



Getting to Normal with the Two Sudans

A Report of the Rethinking US Foreign Assistance Program

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Abstract

The time to normalize US diplomatic relations with the two Sudans is now. After more than a decade of US special envoys (Danforth, Zoellick, Natsios, Williamson, Gration, and Lyman)^{*} and the independence of South Sudan in July 2011, it is time for the United States to reevaluate what it is trying to achieve in its relations with the two Sudans and how best it can do that. In other words, does the United States still need a special envoy for Sudan and South Sudan and, if so, why? This paper argues that to achieve peace and stability within and between Sudan and South Sudan, the United States must now refocus its diplomatic engagement on the internal governance challenges in both states by moving to more normal diplomatic relations with each.[†]

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^{*} Deputy Secretary of State Robert B. Zoellick took over the portfolio of US Special Envoy to Sudan upon the resignation of Senator Danforth after the signing of the Comprehensive Peace Agreement in January 2005.

[†] Normalizing diplomatic relations as distinct from full normalization of relations, which would include lifting of comprehensive trade sanctions and resuming development and security cooperation.

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Executive Summary

The United States should reorient its policies to achieve peace within and between Sudan and South Sudan in the following ways:

1. ***Stop seeking to resolve Sudan-South Sudan crises at the expense of internal crises.*** The United States and international community should stop supporting negotiations seeking piecemeal settlements to the ongoing conflicts in Darfur and the two states of Southern Kordofan and Blue Nile. A comprehensive approach that allows for an endogenous process of political transformation is needed to definitively end the persistent conflicts between center and periphery in Sudan.
2. ***Renew pressure for the cessation of hostilities and for unfettered humanitarian access in Sudan.*** US leadership can play a direct and significant role in achieving humanitarian access through skillful balancing of pressure and engagement with the parties, especially the government of Sudan (GOS), to stop the violence in Darfur and the Two Areas (Southern Kordofan and Blue Nile) and allow the delivery of humanitarian aid. Too much ground has been lost in Darfur, and the lack of access in Southern Kordofan and Blue Nile is preventing life-saving assistance from reaching more than 700,000 people in dire need of aid.
3. ***Stop equivocating between Khartoum and Juba.*** While there are serious issues of failing governance and violence in South Sudan, they are nowhere commensurate with the challenges inside Sudan. Each government should be held to account for actions that obstruct peace, stability, and prosperity for their citizens. Treating them as equally bad, however, encourages further destructive behavior from Khartoum and discourages corrective action by Juba.
4. ***Put politics before justice.*** The indictment of President Bashir by the International Criminal Court (ICC) sent an important message of condemnation to Bashir and his ruling regime, but four years have passed since the ICC rendered its arrest warrant and no prospect of justice is in sight. In the meantime, violence continues in Darfur and the GOS acts with impunity in other conflict regions (Southern Kordofan and Blue Nile). The prospect of being sent to The Hague, however theoretical, nevertheless impedes the likelihood of any negotiated, peaceful process of political transformation in Khartoum as Bashir and his coterie cling to power at all costs. The United States should support a one-year suspension of the arrest warrant to enable a possible exit strategy for Bashir and increase the likelihood of a peaceful political transition in Khartoum.
5. ***Avert state collapse in South Sudan.*** Given the United States' special relationship with South Sudan, it should lead in ensuring the economic viability of the state until its oil revenues come back on stream. The United States can do this through loan guarantees

for South Sudan to secure bridge financing from the private sector. The cost of this will be far less expensive for the United States than picking up the pieces of a collapsed state, which would likely entail significant human suffering and considerable setbacks to regional stability.

6. **Re-assess Sudanese counterterrorism cooperation.** It is in the interests of the United States not to have hardline elements in Khartoum gain the upper hand in aligning Sudan further with state and nonstate actors fundamentally opposed to the United States, such as Iran. The current US approach does not appear to be moving Khartoum toward this goal.

To achieve its objectives in Sudan and South Sudan, the United States should recalibrate the conduct of its relations to recognize developments since the signing of the Comprehensive Peace Agreement (CPA) and to incorporate the lessons from the past 12 years of US reengagement. The United States should take the following steps:

1. **Send a US ambassador back to Khartoum.** The United States should have senior ambassadors leading teams of seasoned diplomats in both countries to advocate for US interests and ensure that US policy is informed by expert and timely analysis of political, security, economic, and social developments. Currently this is true in Juba but not in Khartoum. Sending an ambassador back to Khartoum is an appropriate and necessary step to pursue US interests in Sudan; it is not a reward for good behavior.
2. **Clarify why a special envoy is still needed, what the job is, and when will it be done.** The circumstances that first merited a US special envoy in 2001 no longer pertain in 2013. Continuing to manage Sudanese and South Sudanese relations through an extraordinary office within the State Department perpetuates a short-term approach to the two Sudans. It keeps the emphasis on intensive shuttle diplomacy to negotiate disparate settlements rather than the issues more fundamental to achieving durable peace and stability. Management of relations with the two Sudans should now be normalized within the State Department's Bureau for African Affairs. However, since the White House has already announced that it will name a new special envoy, the next special envoy should have a finite set of issues to support and a time-bound mandate.
3. **If a special envoy is to be appointed, pick someone with expertise in Sudan and South Sudan.** Too much ground is lost relearning the same lessons about engagement with Sudan and South Sudan with every change in special envoy, particularly when the envoy has no previous experience or relevant relationships. Understanding the complexities and history of the issues is critical to US efforts to help stop the violence (or prevent it from starting again), not to mention supporting deeper political transformation.
4. **Stop seeking short-term objectives through promises of normalization that can't be delivered.** The United States should have a moratorium on roadmaps for normalization

of relations (i.e., lifting of sanctions and resuming full bilateral relations) with Sudan; experience shows that the United States can never be explicit enough in delineating the behavior change being incentivized nor focused enough to enforce additional consequences when negative developments warrant. When serious reform is evident, the United States should respond accordingly. In the meantime, sanctions should be lifted if and when the specific benchmarks required by each sanctions regime is met. Until such time as US development assistance is no longer broadly sanctioned, USAID should downgrade its presence from a full mission.

