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“Sudan: Human Rights and Sanctions”

Co-Chairs McGovern and Hultgren, members of the commission, thank you very much for your ongoing commitment to the people of Sudan. Thank you for examining Sudan’s human rights record in the time that has passed since U.S. sanctions were eased in January 2017. Thank you for giving me the opportunity to describe the urgent human rights crises that continue to make life a living hell today for my family and friends in Darfur and for the many people whose existence is under siege today in so many different parts of Sudan.

On January 13 of this year, the Obama administration conditionally eased almost all U.S. sanctions on Sudan, claiming that the Sudanese government had made improvements in five tracks* and arguing that the easing of sanctions would create incentives for the Sudanese regime to further improve conditions.¹ There are three major problems with the Obama administration’s executive order to ease sanctions. First, it removed one of the greatest sources of leverage the U.S. government has to achieve its policy objectives with Sudan—at a time when the sanctions were beginning to work more effectively. Second, the executive order was issued at the end of the Obama administration’s tenure in office, and the Trump administration has not put in place the personnel needed to properly track and make use of the potential opportunity provided by the conditional easing of sanctions. Third, the Sudanese government had not made such meaningful progress on the five tracks to warrant an easing of sanctions, and the Sudanese government has not made further progress to justify further easing or lifting of U.S. sanctions.

Conspicuously absent from the five tracks were (1) improvements of the internal human rights situation in Sudan; and (2) the Sudanese government’s engagement in a genuine comprehensive peace effort to permanently end Sudan’s conflicts in South Kordofan, Blue Nile, and Darfur.

This was a deeply flawed policy decision, in both design and execution. The five tracks lacked two vitally important elements. The easing of sanctions undermines U.S. foreign policy objectives and gives away the one point of U.S. leverage for nothing beyond potential short-term

* The five tracks were (1) de-escalation of the violence in conflict areas; (2) improving humanitarian access to populations in need within these areas; (3) refraining from destabilizing the peace process in South Sudan; (4) cooperation in containing threats from the remnants of the Lord’s Resistance Army (LRA); and (5) supporting the U.S. counterterrorism efforts.

counterterrorism gains. The decision does nothing to address the structural issues in Sudan that have led to war, dictatorship, and further repression of many groups.

To pursue a more constructive approach with Sudan, U.S. policymakers should implement anti-money laundering measures and a modernized sanctions program that is targeted and robust enough to fundamentally change the calculations of Sudan's ruling elite. U.S. leaders should create leverage to support revitalized efforts to bring armed and unarmed Sudanese parties together to end the war, create a new constitution, and construct a viable path to a more representative, inclusive, transparent government.

Bipartisan congressional leadership has always been essential in helping to shape U.S. policy with Sudan. Congress can now lead again in supporting new legislation that restores U.S. leverage with the Sudanese leadership through the use of financial pressure tools, particularly anti-money laundering measures and modernized sanctions, to support a revitalized comprehensive peace process in Sudan. Congress can also ensure that the Treasury and State Departments, along with other government agencies that administer sanctions and anti-money laundering statutes and programs, have the resources they need to prioritize implementation and enforcement of these financial pressure measures.

U.S. sanctions on Sudan: The effect and the regime's story

The United States imposed sanctions on Sudan in November 1997 with Executive Order 13067 in response to the Sudanese regime's support for international terrorism.² Executive Order 13067 also justified sanctions on the basis of the "prevalence of human rights violations, including slavery and the denial of religious freedom."³

At this time last year, U.S. sanctions on Sudan and tighter sanctions enforcement globally had managed to help financially isolate the Sudanese regime and increase the pressure it was under to make concessions in return for financial relief. Sudan had become financially isolated because international banks were becoming clearer and more rigorous in ensuring they were not doing any business with Sudan. These financial institutions wanted to limit their exposure to risky accounts after they had to pay heavy fines for sanctions violations involving both Iran and Sudan. They had had to pay \$8.9 billion in 2015 in the well-known case of BNP Paribas.⁴ Banks wanted to avoid accounts and parties that might also be involved with money laundering. As banks pulled away, the top military, security, and civilian officials associated with the regime in Khartoum felt the chill in their commercial activities, investments, and finances.⁵ Sudan's top leaders could not as easily access accounts and hard currency to do business. They struggled more to access the cash that enriches them and helps fund horrific violence against Sudanese people.

