



Open Letter on Enhancing U.S. Policy towards Sudan and South Sudan
April 29, 2014

Dear Secretary John Kerry, Ambassador Susan Rice and Ambassador Samantha Power,

Although attention is focused on the crisis in South Sudan, the conflicts in *both* Sudan and South Sudan are widening and deepening rapidly. State collapse is possible in South Sudan, while pockets of famine and genocidal targeting are threatening in both countries, with the economic base provided by oil revenue for both countries at severe risk. Intensifying wars unfolding in both countries are pulling neighboring states deeper into the conflict, from the Sahel to the Horn to East Africa. Sudanese militias are contributing to regional instability and violent wildlife poaching in neighboring countries, and Khartoum's continued engagement with Tehran is worrisome. South Sudan's war has pulled in a variety of actors from Sudan, threatening to provoke greater conflict between the two Sudans and undermining prospects for peacefully settling the status of the disputed region of Abyei. Even the Lord's Resistance Army has found sanctuary in South Darfur, frustrating U.S. and regional efforts to apprehend Joseph Kony. While the political analysis differs in both countries, the continuing linkages in the current context make any virtuous cycle in either country dependent on a virtuous cycle in both.

In that context and given the threats posed on a number of levels to human and regional security, the undersigned call on the United States to enhance its policy towards Sudan and South Sudan in three common areas, with obvious differences between the two countries:

- a) Promote Accountability: Build leverage in the peace processes by creating a coalition of countries and international institutions to impose consequences on government or rebel actors in each country that orchestrate war crimes or obstruct humanitarian aid, including freezing assets in neighboring countries and intensifying efforts at legal accountability
- b) Support Peace: Deepen diplomatic engagement in support of comprehensive peace processes in both countries
- c) Foster Democracy: Support transformational political reform through increased international support to independent voices and inclusive processes of constitutional reform and electoral transparency in both countries

Past U.S. leadership has yielded positive results in the Sudans. Going back to 1989, strong U.S. support for a UNICEF-led diplomatic effort yielded a humanitarian access agreement in Sudan that prevented mass famine. U.S. leadership in the mid-1990s in the UN Security Council

contributed to Khartoum's ending support to a number of terrorist organizations. U.S. diplomacy was instrumental in securing the Comprehensive Peace Agreement (CPA) that ended Sudan's north-south war in 2005 and ensured South Sudan's peaceful independence referendum in 2011. U.S. diplomats made an important contribution to negotiations that helped restart the flow of oil and secure bilateral cooperation agreements in September 2012.

These past successes point toward increasing the current U.S. level of engagement at this critical moment. The U.S. must do more to change the current international strategy in Sudan that stovepipes conflicts in Darfur (where levels of violence not seen since the height of the genocide have returned), South Kordofan, Blue Nile, and Eastern Sudan, playing into the regime's divide-and-conquer strategy. In South Sudan, the U.S. has not yet achieved the regional and broader international coalition to create leverage significant enough to affect the calculations of the warring parties or slow down the fighting. One U.S. envoy and a small office are not sufficient to undertake the requisite diplomatic imperatives in both countries. Furthermore, the resources necessary to track assets through the Treasury Department and to provide the needed support to civil society and opposition through State and USAID are plainly inadequate. Any robust policy that would be designed to meet these objectives is set up to fail because of a lack of implementation capacity.

The following elaborates on potential U.S. and multilateral policy enhancements in support of accountability, peace, and democracy that we believe could make a catalytic difference in both Sudan and South Sudan.

(1) Promote accountability and consequences

In order to impact the calculations of the warring parties in both countries, the U.S. must invest much more deeply in cultivating coercive influence. This involves a mix of countering sources of support for the Sudanese government's military efforts, strengthening efforts at legal accountability for individuals in both countries implicated in war crimes, and seizing assets and banning travel of rebel and government officials obstructing aid and overseeing grave rights abuses in South Sudan and Sudan.

