

THE NEED TO STAND UP TO ATROCITY CRIMES & THE SUDAN ACCOUNTABILITY AND DIVESTMENT ACT

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I want to thank Chairman Meeks and Congressman Gary Miller and the other members of the Subcommittee on International Monetary Policy and Trade for holding this hearing on the Sudan Accountability and Investment Act (SADA) and for inviting me to testify today.

During the past 30 years I have held a variety of diplomatic positions including three Ambassadorial posts, served as Assistant Secretary of State for International Organization Affairs, and most recently as President George W. Bush's Special Envoy to Sudan. I am now in the private sector where, among other things, I am a Non-Resident Senior Fellow in Foreign Policy at the Brookings Institute and I am a Senior Fellow at the Chicago Council on Global Affairs. I also have written extensively about the sad situation in Sudan.

This hearing to "review how SADA has been utilized and consider recommendations for improvements" is timely and important. I hope my observations will constructively contribute to your ongoing deliberations.

As a general rule, I am not an enthusiast for economic sanctions as a tool of foreign policy. And I generally am a skeptic about investment divestiture policies. Admittedly, often short of unacceptable robust actions, economic sanctions are the preferred available coercive diplomatic step. And divestiture campaigns, on occasion, have proven successful. The case of the divestment campaign against the apartheid regime in South Africa seems to be most frequently cited by proponents of this penalty. But these are imperfect, blunt instruments. Often the impact is difficult to quantify. There is collateral damage to innocents, often the very people subjected to the repression of the oppressors targeted by these punitive measures. Sometimes the intended target, a regime engaged in unacceptable behavior, displays the capacity to hunker down and endure. And often these steps cause discomfort, dislocation, and even distress but are not decisive in deterring abhorrent behavior. The act of applying these punitive measures meanwhile can give a sense of addressing an issue of concern without making

substantive progress in resolving the real problems. In sum, however well intended, these steps often fail to drive the change in behavior desired.

Notwithstanding my general concerns about these instruments of foreign policy, I strongly support the continued application of the Sudan Accountability and Divestment Act. Its application, among other things and along with other measures, brings into question the legitimacy of the Government of Sudan. This challenge is appropriate so long as Khartoum engages in unacceptable behavior including its failure to live up to its Responsibility to Protect its own people.

I am not before you today as an expert on the intricacies of the application of SADA nor can I authoritatively comment on its impact on the economy of Sudan and the consequent stress it may be creating for the Government of Sudan. But I am intimately familiar with the tragic events on the ground in Sudan and the need to keep pressure on the regime in Khartoum, especially at this time during the run up to the Referendum stipulated in the Comprehensive Peace Agreement now scheduled for January 9, 2011, and while the horrific “genocide in slow motion” relentlessly continues in Darfur.

NORTH/SOUTH CONFLICT AND THE REFERENDUM

The North/South conflict in Sudan blighted this country from its independence from Britain in 1956. Except for an interregnum from 1973 to 1983, this war raged on during which 2 million people, overwhelmingly innocent non-combatants, perished and over 4 million were displaced. Finally a fragile peace was reached with the Comprehensive Peace Agreement (CPA) signed on January 9, 2005. The United States played a central role in hammering out this complex deal which dealt with a wide diversity of difficult issues. Pivotal to the CPA was the provision to hold a referendum in 2011 that would allow Southern Sudanese to vote on unity or independence. The date currently agreed to for this plebiscite is January 9, 2011.

So far despite numerous breaches the CPA has held, but often by a very thin thread. And the possibility for large-scale fighting disrupting the Referendum or soon thereafter to derail the will of the people is a clear and present danger.

Since signing the CPA, the Government of Sudan in Khartoum has continued to marginalize the South, denying full political participation and perpetuating economic and other forms of discrimination.

The North also has failed to live up to many of its other CPA commitments. It did not disarm and demobilize the Arab militias it used as proxy warriors against the South. It did not create the fully integrated North/South army and police units. It did not hold national and local elections on time or in a free and fair manner. It has not provided transparent accounting of oil revenue. It did not live up to commitments to accept agreed-upon procedures to demarcate contested border areas: first by Abyei Boundaries Commission created by the CPA and then by the Permanent Court of Arbitration based in The Hague. And the North has provided arms to Arab tribes and incited violence that last year claimed more than 1,000 more South Sudanese lives. The list goes on.