This increased pressure was a good thing. This regime does not spend the public's money on the public—for healthcare, education, and other badly-needed services. The regime spends most of the public's money on itself or the military. It spends around 75 percent⁶ of the public's money on war and weapons, like the 170 Russian T-72 tanks it reportedly purchased last September to supplement its other 465 tanks,⁷ that can be used to pulverize communities in the periphery.

The regime spun the story about the terrible conditions within Sudan not as a consequence of its own violent and kleptocratic abuse internally but as an effect of sanctions. Nothing could be further from the truth. But the regime still managed to win that message. It got what it wanted in January and now it expects to clinch the deal for good in July when the sanctions framework can be fully eliminated.

Daud Kodi, a student in Kauda, in the Nuba Mountains said it best at the time: “Khartoum is very clever in dealing with the international community.” “With the lifting of sanctions, [the Sudanese government] will be able to access more hard currency so they can focus on buying weapons for warfare, instead of buying medicine for the people.” ... “How can you lift sanctions because Khartoum has ‘improved?’ Where is the improvement here?” “That is just improvement via the media, but it is not the case on the ground.” A shopkeeper named Haron agreed, adding, “You cannot really trust the Sudan government, unless there are pressures put over them.”⁸

As my friend Nagwa Konda, a civil society leader, has said, “Every Sudanese living in Sudan knows exactly the atrocities the government of Sudan is committing against their own people.” [...] “Sanctions are the only international recognition of the misbehavior of the government of Sudan, especially in the Nuba Mountains and southern Blue Nile.”⁹

My fear, and the fear shared by so many of us is this: the United States has offered rewards to the Sudanese regime instead of using its leverage to check the regime’s deadly, self-serving activities that threaten the lives of Sudanese people in many, many places.

Continuing attacks and worsening humanitarian needs

While the Obama administration justified its actions on the basis of the Sudanese government’s progress on some of the benchmarks—ceasing support for terrorism, refraining from meddling in neighboring countries’ conflicts, and helping in the fight against the Lord’s Resistance Army—the State Department’s own human rights reports on Sudan demonstrate no meaningful recent improvement in the human rights record of the Bashir regime. These reports instead highlight numerous human rights concerns.¹⁰

The Sudanese government has continued leading military offensives that kill, maim, and displace Sudanese people. The regime has not made progress on the benchmarks set forth by the Obama administration overall; the government and government-backed forces have launched violent attacks in Darfur in the past nine months.¹¹ Some of the most horrific and gruesome attacks, documented by Amnesty International, involved the government’s suspected use of chemical weapons against civilians, including very young children, as recently as September 2016.¹²

Some violence in Sudan has eased in some places for now, and the regime has halted its regular offensives in some areas controlled by the armed opposition. But in many cases, this easing is not a result of newfound government restraint but rather the evolving nature of the use of coercive force in the conflict areas. Khartoum has outsourced most of its military activities to militia groups that are offshoots of the Janjaweed. These militias continue to commit egregious human rights abuses in many areas. These abuses, however, are often blamed on “unknown

gunmen,” a hazy term that helps the regime dodge accountability. In reality, these “unknown gunmen” are often known; they are proxies of the government.

There have also been significant attacks and other security incidents in South Kordofan (including in the Nuba Mountains) and in Blue Nile in the last nine months.¹³ The attacks in these areas have continued despite the Sudanese government’s unilateral declaration of a cessation of hostilities. That was another of the Sudanese government’s “positive actions” described in the Obama administration’s executive order easing sanctions. A truly credible cessation of hostilities agreement is negotiated with armed forces in the conflict areas, and all parties honor the agreement. This unilateral deal has none of these qualities.

Access to urgently-needed humanitarian care has not improved. In fact, it has gotten much worse.¹⁴ People living in opposition-controlled areas in the Nuba Mountains and Blue Nile states have not received humanitarian assistance, at a time of severe food shortages resulting from years of humanitarian blockades imposed by the government and the deliberate bombing of local farmland and food stocks. These war tactics are meant to weaken the resilience of local communities and undermine the mechanisms they have developed to cope with extended drought and crop failures. Some would point to the Sudan People’s Liberation Movement-North (SPLM-N), the armed opposition in South Kordofan and Blue Nile, for its part in the limited reach of humanitarian aid.¹⁵ But the SPLM-N continues to maintain that it is open to resuming discussions with the Trump administration on the U.S. proposal to have USAID bring medical supplies to SPLM-N-controlled areas.

