

# **SENATE COMMITTEE ON FOREIGN RELATIONS**

## **ROUND TABLE ON US RELATIONS WITH SUDAN**

### **FEBRUARY 12, 2009**

#### **Testimony of John Prendergast**

Thank you Chairman Kerry for allowing me to participate in a first of what I hope will be many discussions regarding the future of Sudan. I believe the exchange of ideas and knowledge is a key and initial step to effectively end the violence that plagues the region.

The precarious peace between northern and southern Sudan stands at a crucial crossroads. Intended by its architects as the cornerstone of peace in a country fractured by conflict, the Comprehensive Peace Agreement, or CPA, has been hamstrung by the National Congress Party's intransigence, the Sudan People's Liberation Movement's growing pains, and the international community's neglect. With two years remaining before a referendum on self-determination for the south, confidence in the CPA is diminishing, mistrust between the NCP and SPLM is mounting, and both sides are arming in preparation for a resumption of hostilities. While the International Criminal Court's investigation in Darfur has already internationally isolated and internally weakened the NCP, pending arrest warrants against NCP leader Omar al-Bashir add another layer of uncertainty to the CPA's fate by creating the risk of escalated violence, the possibility of a change in political leadership, and the promise of accountability after decades of impunity in Sudan. U.S. leadership was instrumental in negotiating the CPA and could be pivotal in preventing a relapse into a full-scale war that would have grave humanitarian consequences and further destabilize an already volatile region. Congress must work with the Obama administration to revitalize U.S. support for CPA implementation, and develop a clear and comprehensive diplomatic strategy that encompasses both north-south issues and Darfur as the core of a renewed push for peace in Sudan.

The international community has been slow to respond to the sputtering pace of implementation and the NCP's attempts to undermine the CPA. The genocide in Darfur diverted international focus and funds away from implementation of the agreement. Eager to gain humanitarian access and stop the slaughter in Darfur, international actors became less willing to press the NCP to fulfill its CPA commitments. (This is sadly ironic given that the conflict in Darfur stems from many of the exact same causes as the earlier north-south civil war, and has been prosecuted by Khartoum using many of the same brutal strategies). The Bush administration, which had played a lead role during negotiations, was unable to harmonize competing objectives in Sudan: implementing the CPA, managing the genocide in Darfur, and maintaining its close ties with the Sudanese government on intelligence sharing and counterterrorism. As a result, U.S. attention to the CPA has flagged during the interim period. The U. N. Security Council also lost capital and leverage as a credible international guarantor by failing to follow through on threatened sanctions against the NCP for repeated violations in Darfur. Emboldened by the example set in Darfur, the NCP saw little risk in obstructing implementation of any CPA provisions that did not serve their political interests. Constrained by a narrow mandate and limited capacity, the 10,000-strong United Nations Mission to Sudan, or UNMIS, has often been relegated to the role of a spectator. However, with the elections and referendum looming on the horizon, difficult decisions can no longer be delayed.

Among the many indicators of the CPA's fragmentary implementation and the fragility on the ground are the following:

**Violence in Abyei:** Clashes between the Sudanese army and SPLA in Abyei in May 2008 killed 89 people and displaced 50,000, raising fears that the delicate peace would not hold.

**An arms race:** Both sides are stockpiling weapons. Most recently, efforts by the Government of Southern Sudan, or GoSS, to purchase 100 refurbished tanks came to public light after a third of these tanks were seized by pirates operating off the coast of Somalia.

**Falling revenues:** Declining world prices and diminishing oil revenues have had a considerable impact on budgets already strained to deliver development and meet increased military expenditures. Oil revenue accounts for 97 percent of the south's budget and 50 percent of the north's budget. As the pool of oil profits shrinks, competition for control over oilfields will likely intensify.

**Uncertain impact of the ICC:** President Omar al-Bashir has responded to the issuance of a potential arrest warrant by the ICC for his actions in Darfur with blustering threats that have sparked concern about the impact on security and CPA implementation.

