

COMPROMISING WITH EVIL

AN ARCHIVAL HISTORY OF GREATER SUDAN, 2007 – 2012

SECTION 2

Why the Comprehensive Peace Agreement Failed

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Section Two: Why the Comprehensive Peace Agreement failed

Introduction and overview

Signed in Nairobi on January 9, 2005, the Comprehensive Peace Agreement consolidated six critical agreements between the Government of Sudan and the Sudan People's Liberation Movement/Army (SPLM/A), marking an end to the Naivasha peace process. In addition to the landmark Machakos Protocol of July 2002, which addressed self-determination for the South, the five individual agreements signed in Naivasha, Kenya between September 2003 and May 2004 addressed issues of security, wealth- and power-sharing, border delineation and demarcation, the status of Abyei (including a self-determination referendum), and political arrangements to resolve conflict and political grievances in South Kordofan and Blue Nile.

The CPA posed an opportunity for a meaningful peace to be fashioned, but only if international commitment were sufficient to sustain what would clearly be an ongoing process. Immediately following the signing of the final document, the UN Security Council appeared content to “pledge to quickly consider sending peacekeepers to Sudan”; given the daunting nature of the operation, this language suggests a deeply inadequate sense of urgency. Indeed, the initial time-frame for deployment, makeup of personnel, and primary basing of forces all appeared troubling. Radia Achouri, the UN spokeswoman for the UN Advance Mission in Sudan declared on January 13, 2005 that the UN expected to deploy 9,000 to 10,000 “observers by mid-March to oversee the implementation of a peace agreement in Sudan,” going on to say that “a Security Council resolution is expected by mid-February after which troops would be deployed within a month.”¹

Considering the prevailing military conditions in Southern Sudan, and the expected rapid rate of return by displaced persons and refugees, this time-frame was too leisurely. A provisional Security Council resolution should have been at the ready, with peacekeeping forces already poised to begin deployment. Moreover, the peace support operation should have entailed much more than mere “observers”: a robust, fully-equipped and -armed rapid response brigade should have been effectively deployed in strategic locations in Southern Sudan, especially near potential flash-points in Unity State and Upper Nile State, Jonglei State, Abyei, and Bahr el-Ghazal.

At the same time, the inadequacy of the AU monitoring force in Darfur was becoming more evident by the day. In mid-January 2005, deployment of the contemplated force of 3,500 – 4,000 had stagnated at around 1,000 personnel—not nearly enough to address the rapidly growing security concerns of humanitarian organizations or the desperate protection needs of well over 3 million Darfuri civilians. As Human Rights Watch reported on January 13, 2005, the military powers strong enough to ensure such protection

have chosen to be unavailable. The United States, the United Kingdom, and Australia are bogged down in Iraq, with the United States going so far as to say that “no new action is dictated” by its determination that the killing in Darfur amounts to genocide. France is committed elsewhere in Africa, and Canada is cutting back its peacekeeping commitments, despite promoting the “responsibility to protect.” NATO is preoccupied in Afghanistan; the European Union is deploying forces in Bosnia. “Everyone has something more important to do than to save the people of Darfur,” said [Executive Director Kenneth] Roth.²

There was no evidence of international commitments to provide adequate emergency and transitional aid resources, even as it was clear that many hundreds of thousands of Southern Sudanese were preparing to return from the north (particularly Khartoum) and from nations of refuge. For its part, the Khartoum regime was happy to make life difficult for those of Southern ethnic background. In the years before and after the signing of the CPA the National Islamic Front/National Congress Party handled the problem of displaced Southern Sudanese by forcing them further and further from the national capital city, with increasing brutality. Reuters correspondent Opheera McDoom provided a telling account at the time of the CPA signing.³

Indeed, the signing of the peace agreement increased the risk that the regime would be much more aggressive in forcibly pushing Southern Sudanese southward. Following the secession of South Sudan in July 2011, the situation became critical: some million people of Southern ethnic heritage were stripped of their Sudanese citizenship. They faced growing hostility not only from regime officials but also from many northern citizens, especially those intolerant of the Christianity wrongly presumed to define the spiritual commitments of all “Southerners” —even as many of these people were born in the north and knew none of the indigenous languages of the South.

The UN showed no willingness to commit the resources necessary to respond to the plight of Southerners trapped in Sudan and their need for safe return; hundreds of thousands of people faced harassment, violence, and asset-stripping. A vast number remain trapped to this day, dependent upon the vagaries of international funding for returns and the heroic efforts of the International Organization for Migration. As many as 700,000 Southerners remained in Sudan as of August 2012, where without the necessary identification papers or citizenship documents, and with little in the way of economic prospects, they faced increasing hostility. Many had been fired from their jobs and were in some cases denied their pension earnings. “Southerners” and people in the North have also been especially hard hit by the inflation now soaring throughout Sudan—particularly in the case of rising food prices.

The excerpts that constitute this Section are defined in a number of ways by the electoral events and conditions in greater Sudan during this period. **Annex X** offers a series of more discrete, and time-specific analyses of elections. The effort here is to see the fate of the CPA through the issues that elections, and their failure, have illuminated.

2005: Darfur and the CPA

One of the dismaying features of the negotiations leading to the CPA was their deflection of international attention from Darfur during the years of greatest genocidal destruction in the region. The prevailing thinking was that adding Darfur to the diplomatic agenda would make North/South negotiations too difficult, and Khartoum did not hesitate to signal that they would not sign the CPA if they felt too much pressure over events in Darfur. Yet the period of final negotiation for the CPA—2003 to 2004—was the most violently destructive of the entire Darfur conflict; even so, international actors of consequence were largely silent. The UN Under-Secretary for Humanitarian Affairs, Jan Egeland, was a singular exception. As a result of diplomatic hesitation, the CPA’s completion was delayed for many months in late 2003 and much of 2004. Khartoum understood that the US, the UK, and Norway would mute their criticism of the regime’s genocidal activities in Darfur in the interests of securing a final North/South agreement. Thus, although the last CPA issue of substance was resolved in May 2004, the NIF/NCP leadership succeeded in delaying the final signing of an agreement until January 2005—eight months later, a period that, again, involved some of the greatest destruction in the Darfur genocide.

Even after the signing of the CPA there was resistance in many quarters to push-

ing Khartoum too hard on Darfur. The UN Secretary-General's special representative to Sudan, Jan Pronk, actually recommended holding off on imposing sanctions in the face of continuing genocide because "Khartoum had just responded to international wishes by signing the peace agreement in the south ending Africa's longest civil war."⁴ But Khartoum sensed that during the Interim Period contemplated by the CPA (January 9, 2005 to July 9, 2011) it would continue to be able to pressure the international community to hold off on serious action in Darfur by delaying the implementation of various protocols, particularly those bearing on Abyei and the urgent need for border delineation.

In the week following the signing of the CPA, even Pronk was forced to acknowledge what had been widely known for months: he warned the Security Council that the

Sudanese government forces might be tempted to think the conclusion of the north-south peace accord would provide a brief window of immunity from international criticism on their actions in Darfur," adding that the violence spreading outside of Darfur was affecting humanitarian work "with fatal and tragic consequences."⁵

The attacks on humanitarians recorded in Section One make all too clear how inadequate this warning was.

Khartoum's continuing war on Sudan's marginal populations posed a direct threat to the viability of the Naivasha peace agreement. No imaginable "Government of National Unity" (GNU)—stipulated in the CPA—could include a majority NIF/NCP, with its domestic policy of genocide in Darfur, as well the Sudan People's Liberation Movement (SPLM) and representatives of other political opposition groups. As SPLM leader John Garang made clear, "National governance" could not include a policy of massive, targeted human destruction of the sort endured by the people of Southern Sudan and the Nuba Mountains for so many years.

