 1000-seat legislature in which the current national assembly and SPLA National Liberation Council with be supplemented by 300-plus representatives of other parties appointed jointly by al-Bashir and Garang.[121] It will be necessary to find much greater room for other parties in both the legislative and executive branches even before any elections are held.

Nevertheless, elections will be crucial. This cannot be a deal that appears to be focused on peace at the expense of democracy. Internationally monitored elections and a transition to democracy will be required elements to gain the full support of observer countries, including their financial and moral backing for the implementation process.[122] Democratic transition, if handled sensitively, can be the best guarantee for long-term implementation of the agreement. But participation in elections should be conditioned upon acceptance of and commitment to that agreement. And the elections could be phased, starting with local contests and proceeding to the national level, so that the process is not destabilising, particularly along ethnic lines in the South.

5.   Location of the national government

The SPLA argues that if Khartoum is part of the northern state, it should not at the same time be the seat of the national government. This insistence risks jeopardising real gains in power allocations as well as giving opponents of the peace process a further issue around which to mobilise and potentially derail the process. The SPLA is better advised to concentrate on the actual division of powers between the national government and the southern region, and the exemption from *Sharia* rule for southerners in the North.

D.   SHARING THE WEALTH

Seminars organised by the mediators early in the second phase of talks have helped both the parties and the mediators to draw on revenue-sharing frameworks from other post-conflict countries as the basis for proposals. The primary effort was organised by a team from the U.S.-based Centre for Strategic and International Studies. Its analysis concluded that existing exploitable oil reserves will reach roughly 1.25 billion barrels, but that production will begin to decline precipitously after mid-decade if the area of exploitation does not expand significantly. However, with exploration that peace would make possible, exploitable reserves could quickly rise to at least three billion barrels. This could result in income to the government of between U.S.$1 billion to U.S.$1.5 billion per year for twenty years.[123]

Whatever formula is eventually agreed will have to be closely monitored by a third party to prevent abuse and increase chances that the revenue will flow in an accountable fashion for developing the country rather than enriching powerful individuals. Complicating matters is that the government has already mortgaged oil revenues for years to buy weapons and will need IMF balance of payments support to repay the resulting Letters of Credit.

Both the government and the SPLA hold strong views on the percentage of oil revenues they feel they are due. The former has invested heavily in setting up the oilfields and attracting international partners. Any agreement must recognise this stake in current revenues. The government holds that within the federal framework, oil revenues and other natural resources should be handled nationally, with an agreed percentage then disbursed to the South.[124] The SPLA argument for a greater share stems from the fact that much of the oil is in the South, and exploration has largely been conducted at the expense of Southerners. It must also be recognised when determining fair shares that the South has far greater need for development assistance. The more oil revenues improve infrastructure and facilities there, the more attractive unity will appear.

It is not just oil revenues that must be shared, but also revenues from taxes as well as other productive sectors of the economy, such as gold and gum arabic, that are in North and South. A much larger potential source of revenue is water, if plans are revived to build a canal to increase flow to Egypt.

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[121] ICG interview, 5 September 2002.
[122] ICG interviews, August and September 2002.

[123] Presentation, Centre for Strategic and International Studies, Washington, 5 September 2002.
[124] ICG interview in Nairobi, 24 July 2002

Two models should be carefully considered. The first mirrors the arrangement in neighbouring Chad, where the World Bank acts as a political guarantor for the oil. The government of Chad has agreed that 80 per cent of oil revenues will go for infrastructure development, health care and education, 5 per cent will be earmarked for localities near the oil fields, and 10 per cent will be reserved for future generations.[125] The government is left with 5 per cent to spend at will. Given the history of Sudanese oil revenues translating into weapons, this type of agreement might be the best chance for ensuring stable development over the interim period. The percentages would be flexible depending on budgetary needs, and would have to be negotiated. Previous suggestions have varied widely, from IGAD – a 2:1 ratio for the South – to 18 per cent for the South suggested by Swiss Special Envoy Joseph Bucher, to the 1997 Khartoum Peace Agreement which granted 25 per cent to the federal union, 35 per cent to the southern council, and the remaining 40 per cent to the state.