Lasting resolution to the crises in Sudan and South Sudan will only come with political transformation at the center of each state. It is now time to move past relating to Sudan and South Sudan principally through a special envoy in favor of more normal diplomatic relations conducted by the State Department.

Taking Stock

The current vision of US policy is “a Sudan and South Sudan that are politically stable, economically prosperous, and at peace with its own people and neighbors.”¹ While there is no single statement about how the United States seeks to achieve this vision since South Sudan became independent in July 2011, a review of Congressional testimony and other public remarks by US officials suggests the following major priorities:²

- Resolution of the outstanding issues between Sudan and South Sudan left over from the Comprehensive Peace Agreement (CPA), including management of the oil sector, border demarcation and security, and the status of the disputed region of Abyei
- An end to violence in the so-called Two Areas of Southern Kordofan and Blue Nile in Sudan, including a cessation of hostilities, unfettered humanitarian access, and a political agreement between the government of Sudan (GOS) and Sudan People’s Liberation Movement–North (SPLM-N)
- An end to violence in Darfur, implementation of the Doha Document for Peace in Darfur, and the voluntary return of displaced persons to their home areas
- An end to intracommunal violence in South Sudan and support for political reform, good governance, and effective management of the current economic crisis (due to loss of oil revenues)
- Regional engagement that effectively counters terrorism and supports stability

What is the status of achieving these objectives? To review:

North-South

In January 2011, southern Sudanese voted overwhelmingly (nearly 99 percent) in a free and fair referendum to separate from the north; they declared independence before President Bashir and the international community on July 9, 2011. The governments of Sudan and South Sudan signed nine cooperation agreements in September 2012 to address a number of outstanding issues left over from the CPA, such as the status of nationals residing in the other’s country, border trade, debt sharing, and the management of oil revenue (that deal has since been obstructed by new demands from Khartoum). Serious conflict-triggering issues remain to be resolved between the two countries, however, including the final status of the disputed region of Abyei, resolution and demarcation of disputed border areas between Sudan and South Sudan, and resumption of South Sudan’s use of Sudan’s oil pipelines (without which the economies of

¹ US Department of State, “Special Envoy for Sudan and South Sudan,” www.state.gov/s/sudan/index.htm, accessed January 22, 2013,.

² U.S. Department of State, “Special Envoy for Sudan and South Sudan: Remarks, Press Releases,” www.state.gov/s/sudan/rem/index.htm, accessed January 22, 2013.

both countries will remain crippled).³ On these issues, the parties appear to be at an impasse despite multiple summit meetings of Presidents Kiir and Bashir, the mediation of the African Union Peace and Security Council through its High-Level Implementation Panel (AUHIP), and the threat of sanctions by the UN Security Council.

Two Areas

The CPA protocol on Southern Kordofan and Blue Nile outright failed with all-out war resuming between SPLM-N rebels and the government of Sudan in mid-2011. More than 900,000 people are in dire need of humanitarian assistance.⁴ The GOS is blocking delivery of such assistance to rebel-held areas, having effectively rejected a tripartite proposal for monitored access by the African Union, the League of Arab States, and the United Nations that was supported by the United States and other donors and accepted by the SPLM-N. The United States is urging the GOS and SPLM-N to agree to a ceasefire, allow unfettered humanitarian access, and enter into direct political negotiations.

Darfur

The United States strongly backed two internationally mediated peace agreements (the Darfur Peace Agreement of 2006 and the Doha Document for Peace in Darfur of 2011); neither has succeeded. Although access for international humanitarian agencies and the UN is severely restrained,⁵ approximately 3.5 million people in Darfur still require humanitarian aid, including 1.4 million living in camps for internally displaced persons.⁶ A so-called moratorium on GOS restrictions on humanitarian assistance to Darfur, in place since 2004, expired at the end of January 2013. Recently retired US Special Representative for Darfur, Dane Smith, concluded that militias are increasingly out of control; that there is no rule of law in Darfur; that the government shows little interest in prosecuting perpetrators of attacks, including against UNAMID (African Union–United Nations Mission in Darfur) peacekeepers; that there has been little implementation of the Doha peace deal, particularly those provisions that bring tangible

³ In Sudan, the oil sector typically accounts for around 15 percent of GDP. However, it contributes substantially to budget revenues and the country's foreign exchange receipts. Loss of oil exports due to South Sudan's secession was estimated to cost Sudan \$6.6 billion in 2012, or 12.9 percent of GDP. Oil transit fees, which never materialized, were expected to contribute 30 percent of the GOS's projected budget in 2012. See International Monetary Fund, "Sudan: 2012 Article IV Consultation," IMF Country Report No. 12/298 (Washington: IMF, 2012), available at www.imf.org/external/pubs/ft/scr/2012/cr12298.pdf. In South Sudan, the oil sector accounts for around 85 percent of GDP, though 85 percent of the working population is engaged in nonwage work (agriculture and pastoralism) that accounts for the other 15 percent of GDP. Before production was shut off, oil accounted for 98 percent of RSS budget revenues. See World Bank, "South Sudan Overview," www.worldbank.org/en/country/southsudan/overview, accessed February 15, 2013.

⁴ UN Office for the Coordination of Humanitarian Affairs (UNOCHA), "Sudan: People Eating 'Roots and Leaves' As Humanitarian Aid Blocked," www.unocha.org/top-stories/all-stories/sudan-people-eating-roots-and-leaves-humanitarian-aid-blocked, accessed January 22, 2013.

⁵ UNOCHA, *Sudan: United Nations and Partners Work Plan 2013* (Geneva: UNOCHA, 2012), available at <http://reliefweb.int/report/sudan/sudan-united-nations-and-partners-work-plan-2013>.

