

SUDAN:

HUMAN RIGHTS AND POLITICAL INCLUSION MUST BE PART OF SUDAN PEACE AGREEMENT

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Any lasting peace agreement in Sudan must provide meaningful guarantees for the protection of the human rights of all segments of Sudanese society including their rights to participate in post-conflict political processes. The talks aimed at ending the twenty-year civil war between the Sudanese government and the rebel Sudan People’s Liberation Movement/Army (SPLM/A), which have been underway again since June 2002, are taking place on an informal but high-level basis in Kenya in September 2003, under the auspices of the regional Inter Governmental Authority on Development (IGAD, comprised of Kenya, Uganda, Sudan, Ethiopia, Eritrea, Somalia, and Djibouti), led by Gen. (Ret.) Lazarus Sumbeiywo.

The talks, however, exclude a significant number of Sudanese political and military actors. Only when these political parties, civic associations, and armed groups are able to participate in political debate, lobby officials, form political parties, air their views in the press and on radio, and campaign on behalf of peaceful change will all Sudanese be convinced that there is a place for them in the new political landscape. If they are prevented from meaningful political activity, then many of the excluded groups will resort to arms. Several have already threatened to do so. If the peace agreement does not seriously address human rights, including through monitoring, it is unlikely to be sustainable and will merely mark a change in direction of the twenty-year war.

Respect for Human Rights

An essential element of a lasting peace in Sudan is the promotion of respect for human rights. The peace agreement, according to insiders at the talks, includes a long “bill of rights”. Given the lack of respect, currently, for human rights in Sudan, the only way to ensure human rights and inclusion and full participation for all after the peace agreement is for the parties to the talks to agree to full respect for human rights, including the creation of an effective, independent, and impartial justice system, and allowing international human rights monitoring

The three non-African countries most involved in the peace talks are the U.S., the U.K., and Norway (“the Troika”). The Troika and the rest of the international community must guarantee the funding and diplomatic protection necessary for such a monitoring team to be established and effectively operate inside Sudan to promote the rights of all Sudanese citizens.

Elections

At the urging of the Troika and General Sumbeiywo, elections have been agreed to in principle, to be held during the six and a half year interim period after the peace agreement is signed. Elections will allow the inclusion of groups that have been left out of the peace talks, and would put Sudan on the way to democracy.

The parties to the peace talks also agreed to incorporate some political forces not from their respective parties in the post-peace executive and legislative branches of the federal and the southern regional governments. However, these appointments will be seen as tokenism unless those appointed are from a broad range of sectors and are elected by their respective groups in free and fair elections.

The governing party, the (Islamist) National Congress, has ruled as a one-party state since it came to power in a military coup in 1989. The president of Sudan now has the right to appoint and dismiss state governors and others at will. The ruling party has engaged in a charade of extending “rights” to some political parties and maintaining the clampdown on others, but no party is able, under the current set of very restrictive laws, to mount a challenge to the National Congress. All these laws must be changed or abolished to allow for full participation of all Sudanese in government. In addition, the civil society organizations dominated by the National Congress through rigged elections, particularly in the student and union sectors, must be permitted to conduct new, fair and free elections under international supervision.

Accountability for Past Abuses

Justice through accountability for past abuses is also critical to a lasting peace and laying the foundation for respect for the rule of law. All parties to the conflict have committed serious human rights abuses. The difficulty of seeking recourse through the peace agreement is that the peace agreement is being negotiated by two parties with bad and well documented records as human rights abusers: the Sudanese government and the SPLM/A. Neither leader is anxious or willing to permit his followers to be tried for crimes committed in the course of the war, no matter how egregious the crimes. The mediators and the international community should ensure that a means to ensure accountability for serious past crimes is included in the peace agreement.

Investigation of allegations of human rights and international humanitarian law abuses committed during the conflict, and trial of those accused abusers - through an independent, impartial and credible judicial process- must take place. Mechanisms should also be established to document more comprehensively the human rights abuses committed during the war.

Without a means of compensation and other recourse, the rule of law could be seriously threatened if victims and their relatives try to take revenge.

The “Militia Problem”

An especially delicate issue is the existence of southern armed groups supported by the Sudanese government but not regular members of the Sudanese armed forces. Most of these groups were previously in the rebel SPLM/A but defected in 1991 because of SPLM/A human rights abuses, among other things—although these groups themselves have been guilty of appalling violations as well. They have not been parties to the talks but they still possess weapons and the

capacity to militarily control or prevent stability in parts of the south. They are based in their home areas; most of the thirty-two southern armed groups the U.N. has identified are located in Upper Nile region, many in the oilfields. Most of the groups are Nuer in origin, the second-largest ethnic group in the south.