Any negotiations may ultimately come down to a percentage agreement between the government and the SPLA. But a simple division (i.e., 60-40) that could easily be carried over to independence would contain the seeds of secession. Wealth sharing should be an incentive for reinforcing and underwriting the voluntary unity of the country.

A more complicated variation that might achieve this could, for example, offer 20 per cent to southern authorities, 30 per cent to northern authorities, 10 per cent for developing further oil infrastructure, and 40 per cent for national projects. The latter, intended to build cooperation, might include a national school and university system, access to health care, joint agricultural and animal health schemes, finishing an environmentally sustainable canal to promote water management, developing new southern export industries, and joint capital infrastructure projects linking North and South (telecommunications, roads, railroads, airlines). This kind of division would build unity through benefits and make a division of revenues in an independence scenario harder to negotiate and thus less appealing since an independent South would only be sure of getting the original 20 per cent.

An approach that could remove China and Malaysia as potential spoilers to any agreement would be to add a clause to the peace agreement honouring all existing contracts with international oil companies. The Chinese National Petroleum Company and Malaysia's Petronas would stand to lose the most if the new national authority renegotiated all contracts or opened them up to competitive bidding. If this is prevented, both countries could become important advocates with Khartoum for a final agreement.

E. INTERNAL SECURITY ARRANGEMENTS

The most important issue for the SPLA leadership and Southerners more broadly – after self-determination – is internal security arrangements. Generations of northern military domination and aggression have had devastating psychological and physical consequences. To begin to reverse this, produce stability, and increase southern self-confidence, any peace deal must allow the SPLA to maintain operational control of the South. The kind of unilateral troop rotation and undermining of the 1972 Addis Ababa Agreement by the Nimeiry government that provided the final spark for civil war in 1983 cannot be allowed. Although encampment and demobilisation will have to be major components of the deal, the SPLA ultimately must be in charge of security during any interim period for there to be sufficient confidence to move forward towards peace.

Consequently, the status of government forces in the South is perhaps the most contentious topic remaining to be negotiated. Khartoum wants to maintain a significant force in current garrisons. "You cannot chase the government's forces out of the South", said one top official. "Indeed, the numbers of forces need to be reduced dramatically; we can consolidate and redeploy. But it is a sovereign responsibility of a government".[126] Another argued that, "If we have a united country during the interim arrangement, it shouldn't matter that we maintain troops in the South. The only way that most of the current government troops can be re-deployed out of the South is if we have a reformed national army".[127] Even under such a scenario, the government would be unlikely to fully withdraw.

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[125] David Hecht, "Africa's New Deal", *Newsweek*, 22-29 July 2002, pp. 20-21.

[126] ICG interview, August 2002.
[127] ICG interview, July 26 2002.

The SPLA, however, insists upon full withdrawal.[128] "If Khartoum cannot have troops in southern Sudan during the interim period, then we may not even need to have a referendum", speculated an SPLA official. "The SPLA wants equality and liberty for all Sudanese. If we can demonstrate this in the interim period, we don't need independence".[129] Furthermore, the SPLA fears neutralisation of its military capacity would remove its only leverage to ensure conditions for a referendum at the end of the interim period.[130]

The ability of rogue commanders on either side to disrupt progress and the existence of a heavily armed civilian population provide further pitfalls. Large-scale demobilisation will be needed on both sides in order to lower the other's concerns and minimise the chances of continued fighting. Ideally, demobilisation should be undertaken jointly, under the auspices of an international military mission, to help build trust and confidence. The international military mission should also assist both SPLA and government forces to modernise and become more professional through joint training programs. This would allow the international community to monitor activities, provide opportunities for information sharing, military exercises, and confidence building, and also offer each side monitoring opportunities. The latter would help allay SPLA concerns that it remains vulnerable unless it undertakes massive arms purchases.

If the SPLA maintains complete operational control of the South and is made an equal partner in a new reformed national army, rather than absorbed into the existing army,[131] with co-ordination, dual training, a high-level joint command and information sharing at the highest levels in the national capital, it would go far to giving it confidence to move forward on other elements of the agreement.