⁶ UNOCHA, "Sudan: Humanitarian Dashboard 30 November 2012," fact sheet available at http://reliefweb.int/sites/reliefweb.int/files/resources/sud17_dashboard_a4_30Nov12.pdf, accessed January 22, 2013.

benefits to the displaced and to refugees; and that donors, including the United States, face increasing difficulty accessing Darfur to assess and supervise aid projects.⁷

South Sudan

Unresolved issues with Sudan keep the government of the Republic of South Sudan (RSS) on a war footing, exacerbating and masking the grave internal challenges of state and nation-building that it confronts as the world's newest state. Insecurity and lawlessness are on the rise because of increased ethnic violence and mounting abuses against civilians by South Sudanese army and police. Oil exports, comprising 98 percent of the government's revenues, have been shut off since January 2012 after a dispute with Khartoum over pipeline transit fees; inflation now stands at 35 percent, primarily because of increases in food prices; GDP declined by 55 percent in 2012. Half or more of the revenues received before the shut-off appear to have been squandered through corruption and mismanagement, leaving little to show thus far in terms of a peace dividend or development progress. At the same time, widespread food insecurity has risen dramatically, returnees from Sudan continue to arrive back home, and newly displaced refugees from Southern Kordofan and Blue Nile stress the already fragile coping abilities of communities and government services alike. Journalists, human rights activists, civil-society organizations, foreign workers, and international NGOs are increasingly intimidated and attacked by government authorities, contributing to the new country's designation by Freedom House as "not free," the lowest ranking that Freedom House gives in its annual global survey of political and civil liberties.⁸

Counterterrorism

Events in late 2012, including the Israeli bombing of a weapons factory in Khartoum implicated in smuggling Iranian arms to Hamas in Gaza and periodic visits of Iranian warships to Port Sudan, brought to light serious obstacles to Sudan's goal of being removed from the United States' list of state sponsors of terrorism. These developments also pose serious questions about the sincerity and depth of the US-Sudan counterterrorism relationship, deemed "cooperative" by the United States as recently as July 2012.⁹ Prior to these incidents, US officials had suggested that violence in the Two Areas was impeding the State Department from initiating the removal process despite having dangled this prospect in exchange for Sudanese recognition of South

⁷ Radio Dabanga, "US Envoy: 'Militias Seemingly Out of Control' in Darfur," December 13, 2012, www.radiodabanga.org/node/39673, accessed January 22, 2013.

⁸ Sudan consistently ranks among the worst of the worst "not free" states according to Freedom House; South Sudan just crosses the threshold between "partly free" and "not free." This year (2013) is the second year for which South Sudan has received a ranking. See Freedom House, *Freedom in the World 2013: Democratic Breakthroughs in the Balance*, available at www.freedomhouse.org/report/freedom-world/freedom-world-2013.

⁹ Office of the Coordinator for Counterterrorism, US Department of State, "Chapter 3: State Sponsors of Terrorism" (Country Reports on Terrorism 2011), www.state.gov/j/ct/rls/crt/2011/195547.htm, accessed January 22, 2013.

Sudan's independence, suggesting that cooperation on counterterrorism was otherwise positive.¹⁰

Assessment

While the peaceful secession of South Sudan as an independent state was an extraordinary, historic moment that could not have happened without US diplomacy, progress since then toward the United States' vision of "a Sudan and South Sudan that are politically stable, economically prosperous, and at peace with its own people and neighbors"¹¹ has been halting at best. It is as yet unclear if the two countries are on a road to lasting peace; full-scale war and gross human rights abuses have resumed in the Two Areas, and violence has intensified and diffused at the same time in Darfur. Both states face political and economic collapse and can objectively be characterized as failed states. Responsibility for this lies primarily with actors in Sudan and South Sudan. Nevertheless, the United States must assess its own record if it wants to affect these realities.

Lessons Learned

Given the present dismal state of affairs, what should the United States learn from the past 12 years of peacemaking and conflict-management efforts in the Sudans?

1. As important as the Comprehensive Peace Agreement has been for the south, it is not a model for ending violent conflict in Sudan.

The current approach of the United States (and the international community more broadly) of seeking parallel resolutions to Sudan's myriad conflicts misses the lessons of the past decade of peacemaking. The CPA should not be the model for peacemaking in Sudan for two reasons: 1) it arose out of a specific "ripe moment" emanating from a set of military, political, economic, regional, and international dynamics that were decades in the making; these dynamics have evolved since 2001 and do not pertain in the same ways to the current conflicts in Sudan today; and 2) when national political transformation failed to emerge during the CPA's interim period,¹² the south still had an exit option. In other words, the CPA succeeded by giving the people of South Sudan their right to self-determination, not by "making unity attractive."¹³ Essentially, it amounted to a messy divorce due to irreconcilable differences—no regime transformation required. South Sudan's independence, moreover, does not guarantee peace between the two

¹⁰ Princeton N. Lyman, "US-Sudan Relations," address to the Michael Ansari Center of the Atlantic Council, August 1, 2012, available at www.acus.org/files/Africa/080112_PrincetonLyman_USSudanRelations.pdf.

¹¹ US Department of State, "Special Envoy for Sudan and South Sudan" (n. 1).

¹² The CPA provided for an interim period of six years (2005–2011) before southern Sudanese voted in a referendum on staying united with the north or seceding.

¹³ During the interim period (n. 12), both parties committed in the CPA to "making the unity of Sudan attractive to the people of South Sudan" (CPA Section 2.4.2). "Making unity attractive" became a common slogan during the interim period.

countries; the potential for war to resume over the outstanding issues remains high.¹⁴ Since South Sudan's independence, Khartoum and Juba have engaged in both hot and cold warfare with each other, including direct hostilities and attacks on the other's soil as well as economic and diplomatic brinksmanship.

2. The road to peace runs through Khartoum.

The CPA did not succeed in addressing the core issue at the heart of the conflicts in any region of Sudan outside the south. Khartoum continues to rule at the expense of its vast and diverse peripheries. While the CPA provided the potential for some degree of national political transformation toward greater inclusivity, it was by necessity an elite deal between the ruling National Congress Party (NCP) regime in Khartoum and the dominant rebel movement in the south (the SPLM). The initiation of CPA negotiations was a significant trigger for the outbreak of the Darfur rebellion in 2003. Seeing no prospect for having their own similar core-periphery grievances addressed, those in other marginalized regions of Sudan found recourse to violence to be their only option. Ultimately, the scale of the violence unleashed by the government in response to the rebellion in Darfur constituted genocide, pushing the international community to force two negotiated settlements for Darfur as well, both of which have failed. This pattern is now repeating in Southern Kordofan and Blue Nile, where the CPA Protocol on the Resolution of the Conflict in Southern Kordofan and Blue Nile States utterly broke down in 2011 when the SPLM-N refused to disarm in the face of Khartoum's intransigence in implementing the protocol. In response, the GOS unleashed its same brutal tactics against the civilian population in SPLM-N areas. Predictably, the international community, led by the United States, is pushing the parties (the GOS and the SPLM-N) toward direct political talks to reach a new negotiated settlement for the Two Areas.