Conditions in Darfur

Almost five million people in Sudan need humanitarian assistance today.¹⁶ Around half of them are in Darfur. The United Nations calls Darfur an “epicenter of large-scale protracted displacement,” and highlights the new displacement in 2016.¹⁷ Humanitarian providers remind us that most internally displaced people in these areas cannot independently meet basic needs.¹⁸ Many have been denied access to assistance. The people in Jebel Marra, a mountainous region that straddles North Darfur, Central Darfur, and South Darfur, are experiencing a food security crisis that is expected to deteriorate into a food security emergency as the displaced people have been unable to farm, insecurity has hampered trade, and staple food prices are higher than normal.¹⁹ This degree of displacement, need, and dependence is a crushing, humiliating state of affairs for a fiercely independent and self-sufficient people who are otherwise accustomed to thriving in the harsh terrain. It suits the government of Sudan to perpetuate this dependence and relegate to the international community and local volunteers the cost of providing for the needs of these populations. The U.S. government has been and continues to be a major donor for this large-scale relief operation.²⁰

At around this time last year, the U.N. peacekeeping chief, Hervé Ladsous briefed the U.N. Security Council in New York on violence in Jebel Marra, which displaced an estimated 138,000 people in January 2016.²¹ Today, tens of thousands of those people live in precarious conditions in a place of rampant criminality where abuses are committed with impunity and with the tacit complicity of the government. Militias roam freely, terrorizing the population, attacking and raping people, plundering property, cutting off travel routes, and engaging in unchecked

extortion. The government says it does not command and control these militias. There is plenty of evidence to challenge that claim.

What is not disputed is that the survival and defining ways of life for many Darfuris has depended on free movement across rural expanses and living off of the land with livelihoods like farming and herding. The people of Darfur have been rounded up, chased off these lands, and ghettoized for years now into the crowded, tense, increasingly violent enclaves that are IDP camps. The government prevents the construction of new IDP sites as it eliminates existing IDP sites, squeezing the people of Darfur—most recently the newly displaced people of Jebel Marra—into increasingly small, confined, cage-like spaces. People who are famed for their resilience, their resourcefulness, their fighting spirit, and their stubborn self-sufficiency now depend completely on others, including the regime that has preyed on them, for their survival.

Conditions in Blue Nile and South Kordofan (including the Nuba Mountains)

Conditions are also urgent in parts of South Kordofan and Blue Nile. The Sudanese government has, for the moment, suspended some of the aerial attacks by Antonov bomber planes. But there are reports from these areas that Antonovs continue to fly overhead, suggesting a kind of psychological warfare.²² The sounds and sights of these flying runs halt all activity below and send people running for shelter, re-traumatizing the population with each pass. By staying in practice and continuing the passes overhead, the government forces remind the population on a daily basis that the bomb-dropping can resume at any time, with little to no advance notice—to the detriment of anyone who fails to run for cover every time.

Humanitarian sources in opposition-controlled areas in South Kordofan and Blue Nile say some 545,000 people are displaced.²³ There are particularly grave concerns about the condition of people struggling in isolated areas along the Sudan-South Sudan border that are caught between multiple active conflict zones. As with Jebel Marra in Darfur, parts of South Kordofan face food security crises that are expected to deteriorate into food security emergency conditions.²⁴ Food stocks in parts of South Kordofan could run out in three weeks.²⁵ Food in parts of Blue Nile might last through this month or next, leaving a large gap of time before the next harvest.²⁶ In one South Kordofan area that is surrounded by conflict on both sides of the Sudan-South Sudan border, conditions have been so desperate that 15 people have been killed since the beginning of 2017 after crossing into active conflict areas in search of food.²⁷ People in this area could continue to be forced into areas of active conflict as they seek food, water, and basic medicine.²⁸ There are fears that people living in the Ingessana Mountains of Blue Nile—a similarly isolated area on the border, with conflict on all sides—are trapped without any access to food at all.²⁹ People from this area may also increasingly be forced despite the dangers to move through active conflict zones as they seek food and other supplies.³⁰

Humanitarian access in these areas remains highly restricted for reasons that are not well understood by those outside. The Sudanese government seeks access to the conflict zones with civilians it has chosen to pummel relentlessly in the recent past—to deliver certain items (including medical supplies) but not others (like adequate food).

Enough has condemned the Sudanese government's denial of aid as a war tactic, and we have supported the SPLM-N's commitment to de-link humanitarian assistance from the political negotiations. But we are deeply concerned at the SPLM-N's rejection of a proposal for humanitarian access that the United States put forward that special envoys supported. We support the SPLM-N's reconsidering any and all viable options for allowing humanitarian assistance into the Two Areas.