Ultimately, how all these arrangements are constructed will determine much – in six and a half years – about whether the SPLA supports unity or secession. More complex and elaborate formulas stand a better chance of promoting unity. Rather than maintaining two separate armies, a joint general command could be established with separate operational units and co-chiefs of staff, with the SPLA in control of the South and existing government forces of the North. Government forces might withdraw from most of the South, except for borders where they could provide light security, while foreign monitors or observers and joint Sudanese (government and SPLA) patrols could provide security at other sensitive points. Joint security arrangements could also be negotiated around the oil infrastructure and other assets considered national.[132] SPLA units might be re-badged intact and in place as Sudanese army units in a new, reformed, jointly controlled national army. A Joint Military Commission – with international, government and SPLA representatives – could oversee implementation of the security arrangements and investigate alleged violations. SPLA officers could then be integrated into significant national army and security positions. Such concepts would promote unity rather than independence, which would logically follow from a simpler two-army scenario with a buffer international observer mission.

Creative military formulas, however, still leave it imperative that most government forces withdraw. For the SPLA to be able to campaign effectively for a unity vote at the end of the interim period, government soldiers must not be present in large numbers, acting as a constant reminder of domination and discrimination. Given the stakes, General Sumbeiywo should invite military personnel from key observer countries to present case studies. The Nuba Mountains ceasefire could be particularly instructive. Norwegians were active in it, and U.S. military personnel added the gravitas necessary to clinch the deal.

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[128] ICG interviews, August 2002. One top SPLA official said, "The best guarantee for unity is the southern army".

[129] ICG interview in Nairobi, May 2002.

[130] SPLA officials cite the example of Polisario in Western Sahara, where they believe the dynamic of a lost referendum has occurred. "That's why the SPLA has to be in charge of security in the South", said one top SPLA official. ICG interview, August 2002.

[131] SPLA Chairman Garang declared, "We are allergic to integration", calling it is a slippery slope to absorption. ICG interview, 12 August 2002.

[132] Joint patrolling by the government and SPLA of the oil infrastructure in the South would build confidence in a vote for unity, as would joint patrolling of some northern infrastructure, such as the pipeline.

F.   COMPREHENSIVE CEASEFIRE:

As the fallout from the struggle over Torit demonstrates, the ceasefire issue is also highly controversial. The vital matter of timing has been discussed above in the context of the suspension of negotiations in September. Whenever a ceasefire is implemented, however, there will need to be agreed provisions for an observer mission to monitor it. A Chapter VI UN peacekeeping force would be best. The more it can promote joint actions between the two sides during the interim period, the more this will promote eventual unity. If it is simply a conventional observer force placed between armies to minimise contact and "violations", it will help ensure secession.

Khartoum will have to end all assistance to the militias and factions it has supported for years. As a SPLA commander emphasised, the former can spoil the peace agreement unless they are disarmed and demobilised:

> Militias are part of the government of Sudan. We are asking the world and Khartoum, what is the objective of the militias? Is the government of Sudan negotiating on behalf of the militias? If we reach a ceasefire, and the militias come out to loot and we attack them, are we violating the terms of the ceasefire?… If we reach an agreement without resolving the issue of the militias, the war will continue.[133]

In short, a ceasefire will need three components: withdrawal of much of the government's force structure and termination of all support to militias; training and modernisation of the SPLA in the context of merger with the government army; and introduction of observers to prevent violations and territorial encroachment.

Much work on specific security protocols and appeal mechanisms has already been done, particularly by the UK with the parties. The observer countries should second military personnel to flesh out acceptable arrangements. These modalities are crucial, as the violation of security provisions is a common cause of the collapse of peace agreements.

G.   ENSURING IMPLEMENTATION

The self-determination referendum must be strengthened to maintain Khartoum's incentive to keep its promises and thus the possibility that the South will ultimately choose unity. The SPLA was pressured heavily to accept a referendum without a secession option.[134] Since the Protocol was signed, there has been some verbal backsliding by diplomats in their commitment to maintaining clarity about the referendum in a final agreement. The role of the Assessment and Evaluation Commission envisaged by the Protocol will, therefore, be critical. It is to ascertain whether the parties are implementing the agreement, without prejudicing the holding of a referendum. The Commission has been mandated to work throughout the interim period, essentially addressing southern grievances in order to make unity as attractive as possible.