In fact, piecemeal negotiations play into the NCP's ideal balance of not too much war and not too much peace. Khartoum cleverly stalls for time while the United States and the international community continue to enable this equilibrium. Since 2002, Khartoum, at the behest of the United States and the international community, has negotiated six separate political settlements to address conflicts in South Sudan, Abyei, Southern Kordofan and Blue Nile, eastern Sudan, and Darfur. While tenuous peace has been brought to South Sudan and eastern Sudan, there is little evidence that separate peace negotiations for Darfur, Abyei, or Southern Kordofan and Blue Nile will ever be successful so long as the underlying cause of these conflicts persists: exclusionary governance by Khartoum. Avoiding this central challenge ignores the fundamental questions at the heart of Sudanese politics since independence over the state's identity, the role of religion in the state, and the degree of ethnic inclusion. Unless or until a national consensus is achieved on these questions, conflict is likely to persist. The current regime in Khartoum sees no incentive to implement disparate peace deals with fractious regions, particularly since doing so would challenge its vision of an Islamic state. With the exception of Abyei, self-determination is not an

¹⁴ For a fuller discussion on whether the CPA amounts to comprehensive peace or temporary truce, see Douglas H. Johnson, *The Root Causes of Sudan's Civil Wars: Peace or Truce* (Suffolk: James Currey, 2011).

option for a negotiated settlement to any of the outstanding conflicts.¹⁵ Hence, the major rebel movements in the Two Areas and Darfur are now allied within the Sudan Revolutionary Front (SRF) and bound by a common objective in seeking regime change in Khartoum, by force if need be. None sees a separate regional settlement with Khartoum as a lasting solution to their grievances, not least because it has been tried and has failed. Repeated failure costs dearly, as parties lose hope that a negotiated “way out” can be found and consequently revert back to violence and escalation to achieve their desired ends.¹⁶

Unless and until there is resolution of the fundamental question of how the country will be governed,¹⁷ insurgencies and conflicts in the peripheries will perpetuate, irrespective of the number of peace agreements signed. Similarly, the question of governance from the center must also be resolved in Juba in order to end the rising violence in South Sudan. Without fundamental political transformation in Juba away from the government’s current liberation movement mindset (where any opposition or dissent is treated as an assault against the government), inclusion of and reconciliation with marginalized communities and disgruntled actors resorting to violence will not be possible.

3. Khartoum responds to pressure coupled with engagement, especially on humanitarian access.

The GOS uses denial of humanitarian aid as a tool of war against civilian populations in rebel-held areas. Consequently, humanitarian access only results from the United States leading the international community in painstaking, coordinated, sustained, and relentless pressure on Khartoum to stop attacks on civilians and allow unfettered access. Sudan represents one of the most challenging environments in which international humanitarian organizations operate, because of obstacles created by Khartoum as much as ongoing insecurity. Even when access is not denied outright, the government imposes endless, onerous bureaucratic requirements on humanitarian partners, effectively constraining their operations from reaching those affected by conflict. The regime is, however, ultimately responsive to intense international pressure and condemnation coupled with intensive engagement on humanitarian access.

Typically, the GOS will claim that it will never allow international humanitarian access to rebel-held areas, but then will make tactical concessions on humanitarian access when it deems it necessary to lessen pressure on it from other fronts.¹⁸ When circumstances shift and attention

¹⁵ Abyei is owed a referendum on joining South Sudan according to the CPA, but Khartoum repeatedly thwarts this in defiance of rulings from the Permanent Court of Arbitration, the UN Security Council, and the AU Peace and Security Council.

¹⁶ I. William Zartman, “The Timing of Peace Initiatives: Hurting Stalemate and Ripe Moments,” *The Global Review of Ethnopolitics* 1(1): 13.

¹⁷ For a concise discussion on the core governance issues, see Jon Temin, “Amputation Is No Cure for Cancer,” *Foreign Policy*, October 15, 2012, www.foreignpolicy.com/articles/2012/10/15/amputation_is_no_cure_for_cancer%20, accessed January 22, 2013.

¹⁸ The GOS currently claims it will never allow humanitarian access to the Two Areas because it learned its lesson from allowing access to Darfur (Khartoum believes this led to the ICC indictments against Bashir). When access to Darfur

wanes, the government resumes its onerous restrictions and requirements until pressure builds again and it concludes it needs to create political space for (or divert attention from) other issues. This has been the record of humanitarian access in Darfur, as well as in the south and the Three Areas (Abyei, Southern Kordofan, and Blue Nile). It is not surprising, therefore, that access is once again severely restricted in Darfur and outright denied in the Two Areas. So long as Khartoum perceives that the international community cares more about other issues—such as the outstanding issues between Sudan and South Sudan—it will not make concessions on humanitarian access. The United States and the international community have to be convincing that humanitarian access is of utmost urgency and not let its attention waver, as tiresome as Khartoum’s behavior is.

