

**LANTOS COMMISSION HEARING ON SUDAN
TESTIMONY BY JOHN PRENDERGAST, ENOUGH PROJECT
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Congressman Pitts, McGovern, and other members of the Lantos Commission, thank you for the opportunity to testify on Sudan. The depressing truth is that an earlier Congressional hearing would have heard the same testimony about Darfur ten years ago, or about the Nuba Mountains fifteen years ago, or about civil society getting crushed by the Sudan government twenty years ago.

Just as tragically, the energy for an imaginative response to the unparalleled human suffering of the Sudanese people has dwindled over the years. In the context of protracted conflict emergencies, especially one like Sudan that has lasted for decades, it is not uncommon for the international community to slowly disengage. Officials claim – and seem to actually believe – that no leverage exists to alter the situation on the ground. Lifeless peace processes are given occasional CPR to maintain the appearance of movement. Critically needed humanitarian band-aids and sincere appeals to stop the killing become substitutes for a more muscular policy.

In Sudan, this dearth of imaginative policy options results from dealing with a brutal regime in Khartoum that for two and a half decades has maintained power through an unwavering commitment to the destruction of its armed and unarmed opponents. Meanwhile, the regime has exhibited an unbounded willingness to talk and negotiate, leaving everyone with the impression that the fundamental issues of power, wealth and identity of the country are indeed up for negotiation. The problem, of course, is that none of these issues are negotiable given the current calculations the regime has made. Therefore, the only way to support progress in Sudan is to alter those calculations.

After studying this regime for 25 years, it is my conclusion that the Khartoum government is most vulnerable to targeted, focused, relentless economic and financial pressure. Therein lies the greatest opportunity for American leverage to be deployed in support of peace and human rights in Sudan.

This is a time of increasing economic uncertainty for the government in Sudan. It has lost much of its oil revenue. The record \$8.9 billion fine against the bank BNP Paribas for its illegal sanctions-busting transactions with Iran, Cuba and Sudan demonstrated that pressure on the international financial system can have an effect on pariah states, even regimes that have been under sanctions for decades. In the wake of the BNP Paribas fine, some major Saudi and European banks stopped conducting transactions with Sudan.

But this is not enough. Despite sanctions, Sudan is exploiting loopholes and is still integrated to international banks through correspondent banking relationships and intermediary accounts. More enforcement is needed. We need to take this opportunity to double down on these kinds of economic pressures and connect those pressures to serious policy objectives in Sudan: an end to mass atrocities and a comprehensive peace agreement.

I would argue that the key point of leverage for U.S. policy is to cut off the Sudan government's economic lifelines and to protect the integrity of the international financial system from economic transactions that underwrite some of the worst human rights abuses globally over the last two decades.

I'd like to focus on two particular pressure points which, if utilized, could constrict considerably the resources available to the Sudanese regime and to create a cost for doing business with Sudanese government-related entities and individuals.

1. DESIGNATING SUDANESE GOLD AS CONFLICT-AFFECTED

When South Sudan won its independence in 2011, Sudan lost a significant chunk of its biggest source of foreign exchange earnings: oil revenues. As a result, gold has become the new oil for Sudan. The IMF estimates that 2014 gold sales, which amounted to 37 tons, earned the government \$1.17 billion. Much of that gold is coming from Darfur and other conflict zones where the government's consolidation of control over the country's gold mines has been fueled in part by violent ethnic cleansing in the gold mining areas by army troops and government-supported militia leaders. Gold mines have been both the site and object of conflict across Sudan, including in Blue Nile and South Kordofan. However, these dynamics are at their most visible and damaging at Jebel Amer, in North Darfur. There, Musa Hilal, a man who is best known as the vanguard for Sudan's genocidal Janjaweed forces, is now benefitting from burgeoning gold production. In early 2013, in an eerie echo of the past, his troops swept into the area, pillaged the artisan mining community, forced tens of thousands to flee for their lives, and dramatically altered the ethnic dynamics of the town. Those same forces continue to benefit from Jebel Amer's gold today since Hilal's Awakening Revolutionary Council taxes all gold from the area.

More problematically, since the government is the only legal gold exporter in the country, it buys up all production, even gold mined from Jebel Amer. Gold from conflict-affected mines mixes with other licit gold from industrial production at the Central Bank and the government-owned refinery. Since Sudan has not instituted any supply chain certification mechanisms or due diligence practices, once it gets to the Central Bank, there is no way to know whether gold from Sudan came from conflict-affected mines in Darfur or Blue Nile.