**Proxy militias on the loose:** The Lords Resistance Army, a brutal Ugandan rebel group with a long history of serving as Khartoum's proxy in the South, has resumed attacks in Western Equatoria State following the breakdown of peace negotiations and the launch of a regional military campaign to capture Joseph Kony, the rebel commander indicted by the ICC.

**Local violence:** The proliferation of small arms in southern Sudan continues to fuel widespread local violence among pastoralists competing for resources and power that has not been reduced by GoSS-initiated civilian disarmament campaigns.

The CPA is not a lost cause. However, it badly needs focused support from the international community in terms of both incentives and pressure to send a clear and consistent message that full implementation of the agreement is the essential foundation for peace in Sudan. Over the next two years a range of issues—including elections, border demarcation, the ICC, Abyei, and the referendum—will all test the resolve of the parties and the strength of the agreement.

A fresh infusion of international commitment is needed to help navigate these challenges or the CPA may become a missed opportunity, with tragic consequences for Sudan and the region. Just as U.S. leadership was crucial in brokering the CPA, U.S. engagement carried out in concert with its multilateral partners will be central in bolstering the agreement's chances for success.

A reinvigorated strategy to build peace in Sudan should be grounded by three central policy pillars:

Reprioritize CPA implementation as part of a comprehensive approach to ending Sudan's conflicts in Sudan, Southern Kordofan, and Northern State, and a shaky peace between the north and south. U.S. policy must be shaped by the fact that these complex conflicts have a common

core: flawed governance by a center that exploits and marginalizes an underdeveloped periphery. Not only does the CPA provide a roadmap for resolving the longest and bloodiest of these conflicts, but it also offers a framework for the kind of democratic, structural transformation necessary to alter the root cause of Sudan's many recurring conflicts.

Focus on both the short- and long-term. The overriding policy objective of too many in the international community seems to be to limp toward 2011 by preventing a premature collapse of the CPA and accomplishing the bare minimum necessary to stamp the referendum as free and fair. Since there are so many hurdles to be cleared in the short term and foreign governments are sensitive to prejudge the referendum's results, there has been very little focus during the interim period on long-term policy planning. With the referendum drawing nearer, this myopic complacency about the potential scenarios and likely risks moving forward is no longer sustainable.

Actively engage in Sudan through a combination of strong leadership and multilateral collaboration with international partners. The United States does not need to shoulder the burden alone. The CPA was the result of a regional mediation framework reinforced by robust commitments from international partners such as the United Kingdom, Italy, and Norway. This equation provided a formula for success during negotiations and could be reconstituted. Similarly, the United Nations Security Council and UNMIS provide a platform for ensuring CPA implementation and protecting vulnerable civilian populations. As one of the integral guarantors of the CPA, the United States should spearhead a multilateral, multitrack international initiative to help see the agreement through its next critical phase.

In support of these principles, several actions should be taken:

**Encourage negotiations between the NCP and SPLM on a long-term wealth sharing agreement.** Disentangling the issues of land and oil by negotiating a long-term wealth-sharing arrangement could ease tensions over border demarcation, generate momentum for further cooperation, and ensure that the referendum is not a zero-sum game with high probability for conflict.

**Expand efforts to deliver a peace dividend.** Although the overall situation has improved since the end of the war, insecurity and underdevelopment remains a fact of life for most Sudanese. As long as that is the case, the GoSS will have difficulty consolidating the peace and holding together an ethnically divided south with competing political visions. Corruption and the general lack of trained administrators within the GoSS further stifle growth and fuel popular discontent.

**Enhance efforts to professionalize and modernize the SPLA.** The SPLA has struggled to transition from a guerilla movement to a formal army, a process complicated by attempts to integrate southern militias that opposed the SPLA during the war. To ensure that the south is stable and the GoSS can deliver a peace dividend, the SPLA must continue to modernize through a well-supported process of security sector transformation that improves discipline, command and control, capacity, and competency. Toward this end, Congress the Obama administration should explore the sale of an air defense system to the GoSS. Although introducing new weapons systems into a volatile military environment could be interpreted as

contrary to donors' responsibility to make unity attractive, it is in the interests of lasting stability that the GoSS spend money on defense wisely. Unlike the aforementioned refurbished tanks, an air defense is non-offensive and helps level the playing field by neutralizing the north's major tactical advantage in the event of renewed hostilities.