Time to Pivot

The US vision of “a Sudan and South Sudan that are politically stable, economically prosperous, and at peace with its own people and neighbors”¹⁹ is not off the mark; it is how the United States pursues this vision in the postindependence period that needs updating based on the lessons of the past 12 years of engagement with Khartoum. Accordingly, US policy toward Sudan and South Sudan should be refocused in the following ways:

1. Stop seeking to resolve Sudan-South Sudan crises at the expense of internal crises.

The United States should now shift from an approach focused on forestalling war between Sudan and South Sudan at any cost to one that recognizes the fundamental governance problem at the heart of every conflict in Sudan. Resolving the outstanding postindependence issues is still necessary and urgent, but the viability of each state rests on resolution of the governance challenges even more than on whether or not the two go back to war, as difficult as this would be. The United States should formulate context-specific, long-term, bilateral engagement strategies that address each state in its own right, not just as one impacts the other. For Sudan, this means abandoning the current approach of seeking separate political settlements for each regional conflict in favor of a genuine national process to reach a holistic political settlement.²⁰ For South Sudan, this means subordinating pressure to make deals with Khartoum to prioritizing

was being negotiated, donor officials were told that the GOS would never allow Darfur to be “internationalized” because they had learned their lessons from Operation Lifeline Sudan (OLS), which provided for negotiated access to rebel-held areas in southern Sudan during the war (Khartoum alleges this allowed the rebels to be resupplied under the guise of humanitarian aid).

¹⁹ US Department of State, “Special Envoy for Sudan and South Sudan.”

²⁰ For instance, Khartoum is presently holding hostage implementation of border and oil agreements with South Sudan, insisting that Juba put an end to the SPLM-N’s insurgency in Southern Kordofan and Blue Nile. The SPLM-N was formerly part of the Sudan People’s Liberation Movement/Army (SPLM/A) that negotiated the CPA and now is the ruling party in South Sudan. Khartoum alleges Juba is backing the SPLM-N materially. Juba alleges Khartoum is backing rebel militia groups in South Sudan responsible for escalating intracommunal violence there. The United States, in turn, is putting pressure on Khartoum to negotiate a ceasefire with the SPLM-N, allow humanitarian access and begin talks on a political settlement, as well as on Juba to cease support for the SPLM-N. The SPLM-N, for its part, is prepared to negotiate a ceasefire and allow humanitarian access, but it insists that political talks include other rebel movements, such as those from Darfur and the east, as well as opposition parties in Khartoum.

the internal political reforms necessary to shore up state legitimacy and accountability. For both, it means understanding the political and social dynamics behind each state's actions and interests by engaging with the full spectrum of society (perceived good actors and bad actors). It also means accepting that political transformation is fundamentally an endogenous process that the Sudanese people must go through for themselves (however messy and long it takes) to arrive at their own answer to how state and society will relate. The United States' role is necessarily constrained in what it can directly do to support this—promoting inclusion and engagement across Sudanese society would be a good start.

2. Renew pressure for the cessation of hostilities and for unfettered humanitarian access.

Too much ground has been lost on humanitarian access to Darfur and the Two Areas in the last several years. The United States' efforts should refocus on seeking cessations of hostilities and unfettered humanitarian access in every conflict zone. This is an area where US leadership can play a direct and significant role through skillful balancing of pressure and engagement with the parties, especially the GOS, to stop the violence and allow the delivery of humanitarian aid. The United States is correct that delivering humanitarian aid in Southern Kordofan and Blue Nile or Darfur coercively (without Sudan's consent) is neither practical nor politically feasible on a scale that would address the immense humanitarian needs. The only possible answer is to keep pressure on Khartoum to open up humanitarian access and end its attacks on civilians. Without a consistent, relentless focus by the United States and other stakeholders, access will not be achieved nor sustained. The United States should call out the abuses and lack of access more loudly and frequently, coupled with persistent engagement in Khartoum with the highest levels of the GOS—not just during the occasional visits of the special representative or special envoy.²¹ The Obama administration uses well the bully pulpit of the UN Security Council chamber to this end; additional senior administration voices are needed, including in Khartoum. The GOS is actively jeopardizing the security and livelihoods of more than 4.5 million of its inhabitants through its military campaigns. That the world, including the United States, is fatigued with Khartoum's abuses should not diminish the attention they receive.

3. Stop equivocating between Khartoum and Juba.

While each government should be held accountable for abuses against its citizens, their actions should not be treated as equivalent. Juba is not engaged in full-scale war against its civilian population, as Khartoum is in vast regions of Sudan. Juba's worrisome and slippery slope with respect to its coercive civilian disarmament campaigns (for instance against the Murle community in Jonglei state) and other forms of rising violence exacerbated by government actions, as well as increasing violations of human and civil rights, are serious concerns and

²¹ Retired ambassador Dane Smith served most recently as US special representative to Darfur, in support of Princeton Lyman, who serves as the presidential US special envoy for Sudan and South Sudan. Smith resigned in December 2012; his replacement, if there will be one, has not yet been announced.

should certainly be addressed in the conduct of US-South Sudan relations, but these concerns are not of the same magnitude as Khartoum's actions against its citizens.

4. Put politics before justice.

The United States should recognize that seeking justice for Darfur through the International Criminal Court (ICC) is at odds with moving the regime toward a viable political settlement that permanently ends the marginalization of all its peripheries, especially in Darfur, and resolves the status of Abyei. It is politically untenable for President Bashir to preside over the loss of any more Sudanese territory, but he has nowhere to go with the ICC indictment looming over him. The ruling NCP regime may be at its weakest since seizing power some 24 years ago—rumors of coup threats abound, and Bashir's health may be in question,²² as opposition parties and rebel forces attempt to coalesce around a common vision and strategy for political reform. Averting a worst-case scenario of violent regime change or state collapse requires giving the current regime, especially Bashir, a plausible way out of the current impasse. Expecting the NCP to negotiate itself out of power or to turn over Bashir to the ICC is not realistic and puts thousands more lives at risk, particularly the weaker and more desperate the regime becomes.²³ Achieving the internal political reforms necessary for lasting peace and stability requires negotiating with those in power, and it requires being realistic about what can be achieved through negotiations at the present time. The United States currently risks missing the tipping point between the NCP's own recognition of the need for some political reform and its current leadership becoming so desperate to survive that it collapses the state. The United States should prioritize peace and political transformation over theoretical justice through the ICC. Specifically, the United States should support deferring ICC prosecution of President Bashir under Article 16 of the Rome Statute in order to create space for political transition in Khartoum.