Proposed Congressional Action:

- a) Members of Congress led by members of this Commission should introduce a Congressional Resolution that spells out how Sudan's gold trade is conflict-affected and a major factor in destabilizing Darfur, especially in light of its connection to Musa Hilal, who is on the U.S. sanctions list. The Resolution could call on banks and gold refiners to red-flag Sudanese gold as high risk, and for gold industry associations to include Sudan as a high-risk country in their conflict-free audits, in order to ascertain what gold exports from Sudan are conflict-affected.
- b) Given the gravity of the threat that the gold trade presents, Congress should expand the scope of Sudan's sanctions outlined in the 2007 Darfur Peace and Accountability Act to specifically include provisions that would allow the imposition of sanctions on traders,

officials, and armed leaders benefitting from the conflict-affected gold trade from Darfur.

Proposed Executive Action:

- a) The U.S. Department of the Treasury should build dossiers for eventual sanctions designation on traders, companies, and/or officials who are specifically involved in trading conflict-affected gold from Darfur. Under Executive Order 13400, anyone who constitutes a threat to the stability of Darfur and the region can be sanctioned.
- b) The U.S. State Department should urge the U.A.E. to tighten its import controls on gold from Sudan. Specifically, the government and the Dubai Multi-Commodities Center should require that any imports from Sudan are documented with invoices stating consignees, certificates of origin, and proof of original export taxes paid. Also, U.S. diplomats should urge the UAE to eliminate the hand-carry rule that allows smugglers to carry in large amounts of gold with limited scrutiny.
- c) The State Department's Bureau of Economic and Business Affairs should urge the OECD Multi-Stakeholder Group on Responsible Mineral Supply Chains, the Conflict-Free Sourcing Initiative, the London Bullion Market Association, and the Responsible Jewellery Council to make sure that their various auditors designate Sudanese gold as high-risk when conducting conflict-free audits. Given the consolidation of all gold mined in Sudan by the Central Bank, all exports coming from the country should be considered high risk for connections to conflict at present.

Proposed Industry Action:

- a) Industry auditors from the LBMA, RJC, and CFSI should red-flag Sudan gold exports as conflict-affected during conflict-free audits, and require refiners to conduct additional due diligence and trace all gold coming from Sudan to its mine of origin to ensure that such purchases are not inadvertently fueling war in Darfur, Blue Nile or South Kordofan. The gold industry's existing responsible sourcing auditing programs are attempting to address conflict-affected supply chains from the Democratic Republic of Congo. The same scrutiny should be applied to Sudan. This would thereby reduce the market value that any conflict-affected Sudanese gold can command.

2. ENHANCING SANCTIONS ON MIDDLE MEN AND ENABLERS

Sanctions have been unevenly imposed by the international community and have not been enforced sufficiently to have a significant impact on calculations of senior officials within the Sudanese regime. The United States and other countries should significantly enhance enforcement efforts as a means to pressure Khartoum on human rights and peace issues. Most importantly, the next wave of U.S. sanctions should target the facilitators and enablers who underpin the movement of funds on behalf of the regime. This would include Sudanese banks and international banks that do business with them directly or indirectly through correspondent banking relationships. The recent fine on BNP Paribas is a model.

Proposed Legislative Action:

- a) Support the Global Magnitsky Human Rights Accountability Act to ensure that those who are guilty of human rights abuses and facilitate the proceeds of corruption on behalf of the Sudanese regime are denied visas to the United States and have their assets frozen. With the Magnitsky Act, the scope of predicate offenses for an asset freeze or travel ban designation against bad actors in Sudan will be expanded significantly.
- b) Support legislation to increase corporate transparency to ensure that information about the ultimate owners of companies – particularly the beneficial owners of shell companies – is known. Such legislation would enable law enforcement to more effectively and efficiently conduct investigations to combat terrorism and financial crimes, as they would have access to important information about the ultimate owners of companies. These shell companies are also abused by corrupt officials who undertake financial dealings with the Sudanese regime.
- c) Codify expansion of existing sanctions in the Grave Human Rights Abuses via Information Technology Executive Order to cover Sudan, thereby extending U.S. jurisdiction to cover foreign persons who have facilitated deceptive transactions for or on behalf of the government of Sudan as it seeks high-tech tools to spy on its own people.

Proposed Executive Action:

- a) Urge administration officials at the Treasury to allocate resources to increase Sudan sanctions enforcement capacity. It is essential to increase enforcement actions by the U.S. government under existing Sudan sanctions authorities against banks, middlemen and other enablers of conflict