The referendum must have substantial guarantees from both regional and wider international actors, including that the result of the vote will be respected. An independent entity that represents all parties and involves impartial international supervisors is needed to administer the referendum. The more the parties, but especially the SPLA, trust the referendum as an honest and reliable mechanism, the more they will be willing to invest in unity during the interim period. Other key elements for ensuring implementation will be:

Benchmarks. The Assessment and Evaluation Commission should use verifiable benchmarks to help ascertain whether the parties are living up to their commitments and to measure the tangible potential benefits of unity. These could include:

❑   specific percentages of oil and other national resources going to the South and for national development, determined by an independent international audit;

❑   specific levels of other resources committed to development in the South;

❑   distribution of certain positions in the national government (e.g., cabinet, permanent secretary, ambassadorial, office director);

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[133] ICG interview, 26 July 2002.

[134] "The negotiating environment was hostile to us on this issue", remarked one top SPLA official. "But we demonstrated we would not move unless the secession option was there". ICG interview, 10 August 2002.

❑   verifiable end to practices that discriminate on the basis of religion or race; and

❑   total dismantling of any institution implicated in the slave trade (particularly the Popular Defence Forces militia), and prosecution of those found to be part of it.

Mutual consent for amendments. Circumstances can change, and there may be need for adjustments during the interim period, but these cannot be made unilaterally, as President Nimiery did in 1972. A peace deal should make clear that any amendment requires consent of all parties and a transparent mechanism for arriving at the new agreement. The upper house envisioned as part of the bicameral legislature could serve that purpose.

Security of positions. As most peace processes demonstrate, leaders of the warring parties will work to ensure their political survival. Rather than ignore this, mediators should actively game out options to ensure that any power-sharing agreement does not give potential spoilers incentives to undermine the deal. This requires nuanced calculations of power relationships, based on political analysis and intelligence. Among those who should be looked at carefully are key government ministers, whose jobs may be threatened by inclusion of other parties, as well as SPLA military leaders, who may doubt their peacetime role. Many potential mid-level spoilers can be included in a federal system at the regional or national level, on boards of directors, and elsewhere. General Sumbeiywo understands these issues and is uniquely positioned to talk them through in the negotiation process.

Participation in national government. There also must be some provision for hiring southerners and others from the West, East and transitional areas, all regions presently underrepresented in government ministries. Specific targets or quotas should be established to overcome centuries of exclusion by positive discrimination.

IV.   CONCLUSION: TASKS FOR THE INTERNATIONAL COMMUNITY

Despite the setback posed by the government's suspension of its participation in the Machakos negotiations, this is Sudan's best chance for peace in two decades. Both the government and the SPLA see the benefits of moving down the peace track but they also are cognisant of the risks that peace poses to the essentially uncontested leadership they enjoy in their respective entities. The dynamics could redraw the electoral map, making theirs the two most popular political parties because they delivered peace and oil wealth. Conversely, moving out of the war environment and opening up to democracy could destabilise both and shake up authority throughout the country, especially given the unknown levels of support still enjoyed by the traditional northern parties – the Umma and DUP – and the other southern parties.

The Machakos Protocol was a breakthrough that must not be squandered. A great deal of work still needs to be done to translate it into a comprehensive agreement, and outstanding issues have the potential to derail the process. The strengthened IGAD Secretariat and its partnership with the observer countries has proven that a way forward does exist but the feasibility of peace will depend entirely on what type of final agreement is negotiated. Solutions to remaining contentious points should be negotiated in a way that favours a unity outcome in the referendum six and a half years hence. This can be done by meaningfully investing the SPLA leadership in the national government, opening up the process to all political parties as part of the reform of the central government, and pushing for a gradual transition to democratisation at an early stage.

The international community still must make a decisive push. The immediate concern is to ensure that the peace process resumes in a timely manner. Initially and appropriately the observer countries criticised the government for withdrawing after the fall of Torit and urged it to return without conditions to the negotiating table. They and the mediators, however, will need to develop imaginative proposals for dealing with the ceasefire issue, at first perhaps by arranging informal understandings between the parties to adopt defensive positions for a time period that is limited but spans the climactic seasons – rainy and dry – that have different military implications for the opposing forces.