Almost as if to emphasize their control of military policy in Darfur, officials in the NIF/NCP went so far as to justify the regime's aerial attacks on civilians in Darfur, even though it had formally committed in Abuja (Nigeria) to stop them. Citing a UN resolution to the effect that Khartoum had primary responsibility for protecting the citizens of Darfur, Foreign Minister Mustafa Osman Ismail told reporters in Cairo that doing so entailed using the very military aircraft that have repeatedly and authoritatively been implicated in attacks on civilians:

"If the African forces there cannot protect routes and protect civilians, then the Sudanese government must undertake that," he said, adding

that the government had a right to use planes in an area larger than France.⁶

Again and again, the African Union and the UN Panel of Experts on Darfur have confirmed Khartoum's use of military aircraft in attacks on civilian targets, as have many other reporting organizations and Darfuris themselves (primarily through Radio Dabanga). Altogether, there have been more than 500 confirmed aerial attacks on civilians in Darfur since the signing of the CPA and the passing of UN Security Resolution 1591 (March 2005), which barred military flights over Darfur.⁷

The “Government of National Unity,” July 14, 2005

Amidst this vast crisis came the inauguration of the new “Government of National Unity” (GNU) in early July of 2005. Though nominally an historic event, the creation of the GNU did not herald peace for either Darfur or Eastern Sudan, the latter region openly rebellious at the time. Nor did formation of the GNU halt the deteriorating situation on the ground in South Sudan. Still, the international community appeared eager to use the occasion of the new GNU as a means of suggesting that progress could now be made on Darfur by virtue of Dr. John Garang de Mabior's role as First Vice President.

As the head of the Sudan People's Liberation Movement/Army, Garang appeared deeply committed to halting ethnically-targeted human destruction in Darfur. But for all his impressive political and diplomatic powers, it was always unlikely that Dr. John would have significant effect on the “northern” policies of the new Khartoum government in either Darfur or in increasingly violent Eastern Sudan. Any realistic retrospective assessment of the political situation in Khartoum at the time reveals just how little control Garang had over the forces sustaining the regime's stranglehold on national wealth and power. The National Islamic Front/National Congress not only controlled 52 percent of all political power in the national assembly and ministerial posts, but also controlled the executive function in the new government, with Field Marshal Omar al-Bashir retaining the presidency and former First Vice-President Ali Osman Taha remaining as Second Vice-President (and thus forming with al-Bashir a majority within the “presidency”).

No one controlled Sudan's security forces as effectively as Taha, a close ally of Major General Salah Abdallah “Gosh,” head of the National Intelligence and Security Services (NISS). The relationship between the military and security services in Khartoum had been made seamless by years of tyrannical NIF/NCP rule. Notably, the Bush administration gave clear signals that it was willing to do business with

men like Gosh, who along with Taha was one of the key architects of the genocidal policies in Darfur.

John Garang, by contrast, had to devote considerable resources simply to providing for his own security, as well as that of the SPLM and other Southerners working within the government in Khartoum. Garang had no real power over the military in Sudan. He appeared to have some political leverage with the insurgency movements in Darfur by virtue of previous solidarity with their cause, but the Sudan Liberation Army (SLA) was already fissuring, even as the much smaller Justice and Equality Movement (JEM) was becoming a more powerful rival group. Without significant control over either military resources or the operations of the intelligence and security wing of the government, Garang could do little more than exert moral pressure for an end to genocide in Darfur. The controlling force within the new government—the NIF/NCP—had the power to turn Garang into a figurehead in responding to Sudan’s various crises, making clear, in very threatening terms, that Garang’s purview extended only to South Sudan. In turn, Garang had only as much of a voice in shaping government policy in Darfur as decisive international support permitted him. The excessive hopes pinned on Garang’s inauguration revealed a dismaying lack of resolve: it remained the task of the international community to halt Darfur’s genocide.

Garang also lacked the power to change the adamant opposition of regime leaders to the proceedings of the International Criminal Court (ICC). The men most responsible for genocide in Darfur continued to insist that they would not cooperate with the ICC.⁸ Members of the international community such as Britain’s Hilary Benn claimed that “the threat of prosecution by the ICC” had contributed to a decline in large-scale military confrontations; however, it was soon apparent that the threat of ICC prosecution did nothing to halt violence by either the *Janjaweed* or Khartoum’s regular military forces. In fact, humanitarian aid and some human rights workers rightly predicted that an ICC referral would actually increase the insecurity facing humanitarian operations in Darfur.⁹ As Refugees International reported in March 2005:

Sudanese officials greet the ICC recommendation [by the UN Commission of Inquiry] with a combination of annoyance and arrogance. Foreign Minister Mustafa Osman Ismail recently threatened the 800 to 1,000 international humanitarian workers in Darfur by warning that referrals to a criminal court could lead to “a direct threat to the foreign presence...Darfur may become another Iraq in terms of arrests and abductions.” A [paramilitary Popular Defense Force] official told Refugees International that “if the wanted on the list are penalized, it

will not solve the problem. It will start war again.” His colleague added, “There will be an explosion.”¹⁰

In the end, optimism about the effects of the ICC process of the sort expressed by Benn only seemed to embolden the most brutal instincts in the NIF/NCP regime.

Violence also posed challenges to Garang in organizing the governance of South Sudan and securing the means for economic development as well as adequate humanitarian capacity. The South had endured over 20 years of extremely violent and destructive war, often directed by Khartoum at civilians and civilian targets such as schools, hospitals, churches, refugee camps, and even sites of humanitarian assistance. Moreover, 300,000 people had already returned to the South by the end of 2005, most without any substantial resources. Many additional hundreds of thousands of internally displaced persons and refugees stood poised to return. Without emergency transitional aid—of appropriate size and urgency—many of these people risked returning only to die for lack of food, potable water, shelter, and medical treatment.

In addition to addressing these issues, Garang’s greatest challenge was determining how best to provide effective and inclusive governance for South Sudan—and how to do so making efficient use of the oil revenues granted to the new Government of South Sudan per the terms of the revenue-sharing arrangement in the CPA. Most urgently, Garang needed to press the international community to fulfill its promises to assist South Sudan in the near-term with a transition from war to peace. The extraordinary ravages of war, the widespread destruction of the very limited civilian resources in the South, the loss of agricultural resources (particularly cattle), and the impending arrival of as many as 1 million additional returnees over the twelve months following Garang’s appointment as First Vice-President all created a situation fraught with acute threats to civilian life and livelihood.

Famine was a particularly grave humanitarian threat. In a UN situation report from July 2005, Action Contre Faim (AFC) found that

...global [acute] malnutrition rates [GAM] in Wau [northern Bahr el-Ghazal]...increased from 12.5% in March 2004 to 13.1% in April 2005 and that [Severe Acute Malnutrition] SAM increased from 2.4 to 2.7% over the same period. The worst situation was recorded in the Eastern Bank [internally displaced persons] camps where GAM rose from 16.7 to 25%, and SAM from 3 to 3.8% over the same period.¹¹

These were extremely alarming numbers, especially among young children. Yet by this time the international community was providing only a fraction of the funding it had promised to Sudan. Warehouses in Lokichokio, the northern Kenyan

base for humanitarian operations in Southern Sudan, were largely empty—a clear indication that the food crisis could only deepen during the rainy season that followed. Garang and the SPLM leadership, along with other Southern political leaders, had to address not only the most urgent humanitarian issues, but the complete lack of infrastructure as well. There were few schools, no transport or communications systems, and barely any health facilities. The most basic tasks of construction and reconstruction would be undertaken against a backdrop of acute and growing humanitarian needs.

Military Threats to South Sudan

Garang and the Government of South Sudan (GOSS) also faced the serious threats posed by NIF/NCP-allied southern militia forces; these threats continue to the present. Troublingly, in 2005 a number of militias, long an immensely destructive military proxy of the regime, had not included themselves in the peace process. Their ability to hold out following the CPA revealed Khartoum's lack of readiness to surrender this instrument of instability in the South. Indeed, Khartoum continued to supply and support the militias: several militia leaders were incorporated as senior officers into Khartoum's army, and many of those within the regime who opposed the CPA regarded the militias as a means of renewing war, particularly in the Southern oil region (here we should recall that the GOSS was supposed to receive 50 percent of oil revenues from oil production in South Sudan). Renegade militia threats remain extremely powerful.

