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Avoiding Total War in Sudan

The Urgent Need for a Different U.S. Strategy

John Prendergast September 2009

This is the fourth installment in a series of open letters to President Obama spelling out a practical roadmap to end the crisis in Sudan

The Obama administration has almost completed its policy review on Sudan. There is, however, a major problem with the administration's emerging policy: while an internal U.S. government agreement on tactical pressures and incentives has been reached, the broader diplomatic strategy through which these pressures and incentives will be enforced is fundamentally flawed.

It is increasingly evident that the ruling National Congress Party, or NCP, is eager to undermine the guarantee of a self-determination referendum as spelled out in the 2005 Comprehensive Peace Agreement, or CPA, which ended the devastating North-South civil war. Left unchecked, the NCP's behavior will trigger a return to war in the South and make it all the more difficult to resolve the still simmering crisis in Darfur.

There is a developing pattern of evidence—in the context of a two-decade track record—that the NCP is arming ethnically based militias to destabilize the South, and the U.N. has noted the presence of increasingly modern and high-powered weaponry in recent clashes. An upsurge in violence by the Ugandan Lord's Resistance Army, which the regime consistently used as a proxy during the earlier civil war, worsens an already grim picture for civilian populations and for stability in the South. Reluctance by the NCP to implement key provisions of the CPA has added to the general aura of instability and lies at the heart of many of the current problems. In Darfur, the peace process is dangerously adrift despite a lull in recent violence, millions of people still cannot return home, and it only remains a matter of time before the situation again erodes.

Against the backdrop of this gathering storm, and after a lengthy review of its policy toward Sudan, consensus has formed within the Obama administration around a basket of pressures

and incentives that would be utilized in support of peace, including significant consequences for undermining peace and attacking civilian populations. The approach is generally in line with what the Sudan activist community has advocated since President Obama's election.¹ There is, however, a major problem with the administration's emerging Sudan policy: while an agreement on tactical pressures and incentives has been reached, the broader diplomatic strategy through which these pressures and incentives will be enforced is fundamentally flawed.

Regarding the South, the current U.S. diplomatic strategy is making peace more difficult by opening the door to a renegotiation of key aspects of the CPA's implementation through the current tripartite talks. **The U.S. diplomatic strategy should instead refocus on strict adherence to the CPA, particularly the provisions associated with preparations for the referendum for southern self-determination, and ensure that there will be consequences for any actions by the parties that undermine the CPA—either through non-implementation or by the arming of ethnic-based militias.**

Regarding Darfur, the current U.S. approach is inadvertently leading to further divisions among rebel factions in Darfur and lacks an endgame focused on specific proposals that will result in a lasting peace. **Instead, the U.S. must adopt a diplomatic strategy that puts the horse before the cart in Darfur by developing a draft peace plan that is backed by the diplomatic structure and leverage necessary for success.**

Once the diplomatic strategy for both the CPA and Darfur has been corrected, the administration's consensus around the tactical incentives and pressures in support of peace efforts in both Darfur and southern Sudan can provide helpful leverage for the success of the strategy.

This short policy report will attempt to explain how these damaging approaches in Darfur and the South are playing themselves out now on the ground, and what can be done now to limit the damage and enhance prospects for success. In the interests of full disclosure, we should note that we have maintained a robust dialogue with U.S. Special Envoy Scott Gration, provided technical support to some of his efforts, and plan to continue to do so as long as that assistance is welcomed and productive. But we feel it is urgent to point out the problems in his existing diplomatic strategy in both Darfur and the South, in the hopes that changes can be made at once, before more damage is done.

The Enormous Human Stakes

The human stakes in Sudan have few parallels globally. The genocide in Darfur and the 20-year North-South war have collectively claimed over two and a half million lives. The worst could yet be coming. The real possibility exists today for a descent toward national war and fragmentation of the country as it moves toward a referendum on southern independence in 2011. With conflict prevailing in Darfur, violence rapidly increasing in the South, tensions in the North-South transitional zone known as the Three Areas escalating, and dissatisfaction in the East increasing, all the warning signs for a much broader conflict are now present.