Working closely with the mediators and led by the observer countries, the international community can take a number of additional steps.

Building Multilateral Leverage. The partnership of the observer countries with IGAD has helped make progress possible at Machakos but so far this has involved little effort at organising and deploying senior officials. One diplomat involved with the talks confirmed, "There really hasn't been any pressure yet. No big hitters have been deployed. We have so far been showing the benefits of an agreement, rather than brandishing sticks".[135] In order to achieve a final agreement they must do much more to coordinate and prepare to use external leverage.[136]

Leverage should be deployed solely to achieve a comprehensive peace agreement, not frittered away for incremental objectives. For example, incentives such as normalisation of diplomatic relations and ending Sudan's semi-isolation, lifting of U.S. economic sanctions, removal of Sudan from the U.S. terrorism list, resuming EU assistance and international financial institution and bilateral donor aid and debt relief should be deployed only when the parties have reached and begun to implement a final deal.

While there has been little action as yet to build a more multilateral set of incentives and pressures, former Senator Danforth's meeting with top European Union officials appears to have identified some common ground on conditioning not yet disbursed Commission aid on a peace agreement.[137] Much more and high-level preparatory action by U.S. and European officials is needed, however, if the international community is to be ready to influence the parties when bottlenecks arise in the substantive negotiations.

The U.S. Congress seeks a role and is considering amending the Sudan Peace Act to threaten a significant increase in non-military aid to the SPLA and NDA if the government blocks negotiations. Action is by no means certain, as supporters have not been as active on its behalf as they were on an earlier proposal for capital market sanctions that was opposed by the Bush administration and did not

become law. Few members of Congress have emerged as leaders on this issue. Any proposed new legislation should have a reasonable price tag if it is to have a chance to pass the Congress. To be helpful in the peace process, it should specify that the aid will be provided unless the government is committed to a peace deal but also be so structured that it does not give the SPLA incentive to undermine the talks. Although Khartoum reacts negatively to such threats, it is crucial that U.S. constituencies continue to advocate strong policy responses against either party that blocks the process. A companion Sudan Democracy Act spelling out incentives for a peace deal, is also under consideration. Its introduction into the Congress would strengthen U.S. diplomacy, especially if the bill detailed specific consequences for whichever side obstructed implementation of a deal.

International guarantees. In the end these will be relatively marginal to the calculations of the parties but they likely are still useful as justifications for making face-saving compromises. Countries with important links to the parties or the peace process should consider co-signing the agreement, thus taking on the implicit status of a guarantor. An even more effective construct might be to utilise the UN Security Council as a guarantor, as proposed below. While guarantees of third parties are rarely honoured fully, as there are usually few available options if an agreement is broken, meaningful international elements of any deal could also include:

❑ an international observer mission to monitor movement of forces, re-supply of militias, and other physical aspects of implementation; given the enormous operations area and difficult terrain, it must have adequate air and electronic surveillance assets;

❑ a UN Security Council resolution stating that no unilateral declaration of independence will be recognised if the agreement is being implemented, and that the Security Council will impose and enforce an oil and arms embargo and possibly other penalties on either party if it obstructs implementation; if an oil embargo were not feasible because of the opposition of a permanent member such as China, which has special interests in Sudanese oil, an alternative would be commitment by key countries to organise as wide a boycott of oil and related investments as possible;

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[135] ICG interview, 29 July 2002.
[136] See ICG Reports, *God, Oil and Country* and *Organising for Peace,* both op. cit., for specific recommendations.
[137] ICG has long argued for this policy.

❑ preparation of other penalties for obstructing implementation, such as withdrawal of World Bank, IMF and bilateral aid and credit, and targeted sanctions (asset freezes, travel restrictions) against leaders of the offending party;

❑ pledges by key countries to support private sector development, trade and investment in Sudan, particularly in the South but also in less favoured areas in the North, through trade missions and technical assistance concerning finance, taxation, repatriation of profits, banking and other elements of an environment for sustainable investment;

❑ similar pledges by donor countries of substantial development aid for critical reconstruction priorities in the North and the South, as well as joint infrastructure projects promoting cooperation between North and South; and

❑ establishment by the UN Security Council of a tribunal to act as an appeals court for the parties on constitutional questions.