Khartoum's role in supporting these militia groups has long been authoritatively confirmed. On June 29, 2005 the Civilian Protection Monitoring Team (CPMT) confirmed what the GOSS had earlier asserted:

The allegation that Government of Sudan militia commander Major General Simon Gatwic has been actively arming and inciting Lou Nuer civilians to violence and looting against other communities in the Jonglei region, along the Sobat River and inside Malakal town is substantiated.¹²

More recently, the Small Arms Survey has chronicled in extraordinary detail the movement of weapons into the hands of these militia groups, presenting overwhelming circumstantial evidence of Khartoum's involvement in weapons transfers.

Although the massive UN peace support operation had begun to deploy in various parts of South Sudan in 2005, the operation continued to lack a mandate allow-

ing it to confront militia movements or attacks. Violence was relatively low and localized at the time, but there were a number of flash-points in Unity and Upper Nile states, Bahr el-Ghazal, and the Dinka Ngok enclave of Abyei (on the North/South border). Even with a peace agreement, some areas were listed by the humanitarian security service for South Sudan as Level 4 (“red no-go”). These included the important Akobo area in Eastern Upper Nile, which faced ongoing military threats posed by Khartoum’s militias.

The simple truth is that Khartoum was not prepared to accept peace—a truth that threatened not only Garang and Southern governance, but also the entire CPA. A contemporaneous *Los Angeles Times* dispatch records the assessment of a number of “analysts [who] say Garang will need to survive the political machinations in Khartoum, where hardcore Islamists view him as an ‘infidel’ who should not even be allowed into the capital.”¹³ Moreover, as Robert Collins, one of the most distinguished historians of modern Sudan, notes: “Arab extremists will be looking for opportunities to sideline Garang. ‘The hardliners in Khartoum are keeping their mouths shut and sharpening their knives,’ [Collins] said.”¹⁴ As if in reply to these predictions, on July 10, 2005 a *fatwah* issued against John Garang and the SPLM in Khartoum appeared on www.sudaneseonline.com, a translation of which appears below:

Twenty-five Muslim clerics in Sudan issued a Fatwa against the SPLM. The Fatwa forbids joining the SPLM as a political party, or even cooperating or dealing (in trade, renting of buildings, offices or houses to its institution). The Fatwa quotes numerous Islamic verses that a true Muslim shouldn’t follow, support, co-operate or join the SPLM. The Fatwa stated that SPLM followers are either non-believers or secularists who oppose the implementation of the Islamic Sharia (law) in Sudan.

The Fatwa claimed that the SPLM is plotting against Muslims and Islam and that joining the former rebel Movement is like dealing with the devil and an enemy. And that forming an alliance with the SPLM is like fighting the Prophet Mohamed, which is the biggest offence in Islam. The Fatwa warned Muslims from cooperating with the SPLM, and that those who disobey the warning will be condemned to hell. The Fatwa was issued by 25 Muslim clerics who represent the little known Sharia Association of Sudan.¹⁵

Another northern Sudanese reported in an email on July 8, 2005 that:

The Al-Jazeera [Arabic] website reported that a fatwa was issued in Khartoum describing anyone who joins or cooperates with the SPLA

as “Kafir” and warned people not to join any political group formed by the SPLA or cooperate with it. The fatwa described such actions as apostasy and “Kufr.” It warned landlords not to rent property to the SPLA in whatever form.”¹⁶

The radically Islamist character of the National Islamic Front (later changing its name to the “National Congress Party”) and other political forces in Khartoum could not to be underestimated, nor could their threat to Garang, the SPLM, and the peace agreement for South Sudan. Southerners experienced violence, financial harassment, property confiscation, and denial of citizenship—actions growing directly out of the attitudes that lie behind the issuing of a *fatwa* against Garang and the labeling any who cooperated with the South as *kafir*.

August 2, 2005: An Untimely Death

(Portions of this section first appeared in *The New Republic* and the *Sudan Tribune*)

On July 31, 2005, the helicopter carrying Garang back to Sudan from a meeting with Ugandan President Yoweri Museveni crashed in the Amatonj mountain range in southern Sudan, killing Garang, six associates and seven crew members. Salva Kiir Mayardit, long-time deputy to Garang and a member of the Dinka tribe from Bahr el-Ghazal Province, was sworn in shortly after news of Garang’s death became public. Although the collegial Salva Kiir was acceptable to the majority of SPLM commanders in the field, he did not appear likely to garner the same respect as Garang—or to command anything like unanimous political support in the fractious SPLM.

Garang’s death cast an ominous shadow over the prospects for sustaining the North/South peace agreement signed in Nairobi. No one else in the SPLM had exhibited the necessary diplomatic or political skills, not to mention the respect of Southern military field commanders. Nor had anyone else dealt so effectively with the officials of regional powers and organizations (Egypt, Kenya, Uganda, and the East African Intergovernmental Authority for Development, a consortium that provided the diplomatic auspices for peace negotiations). And no one else had the confidence and authority to refuse, as Garang did, the premature U.S. urgings in early 2002 that the SPLM drop the key demand made by all Southern constituencies: the right to self-determination, including a referendum on secession.

Under Garang’s tough-minded leadership, the right to southern self-determination was incorporated into the breakthrough Machakos (Kenya) Protocol of July 2002, which started negotiations with Khartoum regime that would two and a half years

later saw the signing of the CPA. To be sure, the agreement was far from perfect, particularly in its treatment of two key regions on the North/South border—the Nuba Mountains and Blue Nile. Moreover, Garang has rightly been criticized on various counts: he did not easily delegate responsibilities, making it difficult for his potential successors to gain necessary leadership experience, nor did he commit sufficiently to the various efforts at “South-South” reconciliation, which attempted to overcome inter- and intra-tribal divisions that have weakened southern Sudan. The human rights record of the SPLM under Garang was at times appalling in earlier years, though improvements in later years have not been sufficiently recognized.

After Garang’s death, the main challenge for SPLM political and military leaders was how to ensure that his legacy was not lost to infighting, defection, and parochialism. It would be a moment of supreme trial for these men, who would be tested relentlessly by the NIF/NCP in Khartoum, still the overwhelmingly dominant force in the new “Government of National Unity” sworn in on July 9, 2005. Although there had been signs that the regime’s proxy militias were being forced closer to a decision about demobilization, Garang’s death cast much in doubt. Even as Baba Gana Kingibe, head of the African Union mission in Sudan, spoke of a “security situation on the ground [that] is calm,” Khartoum’s use of its militias in fact seemed poised to increase in the coming weeks.¹⁷

Threats Before the New SPLM Leader, Salva Kiir

While continuing to sustain “genocide by attrition” in Darfur, the NIF/NCP welcomed the destabilizing possibilities presented by the death of John Garang. As the authoritative *Africa Confidential* observed in its August 5, 2005 edition:

The [NIF/NCP] regime may not have caused the crash [that killed Garang] but could not have wished for more. It will redouble its efforts to deepen Southern divisions, convinced that Garang’s successors won’t withstand its mixture of military attack, disinformation, and financial inducements.¹⁸

More particularly, in the flash-point of Abyei, there was a dangerous refusal on the part of the Khartoum-backed Misseriya Arab groups in the area, as well as by President Omar al-Bashir, to accept the critical recommendations of an international boundaries commission regarding the demarcation of Abyei.¹⁹ Ominously, an explosion in Abyei remained a ready pretext for the NIF/NCP to spark renewed war.

