

Sudan Hearing
Tom Lantos Human Rights Commission
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I would like to take this opportunity to thank the Co-Chairs of the Tom Lantos Human Rights Commission, Representative Jim McGovern and Representative Frank Wolf, for inviting Crisis Group to testify today on the humanitarian crises in Sudan and South Sudan, the human rights violations underlying the crises, and U.S. policy in the region. Working on Sudan since 2001, Crisis Group has produced some 45 in-depth reports and briefings, most recently *Sudan's Spreading Conflict (I): War in South Kordofan* (14 February 2013) and *Sudan's Spreading Conflict (II): War in Blue Nile* (18 June 2013), as well as a more general report *Sudan: Major Reform or More War* (29 November 2012).

Today I will be discussing Crisis Group's analysis of the situation in South Kordofan and Blue Nile, the broader political context in Sudan, and the role the United States can play in ending decades of chronic conflict and humanitarian crises.

The Situation in South Kordofan and Blue Nile States

War resumed two years ago in South Kordofan (June 2011) and Blue Nile (September 2011) and shows no sign of ending anytime soon. There are echoes of the earlier civil war, but the dynamics are quite different and the conflicts' local and national dimensions are more intermingled than ever. Unfortunately, the principal victims, as always, are the civilian population, with, according to the UN Office for the Coordination of Humanitarian Affairs, more than one million internally displaced or "severely affected" and some 220,000 refugees in South Sudan and Ethiopia. In Blue Nile alone, more than 1/3 of the state's population is in need of humanitarian assistance.

The "two areas" of South Kordofan and Blue Nile were part of the larger Southern liberation struggle, but were ultimately treated differently from the South in the negotiations that led to the 2005 Comprehensive Peace Agreement (CPA). They were considered part of the North, and not given the same right to self-determination granted the South, but rather a weaker protocol that included a power-sharing formula and promise of "popular consultations" on the peace agreement's shortcomings. The consultations were delayed, and were not even started in South Kordofan because of electoral disputes. They did begin in Blue Nile, and some 73,000 people were able to air their grievances. Notably even some local members of the ruling National Congress Party (NCP) supported calls for greater autonomy and control over local resources, but the commission was still drafting its report when the war broke out in November 2011.

Although the conflicts pit two old enemies against each other again, they are not a repeat of the earlier civil war. Particularly in South Kordofan, the Sudan People's Liberation Movement-North (SPLM-N) is much stronger, with as many as 30,000 soldiers; has better

weapons; and a large stockpile of arms. It also controls much more territory than the rebels ever did during the first war and is part of the Sudan Revolutionary Front (SRF) alliance with the Darfurian armed groups the Justice and Equality Movement (JEM), the Sudan Liberation Movement-Abdel Wahid (SLM-AW) and the Sudan Liberation Movement-Mini Minawi (SLM-MM). The government, however, also has more Sudan Armed Forces (SAF) and paramilitary troops in South Kordofan, numbers range between 40,000 to 70,000, and more sophisticated equipment. All indications suggest the war has settled into a vicious strategic stalemate where the government is unable to dislodge the rebels ensconced in the Nuba Mountains and the SPLM-N and its allies incapable of holding much territory in the lowlands.

In Blue Nile the SPLM-N was less prepared for war and after fighting started, in September 2011; its forces were rapidly pushed toward the South Sudan border and lost Kurmuk, the insurgents' historic stronghold on the Ethiopian border in November. Since then the "frontline" has not moved much, with rebel-held areas limited to a 20-30km stretch along the border with South Sudan, and isolated pockets, in particular in the Ingessana Hills. Because of losses and defections, the Blue Nile SPLM-N, number less than 7,000 troops, while the Sudan Armed Forces (SAF) probably deploys as many 30,000 soldiers in the state, and is augmented by a large number of paramilitary forces and militias recruited from local tribes.

Poorly trained and ill-disciplined paramilitary units and militias are particularly prone to violations of humanitarian and human rights law. This policy of "counter-insurgency on the cheap" pits local communities against each other, often in return for elusive promises of land or other rewards. It also adds to layers of grievances that frequently frustrate the most determined peace and reconciliation efforts.

Ethnic dynamics also have changed significantly. For example, the Misseriya Arabs, who traditionally supported the government, have grown increasingly frustrated with Khartoum's unkept promises. They no longer answer the government's calls to remobilize, and many are joining the SPLM-N and other rebels groups. Other communities in the peripheries are also much more divided in their support for the regime.

In a strategic stalemate, and unable, or unwilling, to attack fortified rebels units in the mountains, the SAF has resorted to bombing their positions with indiscriminate Antonov cargo planes and long-range artillery (SRF shelling on government positions is also killing civilians). Government forces also have resorted to a familiar pattern of striking at communities suspected of supporting the SPLM-N, so as to prevent them from living off the surrounding civilian population. Unable to farm, many civilians have been forced to flee, and those that remain are increasingly desperate. Greatly exacerbating the problem, and despite enormous international pressure, Khartoum is preventing most humanitarian access to rebel-controlled areas for fear it will indirectly benefit the insurgents. According to sources, the NCP is unwilling to make the same "mistakes" it made when it acquiesced to Operation Lifeline Sudan (OLS) in the South and the massive humanitarian response in Darfur that increased international monitoring of its activities and hence significantly limited its freedom

of movement. It should also be noted, there are troubling indications refugee camps in South Sudan are militarized.

