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# **PRESIDENT OBAMA'S IMMEDIATE SUDAN CHALLENGE**

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*This is the second installment in a series of letters to President Obama spelling out a practical roadmap to end the crisis in Sudan.*

During his first month in office, President Obama will face a number of foreign policy tests, challenges, and dilemmas from a variety of hot spots around the world. All are grave, but given the increasing probability that the International Criminal Court, or ICC, will issue an arrest warrant for the Sudanese President, Omar al-Bashir, the situation in Sudan will very quickly demand his attention.

Omar al-Bashir has threatened serious consequences if a warrant is issued, including the potential shutdown of humanitarian aid agencies and of UNAMID, the hybrid United Nations-African Union peacekeeping mission in Darfur. Much of this is bluster by Bashir, hoping to avoid a potential warrant, and is similar to threats made by other leaders—such as former Yugoslav leader Slobodan Milosevic and Liberian President Charles Taylor—when they were hoping to avoid justice. How the United States responds to Bashir’s threats will factor greatly into what the Sudanese regime actually does in response to the ICC action and will also help shape what the international community is prepared to do. President Obama’s response must be firm in addressing this immediate threat, but should not lose sight of the larger strategic goals that ought to be at the center of a new administration’s policy: an unyielding focus on brokering a peace deal for Darfur and the implementation of the existing Comprehensive Peace Agreement, or CPA, the 2005 agreement to end the 22-year war between northern and southern Sudan.

## THE IMMEDIATE IMPERATIVE

It is likely that the ICC judges will issue an arrest warrant for President Bashir during President Obama’s first month in office. The Obama administration should make it clear from the beginning that it fully supports justice and accountability for Darfur’s genocide, and will not tolerate any obstruction of the aid effort, deployment of the UNAMID civilian protection force, or implementa-

tion of the CPA. Clear messages from the Obama administration that there will be consequences for such actions should be delivered to the leadership of the Sudan regime. Multilateral diplomatic efforts should be launched by the new administration to help build international solidarity for specific consequences to be imposed on Sudan if it targets either UNAMID or humanitarian relief operations. Consequences could include: an arms embargo, rapid escalation of targeted sanctions against key regime officials, a plan to apprehend Bashir and support for further ICC indictments of culpable officials, targeted air strikes against air assets of the regime used for offensive military operations, and other measures.

If an arrest warrant is issued, ruling party officials in Sudan will have a choice: retain Bashir as president and face increased isolation from the international community, or arrange for his resignation and departure from the scene, thus allowing for more pragmatic policies to emerge.

We don’t know what the regime ultimately will do, but we urge the Obama administration to work behind the scenes with countries with influence in Sudan to press for the latter possibility. Ambassador Susan Rice, President Obama’s Permanent Representative to the United Nations, spent the beginning of her career as an Africanist. Her expertise will increase U.S. credibility in negotiations at the United Nations with key international actors, but the window of opportunity to exact coordinated pressure on Khartoum will not remain open for very long. The chance to take advantage of it will be largely determined in the first few weeks of President Obama’s tenure by the leadership his administration is willing and able to exercise on this.

President Obama should move quickly to name the high level envoy who will have ownership of Sudan policy and responsibility for ending the genocide. It is essential that this official have the authority to coordinate all relevant parts of the foreign policy

bureaucracy and have requisite familiarity with the issues to hit the ground running. The envoy's role, mandate and authority needs to be clearly spelled out in advance and at the senior-most levels of the U.S. government.

## THE LONGER-TERM SUDAN POLICY FOCUS

Even while immediate challenge posed by the expected arrest warrant commands attention, President Obama, Secretary of State Hillary Clinton, and Ambassador Rice would be well served to quickly establish clear policy objectives focused on a real and lasting all-Sudan solution for Darfur, the South, and the rest of this embattled country. While both Secretary Clinton and Ambassador Rice pledged strong action on Darfur during their Senate confirmation hearings last week, the need for a holistic approach to Sudan's crises could not be greater as deadlines for Sudan's national elections and other crucial elements of the CPA's implementation (such as North-South border demarcation) loom large. The Obama administration must make the crucial leap to "connect the dots," and invest in holistic strategies that will offer long-term solutions to Sudan's violence.

In her confirmation hearing, Ambassador Rice correctly identified the "root of the problems in Darfur and throughout Sudan" as "the lack of an underlying peace." Her diagnosis supports the notion that the Obama administration must put peacemaking at the center not only of their Sudan policy agenda, but of a broader effort to reframe the overall approach to U.S. relations throughout the Africa. Ensuring that such an approach is implemented and maintained will be key in the weeks and months ahead.

As we said in our first letter to President Obama, the message of Sudan activists all over the United States is clear:

- Don't try to contain the damage from the war in Darfur—END the war.
- Don't just declare that genocide is taking place—END the genocide.
- Don't just manage the consequences of crisis after crisis in Sudan—END these crises.