Furthermore, the North has failed repeatedly to meet deadlines to arbitrate issues related to the referendum such as citizenship, freedom of movement, and treaties. It was slow to form the referendum commission and failed to set up the machinery to hold the referendum on time. Many observers believe current talks on these issues are part of a well-established pattern by Northern leaders of setting up elaborate and complicated forums for discussing, deliberating, and eventually denying commitments they never intended to honor in the first place. Meanwhile, their leverage grows.

As Francis Deng, former Minister of State for Foreign Affairs of Sudan, has written in his new book, *SUDAN AT THE BRINK: SELF-DETERMINATION AND NATIONAL UNITY*, "It is easy to see that the North, which has dominated the unity framework as conventionally understood, would want to sustain that framework, with all it offers in terms of control over power, wealth, services, development opportunities, and the definition of the country as Arab and Islamic."

For me watching the unfolding situations in Sudan is not an academic exercise nor are the casualties dry statistics. I have listened to the victims of the violence tell their heart wrenching stories. I have seen the carnage. I have smelled the smoking wreckage of Abyei after it was burnt to the ground. I have visited displaced persons in Agok living under plastic sheets during the rainy season trying to hold onto life in desperate conditions. The murder, mayhem and misery are the daily reality for so many South Sudanese.

In May 2008 Abyei, a large town in an area which remains contested between the North and South, suffered a terrible flash point of violence. There were casualties and up to 50,000 people fled their homes. I visited Abyei just days after the terrible destruction.

Where just days earlier thousands of families lived, laughed, and loved, there were only remnants of lives lost. Moving down the dirt roads, except for three teenage soldiers carrying Kalashnikovs, there was no one. As far as I could see were burnt out huts, here and there blackened metal bed frames and chairs, scattered fragments of clothes, burnt out 55 gallon water drums, the occasional charred skeleton of a truck, the contorted remnants of a child's bicycle, smoke rising from smoldering remnants. Tens of thousands instantly added to the casualty list of Sudan's endless violence.

The violence is brutal and barbaric. The stories of such death, destruction, devastation and deep despair are too common. They are imbedded in the lives of the survivors. Peace of mind is unknown. Aspirations are fragile. Hope seems unattainable.

The CPA offered a six year window for the North to make unity attractive. It has failed to do so. No observer familiar with the situation believes the Southerners will not vote for independence. But major concerns remain unaddressed such as oil revenue and a final resolution of Abyei's status. The long history of broken promises, marginalization, and violence as acceptable instruments of power has led both the North and South to prepare for renewed war. Tensions are high and rising. The prospect of a peaceful, credible referendum is precarious.

Last week there were reports that the North engaged in an aerial attack on the South that wounded four Southern Sudan People's Liberation Army soldiers. The SPLA said this was part of the North's efforts to try "to drag Sudan back into war again and to disrupt or prevent the referendum."

The pro-government daily Akhir-Lahza reported that last week President Omar al-Bashir's adviser for security affairs, Salah Gosh, delivered a speech at a public rally at Karima town in which he "accused the SPLM of refusing to sign agreements relating to post-referendum arrangements under the influence of the United States." According to the Sudan Tribune, "The presidential adviser also claimed that the U.S. had asked the SPLM not to cede the central contested area of Abyei, saying that Washington has 'hijacked' the ex-Southern rebel group. ... Gosh warned that Abyei would remain part of the north whether through a bilateral agreement, the referendum or through war and peace."

Concerned interested parties, including the United States, are offering incentives to the North if they follow through on the agreements they already have made and the referendum proceeds on schedule.

Therefore, I think it is important to note that the Referendum voting to begin January 9, 2011 is not an end. It may not even be the beginning of the end. Yes, it will be a milestone. But that plebiscite is only a step in a process scheduled to continue for at least six months in which a number of crucial issues will be negotiated regarding separation. The South believes that July, 2011, is a firm deadline. The North has said it is a soft target.

The incentives tendered by President Special Envoy Gration, and more recently by Senator Kerry, have left unrealistic expectations in Khartoum. However well intended, these promises may make the situation worse. Failure to deliver promptly on these proffered benefits will add to the turmoil that may lead to tragedy.

It is my experience of meeting and negotiating and dealing with all the leading personalities in Sudan that the Government of Sudan needs strict and specific and severe consequences tied to verifiable concrete steps to get progress on alleviating humanitarian suffering and living up to its commitments. Engagement is important, but it is merely a beginning. Incentives may be useful. But history shows they are insufficient. Therefore, this is not time to ease SADA but to reaffirm a commitment to it and, if anything, to strengthen it.