The best solution to the “militia problem,” which all observers recognize as a potential threat to the peace, might have been a serious SPLM/A effort to reconcile with these groups, but the SPLM/A has refused opportunities to reconcile to date. Most of the militia leaders were prepared to attend a reconciliation conference in Kampala in May 2003 with the SPLM/A, sponsored by the Sudan Council of Churches and the New Sudan Council of Churches. The SPLM/A, however, pulled out of the conference at the last minute, on various pretexts. It apparently prefers a solution whereby it negotiates with the groups separately and incorporates them into the single-party SPLM/A apparatus. Even if the SPLM/A should be successful in that effort, it could lead even more rapidly to the consolidation of a one-party state in the south, which is not desirable if democracy is to be achieved.

Although the SPLM/A has been given plenty of room by the mediators to achieve reconciliation with the southern opposition groups, it has nothing to show for it.

The political issues dividing the SPLM/A from the southern armed groups and political forces are many, but they start with the lack of internal democracy in the SPLM and the primary political objective of the SPLM, which is a “united” Sudan. The southern armed groups and political forces, most of whom are represented in the South Sudan Democratic Forum based in London, support the goal of an independent southern Sudan, free of the central government’s historic oppression of southerners.

The Machakos Protocol of July 20, 2002, contains the agreement by the Sudanese government and the SPLM/A to a referendum for southern self-determination six and a half years after the peace agreement is signed. While this referendum is just what the southern opposition groups want, they are wary of the timing: six and a half years is a long time in politics. They also fear that the “unity” government of the National Congress and SPLM/A will be nothing more than two entrenched dictatorships that will close all political space and rig the referendum. Most of the northern-based political parties excluded from the peace talks have been cautioning about this possible “two dictatorships” outcome for years.

Just as the Sudanese government should not be allowed to conduct a one-party state by virtue of the internationally mediated peace agreement, neither should the SPLM/A be allowed to maintain its one-party rule in the south.

The War in the West

Another war scarring the landscape of Sudan is taking place in Darfur in the west between the government and local agriculturalists who have taken up arms to resist the incursions of nomadic militias armed and backed by the central government. The parties appear to have agreed on a settlement, but this is not the first such agreement. The conflict over land rights has been brewing for years, and has resulted in past years, as in the present, in tens of thousands fleeing to neighboring Chad to escape government and militia persecution. Any peace agreement should address this conflict in a meaningful way.

Recommendations

Human Rights Watch urges IGAD, the Troika and the parties to the conflict to ensure that the following issues are reflected in any peace agreement:

- Investigation of alleged violations of international human rights and humanitarian law by all parties to the conflict, and bringing to justice—in a fair, impartial, and independent process—those accused of having committed such crimes or of having facilitated or tolerated such crimes by groups over which they exercised control;
- Full disclosure of past human rights abuses in the various armed conflicts since 1983 through a Truth and Reconciliation Commission composed of individuals of known honesty, integrity, and impartiality, to be appointed by the parties to the peace agreement and by IGAD, the U.N., and the governments of the U.S., U.K.,

and Norway; The TRC would publish a detailed report of international human rights and humanitarian law abuses occurring in the armed conflict in Sudan from 1983-the date of the signing of the peace agreement.

- Prioritise the development of an effective, independent and impartial national justice system
- Conduct vigorous international human rights monitoring through a team of international human rights monitors deployed throughout Sudan, appointed and supervised by the office of the High Commissioner on Human Rights, with appropriate mechanisms to ensure respect for human rights, including strong international diplomatic, political and other measures;
- Review Sudanese government (and any SPLM/A or southern regional government) legislation to ensure compatibility with international human rights standards and removing barriers to full and free civil society participation, pursuant to recommendations to be made within a year of the signing of the peace agreement by a committee of international legal experts to be appointed by IGAD and the U.S., U.K., and Norway;
- Ratify the Convention for the Elimination of all forms of Discrimination Against Women and other human rights treaties and ensure respect for their provisions.
- Hold elections for local, regional, and national government offices midway in the interim period; supervise these elections by international election monitors and a board of Sudanese officials to be appointed by the parties and by the international community.
- Encourage the SPLM/A to attend a south-south reconciliation conference with representatives of southern political opposition leaders, civilian and military, sponsored by the SCC and NSCC before or promptly after the signing of any peace agreement. The parties should include accountability and means of respect for human rights in their discussions.
- Hold a demobilization conference to be attended by representatives of the Sudanese army, the SPLA, and all other military units (specifically including all thirty-two groups in the south armed by the Sudanese government and the Sudan Liberation Movement/Army in Darfur), and concerned international agencies and experts. The conference shall plan for demobilization, rehabilitation, and training programs for those wishing to be demobilized with particular attention to the special needs of children who may have been recruited.
- Ensure that the members of the newly constituted police and military forces are vetted for past records of human rights abuse, and dismiss any found to be questionable in this regard.