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The project to end genocide and crimes against humanity

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Senate Foreign Relations Committee

The Situation in South Sudan

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Thank you, Chairman Menendez and Ranking Member Corker, for the opportunity to testify at this turning point for South Sudan. The full committee's dedicated attention to this issue is very helpful. This body – including your predecessors Senators Kerry and Lugar – has played a pivotal role in the development of U.S. policy on both Sudans, and it is good that is continuing.

I would like to focus my prepared remarks on the way forward for South Sudan. The U.S. government has already shown a welcome level of attention and engagement on this issue. Still, there is always much more that can and should be done to help stop the fighting, secure a durable peace, protect civilians, hold perpetrators accountable, and start to heal this new country in its rocky process of state formation.

Before I begin, I want to reveal a controlling bias in my testimony. I believe that the U.S. and broader international community can finally learn the lessons from past failed peace efforts, and that a new process can evolve in Addis Ababa that takes into account the structural and substantive deficits of previous initiatives. And I believe that the U.S. can play a crucial role in helping to construct a more effective process, and then help build the international leverage necessary to see it through to successful completion.

What needs to happen to forge a negotiated political solution?

The “good” news is that we already know what doesn’t work. We have seen too many peace conferences that kept civil society, religious leaders, grassroots activists and women out of the room. Our collective experience has shown that partial and non-inclusive peace agreements that are negotiated among only those with the biggest guns don’t lead to lasting peace. Additionally, superficial power-sharing agreements don’t work if they do not include professional, transparent and well-funded efforts at army reform and the demobilization and reintegration of former combatants back into society. South Sudan’s struggle to establish its own national reconciliation and dialogue process offers a vivid example of the need to address these issues within the text of binding peace agreements too. Otherwise, DDR, SSR and TRCs just become buzzword acronyms without any impact.

The 2005 Comprehensive Peace Agreement stopped the fighting between Khartoum and the Sudan People's Liberation Movement in the South. In terms of providing a stoppage of the primary North-South war, it was successful. But the internal wars within North and South were left unaddressed. Deadly conflict has re-erupted in Darfur, South Kordofan and Blue Nile, with Darfur last year having one of the highest rates of newly displaced people in the world. Similarly, the Comprehensive Peace Agreement and what followed did not tackle the deep fissures within South Sudan itself, particularly within the ruling party and the army, but also between local communities who had borne the brunt of the war.

What is needed to address the crisis in South Sudan is a broad expansion beyond the approach taken by those who negotiated the Comprehensive Peace Agreement, and those that are trying to broker isolated deals in Darfur, the Nuba Mountains and Blue Nile, and Eastern Sudan. In South Sudan, of course a deal between the combatant forces for a cessation of hostilities is a first order priority, but what follows needs to be much more inclusive, transparent, and multi-layered than any of the processes that have come before if sustainable peace is to have a chance in South Sudan. This requires a broadening of both substance and structure.

In terms of structuring talks for a lasting political solution, the South Sudan peace process will have to become much more inclusive. Women and youth, who have been notably absent from the Addis process, must be welcomed. The release of the eleven senior level ruling party officials being detained by their government, representing significant political constituencies, and their subsequent involvement in Addis will be essential for the credibility of these talks. Church leaders who have played a major role in previous communal reconciliation initiatives need to be part of the process as well. Furthermore, it will be necessary over time to find a way to engage potential spoilers, whether armed groups or disaffected constituencies from different regions in South Sudan.

South Sudanese have already gone through an extensive consultative process around the New Deal Compact, which focused on both peacebuilding and state-building goals. Additionally, the National Democratic Institute conducted a nationwide survey on views about the constitution. Most recently, 1,200 people were surveyed by the South Sudanese NGO, the Community Empowerment for Progress Organization at the end of December 2013, after fighting started in Juba. Among other questions, they were asked their views on the road map for peace and stability in South Sudan. These efforts have already gathered valuable perspectives from those most affected by the violence: civilians and average citizens. Negotiators should take them into account.

What would a sustainable deal potentially look like?

A quick and dirty power-sharing deal is not the answer to South Sudan's problems. Simply redistributing power to combatant factions on the basis of the territory under their control would be a huge error. Similarly, essentializing South Sudanese political constituencies into their ethnic component parts would also be a mistake. A deal that overemphasizes sharing power between ethnic groups misses the root causes of this violence. Any interim arrangements or transitional government structure should seek to avoid these pitfalls. There will be great temptation to speed to a conclusion of the talks, which would leave major conflict drivers unaddressed.

A truly multi-layered approach would address the following priorities in different formats:

Broad, inclusive, national dialogue process: The regional IGAD mediation team needs to shepherd an inclusive process focused on a broad national dialogue process and governance reform. For too long, the ruling party's structures have languished due to infighting and neglect. Instead, patronage networks based on individual proximity to power, military might and wealth evolved. As a consequence, a political challenge which could have been resolved through dialogue mutated into armed conflict that has since engulfed the country. Only a truly inclusive national dialogue process will prevent that from happening again, one that addresses governance structures, ruling party cleavages, a legitimate constitution process, and security sector reform. All of this should happen BEFORE there are elections with a level playing field. Otherwise, South Sudan will continue to suffer from their leaders' perception that taking up arms is the easiest or only way to gain power or leverage.