At the moment, neither side is strong enough to win militarily. A negotiated settlement is the only viable solution. The Sudanese government's tactic, however, remains divide and rule, to cut individual deals with separate regions or rebel groups that perpetuate the status quo. On the contrary, the SPLM-N is insisting on an increasingly national agenda and a role its allies in the SRF. These widely diverging positions have led to an impasse in initial negotiations, including over a humanitarian ceasefire to allow in humanitarian assistance.

The Broader Political Context in Sudan

Despite multiple peace agreements, conflict continues to plague Sudan. Most analysts agree the main cause is the concentration of power and resources in the center, at the expense of the peripheries. The solution, acknowledged by many Sudanese in numerous meetings and agreements dating back to pre-independence, is a more inclusive government that addresses at least some of the peripheries' grievances, but repeated pledges to transform governance remain unfulfilled. A key hurdle -- though not the only one -- is President Bashir, who has further concentrated authority in a small circle of trusted officials, and despite promises he will not run for re-election in 2015 most likely will not step aside. Instead, many hope for regime change via coup, or popular uprising, but have not considered the danger that this could trigger even more violence.

Neither the 2005 Comprehensive Peace Agreement, nor Sudan's many other peace agreements (Cairo Agreement, East Sudan Peace Agreement, Darfur Peace Agreement and Doha Document for Peace in Darfur) have ended chronic conflict, because they were piecemeal deals and were only partially implemented. Often later agreements would shift power, resources and international attention away from earlier peace treaties. So for example, Darfur peace negotiations shifted international attention from CPA implementation, arguably a significant reason its democratization provisions languished and unity was not attractive to most Southerners. The 2006 Darfur Peace Agreement signed only by SLM-MM made Mini Minawi an impotent, but well compensated, senior assistant to the president, created the ineffective Transitional Darfur Regional Authority, and granted his movement a number of seats in the national and state assemblies, as well as a number of important posts in federal and state ministries. The view from East Sudan was that this agreement shifted promised power and resources from their region to Darfur, rekindling grievances that had triggered conflict there.

Paradoxically, piecemeal power-sharing arrangements, negotiated at different times with different rebel factions, often encourage further rebellion with the sole aim of obtaining more concessions from Khartoum (this also now happening in South Sudan). As troubling, negotiations that only partially address the political marginalization of the peripheries are increasing calls for self-determination. Government hardliners tend to believe that concessions on federalism and greater autonomy could lead to separatism, but they fail to recognize that their inflexibility is actually fueling demands for secession.

People from the peripheries complain bitterly of their political, economic and cultural “marginalization”. There are profound differences in development and service delivery and the regions’ natural resources mostly enrich elites in Khartoum, without them sharing power and redistributing resources.

Arguably the broadest agreement, the CPA was intended to establish a “democratic system of governance taking account of the cultural, ethnic, racial, religious and linguistic diversity” of Sudan, and to find a “comprehensive solution that addresses the economic and social deterioration of Sudan and replaces war not just with peace, but also with social, political and economic justice which respects the fundamental human and political human rights of all the Sudanese people”. The failure of the NCP and the Sudan People’s Liberation Movement (SPLM) to implement parts of the CPA, resulted in the country’s division, the spread of war in what is often called the “new South”, and, potentially, a war between Sudan and South Sudan.

The NCP stayed in power for so long because for more than fifteen years the regime, and its patronage system, was sustained by oil revenue from deposits in the South. Flush with money the government grew rapidly, creating lucrative positions the NCP could use to co-opt rebel and opposition leaders, and initiated many inefficient development projects. The economy became so dependent on oil revenue that it was hit very hard by South Sudan’s secession and the cut-off in oil production in early 2012.

Now the regime is in crisis. The economy is in shambles, and the recent, but uncertain, oil deal with Juba does little to reduce the pain for ordinary Sudanese. Members of the ruling party are deeply unhappy with the leadership, its policies, massive corruption, endless conflict, and the division of the country. Feuding NCP factions are jockeying to succeed Bashir, were he to step down, or at the very least dominate decision making. At the same time, political opposition forces are growing more assertive, and the slowly expanding war with the SRF, which now periodically strikes into the center, is bleeding the military dry and draining an already depleted treasury.

Calls for reform are growing, even within the NCP, but Bashir is a wily survivor and has survived multiple crises since he seized power in 1989. Although he has publicly stated he will not run for re-election in 2015, many doubt he will cede power for fear he will end up at the International Criminal Court in The Hague, where is indicted for war crimes, crimes against humanity and genocide. Instead, many hope a coup, or popular uprising could force Bashir and the NCP out, but there is a great risk this could trigger more conflict. The president frequently rotates military commanders, has deliberately fragmented the security services, which are loyal to different NCP leaders, and there are numerous armed tribes outside of Khartoum that could seek to take advantage of turmoil in the capital and further fragment the country.