It appears there is a fundamental misunderstanding of the dynamics of war in Sudan and the nature of the NCP within the broader diplomatic community, particularly among those who are relatively new to the portfolio. The reports of an end to the war in Darfur are premature, and the similarity

between the upsurge in violence in the South now and the 2002 pre-genocidal violence in Darfur is striking. Why? The NCP has shifted its attention from Darfur to the South, not only because it cannot sustain a two-front offensive at the same time in both places, but because of the enormous implications of potential southern independence. When there is a lull in major offensive military action in Darfur, as we are seeing now, there is a predictable upsurge of violence in the South, thanks to NCP-sponsored militia attacks. The NCP continues to use ethnic divisions and violence as a primary instrument of their strategy to remain in power, and this will inevitably lead over time to renewed debate about further war crimes, crimes against humanity, and genocidal intent.

In Darfur, nearly 3 million people remain in displaced or refugee camps, unable to go home because of government-supported violence and land occupations that target people on the basis of ethnic identity. These displaced and refugee populations face the constant threat of systematic rape by government-sponsored militias, as well as disruptions of lifesaving aid by NCP leaders and attacks on aid convoys by Darfuri rebel groups, including splinter rebel factions sponsored by the NCP, which themselves engage in banditry and reinforce anarchic conditions.

The Problem with America's Diplomatic Strategy

North-South: We believe the actual substance of the U.S. diplomatic strategy is fatally flawed and is failing to halt the accelerating slide back to North-South war.

Rather than working to create multilateral consequences for the NCP's effort to obstruct full implementation of the painstakingly negotiated CPA, U.S. diplomatic engagement instead has inadvertently led the NCP to believe it can renegotiate specific elements of the CPA and avoid honoring agreements or sharing power. The NCP is demanding further negotiations on post-referendum arrangements as a prerequisite to implementing existing CPA provisions connected to the referendum, including the Referendum Act. The NCP is cleverly exploiting the U.S. willingness to enter into an open-ended dialogue through the tripartite talks. Throughout its two decades-long history as the ruling party in Sudan, the NCP (formerly the National Islamic Front) has signed agreements and deliberately slow-rolled and obstructed their implementation to maintain its hold on power. With a tight timetable on CPA implementation, renegotiation is an obvious delaying tactic that the U.S.—as the principal third party—cannot countenance.

A case in point is the census. An accurate and fairly conducted census is the foundation for holding meaningful elections, a cornerstone of the CPA. The census conducted by the NCP in the North was a travesty, and without a doubt intentionally so. Yet, the NCP has not suffered any consequences for that egregious act of bad faith. Rather, the results have been treated as a matter for negotiation. The NCP has ignored almost every measure within the CPA that would have allowed for greater individual rights or resulted in genuine democratic power-sharing.

With the Obama administration's policy review nearing completion, the decision on when to generate and deploy multilateral pressures and incentives will be an essential determinant of success in Sudan. This is not an abstract question; it is an urgent imperative. The continued lack of consequences and failure to hold the opponents of peace to account has emboldened the NCP to continue its policy of divide-and-destroy through the provision of weapons to ethnic-based southern militias, the same approach it took with the *Janjaweed* in Darfur and the *Murahaliin* in the North-South war in the 1990s. As the NCP was negotiating with the U.S. in Juba recently,

militia violence against civilians—including deliberate murder of women and children—was escalating dramatically, with little or comment on culpability by the United States. The NCP's resumption of support for southern Sudanese proxy militias and its continued refusal to implement key provisions regarding the border and elections are a deliberate attempt to undermine southerners' right to vote in a self-determination referendum in January 2011. Without strong, multilateral consequences to this behavior, a return to war in the South is certain, and the dissolution of Africa's largest country will be steeped in bloodshed. This is not to excuse the Government of Southern Sudan for its shortcomings, particularly with regard to civilian protection, but the NCP's current approach is clearly a recipe for war.