In part to forestall a strengthening of Khartoum’s primarily Nuer tribal militias, Kiir appointed Riek Machar (a Nuer) as his new deputy and vice-president. But this appointment, still in effect, could lead to political chaos if Kiir were to die: as successor, Riek would command very little support from within the SPLM leadership, particularly the Dinka commanders on the ground. Moreover, few have forgotten how Riek split from the SPLA/M in 1991 (along with Lam Akol) and subsequently joined the National Islamic Front/National Congress Party as part of the so-called “Khartoum Peace Agreement” of 1997—an agreement that paved the way for ferociously destructive scorched-earth warfare in the (primarily Nuer) oil regions of what was then known as Upper Nile Province (1998 to 2003). While Riek’s appointment to the deputy position represented an attempt to ensure that he would not split again from the SPLM or the new Southern government, such insurance has come at an exceedingly high cost.

As of August 2005, the CPA was already dangerously behind schedule, and the challenges confronting Salva Kiir on this front were daunting. The International Crisis Group notes in a contemporaneous report that

the main obstacles [to the CPA] are the old regime’s [the NIF/NCP’s] lack of will to embrace genuine power sharing and elections, and ultimately allow a southern self-determination referendum...The [NIF/NCP] actively encourages hostility between southern [Sudanese] groups, with the hope that intra-south fighting will prove sufficiently destabilising that the referendum can be postponed indefinitely without its being blamed.²⁰

For its part, the SPLM continued to lag in its development of a new army, and had made little progress in the development of much-needed institutional structures.²¹

Control of Oil Revenues—Khartoum’s Real Source of Power

Whatever leverage John Garang may have had in bringing pressure to bear on the NIF/NCP to end genocide in Darfur was unavailable to Kiir in the new “Government of National Unity.” Here we should recall that John Garang’s “unionist” position in the peace talks derived from a pragmatic wisdom: the only way for Southern Sudan to achieve either meaningful autonomy or independence was through the process of an internationally recognized referendum, precisely what was promised in the arduously negotiated CPA. Kiir’s secessionist position, as well as his unfortunate comments about the possibility of resuming war if provoked by the NIF/NCP,

played well with a majority of Southerners, but could only serve to antagonize the ruling elite in Khartoum.

Resumed war had no potential to bring about independence for Southern Sudan, with its vast and coveted oil reserves. Given Khartoum's profligate acquisition of weaponry and weapons production capacity in years leading up to 2005, this would have been militarily impossible. Moreover, the construction of many all-weather roads in Upper Nile by various international oil companies (including Talisman Energy of Canada) ensured that Khartoum had the power to project mechanized military power in unprecedented ways into Upper Nile.

It is important to remember that in addition to delaying implementation of the CPA, the NIF/NCP created what was effectively a "shadow government" within the "Government of National Unity." There had been, in effect, a silent coup—one in which the facade of shared governance masked the ruthless preservation of power by NIF/NCP cadres. Most conspicuously, the NIF/NCP reserved for itself the two key economic ministries, which alone controlled the bookkeeping for Sudan's huge oil revenues. Though the South fought for at least one of these ministries, the NIF/NCP refused. It thus became exceedingly unlikely that Southern Sudan would see anything approaching the fair share of the oil wealth spelled out in the wealth-sharing protocol, a cornerstone of the CPA. Moreover, "shadow bureaucracies" ensured that real power of all kinds would not be shared. The new Foreign Minister from the SPLM, Lam Akol, possessed an exalted title, but had little impact on Khartoum's foreign policy: the previous Foreign Minister, Mustafa Osman Ismail, was to retain control over the actual administrative and policy resources within the government. In any event, Lam would soon betray Juba and make common cause with Khartoum's *génocidaires*. Despite attempts to weigh in on Southern politics today, he lives in Khartoum and is richly rewarded by the regime for his efforts at political disruption.

The Interior Ministry was also retained by the NIF/NCP, ensuring that issues of human rights, press freedoms, political expression, freedom of movement, and a whole series of other key issues directly affecting Southerners would reflect only NIF/NCP policies. Notably, September 2005 saw a crackdown on the press in Khartoum by way of a "National Press Council," which demanded that journalists be registered or cease to publish.²² In subsequent years press censorship has grown relentlessly and is now at its most repressive since the 1990s.

But it was the failure of the SPLM to secure either the Finance Ministry or the Ministry for Mining and Energy that marked the most consequential defeat of Southern hopes for meaningful representation in the national government. For real political power now flows to the NIF/NCP from huge oil revenues, not from any

popular support anywhere in Sudan, north or south. These revenues, deriving from 250,000 to over 300,000 barrels of crude per day, were staggering. At \$60/barrel—the prevailing price [in late 2005]—the lower range of such production translated into approximately \$7 billion per year in annual gross oil revenues; the upper rate of production, \$11 billion per year. Much went to the NIF/NCP’s Asian oil partners (China, Malaysia, India), but the largest portion went to Khartoum—with no meaningful transparency. With oil now (August 2012) over \$100/barrel, the potential revenues are commensurately greater.

Despite an August 3, 2012 “deal” on oil revenues, there is not yet any sign that oil will move northward again in the near term, or at least on terms that will hold over the longer term: Khartoum insists that “security issues” be satisfied to its satisfaction, including an end to rebellion in South Kordofan. Juba cannot by itself impose a cessation of hostilities upon the SPLA-North, and in any event is not likely to let the present period of negotiation pass without first resolving the status of Abyei.

Reports at various points in the Interim Period indicated that the fledgling Government of South Sudan (GOSS) received relatively little of this oil wealth—certainly nothing approaching what was its due (approximately 50 percent of revenues from oil produced in the South). This gargantuan short-changing came as the GOSS was still struggling with the large costs of putting together a wholly new government, redeploying troops under the terms of the CPA, and responding to the massive and urgent needs of the people of Southern Sudan. Indeed, it was precisely in order to ensure that the GOSS could not receive its negotiated share of oil revenues that the NIF/NCP so adamantly refused to grant either the Finance Ministry or the Ministry of Mining and Energy to the SPLM. Without control of the bureaucracies and records in these two key economic ministries, the SPLM had no way to untangle the snarl of concession contracts, royalty contracts, construction and maintenance expenses, and other essential elements of the larger oil revenue picture. Southern Sudan was to receive only what the NIF chose to share.

There were other ominous signs, particularly in defining the North/South boundary in the oil regions. In particular, the NIF/NCP refused to accept the findings of a distinguished international commission assembled to establish the boundaries of Abyei—a Ngok Dinka enclave that includes some of the oil production areas. Given the historic and cultural significance of Abyei to the South—and after decades of gradual northern encroachment on land to the south—the region proved

to be one of the most contested issues in final negotiation of the CPA. In May 2011, despite having signed the CPA and accepted a (favorable) ruling from the Permanent Court of Arbitration (which was to have been “final and binding”), Khartoum seized Abyei militarily. The plans to do so had been clearly evident for months, yet the international community responded with diffidence and weakness.

In September 2005 the NIF/NCP also refused to allow for the creation of a commission to establish the North/South boundary in the crucial production areas of Upper Nile State. This boundary should have been the one obtained at the time of Sudan’s independence in 1956—as stipulated in the bedrock Machakos Protocol of July 2002 and in the CPA itself—but the NIF/NCP had continued a long-term movement of the border southward, and was intent on moving yet further south so that more of the oil region fell in the north. Many of the problems along the border that continue to fester today, and threaten resumed war, derive from the failure of the international community to ensure that the boundary commission was formed and actively addressing its difficult tasks.

Abyei and the larger border issues

Secretary-General Kofi Annan observed in his September 12, 2005 report to the Security Council on Sudan (issued just prior to the final formation of a Government of National Unity) that the decision on the Abyei question contained “wider implications” that would “set a precedent for how [to handle] differences arising under the Comprehensive Peace Agreement.”²³ In fact, President al-Bashir’s peremptory July 2005 rejection of the careful findings of the Abyei Boundary Commission revealed all too much about the “precedent” that was being set for the implementation of other key parts of the Comprehensive Peace Agreement. The failures of implementation, and their consequences, are treated in greater detail in the analyses that follow.