Accountability: Since South Sudan lacks a functioning judicial system, the specter of impunity or rushed military prosecutions is very real. Credibly holding perpetrators responsible for crimes committed in the past three weeks will require setting up independent mechanisms for investigation and prosecution. Otherwise a culture of impunity will prevail, preventing future reconciliation. The proposal for a mixed court, which would involve South Sudanese and international justice sector personnel should receive some discussion, as it has in other post-conflict settings.

Reconciliation: Church-led grassroots reconciliation and truth-telling efforts would help complement more formal judicial proceedings. Inter-communal cleavages have been once again inflamed over the last month. Long-term processes aimed at coexistence and cooperation will be critical to sustainable peace.

Army reform and DDR: One of the main unaddressed fault lines in South Sudan existed within the army, and that erupted at the first sign of stress in December. As part

of any peace implementation process, much greater effort and transparency must go into reforming the army and police force. Also, any deal will require a serious demobilization and reintegration program for ex-combatants, with real livelihood options for those leaving armed groups.

How can the U.S. help stabilize the country and support the peace process?

Expand the peace process: The U.S. can play a major role in helping to ensure that the current peace process unfolding in Addis does not repeat the mistakes of past mediation efforts in Sudan and South Sudan. This will require a team of diplomats led by our current Special Envoy but supplemented by issue and process experts who can help work all of the layers of peace-making: the immediate cessation of hostilities and its monitoring, the national dialogue and governance reform processes, the constitution process, the inter-communal reconciliation efforts, and the support for army reform and DDR. Their work should be backed by continuing high level engagement by key U.S. officials, including President Obama, National Security Adviser Rice, Secretary Kerry, and Ambassador Power, all of whom have already made important contributions to preventing further conflagration. Development assistance should support grassroots peace initiatives. Already, South Sudanese have established a decentralized think tank called Fresh Start South Sudan to discuss governance, peace building, social services and future prosperity. Others are engaged in campaigns that emphasize alternatives to violence, including “I Choose Peace” and “My Tribe Is South Sudan.” These initiatives deserve greater attention and our logistical and financial support as well.

Congress can be helpful in ensuring that the resources are available for these diplomatic efforts, which for it to have a chance at success will have to be protracted and sustained.

Reinvent the Troika: The Troika (UK, Norway and the U.S.) played a crucial role in supporting the mediation process leading up to the 2005 Comprehensive Peace Agreement and its implementation. The Troika countries could play an even more important role in supporting the new peace effort in South Sudan if it expanded its membership by one: China. Bringing China into the tent would increase the Troika’s influence on the process and the parties. Engaging India in this regard would also be potentially productive. A high-level White House effort should be undertaken with Beijing to find common ground on what our two countries can support together in South Sudan (and Sudan as well), and then integrate those understandings into a revived Troika, or Quartet.

Congress can help by engaging Chinese officials as well in exploring ways the U.S. and China can work together for peace in the Sudans.

Collect and punish evidence of atrocities: The U.S. should begin collecting evidence of human rights crimes and instances where humanitarian aid workers are prevented from doing their work. The African Union has already expressed a willingness to impose targeted sanctions on any party implicated in “inciting people to violence, including along ethnic lines, continuing hostilities, undermining the envisaged inclusive dialogue, hindering humanitarian operations, undermining the protection mandate of UMISS and carry out acts of violence against civilians and unarmed combatants.” The U.S. should follow suit, and work within the UN Security Council to begin consultations around passing a resolution establishing a targeted sanctions regime, as conceptualized by the African Union. Drawing on the Syrian example, they should also push actively for the creation of an Independent International Commission of Inquiry into crimes committed by all factions and combatants. While both the South Sudanese government and the UN peacekeeping mission have already begun these documentation efforts, an independent commission will allow findings to be depoliticized. Further, the U.S. should support the establishment of a mixed court, drawing on both South Sudanese and international law, to ensure fair trials and prosecutions.

Congress could help by asking for regular briefings by the administration on evidence of atrocities and how the U.S. is responding. If patterns of serious abuses are being found to be perpetrated by South Sudan government forces, this should lead to a reevaluation of our non-humanitarian aid programs.

Negotiate humanitarian access: The humanitarian situation in South Sudan is dire, and it has a direct impact on neighboring areas inside Sudan as well, particularly in the Nuba Mountains and Blue Nile regions. Negotiating an access framework, notwithstanding zones of control, is essential and must proceed along a parallel track, with potential U.S. leadership. It would be a mistake to connect humanitarian access negotiations to the broader political mediation. All South Sudanese deserve consistent and unimpeded humanitarian assistance, regardless of if they live in areas held by rebel or government forces. Refugees from Sudan living in camps along the border, especially in Yida and Maban, deserve special attention. Following the evacuation of international staff and the UN mission, these concentrations of civilians near the Sudan/South Sudan are particularly vulnerable. They are trapped between two active conflict zones, have nowhere to run, and their supplies are nearly exhausted.

Congress can raise the alarm bells regarding specific at-risk populations throughout South Sudan, as well as those in Yida camp, Maban camp and trapped across the border in war-torn Nuba and Blue Nile, and continue to ensure the funding is available for innovative relief interventions that will no doubt continue saving countless South Sudanese and Sudanese lives.