President Obama must lead a concerted international peace surge for Sudan, and diplomacy must be backed by well-conceived and consistently escalating pressure on Khartoum and other combatants to create the proper conditions for a lasting peace. More effective protection of civilians and continued steps toward accountability for crimes against humanity, which are vital in their own right, will help advance this peace surge.

Secretary Clinton recently highlighted the need to reassess options to ensure better civilian protection in Darfur and neighboring Chad, but these efforts are just one part of what must be a new comprehensive strategy for Sudan.

More than five-and-a-half years into Darfur's crisis, and four years after the signing of the CPA, there is no prospect of a peace deal for Darfur and no coherent effort to ensure that the CPA gets implemented; in fact, progress on the CPA is progressing at an alarmingly slow rate. This is a damning indictment of U.S. and international efforts in Sudan to date. Despite an abundance of rhetoric, it is clear to all parties, including the Sudanese government, that the United States government and its international partners have thus far been content simply to manage the consequences of the crisis in Sudan, rather than resolve the situation.

The costs of this approach have already been immensely painful for Darfuris, who continue to be killed and driven from their homes in large numbers by government attacks, and are without a U.N. force capable of protecting them. Equally important, without a substantial investment in

peacemaking in Darfur and peace implementation for all Sudan, the facts on the ground have the potential to become much, much worse: Darfur's war likely will continue to escalate, the CPA may collapse and reopen a direct North-South conflict, many more people may die, rebel groups will become larger and even more lawless, and Sudan will potentially disintegrate as a state. Sudan's potential fracturing in particular has a range of serious international security implications, ranging from disruptions in oil supplies to an increased ability of terrorist groups to operate within such chaos. The possibility of southern Sudan seceding following its self-referendum in 2011 has never been more real; the repercussions of such an outcome, given the current trajectory in Sudan, would likely be severe for both the northern and southern populations.

Certainly, protecting civilians is an important goal that will require significant energy and resources for the foreseeable future. But it is not sufficient. Protection efforts must be buttressed by a broader approach to end Sudan's multiple conflicts. Pursuing the goal of civilian protection during the conflict should not obscure or divert energy from the larger and ultimate objective: bringing peace to Sudan by securing a credible deal for Darfur and implementing the terms of the CPA.

The CPA itself was reached after a sustained investment in diplomacy, led in part by the United States and backed by significant incentives and pressures. That hard-won agreement would not now be in jeopardy if the investment in diplomacy had been maintained and the international community had continued its pressure to ensure that the agreement was implemented. It is not too late for the United States to re-invest in ensuring that the outstanding issues preventing full implementation of the CPA are addressed, and the Obama administration must take these steps or accept the possible disintegration of Sudan in the next several years.

## A U.S.-LED PEACE STRATEGY

The advent of a new administration has opened a window of opportunity for the United States to use its tremendous experience in peacemaking. Moreover, given that President Obama will face enormous challenges—ranging from a full-blown financial crisis to active wars in both Iraq and Afghanistan—a significant investment in peacemaking in Sudan is both cost-effective and has the greatest chance of ending Sudan's suffering.

Leverage for peace in Sudan can best come from the following actions.

### Continue the International Criminal Court investigation

Accountability for crimes against humanity in Darfur remains an essential element of a lasting peace in Sudan, and evidence to date suggests that the recent ICC actions have generated genuine pressure on the Sudanese government, as well as the rebel leadership. As discussed above, the Obama administration should support the arrest warrants for President Bashir and rebel officials as they are issued.

It now appears that the Security Council will not make the mistake of prematurely deferring the cases against government or rebel officials, which would have set back the cause of peace.<sup>1</sup> Nothing less than a peace deal in Darfur that includes alternative accountability mechanisms broadly acceptable to Darfuri civilians and real evidence of implementation of the CPA could be sufficient to justify deferring the ICC cases. Short of this, the United States should make clear that it will veto any deferral resolution. The Obama administration also should provide the ICC with any evidence it has regarding the prosecutor's accusations. The bottom line: don't trade accountability for war crimes for empty promises from Khartoum.

### Enhance multilateral, non-military coercion

President Obama should work through or with selected members of the U.N. Security Council to bring a larger collection of nations on board with targeted sanctions against those most responsible for violence in Sudan, whether they are government or rebel actors. If the Security Council fails to pass these broader sanctions, then the new administration should build an international coalition to bring this pressure. Along with the ICC, these instruments can create much higher legal, financial, and political costs to those who are responsible for violence against civilians. If efforts to pass targeted sanctions through the Security Council fall short, a concerted effort should be made to work with the European Union to apply joint sanctions. In addition, the possibility of capital market sanctions for oil companies contracting with the Sudanese government should be explored.

### Expand the arms embargo

Given the government of Sudan's continued attacks against civilians in Darfur and compelling evidence that weapons from other nations, including China, are finding their way to the frontlines, a comprehensive arms embargo against the government should be imposed by the Security Council. The embargo should include a robust international monitoring mechanism to ensure its effectiveness.