January 14, 2005:

The signing of the Comprehensive Peace Agreement

January 9, 2005 is without question a signal moment in the history of modern Sudan. An opportunity exists to fashion a meaningful peace—if sufficient international commitment can be made to what will be an ongoing process, and if the difficulties clearly in evidence can be treated with sufficient honesty. The people of

Southern Sudan, who have suffered and died beyond calculation for decades, have seen many of their goals substantially met, with a self-determination referendum guaranteed by the final document. Such a referendum, however, must be guaranteed by much more than paper, given the present Khartoum regime's long history of bad faith, renegeing, and abrogation of various signed agreements.

Tragically, there is little evidence of anything approaching a realistic or sufficiently urgent international assessment of present challenges. The fragility of this past Sunday's achievement (i.e. the signing of the CPA) has been glibly acknowledged, but there is no sign of rapid international response to the immediate challenges at hand. Inexplicably, a peace-support operation of appropriate size, mandate, sufficiently knowledgeable personnel, and provided with adequate equipment, remains merely notional. The UN Security Council appears content to "pledge to quickly consider sending peacekeepers to Sudan" following the peace agreement. Given the daunting nature of the operation and the critical demands it will confront, this language suggests a deeply inadequate sense of urgency or understanding of specific requirements.²⁴

Moreover, the time-frame for deployment, makeup of personnel, and primary basing plans for forces all show troubling flaws. Radia Achouri, the UN spokeswoman for the UN Advance Mission in Sudan declared yesterday that the UN is expected to deploy 9,000 to 10,000 "observers by mid-March to oversee the implementation of a peace agreement in Sudan." Achouri went on to say that "a Security Council resolution is expected by mid-February after which troops would be deployed within a month."²⁵

Considering the prevailing military conditions in Southern Sudan and the expected rapid rate of return by displaced persons and refugees, the UN's time-frame seems too delayed. A provisional Security Council resolution should have been at the ready, with peacekeeping forces already poised to begin deployment. Moreover, the peace support operation should entail much more than mere "observers": there must be a robust, fully-equipped and -armed rapid response brigade deployed in strategic locations in Southern Sudan, especially near potential flash-points in Eastern and Western Upper Nile, the Shilluk Kingdom, and Abyei and Northern Bahr el-Ghazal. This force must have a peacemaking mandate and the military capability to ensure that no violations of the permanent cease-fire will be tolerated or allowed to spread.

Equally troubling is a dispatch from Agence France-Presse, who reports that "by mutual agreement between Sudanese and UN authorities, offices and barracks [for the peace-support operation] will be built close to the airport at Kassala, the news reports said."²⁶ Kassala is a major northern town with a major airport, but it is also

almost 500 miles from Bentiu, epicenter of oil operations in Western Upper Nile; it is even further from Abyei and northern Bahr el-Ghazal, also critical regions in South Sudan. Choosing Kassala simply because it is convenient for Khartoum and for deploying UN forces shows an extremely poor appreciation for the requirements of this critical peace-support operation.

There is also no evidence of international commitment to provide anything approaching adequate emergency transitional aid resources, even as it is clear that many hundreds of thousands of Southern Sudanese are preparing to return from the north (particularly Khartoum) and from nations of refuge. Indeed, many tens of thousands have already begun or completed the return in the past six months. In recent years the National Islamic Front/National Congress Party (NIF/NCP) regime has handled the problem of displaced Southern Sudanese by forcing them further and further from the national capital city, with increasing callousness and brutality.²⁷

Given past behavior, the signing of a peace agreement will likely be the occasion for NIF/NCP Interior Minister Hussein to be much more aggressive in forcibly pushing Southern Sudanese southward. Hussein is the man directly responsible for many of the regime's most brutal policies of forced expulsions from camps for displaced persons in Darfur.

Unless there is a substantial increase in both humanitarian assistance and emergency transitional aid, many of those returning to Southern Sudan will live lives of even greater desperation than at present. In a telling sign, the UN has recently appealed for a substantial increase for food in Southern Sudan:

The World Food Programme (WFP) challenged donors to support a southern Sudan peace deal forged on Sunday and appealed for \$302 million to fund emergency food relief for 3.2 million people in the war-shattered south. "Over the next 12 months, some 268,000 metric tonnes of food will be required for war and drought affected people primarily in south Sudan," said a statement by the UN programme, the world's biggest food relief agency.

"Peace brings a whole new set of challenges with it," [WFP Sudan Country Director Ramiro Lopes da Silva said]. "Many of those who fled their homes during the war have already started returning home, adding pressure to already limited resources available within these communities."²⁸

In order for these people to resume agriculturally productive lives, and to reach the point where the Southern Sudanese portion of oil revenues can begin to create a

self-sustaining agricultural economy, they must have a great deal of emergency transitional assistance. Yet despite vaguely generous promises by Colin Powell, there is no Bush administration appropriation, or supplemental appropriation request, for transitional aid. This lack of support reveals the hypocrisy of the U.S. promise of a “large peace dividend” for Southern Sudan, and Sudan as a whole, on completion of a peace agreement (a promise made most conspicuously by then-Assistant Secretary for African Affairs Walter Kansteiner in Congressional testimony of May 2003).

It is less than a week since the signing of the final Naivasha peace agreement. Nonetheless, there is already reason to be intensely dismayed by the lack of urgency, the absence of any clear time-line for deployment of the necessary peace-support operation, and the absence of a funding strategy for this moment of critical transitional need in Southern Sudan. Most of all, we should be dismayed at Khartoum’s evident conviction that by signing a peace agreement in Nairobi, it is free to continue its genocide in Darfur. The failure of the international community to disabuse the regime of this conviction threatens additional hundreds of thousands of civilians. UN Undersecretary for Humanitarian Affairs Jan Egeland recently warned that the *monthly mortality rate could climb to 100,000* if humanitarian organizations are forced by growing insecurity to withdraw.²⁹

Khartoum’s unrebuted genocidal ambitions in Darfur are ultimately a direct threat to the viability of the Naivasha peace agreement: there is no imaginable “national government” that can include a majority National Islamic Front/National Congress Party, with its domestic policy of genocide in Darfur, as well the Sudan People’s Liberation Movement (SPLM) and representatives of other political opposition groups. “National governance” simply cannot—as SPLM leader John Garang has made clear—include a policy of massive, targeted human destruction of the sort endured by the people of Southern Sudan and the Nuba Mountains for so many years.

Fighting in the East

With so much attention focused on Darfur and South Sudan, there has been almost nothing reported on fighting in the neighboring province of Kordofan (east of Darfur) or in the eastern provinces. These areas have some of the worst humanitarian indicators in all of Sudan, but receive almost no news coverage, as a result obscuring another threat to peace in Sudan. As Alex de Waal warned in a column in the *Financial Times*:

[There is also a] threat of war in eastern Sudan. The Beja people of the Red Sea Hills took up arms 10 years ago, protesting against marginalisation. There has been little fighting for five years, but Beja guerrillas are still in neighbouring Eritrea. Darfurian fighters are there too, drawn from the more than 1 million Darfurians who migrated to find work in eastern Sudan. All is quiet now, but the tinder is dry. A conflagration could be easily triggered by an embittered rebel commander, perhaps encouraged by Isseyas Afeworki, the capricious Eritrean president, or by a government clampdown.³⁰

Precisely in order to forestall a legitimate assertion of rights and grievances in other marginalized regions of Sudan, Khartoum leaves little doubt in the minds of potential rebels that genocide remains an available tool of domestic security policy. We have seen this regime commit genocide in the Nuba Mountains, in the oil regions of Southern Sudan, in Darfur; there is nothing in the way of international responses to these previous genocidal actions that will prevent similarly targeted human destruction elsewhere in Sudan.