In South Sudan, the key to increasing international leverage at the peace talks will be for the U.S. to work closely with regional states to freeze or seize assets of senior government and rebel officials implicated in atrocities. Most South Sudanese elites keep their assets in Kenya, Ethiopia, Uganda, South Africa, or Dubai. Many also hold dual citizenship and have their families in Canada and the US. Biting sanctions are both a carrot and a stick – they change the cost benefit analysis on both sides. Seizing houses, freezing accounts, and limiting or ending the travel and residence of family members would quickly alter the landscape. Information collected from previous UN investigations and human rights reporting combined with the report of the

UN's special investigations team responding to mass atrocities in Bentiu, as well as UN investigations of the attack at Bor and other locations, could be used as a strong basis for targeted sanctions on individuals, either through a joint action by countries where the assets exist or through international institutions.

The U.S. could expand efforts in this area if Congress made further resources available for the Treasury Department's Office of Foreign Assets Control (OFAC), tasked with implementing targeted sanctions directives. Currently, OFAC does not have the staff to carry out all of the responsibilities that have been assigned to it, including Russia, Syria, and Iran, as well as Sudan itself. We doubt it is feasible to launch a major investigation of South Sudan's assets in the region or more fully engage on Sudan sanctions. More staff is imperative for meaningful sanctions efforts in a number of these countries, particularly South Sudan. The Administration should in the short-term reprogram funds towards OFAC, and seek additional funding from Congress for the next fiscal year.

In Sudan, cash-strapped and dollar-starved, Khartoum sees gold in part as its new oil. The government has centralized most gold trade through a state-owned refinery, so a multilateral commitment to target the Sudanese government's economic lifelines should label Sudan's gold from Darfur as "conflict-affected." Gold from North Darfur was mined in an area subjected to major state-sponsored violence that resulted in government expropriation of the mining areas. The U.S. should actively encourage the U.N. Sudan Sanctions Committee to expand the U.N. travel ban and asset freeze list to designate other targets involved in international crimes, including the National Intelligence and Security Services (NISS), the Rapid Response Forces (Janjaweed militias reconstituted by the government), ICC indictee Ali Kosheib, the Central Reserve Police, and Sudanese businesses directly associated with the Sudanese security forces responsible for human rights abuses. The U.S. government should continue its efforts to oppose debt relief for the Sudanese government as long as its wars continue and democratic reforms are obstructed. Finally, the U.S. government should work with like-minded countries to engage Qatar and other countries to cease any direct budgetary support to Khartoum, as well as make the diplomatic shift described below. The Emir's recent trip to Khartoum and the reported contribution of \$1 billion was a setback to this approach and needs to be addressed immediately. A renewed push for those wanted by the ICC would also affect calculations. The United States should urge the ICC to expand the scope of its existing crime monitoring and investigations, in light of the serious violence that seized Darfur this past year. Numerous sources have confirmed that Ali Kosheib, an ICC indictee, appeared at the scene of crimes in Darfur. An amended warrant referencing recent crimes will underscore the urgency of arrest.

Finally, President Obama should extend the Grave Human Rights Abuses Via Information Technology executive order to include Sudan. As a consequence, foreign persons who have facilitated deceptive transactions for or on behalf of persons subject to U.S. sanctions

could also face sanction. This executive order has already been successful in limiting the transfer to abusers of information and communications technology to facilitate computer or network disruption, monitoring, or tracking that could assist in or enable serious human rights abuses in Syria and Iran. The Citizen Lab, based at the Munk School of Global Affairs, reportedly found three American-made devices used for Internet monitoring in Sudan.

(2) Deepen diplomatic engagement for comprehensive peace

U.S. policy has lashed Sudan and South Sudan together diplomatically by virtue of naming one special envoy to both countries. We believe the enormity of the crisis in both countries requires someone of stature leading efforts on South Sudan and another official leading the efforts on Sudan. In order for U.S. Envoy Donald Booth and another senior official to stand a chance of success in promoting U.S. objectives, they would need two full-time teams composed of experts and seasoned diplomats focused on building more effective peace processes for both countries and the leverage to move them forward.