5. Avert state collapse in South Sudan.

Hardliners in Khartoum and Juba are engaged in a reckless game of chicken, each believing that they can hold out economically and politically until the other regime collapses. By allowing the possibility of a way out for the NCP to engage in meaningful political reform and constructive negotiations over Abyei, the United States (and the international community) would reinforce the moderate, pro-engagement elements within the regime and deny the hardliners a key argument for holding ascendancy. It would also help deny hardliners in Juba their optimal solution of holding out for state collapse in the north. Similarly, Khartoum's hardliners should be denied their optimal solution of holding out for state collapse in the south. The United States can do this by ensuring the economic viability of South Sudan until its oil production comes back on stream. American and European irritation over the decision in Juba to cut off oil production

²² Bashir underwent surgeries in Qatar and Saudi Arabia in 2012, leading to widespread speculation about his health. See "Bashir Undergoes Another 'Minor' Operation As His Party Urged to Name Successor," *Sudan Tribune*, November 6, 2012, www.sudantribune.com/spip.php?article44450, accessed January 22, 2013.

²³ For a detailed analysis of these dynamics see International Crisis Group (ICG), "Sudan: Major Reform or More War," *Africa Briefing* No. 194 (November 29, 2012).

in January 2012 should be subordinated to the critical challenge of rescuing these two failed states. Given its long-standing, special relationship with South Sudan, which was critical to achieving the CPA, the United States should lead the international community in providing financing to keep the RSS afloat. Some creativity will be required for the United States to find the resources in the current domestic budget climate, but it can be done and does not have to entail significant direct budget support. For instance, the United States can and should provide loan guarantees for South Sudan to secure private financing to meet its budget gap, which it could do using its ample petroleum and mineral resources as collateral if the United States would guarantee the risk for lenders.²⁴ This would also ensure that Juba does not fall prey to predatory lending practices. The humanitarian and economic consequences of not providing this safety net will be far more costly for the United States and other donors, not to mention the people of South Sudan. Leaving South Sudan vulnerable to economic collapse emboldens hardliners in Khartoum, risks even greater instability in the region, and will certainly result in large scale human suffering. The United States can stop this from happening and create a dynamic for focusing on South Sudan's long-term governance challenges and needed domestic reforms.

6. Reassess Sudanese counterterrorism cooperation.

The United States should reassess the sincerity of Sudanese counterterrorism cooperation and the deference that it receives among US policy objectives. Serious questions arise from Sudanese collusion with Iran in funneling arms to Hamas or other terrorist organizations, the recent formation of a student organization at the University of Khartoum calling itself Al Qaeda in the Sudan, the complete miscarriage of justice in the Sudanese government's handling of the assassins of a USAID officer and his driver killed in 2008, and the ongoing ordered departure of the US embassy in Khartoum, presumably because the Sudanese government cannot adequately ensure the security of US diplomats and humanitarian and development experts. It is in the interests of the United States not to have hardline elements in Khartoum gain the upper hand in aligning Sudan further with state and nonstate actors fundamentally opposed to the United States. Ultimately, US national security interests will be best served when the Sudanese government sees its own interests as in alignment with the United States and the West, not against them. The current US approach does not appear to be moving Khartoum toward this goal.

²⁴ USAID already has such lending authority under the Foreign Assistance Act of 1961 (as amended), even though it is rarely used anymore. For a brief discussion of this authority, see Curt Tarnoff and Marian Leonardo Lawson, "Foreign Aid: An Introduction to U.S. Programs and Policy," CRS Report R40213 (Congressional Research Service, 2012), 26.

Getting to Normal

To achieve its objectives in Sudan and South Sudan, the United States should recalibrate the conduct of its relations to recognize developments since the signing of the CPA and to incorporate the lessons from the past 12 years of US reengagement. When President Bush took office in 2001, the United States had no relations with Khartoum—whether diplomatic, humanitarian, or counterterrorism. Resuming the conduct of any relations was necessarily an extraordinary endeavor, one that was guided from the top by President Bush himself. Now in 2013, the United States should recognize that its interests in the viability of both Sudans rest not only in stopping violent conflict between them but also in nurturing the foundations for stability and prosperity—long-term political projects in both countries. Accordingly, the United States should take the following steps:

1. Send a US ambassador back to Khartoum.

Security permitting, the United States should have senior ambassadors leading teams of seasoned diplomats in both countries to advocate for US interests and ensure US policy is informed by expert and timely analysis of political, security, economic, and social developments. Currently this is true in Juba but not in Khartoum. The Obama administration should make the case to Congress that sending an ambassador back to Khartoum is an appropriate and necessary step to pursue US interests in Sudan. It is not a seal of approval on Khartoum's behavior—the United States has had ambassadors to many other unfriendly countries with which it has significant differences, most notably Syria.²⁵ Since reopening the US embassy in Khartoum in 2002, the United States has been represented by a chargé d'affaires who sometimes holds the rank of ambassador but is not accredited as the US ambassador to Sudan. This diminishes the weight of the US voice in the country, both to the government and to the people.

Transition to lasting political reform may yet come from collective action expressing the will of the Sudanese people about how they want to be governed. It is highly unlikely to come from arresting President Bashir and sending him to The Hague. Refusing to engage with the full spectrum of Sudanese actors, including President Bashir and his coterie, handicaps what role the United States could be playing in stemming violence and human suffering in Sudan and moving the competition over state identity, power, and resources to a nonviolent political process. Moreover, nearly every other Western country is represented at the ambassadorial level, including key partners (and signatories to the Rome Statute) such as the United Kingdom, Norway, Germany, France, and the Netherlands, as well as the European Union. The United States only impedes its own interests by not having similar representation.

As well, the United States should invest in better understanding the politics and societies in Sudan and South Sudan, including engaging political actors across the spectrum as well as

²⁵ The United States is not represented at the ambassadorial level in the following countries: Belarus, Bolivia, Cuba, Eritrea, Iran, North Korea, Somalia, Sudan, and Venezuela.

supporting the growth of social capital in each society that might contribute to durable political settlements. Political transformation is a delicate, endogenous process in any country. The more deeply the United States understands the societies and politics of these two countries (not just the specific conflict-triggering issues between them) and the more empowered a senior ambassador is to represent these interests and inform policymaking back in Washington, the more successful the United States is likely to be in engendering the desired long-term result of two viable, stable states.