The International Rescue Committee (IRC) has also recently highlighted the dangers de Waal cites:

Perhaps most seriously [among the threats to the Naivasha peace accord], armed conflict and extensive human rights abuses continue in many parts of Sudan, including Darfur, West Kordofan, and Beja areas of the northeast, threatening to destabilize the north-south peace.³¹

The contrived fall 2006 “peace agreement” between Khartoum and the main rebel group in the east has not changed the situation on the ground, and regular confidential reports from a source near Port Sudan suggest that the region is increasingly restive and—like all of Sudan—feeling the pressure of rising food prices. The Eastern Front, whose most important members are the Beja Congress and the Rashaida Free Lions, were a military force only with the support of the SPLA and the acquiescence of Isaias Afwerki, the unpredictable president of Eritrea. While Isaias is presently seeking a fuller rapprochement with Khartoum, that could quickly change if conflict in eastern Sudan should produce a flood of Sudanese refugees in Eritrea.

July 14, 2005: Sudan's "Government of National Unity"

This past weekend's inauguration of a new "Government of National Unity" (GNU) for Sudan, although unquestionably another historic event in the search for a just peace, hardly heralds immediate peace for either Darfur or Eastern Sudan. Nor does it change the deteriorating situation on the ground in South Sudan, where critical transitional needs continue to be largely unfunded by the international community. This lack of international support persists even as famine conditions settle more deeply in Bahr el-Ghazal Province, Western Upper Nile, and elsewhere in the war-ravaged region. Additionally, a much larger crisis looms: South Sudan presently has no capacity to absorb the hundreds of thousands of returning refugees and internally displaced persons.

Much has been made of John Garang's inauguration as First Vice President of the GNU; but hopes should be tempered, given the enormous burdens of governance in the North and the South that he has taken on. And it is far from clear how much effect Garang will have on the "northern" policies of the new Khartoum government, either in Darfur or in increasingly violent Eastern Sudan.

Indeed, Garang will have exceedingly difficult challenges in organizing the governance of South Sudan and securing the means for both economic development and adequate humanitarian capacity. The South has endured over 20 years of extremely violent and destructive war, often directed at civilians and civilian targets such as schools, hospitals, churches, refugee camps, and even sites of humanitarian assistance. Moreover, 300,000 people have already returned to the South in recent months, typically without any substantial resources. Many additional hundreds of thousands of internally displaced persons and refugees are poised to return. Without emergency transitional aid of appropriate size, delivered urgently, many of these people will return to die for lack of food, potable water, shelter, and medical treatment. Addressing these issues is John Garang's first obligation, and it is daunting.

With the creation of the new GNU, the international community has been eager to assert that Garang's role as First Vice President means that progress can now be made on Darfur. Though it is clear that Garang is deeply committed to halting ethnically-targeted human destruction in Darfur, a realistic assessment of the political situation in Khartoum suggests how little has changed in the power exercised by the National Islamic Front/National Congress Party and how little control Garang has over the forces that sustain present genocide by attrition.

Most obviously, the National Islamic Front/National Congress Party controls 52% of all political power in the national assembly and ministerial posts. Much more significantly, the NIF/NCP also controls the executive function in the new

government, with Field Marshal Omar al-Bashir retaining the presidency. Just as significantly, former First Vice President Ali Osman Taha remains as Vice President, and will use this position in government to continue wielding the extraordinary powers he had before the formation of a GNU.

Security and the Government of National Unity

Because Khartoum continues to control the fearsome resources of the National Intelligence and Security Services (NISS), John Garang will have to devote considerable resources simply to providing for his own security and that of the SPLM and other Southerners working within the government in Khartoum. The risk of assassination is all too real.

At the same time, Garang has no real power over the military in Sudan (excluding his own SPLA forces): during the past sixteen years, the army has been fully purged and re-shaped into an instrument of the NIF/NCP. Without significant control over military resources or the operations of the intelligence and security wing of the government, Garang can do little more than exert moral pressure for an end to genocide in Darfur.

More than two years of such moral “pressure” from the international community have yielded exceedingly little. The NIF/NCP’s military proxy in Darfur, the *Janjaweed*, remain completely unconstrained, despite the “demand” a year ago that the NIF/NCP disarm these brutal militia forces and bring their leaders to justice.³² No doubt to obscure their impotence, various international actors—including the US, the UN Secretariat, and many in the EU—no longer refer to “the *Janjaweed*,” but rather to “the militias.” The evident hope is that this lack of specificity will homogenize responsibility for military activities—and thus genocide—in Darfur, creating a sense that there are various “armed groups” instead of an identifiable force that has engaged in massive, ethnically-targeted human destruction.

Garang and the Darfur insurgency movements

Garang may have some political leverage with the insurgency movements in Darfur by virtue of previous solidarity with their cause. But the Sudan Liberation Army/Movement, as well as the much smaller Justice and Equality Movement, are increasingly in disarray; and splintering within the insurgency movements makes Garang’s “leverage” of only minimal value. Serious divisions within and between the military and political authority of the two movements have been evident for months.

The split within the SLA/M between President Abdel Wahid Mohamed al-Nur and Secretary-General Minni Arcua Minnawi is particularly ominous, and may portend a full-scale breakdown between the military forces on the ground in Darfur and political elements negotiating in Abuja (Nigeria).³³ As Reuters reports, “divisions are also rife within the smaller Justice and Equality Movement, represented in Abuja by Khalil Ibrahim. Ibrahim’s leadership was rejected in April [2005] by Justice and Equality field commanders.”³⁴

Though an exceedingly general “declaration of principles” emerged from the most recent round of Abuja talks (the next is scheduled for August 24—over five weeks from now), this “declaration” does nothing to change the situation on the ground in Darfur. Here, Garang is powerless. It thus falls to the international community to halt Darfur’s genocide—now a grim genocide by attrition—although efforts to pin excessive hopes on Garang’s inauguration already suggest a dismaying lack of resolve. NIF/NCP political power within the GNU will continue to define Khartoum’s diplomatic strategy in Abuja, where the regime will pursue the same divisive negotiating techniques that forestalled or undermined negotiations with South Sudan for so many years.

Garang, Darfur and the International Community

Garang will certainly not be able to change the adamant opposition by NIF/NCP leaders to the proceedings of the International Criminal Court (ICC). These men, those most responsible for genocide in Darfur, continue to insist that they will not cooperate with the ICC.³⁵ The refusal to acknowledge this obduracy has led to some spectacular disingenuousness, especially conspicuous in recent remarks by Hilary Benn, Britain’s Minister for International Development. Commenting on a decline in large-scale military confrontations in recent months, Benn claims that “this has much to do with the threat of prosecution by the ICC now hanging over the heads of Sudanese leaders.”³⁶

This is, simply, untrue: violence, including violence by both the *Janjaweed* and Khartoum’s regular military forces, has not been halted, and *Janjaweed* predations and threats of violence continue to terrify internally displaced persons, preventing the resumption of agricultural production throughout most of Darfur. Indeed, in many ways insecurity has recently increased because of ongoing violence, especially that directed against humanitarian workers. Humanitarian aid and some human rights workers rightly predicted that an ICC referral would actually increase the insecurity facing humanitarian operations in Darfur. On the basis of a significant assessment mission in Darfur, Refugees International reported in March 2005:

Sudanese officials greet the ICC recommendation [by the UN Commission of Inquiry] with a combination of annoyance and arrogance. Foreign Minister Mustafa Osman Ismail recently threatened the 800 to 1,000 international humanitarian workers in Darfur by warning that referrals to a criminal court could lead to “a direct threat to the foreign presence... Darfur may become another Iraq in terms of arrests and abductions.” A [paramilitary Popular Defense Force] official told Refugees International that “if the wanted on the list are penalized, it will not solve the problem. It will start war again.” His colleague added, “There will be an explosion.”³⁷

For his part, lead ICC prosecutor Luis Moreno Ocampo has been equally explicit in his commentary on the dangers of an ICC investigation to humanitarian workers and potential witnesses:

The information currently available highlights the significant security risks facing civilians, local and international humanitarian personnel in Darfur. These issues will present persistent challenges for the investigation.³⁸

Ocampo has put the matter euphemistically here, for the leaders of the NIF have consistently proved themselves more than willing to undermine, obstruct, harass, or even attack humanitarian efforts in Darfur as a means of threatening the international community: “*Don’t press us on Darfur, or we will retaliate against those most vulnerable in Darfur and those most instrumental in saving lives.*” Optimism about the effects of the ICC process of the sort expressed by Hilary Benn only emboldens the most brutal instincts in the National Islamic Front. And suggestions from US Deputy Secretary of State Robert Zoellick that Garang must be of particular help in negotiations—“[Zoellick] indicated he would press John Garang to help in negotiations between tribes in Darfur”³⁹—is misguided. For it represents what the NIF/NCP will consider a significant and encouraging misapplication of pressure.