Addressing Egypt's Interests. Cairo remains strongly concerned about the IGAD process. As matters now stand, it will present a formidable obstacle, along with an Arab League led by former Egyptian Foreign Minister Amr Moussa, a strong supporter of Sudanese unity, to a final agreement based on the Machakos self-determination formula. Egypt and Libya have begun discussions with the government about reactivating the Joint Egyptian-Libyan Initiative in the vacuum produced by Khartoum's suspension of its participation in the IGAD process.

However, Egypt has a vested interest in a reformed Sudan, with a more moderate government. It does not want to see a more extreme government in power in Khartoum, which could result if a peace deal addresses only the North-South issue. There are a number of issues, therefore, on which Cairo could be a positive force in the negotiations, such as state and religion, if the U.S. brought it along.[138]

The U.S. has already told Egypt that it favours unity but that this cannot be assured under present conditions. The need now is to persuade the Egyptian leadership that the way to preserve unity is to develop and sell to the parties compromises on the remaining issue that will make a southern choice to keep Sudan together plausible. If Egypt would play this more constructive role, the chances of peace taking hold in Sudan would increase considerably. Thus far, however, the U.S. has been reluctant to engage President Mubarak seriously on Sudan out of concern that he might link cooperation on Sudan to Middle East peace issues. That risk needs to be taken, however, if the U.S. is serious about ending Sudan's war. Consequently, President Bush should charge his Secretary or Deputy Secretary of State to enter into a concerted dialogue with top Egyptian officials.

Engaging More Deeply with the Parties. Selling an agreement to the constituencies that support the warring parties will also require external involvement. Mediators and countries with leverage cannot content themselves to interacting only with the delegations and respective heads of the government and the SPLA. Ties need to be built with important military leaders on both sides, as well as with other influential actors not represented in Machakos, both to gauge sentiment and to influence their posture toward an agreement. Public diplomacy also will be valuable. Benefits of an agreement should be spelled out fully to the wider Sudanese public.

This has salience in both North and South. The diaspora of southern Sudanese contains sub-groups that will attack the SPLA if it agrees to anything other than an independence referendum and total control of the South. Their allies within the SPLA in strategic locations are a potentially destabilising element that the mediators must be aware of. There are also tensions within the South over states' rights and ethnically balanced leadership. Similarly, though even less understood, the government is vulnerable to the tendencies of its harder-core constituencies to block compromises on state and religion and unity.

Widening Participation in the Process: ICG has argued consistently that the peace process suffers from the absence of other major political forces, particularly the opposition umbrella National Democratic Alliance and the country's largest political party, the Umma Party. They could eventually undermine an agreement because they lacked a stake in the process that produced it. The more that the NDA and Umma can be included, the

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[138] An Egyptian diplomat observed, "Khartoum's historical insistence on a religious-based constitution is an impediment to peace. We could move forward if the government would negotiate this". ICG interview, March 2002.

more they will be in a position during the interim period to work for a real transition to multi-party democracy under close monitoring of the international community. "Those who are weak today could be strong tomorrow", noted one Sudanese analyst.[139]

General Sumbeiywo, the other IGAD envoys, and the observer countries should seek to widen the process. An inclusive constitutional conference or review process early in the interim period – with a timetable clearly spelled out in the peace agreement – would help, as would free and fair multiparty elections as soon as possible. But the views of the opposition parties need to be heard now, so that their positions will be factored into the agreement. This could be achieved by creating a robust consultative mechanism, most easily in the context of issue-specific working groups, through which the mediators either ask the parties to present their views to a plenary, or the mediators seek those views formally while talks are ongoing.[140] If the IGAD secretariat or envoys are not willing or able to do this, at a minimum the observer countries should assume responsibility. Civil society groups from the North and South, including organisations representing women, should be part of any effort to create a more inclusive process.