2. Clarify why a special envoy is still needed, what the job is, and when will it be done.

The presumption that so long as there is violent conflict in or between the Sudans, the United States should have a presidential special envoy should now be questioned. Does the role a special envoy typically fills—high-level shuttle diplomacy to reach a negotiated settlement—align with the current prospects for more negotiated settlements to address the key challenges in Sudan and South Sudan? If durable resolutions of these conflicts will not result from more piecemeal negotiated settlements, as is the case with Darfur and the Two Areas, then the answer should be no. Neither are the prospects for Sudan–South Sudan talks so propitious at the moment that the State Department should not be able to handle US engagement in them without the support of a special envoy. Continuing to manage Sudanese and South Sudanese relations through an extraordinary office within the State Department (but somehow ostensibly reporting to the president) perpetuates a short-term approach to the two Sudans, keeping the emphasis on intensive shuttle diplomacy to negotiate disparate settlements. This keeps the relationship outside of a context for longer-term bilateral engagement—the job of ambassadors and their embassies, with the support of their assistant secretary and superiors in the State Department, under the policy guidance of the National Security Council and the oversight of Congress.

Resolving the conflicts in Darfur and the Two Areas demands a longer-term perspective on political transformation in Khartoum—irrespective of how the outstanding issues with South Sudan are resolved—not more piecemeal settlements. Similarly, addressing the internal challenges to state stability in South Sudan requires a longer-term framework for engaging with Juba. Hence, management of relations with the two Sudans should now be normalized within the State Department’s Bureau for African Affairs.

Nevertheless, the White House has already announced the president’s intention to name a new envoy and is unlikely to revisit this because of ongoing support for keeping a special envoy from advocacy groups and interested members of Congress. Given this reality, the administration should ensure that the next special envoy has a specific, discrete, time-bound (12–18 months, for instance) set of tasks to undertake. These should comprise the objectives of US foreign policy best suited to shuttle diplomacy and should not include—nor be mistaken for—the totality of the US-Sudan and South Sudan agenda. It should be clear that the special envoy supports the US ambassadors in Juba and Khartoum, who should have the primary role in managing the overall

relationships between the United States and Sudan and South Sudan (currently the ambassador or chargé d'affaires seem to have the supporting role to the special envoy). The special envoy's to-do list should include the following:

- **Cessations of hostilities and unfettered humanitarian access in Southern Kordofan, Blue Nile and Darfur.** The special envoy should focus on bringing the full weight of the United States behind specific efforts to suspend the violence and achieve humanitarian access to the current conflicts in the Two Areas and Darfur, and then to sustain these agreements once achieved. The scale of the humanitarian crises in these conflict areas demands that this come first. The necessary work of moving the parties to political settlement of grievances should follow, within the broader context of political transformation in Sudan. Supporting such delicate internal political reform requires sustained, high-level, on-the-ground diplomatic engagement, normally the job of a seasoned ambassador, not an itinerant envoy.
- **Continued pressure on the major outstanding post-independence issues between Sudan and South Sudan: Abyei, oil, and border demarcation.** Each of these issues holds the potential to trigger a return to war between the two countries. The United States should continue to support regional efforts to keep the parties talking as this mitigates the prospect for renewed violence,²⁶ recognizing, however, that resolution of these issues should not be forced devoid of the political context for Khartoum and Juba's negotiating positions or at the expense of broader governance concerns. The special envoy's role should be to help the AU mediation team identify obstacles and ways of managing them, while at the same time managing expectations in the United States for significant progress in the near term.²⁷ For instance, Khartoum is presently stalling for time on Abyei, refusing to implement the CPA protocol providing for a referendum for the residents there. The United States, having directly negotiated that protocol, should lead in keeping international attention focused on delivering the referendum, supporting the AU mediation team's efforts insofar as they make sense (abandoning the referendum would be a surefire recipe for more war).²⁸ Similarly, efforts to restart the export of South Sudan's oil and to resolve the remaining contested and disputed border

²⁶ Specifically, the United States should support further negotiated solutions to these issues in keeping with the agreements the parties themselves have already made. These include the Protocol on the Resolution of the Conflict in Abyei (Chapter IV of the CPA signed on May 26, 2004); Temporary Arrangements for the Administration and Security of the Abyei Area (June 20, 2011); and the Agreement on Oil and Related Economic Matters, Agreement on Border Issues, Agreement on Security Arrangements (three of the nine Cooperation Agreements signed on September 27, 2012).

²⁷ For more on the mediator's role in hastening ripeness for negotiated settlements, see Zartman, "Timing of Peace Initiatives" (n. 14), and Chester A. Crocker, *High Noon in Southern Africa* (New York: Norton, 1992), 471–472.

²⁸ The issues are complex since President Bashir is unlikely to cede further territory to South Sudan in the current political environment (the most likely outcome of the referendum if only the year-round, permanent residents of Abyei are given the right to vote). President Kiir, for his part, must manage tensions with other disputed border communities who fear their interests will be traded for Abyei's, fueling further intracommunal violence and grievances against the state.

areas run straight into the conflict between the GOS and the SPLM-N in Southern Kordofan and Blue Nile. The answer, however, cannot be to force a flawed political settlement in the Two Areas that does not address the central issue of governance in Khartoum. Irrespective of the status of negotiations, the US envoy should keep both parties continually on notice that armed incursions, by land or air, are wholly unacceptable and will be called out by the United States and international community.

- **Developing and maintaining a disciplined multilateral strategy to negotiations across the international community.** Sudan does not lack for special envoys. Currently, the United States, United Kingdom, Norway, the European Union, Russia, China, the Arab League, the African Union, and the United Nations all have special envoys of some kind to Sudan and South Sudan. The US special envoy should coordinate (corral, as the case may be) all relevant international actors to secure meaningful cessations of hostilities in Darfur and the Two Areas and unfettered humanitarian access to all civilians in need of assistance and keep negotiations on resolution of Sudan and South Sudan’s outstanding issues in line with agreements already made.

Delegating these tasks to a special envoy will not be enough, however. Additional senior-level engagement to support these objectives and the broader interests of the United States will be necessary to achieve success.