Khartoum is equally encouraged by the willingness of Bush administration State Department officials to lie about the nature of cooperation between the CIA and the NISS. Although Major General Salah Abdallah “Gosh” was recently flown by the CIA to Washington for talks concerning Khartoum’s knowledge of international terrorism, Michael Ranneberger (principal deputy assistant secretary of state for Africa, and a primary conduit for terrorism intelligence from Khartoum) prevaricated:

“Mr. Gosh met with top CIA and State Department officials because we wanted to use that opportunity to deliver a message to him to end the violence in Darfur,” Mr. Ranneberger said.⁴⁰

Génocidaire “Gosh” was not flown to Washington, DC via executive jet by the US Central Intelligence Agency to receive a “message” about “violence in Darfur.” He was flown to Washington because it was what he wished; and this luxurious transport was evidently part of the price for terrorism intelligence that Bush administration officials were prepared to pay. The willingness to pay such a price sends a disastrous signal of expediency to the NIF/NCP officials who remain in complete charge of the new “Government of National Unity.”⁴¹

South Sudan

Garang’s greatest challenges as First Vice President are to provide effective and inclusive governance for South Sudan; this includes ensuring efficient use of oil revenues that come to the new Government of South Sudan per the terms of the revenue-sharing arrangement that was central in the CPA (January 2005). Most urgently, Garang must press the international community to fulfill its promises to assist South Sudan in the near-term with a transition from war to peace. The extraordinary ravages of war, the widespread destruction of the very limited civilian resources in the South, the loss of agricultural resources (particularly cattle), and the impending arrival of as many as 1 million additional returnees over the next twelve months, all make for a situation fraught with acute threats to civilian life and livelihood.

The threat of famine in various parts of South Sudan requires the most urgent response. As the “Famine Early Warning System Network” (FEWS), recently reported, there is presently “extreme food insecurity” in areas in northern Bahr el-Ghazal province and “high food insecurity” in areas of Western Upper Nile. The detailed FEWS account offers a recipe for instability and violence:

“Poor households and returnees will face significant food gaps between June and August 2005,” [the FEWS report] said, referring to the thousands of displaced southern Sudanese expected to return to their homes in the coming months. “Lack of sufficient (international) response may result in the failure of returnees to cultivate, a reduction in cultivation among some of the host population, poor weeding, reduced capacity of host populations to support current and future returnees, and ten-

sion between the host and returnee populations,” the famine warning network said.⁴²

Wealthy donor nations are simply not honoring funding commitments, and the results can be measured in starving children. WFP reports that the results of an April 2005 nutritional study in various regions of northern Upper Nile province yielded extremely ominous figures for children: “a Global Acute Malnutrition Rate of 28.1% and a Severe Acute Malnutrition Rate of 4.5%.”⁴³

Reporting more recently on conditions in South Sudan, Action Contre Faim (AFC) finds that

global [acute] malnutrition rates [GAM] in Wau [northern Bahr el-Ghazal] have increased from 12.5% in March 2004 to 13.1% in April 2005 and that [Severe Acute Malnutrition] SAM increased from 2.4 to 2.7% over the same period. The worst situation was recorded in the Eastern Bank [internally displaced persons] camps where GAM rose from 16.7 to 25%, and SAM from 3 to 3.8% over the same period.⁴⁴

These are extremely alarming numbers and portend huge loss of life from malnutrition, especially among young children. Yet the international community is providing only a fraction of the funding it has promised to Sudan. Warehouses in Lokichokio (the northern Kenyan base for humanitarian operations in Southern Sudan) are largely empty—a clear indication that the food crisis will only deepen during the current rainy season.

The human face of this food crisis was recently captured in an extraordinarily compelling Reuters dispatch from Matthew Green. Green’s reporting, here from Paliang (Bahr el-Ghazal) represents a resourceful and intrepid journalism that is far too rare in South Sudan:

Sprawled on the ground with his face pressed into the earth, the boy looked like he might already be dead. Naked but for a pair of bangles on his ankles and white dust caking his skin, the four-year-old had collapsed a few steps from a group of starving children sheltering under a tree. It was as if he had been discarded.

Working as a reporter in Africa, it’s not uncommon to see people dying. For it to be a child, in a village in southern Sudan, during a drought, makes the event even less exceptional. What made this boy different was that just a few weeks before, the world had promised to help [i.e.,

promised at the Oslo, Norway donors' conference for Sudan, April 11-12, 2005—ER].

Southern Sudan is sprinkled with thousands of Paliangs, villages of mud, wild dogs and short lives. [In Paliang] aid workers were talking about the worst crisis since a famine in 1998 when more than 60,000 people starved to death in the Bahr el Ghazal region, fearing failed rains would force history to repeat itself. [Human Rights Watch and others have established that the burden of responsibility for the 1998 famine in Bahr el-Ghazal lies overwhelmingly with the National Islamic Front regime—ER.]

The F-word is used with caution by [humanitarian organizations] with a strict definition for what constitutes a true “famine,” linked to the number of successive failed harvests, but vocabulary seemed immaterial. In Paliang, it was obvious that people were soon going to die, starting with the youngest. Dozens of women cradling children with stick-like limbs had gathered under a tree where Desma, a Médecins Sans Frontières [MSF] nurse from Kenya, had set up a table to dish out rehydration sachets for babies in danger of dying from diarrhoea.

Heading back to the MSF Land Cruiser, I passed the boy lying in the dust. A faint movement stirred his ribs: he was breathing. I realized I had been mistaken—he had not been abandoned—a woman was sitting a few yards away watching. Mother and son would starve together.⁴⁵

Garang and the SPLM leadership, along with other Southern political leaders, must address not only the most urgent humanitarian issues but also the virtually complete lack of infrastructure. There are very few schools, no transport or communications systems, and barely any health facilities. Indeed, there is nothing that might be designated an economy in the modern sense. Again, these basic tasks of construction and reconstruction must be undertaken against a backdrop of massive and acute humanitarian needs, which will only grow as people continue to return in huge numbers.

Notably, the Government of National Unity, and more specifically those who control wealth in Khartoum never responded in any way to what was supposedly part of a “unified Sudan.” This refusal to help its own highly distressed populations, over many years, is a hallmark of NIF/NCP rule. This even as the regime presumed to govern the entrance of humanitarian aid workers into southern Sudan (see below).

September 24, 2005: On the obstruction of humanitarian relief in greater Sudan

Whereas humanitarian organizations formerly needed only a pass from the humanitarian wing of the SPLM to operate in Sudan, they will now need to obtain from Khartoum visas for all expatriate workers. Moreover, the US embassy in Khartoum will no longer grant “country clearance” to US government employees seeking access to Sudan unless they also have a Khartoum-issued visa. We may be sure that the human costs of this deliberate and entirely predictable bureaucratic obstruction will be enormous unless there is a reversal of policy.

