

TO: David R. Smock
FROM: Ann Lesch
SUBJECT: Consultation on Sudan
DATE: January 11, 1999

I read with interest the questions you posed to the participants in the Consultation and the valuable reflections by Francis Deng on the issue of self-determination. I would like to comment further on the evolution of the positions on self-determination held by the SPLM, the NDA, and the government, as supplementary background material for the Consultation.

SPLM: The SPLM leadership was consistently supportive of a territorially united (though decentralized) Sudanese political system before the coup d'etat on June 30, 1989; self-determination was not raised as an issue at Koka Dam or in the Peace Initiative signed by John Garang and Mohamed Othman al-Mirghani in November 1988. However, Garang warned the new military government on August 10, 1989 that the Sudan would disintegrate if it imposed Shari'a; the alternative was a nonsectarian national unity government that would hold the planned national constitutional conference and create a democratic system. When the Nigerian government began to plan the Abuja conference in July 1991, the SPLM asked to place self-determination on the agenda and, after the breakaway of SPLA (Nasir), SPLM (Torit) proposed four options: "a united secular democratic Sudan, confederation, association of sovereign states, or self-determination" (September 1991). At the Abuja negotiations in 1992 and 1993, SPLM's conditionality argument was made explicit: asking how can the objectives of justice and equality be achieved, Elijah Malok stated that the SPLM supports "a united secular Sudanese state as long as the GOS accepts equality and a fair share of power. If they refuse, then automatically we would [support] self-determination of the people that are oppressed in the Southern Sudan..." Justin Yaac Arop added: support for secession is "contingent on whether the Sudan is a theocratic state or a secular state."

Whereas the Nigerian mediators rejected this conditionality, the IGADD DOP articulated forcefully that approach, including the holding of an internationally supervised referendum that would enable the South to choose its preferred outcome. The SPLM has been consistent in this position since then. For example, after the IGAD talks in May 1998, SPLM spokesman John Luk commented: "If there were a secular, united Sudan the SPLA would be inclined to opt for that. But failing to get that, the people of the South are entitled to a vote. We say if [agreement] is not possible, we part ways." More recently, Garang stated: "The objective of the movement is a united, democratic, secular Sudan that will have been based on the free will of the people, and hence the necessity of self-determination. That [self-determination] is the second objective of the movement, for the people of South Sudan and other marginalized areas to freely express their wish in a referendum, whether they chose to belong to the kind of Sudan which we aim to establish or wish to establish a state of their own" (Reuters, November 15, 1998). Under the current circumstances, a referendum would support secession, but the SPLM holds out the possibility that, should the NDA come to power

and implement its principles, southerners might at least support a confederation (although not a centralized state).

NDA: The process of agreeing on the principle of self-determination was painful for the NDA, whose leaders were shocked when SPLM (Nasir) raised the issue of secession in 1991 and Garang signed a (short-lived) agreement with Riek Machar in October 1993 that called for self-determination. Nonetheless, in February 1994, the Umma party declared that the South had the right to conduct a referendum on its future: "We accept the future which the peoples of the South freely decide for themselves." This led to the Chukudum Accord in December 1994 in which Umma and SPLM endorsed the IGADD DOP and agreed that unity could not be based on force but on free choice. This was reinforced by the Asmara Declaration of December 1994 which stated that, if democratic principles were violated, the South would have the right to seek independence by a vote in a referendum. Public statements in Khartoum by al-Sadiq al-Mahdi also endorsed the South's right to conduct a referendum based on the principles of self-determination. These statements were consolidated at the conference in Asmara in June 1995. Afterwards, NDA Secretary General Mubarak al Fadhil al Mahdi stated that, if the future central government fails to abide by the agreed-upon program, the South can exercise its right to secede; the onus will be on the democratic forces in the North to ensure that they not revert to the discriminatory practices of the past. Even the DUP endorsed this approach, despite its reluctance to countenance any partition of the country.

This issue remains sensitive, as NDA leaders recognize that, under current circumstances, southerners will opt for secession. Al-Mahdi commented last May: "We must first establish confidence so that we can hold a referendum in a climate which permits of the possibility of union by consent so that, if separation does take place, it does so between two friendly countries." In this view, "unity [could] be given a chance of success" only in the political system were transformed. Soon after, when the government appeared to support self-determination, NDA leaders reacted with dismay: in the words of spokesman Farouq Abu Isa, "We are in favor of self-determination but we are opposed to the separation of South Sudan." Thus, it remains evident that NDA leaders hope that, should the current regime be overthrown, southerners can be convinced to remain within a federated country. They appear anxious to ensure that any current negotiations not lead to a quick decision on self-determination since, in their view, that would result in the Sudan's dismemberment without there having been any opportunity to even attempt to create the proposed "New Sudan."