3. If a special envoy is to be appointed, pick someone with expertise in Sudan and South Sudan.

Just as a Middle East peace envoy would not be named without any experience in Middle Eastern affairs, so too the special envoy for Sudan and South Sudan should have some background in the portfolio, particularly given the advanced stage of the ongoing conflicts in Sudan (both have long histories preceding even the last 10 years of conflict)²⁹ and the importance of minute details in the outstanding issues between Sudan and South Sudan.³⁰ Understanding these conflicts and challenges through the eyes of those the United States is seeking to influence is imperative, including how fluid regional dynamics in North, East, and even West Africa impact their perspectives. Understanding the complexities and history of the issues—namely what has already been tried and failed, as well as what has been agreed to but not implemented—is critical to US efforts to help stop the violence (or prevent it from starting

²⁹ See Claudio Gramizzi and Jerome Tubiana, “Forgotten Darfur: Old Tactics and New Players,” Small Arms Survey Human Security Baseline Assessment Working Paper 28 (Geneva: Small Arms Survey, Graduate Institute of International and Development Studies, 2012); Julie Flint and Alex de Waal, *Darfur: A New History of a Long War* (London: Zed Books, 2008); Andrew S. Natsios, *Sudan, South Sudan and Darfur: What Everyone Needs to Know* (New York: Oxford, 2012); and Johnson, *Root Causes* (n. 16).

³⁰ See Joshua Craze, “Creating Facts on the Ground: Conflict Dynamics in Abyei,” Small Arms Survey Human Security Baseline Assessment, Working Paper 26 (Geneva: Small Arms Survey, Graduate Institute of International and Development Studies, 2011); and International Crisis Group, “Sudan: Defining the North-South Border,” Africa Briefing No. 75 (September 2, 2010).

again), not to mention supporting deeper political transformation. Too much ground is lost with every change in special envoy, particularly when the envoy has no previous Sudan experience or relevant relationships. This challenge is particularly acute given that the United States regularly changes its Sudan and South Sudan team, losing much of its collective knowledge of Sudanese actors and their likely behavior, while the interlocutors in Khartoum and Juba generally stay the same (with an occasional shuffle of portfolio). While this knowledge can come with time, and with the help of US ambassadors in Juba and Khartoum, important opportunities to move the parties are missed while the envoy is relearning what those who have gone before have already figured out about Sudanese negotiating tactics or South Sudanese ethnic politics, which drives many of Juba's positions towards Khartoum.

4. Stop seeking short-term objectives through promises of normalization that can't be delivered.

The United States has sent so many mixed messages to Khartoum about what it will take to normalize relations (that is, lift sanctions) based on competing US-Sudan policy ambitions—some of them extremely short-term in nature (don't interfere with the South Sudan referendum), others requiring wholesale regime transformation (stop killing your people and bring all the perpetrators to justice)—that American messengers have little credibility in the eyes of Sudanese interlocutors. This is true not least because the United States has not been able to follow through when the short-term objectives have been met because of new or increasingly egregious human rights violations by the Sudanese government. Breaking this pattern matters if the United States cares more about achieving its policy objectives than expressing its opprobrium at the government of Sudan. Raising expectations of normalization and then not delivering on them seriously undercuts those reformist-minded actors in Khartoum that take the short-term promises seriously and argue for the path of engagement with, rather than isolation from, the West. The United States should have a moratorium on roadmaps for normalization of relations with Sudan; experience shows that the United States can never be explicit enough in delineating the behavior change being incentivized nor focused enough to enforce additional consequences when negative developments warrant. When serious reform is evident, as with recent changes in Myanmar's political system, the United States should respond accordingly. In an address to the Atlantic Council in Washington, D.C., on August 1, 2012, outgoing US Special Envoy Princeton Lyman provided a compelling outline of what such serious reform would look like.³¹ In the meantime, sanctions should be lifted if and when the specific benchmarks required by each sanctions regime is met. Until such time as US development assistance is no longer broadly sanctioned, USAID should downgrade its presence from a full mission. Humanitarian and democracy assistance can and should continue through USAID-managed programs out of the embassy and with the support of USAID's regional mission for

³¹ Lyman, "US-Sudan Relations."

East Africa.³² It sends an incongruous message to have a full-fledged development mission in a country where US development assistance is broadly sanctioned and even humanitarian assistance is massively obstructed.

Conclusion

US engagement with Sudan and South Sudan since 2001 has engendered important progress in moving the countries from war to peace. American leadership played a significant role in realizing the CPA, which tenuously ended Africa's longest running civil war and afforded the people of South Sudan the right of self-determination and, ultimately, independence. American leadership was similarly instrumental in helping to end the genocide in Darfur and ensuring that life-saving humanitarian assistance reached millions of people affected by the conflict. Sudan and South Sudan remain failed states, however, with ongoing insurgencies and a high risk of conflict resuming between them. To achieve its vision of "a Sudan and South Sudan that are politically stable, economically prosperous, and at peace with its own people and neighbors,"³³ US policy objectives should refocus on addressing the fundamental governance challenges at the root of each state's fragility. Ending violent conflicts and delivering humanitarian assistance are still of utmost importance. However, lasting resolution to the crises in Sudan and South Sudan will only come with political transformation at the center of each state. Achieving such transformations is a long-term endeavor requiring American "patience, persistence, empathy, discretion, boldness, and a willingness to talk to the enemy"³⁴ in support of the internal processes that are the only way to inclusive, participatory, stable, and prosperous governance in each country. It is now time to move past relating to Sudan and South Sudan principally through a special envoy in favor of more normal diplomatic relations conducted by the State Department.

³² USAID manages programs in nearly every sub-Saharan African country but only has 24 bilateral missions. Three regional missions (East Africa, West Africa, and Southern Africa) support programs in the countries in which USAID does not have a mission. USAID managed a large portfolio of humanitarian and CPA-related programs in present-day Sudan even prior to reopening its mission there in 2006.

³³ US Department of State, "Special Envoy for Sudan and South Sudan."

³⁴ Roger Cohen, "Diplomacy Is Dead," *New York Times*, January 21, 2013, www.nytimes.com/2013/01/22/opinion/global/roger-cohen-diplomacy-is-dead.html, accessed January 22, 2013.