Darfur: Very few Sudanese, international officials, or activists believe the Darfur peace process, as presently constructed, will produce a viable peace agreement. Therefore, absent significant alterations, more work in support of the existing approach will only lead to further failure, and recognizing the inherent limitations of the current approach is vital to building an effective process.

The deficiencies and misdirection of the process include the following:

- **Lack of concrete peace proposals:** The issues that matter to the people of Darfur are clear and include an internationally monitored plan to dismantle the Janjaweed and other militia structures, genuine power sharing at the local and national level, individual compensation for the victims of the genocide, and support for the reconstruction of destroyed communities and livelihoods. After nearly three years of endless discussion, the A.U./U.N. mediation has not put forward substantive proposals over which the parties can begin negotiations.
- **A rebel unification effort that could increase inter-communal violence:** Successive mediators and other external actors have attempted unsuccessfully to forge unity within the Sudan Liberation Movement/Army and other smaller rebel groups. The current U.S.-led effort is making the mistake inadvertently of anointing new leadership from the outside rather than supporting the conditions within which the rebels can self-select their leaders. This approach could unwittingly increase divisions amongst the Fur, the largest ethnic group in Darfur, and between the Fur and other marginalized communities. Negotiators can help Darfuri rebels and civil society reach agreement in their demands rather than trying to micromanage the organizational structure and leadership of rebel groups—which almost never ends well.
- **Misguided reliance on the 2006 Darfur Peace Agreement as a starting point for talks:** Rebel groups and the people of Darfur rejected the DPA, and the agreement of only one rebel group worsened divisions within the rebels and led directly to increased violence in Darfur. Some elements within the DPA could be recycled in a new peace deal, but simply amending the DPA or attaching an annex will lead to an early stalemate in negotiations.
- **Lack of coordinated high-level support:** The high-level diplomatic support of the “troika”—the United States, the U.K., and Norway—was the key element of success in the process that produced the CPA. No equivalent body exists for the existing Darfur peace process to provide leverage and direct diplomatic support.
- **No leverage in the form of multilateral carrots and sticks:** The troika backed the mediator in the CPA talks with focused leverage to nudge the parties toward a deal. The multilateral carrots and sticks necessary for peace in Darfur have not yet been constructed.

- No structured participation of civil society groups: Lack of civil society participation in the process that failed to achieve a settlement in 2006 was a major structural deficiency. There is no mechanism yet for civil society to participate meaningfully in the existing Darfur peace process. An effort to organize civil society participation by Mo Ibrahim was blocked by the NCP, with no consequence.
- The imposition of a deadline for a Darfur agreement based on the electoral timeline: The current U.S. strategy seeks to secure a peace agreement quickly in order to allow Darfuris to participate in national elections next April. This may seem like a logical approach given the role that Darfuris should play in electing their leaders, but it simply won't work as advertised for several main reasons. First, the rush to reach a peace deal on a deadline will almost inevitably lead to a flawed agreement. This was the case at the talks that resulted in the DPA; the Sudanese government made few concessions and the international community resorted to bullying tactics to press rebel groups to sign. Second, the compressed timetable for elections preparation, failure to conduct a census in Darfur, continued violence and intimidation by militia, and NCP dominance of the media and other state organs virtually ensure that an election in Darfur will not be seen as credible by many residents and thus could be a catalyst for further violence. It is almost impossible to imagine a free and fair election taking place in Darfur in April of next year, and the international community needs to have the courage to acknowledge this fact. Third, the electoral process could perversely consolidate ethnic cleansing in Darfur. Many Darfuris—particularly those who have been driven from their homes and their land—feel directly threatened by the voter registration process. Under Sudanese land laws, registering as a resident of a camp for displaced persons could cause the victims of the genocide to lose the legal rights to their abandoned property.