Preparing for Southern Self-Determination. How the SPLA runs the southern regional authority during the interim period will have a major impact on the success of the agreement and how the population votes in the referendum. Serious efforts must begin now to build the governing capacity of the SPLA and other southern elements, as well as to promote southern civil society. The southern regional authority will have to be as inclusive as possible and real power decentralised to the states to ensure that no one group dominates. This will require resources but also active diplomacy from Western and regional governments that have relationships with the SPLA. In fact, a constructive involvement of regional states in supporting inclusive interim arrangements and the

political and economic development of the South could be decisive in promoting unity in the referendum. Disputes, whether caused by competition over resources and jobs or by manipulation from anti-peace elements in Khartoum or even inside the SPLA, are likely during the interim period. Continuing support for intra-communal peace making in the South, therefore, is also crucial. A new U.S. Agency for International Development grant to support this is well timed.

Understanding Bottom Lines. Although the government has displayed the first sign of post Machakos Protocol intransigence by suspending its participation in the peace talks, the SPLA may hold the ultimate – albeit extreme – trump card: its willingness to walk away completely from the negotiations and straight to the battlefield if it does not achieve primary objectives, which include a self-determination referendum as spelled out in the Machakos Protocol. Its suspicion of international motives and commitment and belief in the government's inherent advantages require the mediators and observers to engage in further confidence building. The SPLA perceives itself as having the most to lose if it lays down its arms. A member of its delegation summarised:

> The government can have all of the guns, all of the towns. But we will still fight from the bush for another 100 years. There is more to this than guns. If they think they can rule us they're making a fundamental mistake. We will never accept to be second-class citizens. Never.[141]

Similarly, the government, despite the moves it has already made, cannot afford to be seen by its supporters as having compromised fundamentally its support of *Sharia* law and its Islamist principles, nor as having sacrificed its sovereign authority.

If the mediators understand these sentiments and the extent to which the opposing sides hold to them, they will know the parameters within which to craft creative responses to the remaining issues.

Nairobi/Brussels, 17 September 2002

[139] ICG interview, 16 August 2002.
[140] Representing the NDA view on this, the SPLA is broadly supportive of such a mechanism, while the government is opposed. A government official explained, "The government represents the country, while the SPLA represents the South. The presence of the other parties would complicate the process. We know the SPLA raises the national issues as a tactic, for bargaining power. Their core agenda is the South". ICG interview, 16 August 2002.

[141] ICG interview in Nairobi, 10 July 2002.