In Sudan, peace talks between various rebel movements, civil society actors, opposition parties and the ruling National Congress Party must be unified together in a single framework focused on a peaceful, negotiated and inclusive transition. The African Union's High Level Implementation Panel on Sudan and South Sudan (AUHIP), which already embraces democratic transformation in Sudan as an element of its mandate, should lead this effort. However, to succeed, the AU will need much greater international diplomatic support, additional financial assistance and technical support. Just as the "Troika" supported the discussions leading up to the CPA, a new contact group of five countries — the U.S., UK, Qatar, Ethiopia, and China — could create a "Quintet" to play a central role in backing the AUHIP in building this process.

In South Sudan, a long term peace strategy potentially involves multiple layers: intra-ruling-party talks, ceasefire negotiations, an inclusive peace process addressing root causes, a constitutional review process, and a grassroots national reconciliation initiative. This will require expanded representation by U.S. diplomats and experts to promote maximum inclusivity.

U.S government interactions with a diverse subset of Sudanese and South Sudanese youth, civil society and opposition actors must be deepened and made more systematic. Regionally, the U.S. must work more systematically to support neighboring governments' efforts to promote solutions in both countries. Internationally, the U.S. needs to lead the effort to build multilateral leverage to support peace initiatives in Sudan and South Sudan. Illustratively, both conflicts provide an opportunity for the United States and China to work more closely together with attendant benefits for the Washington-Beijing relationship.

(3) Increase support to civil society and others working for democratic transformation

The conflicts in Sudan and South Sudan are rooted in part in demands for genuine transformative political reform: for a dismantling of the decades-long authoritarian system in Sudan and for realization of the inclusive, democratic system envisioned by most South Sudanese at independence. Increased support should be channeled to groups, parties, movements and individuals best positioned to support such reform.

In Sudan, it is essential for the U.S. to find ways to build the capacity of disparate opposition elements, while being sensitive to the unique operating constraints in Sudan. The U.S. should also increase diplomatic efforts, including through international human rights bodies, to hold Khartoum to account for its ongoing closure of political space and crackdown on civil society and independent media.

Significantly expanded support for independent radio and television outlets could help pry open political space in the country. Sudanese people remain constrained by narrow interpretations of U.S. sanctions laws, which prohibit them from downloading and using potentially catalytic technologies. The administration should expand the existing General License D-1, currently applicable to Iran, which would free access to non-sensitive but improved information and communication tools to Sudanese groups seeking democratic change. Facilitating increased access to publicly available information and communication tools to those promoting change while further curtailing access to sophisticated tools to the Khartoum regime and its allies as described above will send a powerful message to those who are seeking transformational political change in Sudan.

Finally, while the January 2013 New Dawn Charter and the September 2013 Sudan Change Forces Communiqué both represent important steps towards building greater cohesion among Sudan's plural-minded opposition, those working for change within Sudan will require more assistance and encouragement as they come together to develop coherent political platforms and work for peaceful change. They will need more assistance to find ways to do that.

For South Sudan, increased support to civil society requires both high level diplomatic outreach to secure civil society and unarmed opposition a place at the negotiations and support for capacity building, mediation skills, and leadership training so that they might participate effectively. In particular, women, youth and traditional leaders at the grassroots level need to be supported and engaged to be part of the multiple peace tracks.

The U.S. cannot positively influence outcomes in Sudan and South Sudan without fundamentally recalibrating its policy approach. We hope our ideas spark discussion, debate, and new action, and look forward to meeting with you and your representatives in the near future to continue this conversation.

Sincerely,

John Prendergast
Co-Founder
The Enough Project

David Abramowitz
Vice President of Policy and Government
Relations
Humanity United