DARFUR

It is important to recognize that Darfur is integrally intertwined with the ongoing Sudan North/South difficulties. The root cause of conflict in both areas is a pattern, practice and precedent of marginalizing the peripheries by the powerful Arab Muslims at the center. In Darfur, the vast majority of the people are not Arab and they are not Muslim.

Throughout the period of colonial subjection during the Ottoman Empire in the 19th century and then the British Empire up to 1956, the northern Arabs of Sudan along the Nile River were favored and all those outside this central area were marginalized. It was a way to control this geographically large and enormously diverse country. Just as the South was marginalized, so was Darfur disadvantaged

economically and politically. This gave rise to a modest revolt in 2003. However, rather than a proportional response targeted at the rebels, Khartoum opened the gates of hell.

Similar to the manner in which they had prosecuted their wars against Southern Sudan, in Darfur the Government of Sudan armed Arab militias. Then in coordinated attacks against the non-Arab African civilians of Darfur they bombarded villages from the sky with airplanes and attack helicopters, often dumping 55 gallon drums of burning oil on innocent people below. Then Sudan Armed Forces riding on flatbed trucks would race through the village firing their guns in every direction. They would be followed by waves of Janjaweed, the so-called devils on horseback and camel, who would swoop into the village burning crops, stealing livestock, destroying homes, poisoning wells, killing boys and men, and beating and gang raping small girls and women. As both President George W. Bush and President Barack Obama have said, this has been genocide. More recently, the International Criminal Court has issued arrest warrants for President al-Bashir for crimes against humanity, war crimes and genocide for the atrocities committed in Darfur.

I have met with scores of internally displaced persons in IDP camps throughout Darfur. I have listened to the horrific stories of the fire from the sky that rained down on villages, the destruction, the brutality, the loss, the sorrow. I have heard women tell me about the barbaric killings of their fathers, their husbands, and their sons. I have heard the heart ache of mothers telling me about children dying during the long walks across the desert seeking refuge. I have seen the anguished faces of women who have been violated and, worse yet, witnessed the brutal beating and rape of their daughters. I have seen the hopelessness in their eyes.

It is true that in Darfur the worst atrocities took place in 2003 and 2004. Today it is low intensity violence. There are fewer targets of opportunity with 300,000 dead and over 2 million displaced. But make no mistake, the genocide in slow motion grinds relentlessly on. Humanitarian assistance for these people has declined in the past two years. Millions are captives in these overcrowded, unsanitary camps where women still are beaten and raped as they go out to collect fire wood. For many their ancestral land has been taken by Arabs so they not only have no shelter to which they can return and no land. Security has not been restored. And there continue to be aerial bombings from the Sudan Armed Forces in violation of numerous agreements.

Meanwhile, the Doha peace talks continue without resolution. Qatar is to be commended for their leadership in organizing and facilitating these Darfur discussions. Unfortunately, progress remains elusive.

I fear that if full scale conflict reignites between the North and the South any possibility of progress toward peace in Darfur will be lost. And even if progress is made on that front, Khartoum may be even less accommodating to the desire of the people of Darfur for an end to their marginalization, their persecution, and their requirement for empowerment and some degree of autonomy. As one senior Government of Sudan official said to me in a private meeting, "If we give up the South, then Darfur will want the same thing. Where will the dismemberment end? Eventually there will be no Sudan left."

In working for progress in Darfur, as with the recent tragic situation between the North and South, engagement with the Government of Sudan has not produced positive results. I do not believe that incentives alone can alleviate the suffering and lead to sustainable peace. Disincentives are required. Therefore SADA should be strengthened and kept in place. Pressure is required. Easing of those punitive actions can only be tied to specific, concrete, verifiable progress. Anything less rigorous, I am afraid, will contribute to continuing the genocide in slow motion in Darfur.

CONCLUSION

I applaud the Obama Administration's willingness to engage with all parties of the various conflicts in Sudan. From personal experience, I know that progress is very difficult. Patience, perseverance, and pragmatism need to be practiced. The full foreign policy tool box is required to make progress. That includes both coercive measures and incentives. Experience demonstrates that incentives alone will not bend the trajectory of tragedy in Sudan. Instruments such as the Sudan Accountability and Disinvestment Act are useful to achieving progress for the millions of innocent Sudanese who have suffered unimaginable horrors and continue to face a bleak future.