U.S. Policy Changes Needed Urgently

We believe the following alterations should be made in U.S. policy. These shifts require urgent intervention by key Cabinet officials with long histories of speaking out on Sudan, including Vice President Joe Biden, Secretary of State Hillary Clinton, and U.S. Ambassador to the U.N. Susan Rice.

North-South: President Obama must be unequivocal in publicly supporting the strict implementation of the CPA, and strong condemnation of NCP support for ethnic-based southern militias aiming to undermine stability in the South in advance of the referendum. The president should state clearly his support for the referendum as the cornerstone of the CPA, and thus of maintaining the peace. President Obama should direct Special Envoy Gration, Secretary Clinton, and Ambassador Rice to forge an international coalition that constructs a set of genuine consequences for the NCP's obstruction of the CPA and its use of proxy ethnic militias and the Lord's Resistance Army in the South. The same consequences should apply to the Sudan People's Liberation Movement if it undermines the peace process in any way. These consequences must include tougher economic sanctions targeted at senior regime officials and affiliated businesses, increased diplomatic isolation, an expanded arms embargo, and increased support for the work of the International Criminal Court in Sudan.

Twenty years of empirical evidence regarding the NCP suggests this course will be the most effective. A diverse set of meaningful pressures combined with deeper engagement led directly to the 2005 Comprehensive Peace Agreement, the end of government-sponsored slave raiding

by the *Murahaliin* and aerial bombing by the regime's air force in the South during the 1990s, and the diminishment of the regime's once prominent role in supporting international terrorist organizations.

Darfur: The United States must urgently lead in the formation of a group of concerned nations that can offer sustained, high-level support and leverage to peace talks that would be revitalized by the rapid development of a draft peace plan that addresses the core issues of the conflict. Direct U.S. backing of and involvement in these negotiations will be a prerequisite for their success. From day one of this revitalized peace process, the United States must ensure the meaningful involvement of Darfuri civil society groups and displaced camp residents in all negotiations.

In previous reports, we have spelled out in detail the substance of such a draft peace proposal, given that it is widely known and understood what Darfuri residents of the displaced and refugee camps believe constitute a just settlement of the conflict. The appropriate structure to support such a proposal is urgently needed, perhaps mirroring the successful model constructed for the negotiations leading to the CPA. Equally urgent is the diplomatic work that must be done in New York at the U.N. and in key capitals putting together a coalition of countries willing to utilize robust pressures and incentives in support of the process in a nimble, principled fashion. When necessary, the U.S. must be prepared to act alone or with a smaller sub-set of countries willing to work more urgently for peace in Darfur. If such a proposal, structure, and leverage existed that inspired the confidence of the people of Darfur, reluctant rebels such as Abdelwahid Nur would either join the process out of concern of being left behind or be rendered irrelevant by the hope engendered by the prospect of a real solution.

Given the range and complexity of the issues involved, additional staff should be assigned to the Sudan portfolio on both Darfur and the CPA, particularly field-based staff. Additional staff should be seasoned diplomats with relevant experience.

The Genocide Legacy

This debate isn't just about U.S. policy toward Sudan. President Obama's handling of this crisis—one which he characterizes as genocide with respect to Darfur—is being watched around the globe, including the darkest corners where people without conscience may be planning the next genocide or mass atrocity. As South Sudan slides back toward war, and the stakes grow higher still, the world waits for President Obama's response.

Endnotes

¹ Since President Obama was elected in November 2008, Enough, the Genocide Intervention Network, and the Save Darfur Coalition have released a series of open letters to the Obama administration outlining the Sudan activist community's policy recommendations. See "[President Obama and Sudan: A Blueprint for Peace](#)" (April 2009), "[President Obama's Immediate Sudan Challenge](#)" (January 2009), and "[Letter to President-Elect Barack Obama: A Peace Surge for Sudan](#)" (November 2008) to read the activist community's recommendations to the Obama administration on how to end the crisis in Sudan.