APPENDIX A

MAP OF SUDAN
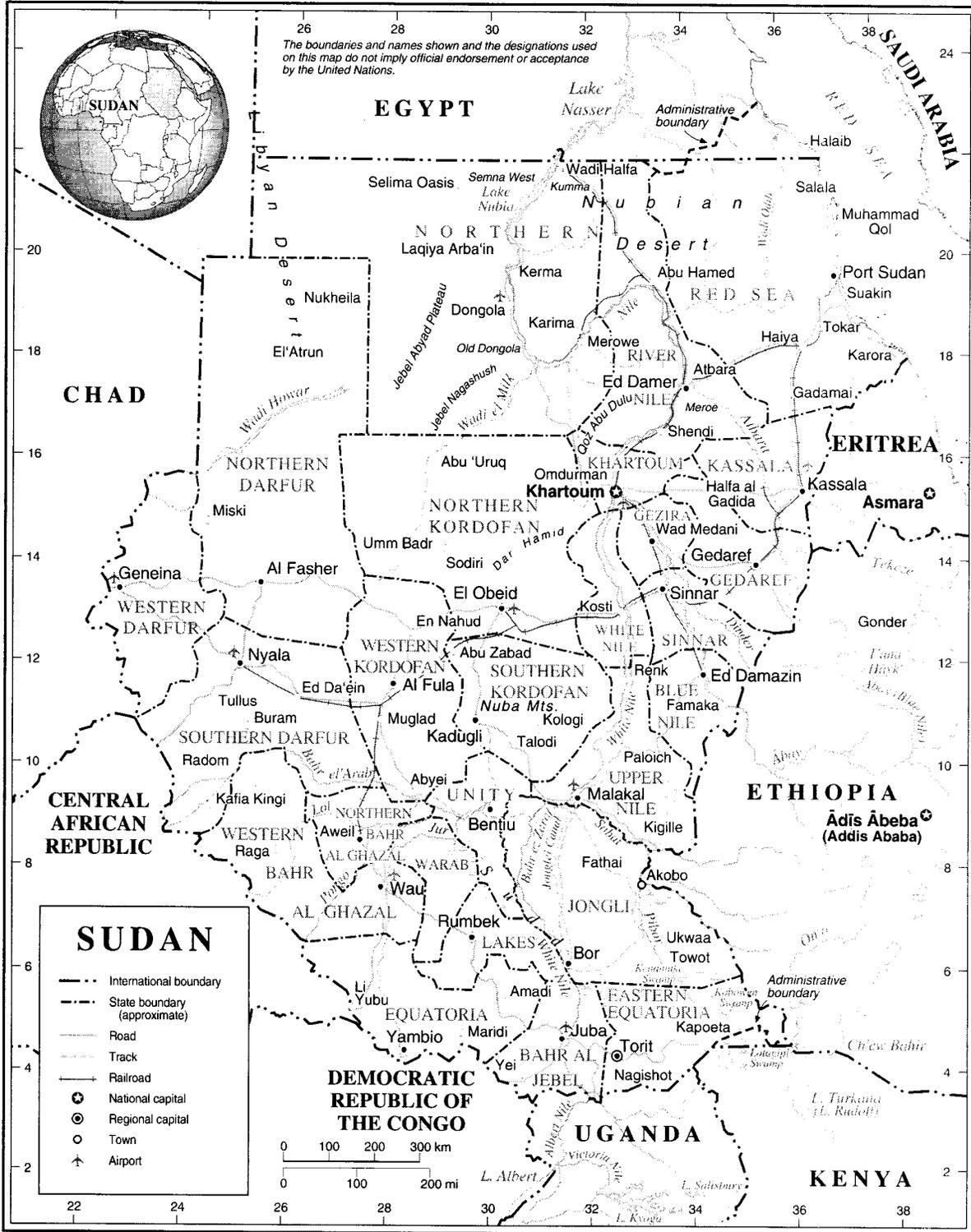
APPENDIX B

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (ICG) is a private, multinational organisation, with over 80 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

ICG's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, ICG produces regular analytical reports containing practical recommendations targeted at key international decision-takers.

ICG's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's Internet site, *www.crisisweb.org*. ICG works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The ICG Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; and its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

ICG's international headquarters are in Brussels, with advocacy offices in Washington DC, New York and Paris and a media liaison office in London. The organisation currently operates eleven field offices with analysts working in nearly 30 crisis-affected countries and territories across four continents.

In *Africa*, those locations include Burundi, Rwanda, the Democratic Republic of Congo, Sierra Leone-Liberia-Guinea, Somalia, Sudan and Zimbabwe; in *Asia*, Indonesia, Myanmar, Kyrgyzstan, Tajikistan, Uzbekistan, Pakistan, Afghanistan and Kashmir; in *Europe*, Albania, Bosnia, Kosovo, Macedonia, Montenegro and Serbia; in the *Middle East,* the whole region from North Africa to Iran; and in *Latin America*, Colombia.

ICG raises funds from governments, charitable foundations, companies and individual donors. The following governments currently provide funding: Australia, Austria, Canada, Denmark, Finland, France, Germany, Ireland, Luxembourg, The Netherlands, Norway, Sweden, Switzerland, the Republic of China (Taiwan), Turkey and the United Kingdom.

Foundation and private sector donors include The Atlantic Philanthropies, Carnegie Corporation of New York, Ford Foundation, Bill & Melinda Gates Foundation, William & Flora Hewlett Foundation, The Henry Luce Foundation, Inc., John D. & Catherine T. MacArthur Foundation, The John Merck Fund, Charles Stewart Mott Foundation, Open Society Institute, Ploughshares Fund, The Ruben & Elisabeth Rausing Trust and Sasakawa Peace Foundation.

September 2002

APPENDIX C

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APPENDIX D

ICG BOARD MEMBERS