The government: The government's shift on self-determination has been as pronounced as the NDA's, at least on paper. At Abuja, the government refused to even enter the term "self-determination" into the agenda and insisted on its Islamic federal system, in which the South would be exempted from a few Islamic laws and punishments. Ali al-Hag emphasized that "if referendum means referendum about separation or self-determination, we have to reject it" and delegation head Al-Amin Khalifa stated bluntly: "Separation comes from the mouth of the gun....not by debate." The government would only discuss a referendum in the context of the Frankfurt Accord that al-Hag had just signed with SPLM (Nasir), which excluded the option of secession. Similarly, at IGADD in 1994, Khalifa rejected the DOP and insisted that a referendum

only cover the future status of the South within the Sudan. Even that degree of support for a referendum caused the government to replace Khalifa with Ghazi Salah al-Din as chief negotiator. IGADD talks broke down in September 1994 when Salah al-Din insisted that Shari'a was "irreplaceable" and that self-determination lacked any legal or moral basis.

Given that position, the shift indicated in 1996 and 1997 in the agreements with the former SPLM (Nasir) leaders has to be examined carefully; while apparently guaranteeing a referendum in which all options would be open, subsequent government statements indicated that self-determination within the Sudan was intended, not secession. Similarly, although President Bashir signed the IGAD DOP in July 1997, he immediately states that it was not legally binding and that he was committed only to the 1996/1997 agreements. Nonetheless, the draft constitution did not mention those accords; their terms were appended to its text at the last minute.

When the government agreed to an internationally-supervised vote on self-determination for the South at the end of an interim period, at the IGAD meeting in May 1998, the meaning remained ambiguous. The new Foreign Minister Mustafa Osman Ismail seemed to welcome whatever outcome southerners would choose: "If the South wants to secede and live as a sovereign state, then let us live as good neighbors" (Reuters, May 7, 1998). Hasan al-Turabi, while doubting that the south would actually opt to secede, stated: "If they don't want this deal - a federal country, the option [is] to determine their destiny by seceding from the country... Take this deal, which is a very generous deal, or depart" (Reuters, September 4, 1998). Nonetheless, some government officials indicated that the newly-appointed Coordinating Council for the Southern States and the Southern Sudan Defense Force, both headed by Machar, would form the government and security forces in the South during the interim period, during which the armed forces would remain in the South. This sounded like the implementation of the government's long-standing "peace from within" program in circumstances that would make unlikely a free vote in any referendum. Moreover, Bashir declaimed in October 1998 that there would be no negotiations with the SPLA until it was defeated.

Process: It is apparent that the positions of the parties are far more divergent than the claimed support for self-determination would indicate. Even the most well crafted process of mediation would have difficulty overcoming these differences. Nonetheless, here are problems with the process itself.

- (1) As Francis Deng indicates, the long intervals between IGAD meetings, the need to bring together high-level ministers, the lack of a technical secretariat, and the different agendas of the mediators complicated IGAD's efforts. At a minimum, this would seem to call for international financial assistance (preferably through the UN) to establish a secretariat and technical committees (including persons from the belligerent parties) that could work continuously on issues, initialing specific points and moving on to others. A permanent UN envoy to IGAD could play an important role in facilitating negotiations, liaising with the Security Council and Secretary General, and working with the IGAD Partners.

(2) Moreover, the issue of including additional actors is crucial. Self-determination for the South is not the only issue at stake. A stable, long-term settlement must address the nature of the political system for the Sudan as a whole and must include the grievances of the marginalized peoples in the North (notably the Nuba and Ingressana). [Although the NDA is represented at this week's Consultation, unfortunately representatives of those marginalized peoples do not seem to be represented.] A way needs to be found for the NDA and the marginalized peoples to gain a voice in the negotiations whose outcome is vital to their future.

Ann Lesch, Professor of Political Science at Villanova University and currently President of the Sudan Studies Association, received grants for the U.S. Institute of Peace in 1990-1991 and 1997 for research on Sudanese politics and wrote The Sudan: Contested National Identities (Indiana University Press, 1999).