**Support efforts to neutralize the SAF's preferred war tactic of arming and supporting proxy militias against its enemies.** There will be no peace dividend without security, and the LRA are a brutal, blunt-edged tool that may well undermine elections and the referendum over the next two years if left unchecked. Although the ongoing military operation against the LRA was poorly planned and provided inadequate protection to vulnerable civilians, it does provide a window of opportunity to decisively defuse the LRA threat. The United States could provide logistical and intelligence support to improve civilian protection and help remove a CPA spoiler that also presents a threat to regional stability. Strategic efforts to apprehend the LRA's leadership and deliver them to international justice would also provide an important boost to accountability in the region. To reduce the threat of other potential proxy militias, UNMIS must increase its capacity to monitor weapons flows and the GoSS must work with its partners, including the United States, to ensure full integration of the SSDF and others into its own armed forces.

**Name a special envoy.** U.S. diplomatic efforts require a high-level focal point to directly engage the parties and send a strong message of U.S. commitment to building peace in Sudan. The Obama administration should move rapidly to name a special envoy who is supported by two deputies: one focused full-time on promoting CPA implementation and the other on achieving a peace deal for Darfur consistent with the CPA.

**Work with the U.N. Security Council to ensure that UNMIS has the necessary capacity to fulfill its mandate and protect civilians.** The May clashes in Abyei and the resulting displacement of 50,000 people reinforced concerns about UNMIS's capacity to monitor threats to the CPA, reduce tensions before they escalate into violence, and protect civilians in imminent threat of danger. UNMIS must be able to effectively monitor the areas around Abyei and could prevent further clashes by helping negotiate a demilitarized zone along the border and in key flashpoints. Both the elections and referendum also carry a high risk of violence that will test UNMIS's capability and will to act as a guarantor of the agreement's implementation. The United States should lead efforts within the Security Council to strengthen UNMIS's ability to support the CPA.

**Oppose any effort within the Security Council to suspend the ICC's investigation in Darfur that is not tied to tangible peace and justice guarantees.** Ending impunity for grave human rights violations is an important step in breaking the cycle of conflict and building a sustainable peace in all of Sudan. Anticipating arrest warrants at any moment, President Bashir is attempting to avoid accountability and ensure the survival of his regime by using the threat of violence to hold the ICC's investigation hostage. However, the ICC's investigation has created leverage for a just peace in Darfur and an opening for party pragmatists to jettison Bashir as a leader with too many liabilities. In light of Bashir's lack of credibility and the NCP's long legacy of crimes, an Article 16 deferral of the ICC's investigation by the Security Council could only be appropriate if it is linked to a credible, alternative accountability program acceptable to Darfuris,

demonstrated progress toward full implementation of the CPA, and the wholesale return of Darfuri refugees and internally displaced in an environment of security, peace, and reconstruction overseen by a credible U.N. peacekeeping force.

Even while immediate challenge posed by the expected arrest warrant commands attention; it is becoming increasingly clear that Congress must work with the Obama Administration to quickly establish clear policy objectives focused on a real and lasting all-Sudan solution for Darfur, the South, and the rest of this embattled country. While both Secretary Clinton and Ambassador Rice pledged strong action on Darfur during their recent Senate confirmation hearings, the need for a holistic approach to Sudan's crises could not be greater as deadlines for Sudan's national elections and other crucial elements of the CPA's implementation loom large.

In summation, it is time to stop simply managing the consequences of crisis after crisis in Sudan and put an end to these crises.

Chairman Kerry and honorable Members of the Committee, I appreciate the opportunity to participate in this Roundtable and look forward to working together to end the crisis in Sudan.