Another coup for an emboldened regime

Sudan's leaders are applauding themselves for convincing the Obama administration to ease sanctions. Numerous statements suggest Sudanese leaders believe that American policymakers have capitulated on sanctions and will not pursue coercive policies toward Sudan. These statements suggest the Sudanese regime believes U.S.-Sudan relations will continue to normalize, and sanctions will be completely lifted in July. Khartoum seems to believe in some cases that U.S.-Sudan relations are already normalized, creating a wider opening for Sudanese leaders to push their strategic and financial interests even further.

On February 2, 2017, for example, the Sudanese president hailed the easing of sanctions, characterized as a "lifting" of sanctions, saying that the U.S. administration made the move after being "convinced of its futility."³¹ In a separate account that day, he was quoted as saying, "the Americans will finalise their steps to [fully lift the sanctions]. Because they tried to hurt us [with sanctions] but they could not. In the end, [they lifted it]." "They are very practical people. There is a saying that whoever you can't arm-twist, then shake his hand. When they [failed with] arm-twisting us, they shook our hand. [We tell the US], welcome." "Now [the sanctions] have been lifted, praise be to Allah. The victories are many and now, our foreign relations [with the international community] are excellent, praise be to Allah."³²

Within two days of the Obama administration's announcement to ease sanctions, the Sudanese Foreign Minister, Ibrahim Ghandour, reportedly said that the Sudanese government did not offer any concessions in exchange for the lifting of sanctions. He said that there was a dialogue and full cooperation in counterterrorism. Ghandour said there was coordination and commitment by both Khartoum and Washington to secure guarantees in the agreement to lift U.S. sanctions on Sudan and ensure that there is no setback in implementation of the Obama administration's decision. Ghandour dismissed the idea that such a setback or postponement to the lifting of sanctions would occur.³³

Sudanese leaders made numerous public statements suggesting that they assume U.S.-Sudan relations will continue to normalize and sanctions will be fully lifted in July.³⁴ Sudanese Finance Minister Badr al-Din Mahmoud said, "there is no going back on the process of lifting the financial sanctions imposed by the United States."³⁵ He also said, "It is now with the American side for the normalization of bilateral relations, which opens the door to debt forgiveness." The possibility that the U.S. might slow or stop the process of lifting sanctions on Sudan under President Trump "is misplaced."³⁶ Sudanese Foreign Minister Ibrahim Ghandour spoke about the United States raising its diplomatic representation in Khartoum and appointing an ambassador.³⁷ He said, "We reiterate our full commitment to cooperate with the new U.S. administration." "We expect America to be committed too."³⁸

Sudanese leaders seem confident that they have earned and received rewards for their actions by the U.S. government. They have every reason to continue pushing their advantage, at the expense of the Sudanese people, using the same tactics that justified sanctions in the first place.

Policy need and recommendations

The U.S. government gave up diplomatic leverage in exchange for “positive actions” by Khartoum that have not materialized for most Sudanese people. Congress can do a great deal to help by taking the following actions:

1. Support efforts to revoke the executive order from January that eases U.S. sanctions.
2. Push forward legislation that utilizes the policy tools of financial leverage and more robust diplomatic engagement in support of peace, counter-terrorism, religious freedom, and anti-corruption objectives. This legislation would include a modernized sanctions program that targets the assets of those in Sudan who are most responsible for atrocities, serious human rights violations, and grand corruption while minimizing bank de-risking and other adverse impacts on others. Modernized sanctions could target those connected to President Bashir and his network, the country’s National Intelligence and Security Service (NISS), and particular sectors of the Sudanese economy most directly tied to violent conflict and corruption. Combining this type of sanctions programs with the use of anti-money laundering tools is essential. The Enough Project will be presenting such a proposal, and we are hopeful that the members of this commission will support strong legislation.
3. Ensure U.S. government agencies that conduct the investigations and enforcement of U.S. sanctions and anti-money laundering programs have the resources they need and the political direction to work on Sudan through the FY 2018 appropriations process. Without the resources to follow the money and the will to enforce sanctions programs and U.S. laws surrounding corruption, none of these proposals will be successful.
4. Press the U.S. Treasury Department’s Financial Crimes Enforcement Network (FinCEN) to more aggressively counter money laundering that involves members of the Sudanese regime and their corporate network by requesting under Section 314(a) of the USA Patriot Act that financial institutions report on transactions that may have involved the Sudanese regime. FinCEN could then also consider whether to declare elements of the regime’s activities as a “primary money laundering concern” under Section 311 of the Patriot Act. In such a case, FinCEN would determine which of five “special measures” would best address this concern, including through additional information and reporting or termination of certain services. These measures should focus in particular on transactions in Sudan’s correspondent banking network involving suspicious activity with the country’s gold and weapons manufacturing sectors.
5. Urge the Trump administration to utilize the Global Magnitsky Human Rights Accountability Act, which became law at the end of last year, thanks to the efforts of Rep. McGovern and other dedicated members, as another tool that can be used to place sanctions on corrupt Sudanese officials.