### Make UNAMID effective

UNAMID is failing to achieve its central goal of protecting the civilian population in the region. Much of this failure can be traced directly to the practice of giving the Sudanese government—the prime perpetrator of the genocide—a de facto veto over the mission's composition and operations. This is simply unacceptable. Given the ICC prosecutor's accusations against Bashir and his loyalists, the United States and United Nations must not allow

Khartoum to decide the mission's force size, national composition, the extent of AU versus international participation, timeframe for deployment, or civilian protection mandate.

A robust force on the ground in Darfur with a competent lead nation and a clear command-and-control structure is essential for saving lives, creating an environment amenable to the peace surge, and establishing the international credibility required to ensure that a broader peace strategy succeeds. Ambassador Rice has already indicated her desire to bolster what she called "global peacekeeping capacity." Galvanizing the political will necessary to build this capacity could finally give UNAMID a chance to succeed in protecting civilians.

### Ban offensive military flights

President Obama and other key members of his administration have taken a robust position in the past regarding the need to counter Sudan's aerial attacks on civilians in Darfur, and have voiced support for enforcing a no-fly zone. Continued Sudanese aerial attacks in Darfur—there were over 40 last year and the Sudanese government launched a new aerial campaign last week—have rightly generated considerable attention. The U.N. Security Council has demanded an end to offensive military flights several times, most recently in Resolution 1769, which authorized UNAMID.<sup>2</sup> UNAMID has not enforced that demand. It is clear that the next administration and the U.N. Security Council need to consider how best to counter these continuing aerial flights and provocations.

## A CHECKLIST FOR THE OBAMA ADMINISTRATION

As soon as possible, the new administration should undertake the following:

- Appoint the President’s Special Envoy who will own this issue so that individual can begin working as rapidly as possible, and clearly establish the mandate, role and authority of this envoy within the administration. Providing sufficient authority and support will be vital.
- Identify two senior diplomats experienced in peacemaking to be the deputies to the President’s Special Envoy, one for Darfur and the other for the CPA.
- Engage with key international actors to develop a practical and escalating menu of options for exerting leverage on the government of Sudan and rebel movements to create an environment conducive to credible negotiations.
- Task relevant agencies, including the Pentagon and the U.S. Permanent Mission to the United Nations, to explore direct ways to make ongoing civilian protection efforts more effective, including steps to make UNAMID more robust and capable and to enforce a ban on offensive military flights.
- Identify U.S. Foreign Service officers to staff a diplomatic cell that will be deployed to embassies in the region to work on these issues around the clock in the manner they deserve.
- Work closely with interested parties with leverage in Sudan and the region, especially China, the United Kingdom, France, and key African countries, to coordinate efforts on the peace surge, protection of civilians, and accountability.

By taking these practical steps, President Obama will be well positioned to launch a credible peace surge for Sudan, and work with key countries and the U.N. Security Council to build momentum for the one end-state with which no external country disagrees: peace.

## A HISTORIC CHOICE

The government of Sudan has tried to frame the options for the international community as either full military engagement (an option it knows is unrealistic), or limited humanitarian efforts. In fact, there is a world of opportunity in between as long as there is the necessary political will to see an end to the killing in Sudan. President Obama, Secretary Clinton, and Ambassador Rice must assume international leadership in highlighting these options, rallying the world—including many countries that have been content to stand on the sidelines—to respond in unity, and deploying the best and brightest in America’s diplomatic corps to end the slaughter. Our future in Africa will be directly shaped by whether we succeed or fail in Sudan.

As aerial attacks on Darfur by the Sudanese government continue over five years into the crisis and the CPA shows dangerous signs of weakness that could lead to outright collapse, the Obama administration must engage immediately in leading an international peace surge for Sudan. This engagement will clearly demonstrate that the new U.S. administration will exact real consequences on the Sudanese government if its unacceptable policies and behavior continue.

Members of the Obama administration have spoken passionately about their intention to act boldly to end the crisis in Darfur and promote international efforts toward a peaceful future in Sudan. Now they will have the chance to do so at a crucial juncture in Sudan’s history.

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## Endnotes

- 1 Article 16 of the Rome Statute of the International Criminal Court provides that “[n]o investigation or prosecution may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations, has requested the Court to that effect; that request may be renewed by the Council under the same conditions.” The Sudanese government so far has failed in getting Security Council support for a 12-month suspension of the investigation, in large part because of the dismal situation on the ground in Darfur and the government’s lack of seriousness in addressing the peace process.
- 2 The U.N. Security Council banned offensive military flights over Darfur in March 2005 (UNSC Resolution 1591). In July 2007, Resolution 1769 demanded that “that there should be no aerial bombings and the use of United Nations markings on aircraft used in such attacks.” The Sudanese government has violated this ban consistently and without consequence.