A Libya-like scenario is a distinct possibility, and the regime has played up this possibility with its constituents in the center. So far, it has successfully cast the SRF as a group only representing the peripheries and inherently hostile to the interest of the people of the Nile

Valley. Conversely the SRF has done a poor job of reaching out to these people—in part because the SPLM-N was quickly banned as a political organization when the war restarted. The SRF did sign the “New Dawn Charter” with the official opposition in Kampala on 5 January 2013, which calls for an inclusive transition by coordinating violent and non-violent actions. The charter, however, was publicly repudiated by a number of opposition leaders, and it remains to be seen whether the armed and political opposition will find the means to coordinate effectively in the interest of peace rather than parochial gains.

The Role the US Can Play in Ending Chronic Conflict

The US government and its partners should learn the lessons of past failed settlement initiatives: Sudan needs a truly comprehensive peace agreement, not a partial settlement that serves the government’s divide and rule tactics and perpetuates the unacceptable status quo. (This is critical for a durable peace between Khartoum and Juba as well.) At the same time, it must be recognized the NCP needs to be part of any transition. As we have hopefully learned in Iraq, leaving the long-ruling party out in the cold would be costly. Its elites are too powerful to ignore, and the opposition is too divided and inexperienced to rule alone. A comprehensive solution and genuine political reform including national reconciliation acceptable to all, with the NCP on board, is the only way out of the trap of endless conflict.

The SPLM-N, united with the main Darfur rebel movements under the SRF, has more than ever a national agenda. But division remain between South Kordofan and Blue Nile, and within Blue Nile itself, over the national dimension of the conflict. Those differences are benefitting the government’s strategy to limit peace talks and subsequent agreements to local issues, in order to prevent reform in the centre. A separate deal on the two areas, or even Blue Nile, would also be easier for diplomats and international mediators, but a local deal is unlikely to address the root causes of the war in Blue Nile and South Kordofan, which are not different from those of the other regions’ conflicts.

Bashir and inner circle will have to reach their own conclusion that the present crisis requires more radical adjustments than those they used for survival previously. If they do, however, the international community should consider providing incentives. These should be carefully tied to Bashir and the NCP meeting specific, irreversible benchmarks, and verifiably continuing the transition process. Such cooperation might be unpalatable to many who hold Bashir responsible for atrocity crimes, but it would be necessary to prevent further conflict and continued humanitarian crises in Sudan as well as South Sudan. The president is crucial to a managed transition that incorporates both the NCP and opposition leaders -- civil and armed -- and that could put Sudan on a more inclusive, sustainable path. The alternative would be continuation of the status quo, with the NCP desperately clinging to power at whatever humanitarian cost, and the opposition pursuing a military strategy that risks more national fragmentation.

Crafting the right strategy and incentives will require bold leadership and careful coordination from the US government and its partners seeking to promote peace in Sudan. We urge you the administration therefore to appoint a strong Special Envoy for Sudan and

South Sudan and provide him or her with all the necessary support to develop and implement an international strategy to promote peace in both countries. That should include:

1. Working with members of the UN Security Council, the AU Peace and Security Council and Council of the League of Arab States for a single, comprehensive solution to Sudan's multiple conflicts that runs in parallel with the negotiations between Sudan and South Sudan but is not conditioned on them;
2. Urging the government to bring the NCP, the SRF, other opposition forces and civil society groups together in an arrangement to manage government for a limited period with well-defined parameters (based on agreed principles reiterated in previous multiple agreements over decades) that is intended to lead first and foremost to a comprehensive ceasefire and humanitarian access to conflict areas; and allow the political forces to flesh out a roadmap for a durable peace process, perhaps taking the 28 June 2011 framework agreement and the 24 April 2013 African Union High-Level Implementation Panel for Sudan (AUHIP) draft Declaration of Common Intent as a basis for discussion of a national transition that includes:
 - a. Debate and agreement on a system of governance that can end the conflicts between the "centre-Khartoum" and Darfur, South Kordofan and Blue Nile, as well as the East and North; and
 - b. Drafting of a permanent constitution.
3. Offering President Omar al-Bashir, as well as NCP elites, incentives to create a transitional government and firmly and irreversibly place Sudan on a transitional path, including:
 - a. Assistance to stabilise the economy, such as normalisation of relations, lifting of sanctions, expediting Highly Indebted Poor Country (HPIC) status and other debt relief measures, on condition that transition roadmap benchmarks are met and progress is made in negotiations with South Sudan on post-separation issues; and
 - b. If concrete moves towards a credible transition process are undertaken, and should it emerge as a genuine obstacle to its peaceful conclusion, a Security Council request to the International Criminal Court (ICC) to defer prosecution of Bashir for one year under Article 16 of the Rome Statute. There would be no obligation to renew such deferrals if Bashir reneges on his transition commitments.
4. Support, through training and capacity building, the establishment and growth of national parties that can represent and articulate the demands of marginalised constituencies, including population in the peripheries.