When the United States decided to ease sanctions, it did so at the wrong time and under the wrong circumstances. We can work together to not only reverse this decision but also improve the tools used to create leverage in Sudan so that we are not holding hearings on human rights abuses and violence in Sudan 10 years from now. The people of Sudan need your help to realize their dream of a peaceful, free, and democratic country where journalists do not fear imprisonment, religious minorities can worship without persecution, and citizens can choose their own leaders.

Thank you for this opportunity to testify before this commission.

Endnotes

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³⁴ On February 7, 2017 Sudanese Finance Minister Badr al-Din Mahmoud said that the United States and Sudan are continuing to normalize bilateral relations. On January 25, 2017, Ambassador Mohamed Eissa, director of the American department at the Sudanese Foreign Ministry, emphasized the importance of sanctions easing toward a lifting sanctions against Sudan. He said this U.S. decision would return Sudanese-American relations to their normal course and that the Sudanese Foreign Ministry has reached out to the new administration to push full lifting of the sanctions. On January 26, 2017, Taha Osman Al-Husain, state minister at the Sudanese Presidency, said he fully anticipated that the Trump administration would carry out the Obama administration’s pledges to lift an important part of U.S. economic sanctions on Sudan. Sudanese Information Ministry, “Finance Minister: No retreat in the process of lifting of US economic sanctions,” February 7, 2017, available at

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Sudanese Information Ministry, “Representative of Foreign Ministry Affirms its Resolution to Achieve Full Lifting of Sanctions on Sudan,” January 26, 2017, available at

<http://mininfo.gov.sd/en/representative-of-foreign-ministry-affirms-its-resolution-to-achieve-full-lifting-of-sanctions-on-sudan/>;

Muzammil Abu al-Qasim and Mohammed Latif, “Bashir led the Americans to negotiate with himself and all the success is attributed to him,” January 16, 2017, available at <http://www.cover-sd.com/news.php?action=show&id=74839>.

³⁵ Middle East Monitor, “No going back from lifting US sanctions on Sudan, insists minister,” February 7, 2017, available at <https://www.middleeastmonitor.com/20170207-no-going-back-from-lifting-us-sanctions-on-sudan-insists-minister/>.

³⁶ Al Sudan Alyoum, “Minister of Finance dismisses concerns about the U.S. administration's reversal of sanctions lifting,” January 22, 2017, available at

<http://alsudanalyoum.com/2017/01/22/%D9%88%D8%B2%D9%8A%D8%B1-%D8%A7%D9%84%D9%85%D8%A7%D9%84%D9%8A%D8%A9-%D9%8A%D9%82%D9%84%D9%84-%D9%85%D9%86-%D8%A7%D9%84%D9%85%D8%AE%D8%A7%D9%88%D9%81-%D8%A7%D9%84%D9%82%D8%A7%D8%A6%D9%84%D8%A9-%D8%A8/>.

³⁷ On January 14, 2017, Sudanese Foreign Minister Ibrahim Ghandour said the lifting of sanctions will come into full effect in July. Ghandour said, “negotiations with the Obama administration also concluded” that the United States would raise its diplomatic representation in Khartoum from chargé d’affaires to ambassador. Ghandour added, “because of the [U.S. political] transition period, we expect that Trump Management [will] appoint an ambassador after the receipt of its functions.” Al-Nilin, “Ghandour: Decision to lift sanctions was reached following consultations with Congress and Trump,” January 14, 2017, available at <http://www.alnilin.com/12838157.htm>.

³⁸ Xinhua, “Sudan eyes full normalization of ties with U.S.,” January 14, 2017, available at <http://english.sina.com/news/2017-01-15/detail-afxznva3598967.shtml>.