Such is also the case with the new, highly threatening regulations of humanitarian organizations promulgated by NIF/NCP Presidential decree in August. Among the stipulations of these regulations:

[1] “No voluntary organization is allowed to practise any work or activity in its own name if is not registered according to the provisions of this act.” (Paragraph 5, “Decree for Regulating Voluntary Humanitarian Work,” Khartoum, August 4, 2005)

[2] All financial assets and capital, of all agencies operating in Sudan, including UN agencies, are to be regarded as “public property” ;

[3] No civil society organization will be permitted to received funds from any foreign person or agencies without explicit permission from the Minister of Humanitarian Affairs (Paragraph 36);

[4] “The General Registrar of Voluntary Organizations may cancel the registration of any federal national civil society organization or foreign voluntary organization if [that organization violates] the provisions of this act or its regulations.” (Paragraph 10)

Since the document gives considerable evidence of hasty composition and is dangerously vague at key junctures it presents a deep threat to humanitarian operations throughout Sudan. Revealingly, there was no consultation with the SPLM prior to NIF/NCP President al-Bashir’s peremptory promulgation of these regulations, even as Southern Sudan will be most deeply affected by them.

This could not come at a worse time for the people of Southern Sudan, in particular those living in Bahr el-Ghazal and Upper Nile. Food insecurity is mounting and humanitarian assistance is critically short:

Malnutrition levels in southern Sudan have passed the emergency mark, according to a report from the international aid organization Action Against Hunger [Action Contre la Faim/ACF] on Monday, which said

the North African country once again faced starvation amid donor fatigue and an emergency-saturated media.

“What we basically have is a large number of refugees and Internally Displaced People who are returning home to nothing. What we are trying to do is to try and get more aid to these regions where one out five children could die from malnutrition,” ACF spokeswoman Cathy Skoula in New York told ISN Security Watch on Monday.⁴⁶

The most dispiriting comments come later in the ISN Security Watch dispatch:

The overall rate of Global Acute Malnutrition rate is 20.7 per cent, above the 15 per cent emergency threshold and equaling the rates of malnutrition currently observed in Niger. However, the report also shows that in certain areas of the Upper Nile and Bahr-el-Ghazal regions, the malnutrition rates have doubled and even tripled, reaching up to 39 and 64 per cent.

The fact that Khartoum did not consult with Juba before hastily promulgating this “Decree for Regulating Voluntary Humanitarian Work” was a sign of just how indifferent to Southern concerns the NIF/NCP regime was. This augured very poorly for the success of the CPA.

March 30, 2006:

The triumph of expediency in the Bush administration

Julie Flint has rightly suggested that the crisis in Eastern Sudan is a “litmus test for the unity government and the Sudan People’s Liberation Movement’s ability to make the leopard [the Khartoum regime] change its spots.”⁴⁷ But the results of the “litmus test” are already available, especially if we look to Khartoum’s refusal to share power in a meaningful way with the SPLM. Certainly the evidence of this refusal is everywhere. Yasir Arman, head of the SPLM’s parliamentary bloc in the new “Government of National Unity,” recently complained vigorously about the dictatorial powers still enjoyed by President Omar al-Bashir in the form of so-called “Presidential decrees” :

The former southern rebel Sudan People’s Liberation Movement (SPLM) threatened to take its northern partners to the constitutional court if they

forced controversial presidential decrees, known as provisional orders, through parliament without consultation. “Those provisional orders are violating the constitution and the peace agreement,” Yasir Arman, the head of the SPLM’s parliamentary bloc, told a news conference.

He said if no solution was reached the SPLM would vote against all the presidential decrees, issued before the coalition government was formed, and would take the matter to the constitutional court. The laws include an armed forces act which allows any policeman to open fire at his own discretion and provides criminal immunity to officers in the armed forces when dealing with citizens, SPLM lawyer Ghazi Suleiman said.

The decrees also include a law governing the work of non-governmental organisations in Sudan, which would require them to put funds into bank accounts run by the government and allowed authorities to eject any NGO which publicly disagreed with government policy.⁴⁸

Since the National Islamic Front (which has innocuously re-named itself the National Congress Party) guaranteed itself a 52% majority in the supposed “Parliament,” we have a clear example within the Government of National Unity of the “tyranny of democracy”:

“These are just bad laws,” said [Ghazi] Suleiman. Under the deal the northern ruling National Congress Party has 52 percent of government and the 450-seat legislative. The SPLM has 28 percent. Presidential decrees cannot be amended by parliament and need only a 50 percent majority to pass. But Suleiman said the National Congress Party could not use their majority to force the laws through. “If so, the peace agreement would collapse,” he said. “This is not a majority-minority government, it is a marriage and it needs partners.”⁴⁹

“Presidential decrees” are only one example of the National Islamic Front’s efforts to renege on meaningful power-sharing. A report from the UN Integrated Regional Information Networks (January 9, 2006) offers a more comprehensive assessment, citing in particular the assessment of distinguished and courageous Sudanese journalist Alfred Talban:

In the new Government of National Unity, the National Congress Party (NCP) retained the key ministries of energy and mining, defence, interior, finance and justice. “In terms of political power and the economic

sector, the NCP kept full control over the key ministries, and this is creating a credibility problem,” said Alfred Taban, editor of the Khartoum Monitor, an independent newspaper. “The SPLM/A and many southerners were very disappointed and lost faith in the intentions of the NCP.” Other observers in the region believed the NCP was still firmly in charge. Besides retaining key ministries, the party dominated the presidency and its advisory council. The NCP was also able to exert a degree of control over ministries they had handed over to the SPLM/A through shadow bureaucracies comprised of NCP loyalists.

Moreover, there is growing evidence that the NIF/NCP is refusing to share oil wealth with Southern Sudan as it promised under the terms of the wealth-sharing agreement (Southern Sudan is supposed to receive 50% of revenues from southern oil production). Instead, the NIF/NCP is stonewalling on the formation of a boundary commission to determine the North/South border in oil-rich Upper Nile Province; doing so will also determine the location of key oil production sites, which Khartoum currently claims as “northern.”

The NIF/NCP has also reneged on its commitment to abide by the terms of the Abyei Protocol, which represented a key compromise in the final negotiation of the Comprehensive Peace Agreement. The Protocol (Article 5.1) provides that “[t]here shall be established by the Presidency, an Abyei Boundaries Commission to define and demarcate the areas of the nine Ngok Dinka Chiefdoms [the Abyei Area].” The findings of a distinguished international panel that made up the Abyei Boundaries Commission were submitted to the new Government of National Unity last summer.⁵⁰ Instead of accepting the report, el-Bashir and the NIF/NCP have refused to release or act on its findings and recommendations, further exacerbating the highly unstable situation in the Abyei area, which remains a potential flashpoint for resumed war in the south.

As a recent UN “Sudan Humanitarian Overview” (January 1 – February 1, 2006) reports, Khartoum’s actions have left Abyei without a civil administration, thus forcing humanitarian organizations and the UN to operate “without appropriate interlocutors and access to populations. Added to this, [NIF/NCP] national security has been severely limiting movement, and humanitarian access is being denied in areas north of Abyei town” (page 6).

Reneging on signed agreements, obstructing humanitarian relief, pitting ethnic groups against one another—these are the staples of National Islamic Front/National Congress Party policy for all of Sudan.⁵¹ It is deeply unreasonable for the international community to expect that the SPLM will be able to take meaningful part in a “Government of National Unity” when it receives so little support in holding

Khartoum accountable for its refusal to honor the terms of the CPA. Whether it is wealth-sharing, power-sharing, boundary demarcation, or the terms of the security protocol, there is nothing but bad faith on the part of the NIF/NCP regime. The SPLM is powerless by itself to enforce the terms of the CPA: it requires international assistance of a sort that is nowhere in evidence. The only leverage the SPLM possesses is military strength, and consequently the prospect of resumed war has grown all too distinct. There could be no greater squandering of the diplomatic efforts that went into the forging of the CPA, from the initial breakthrough at Machakos (Kenya) in July 2002 through to the final agreement in Nairobi (January 9, 2005).

It is both cynical and expedient to expect Darfur, Eastern Sudan, and the other marginalized areas of this tortured country to be able to resolve their various crises alone. Unless there is vastly increased political, diplomatic, and economic pressure on Khartoum, the NIF/NCP will assume that occasional international bluster and condemnation is the only real price it will pay for genocide as an ongoing domestic security policy. Whether in the Nuba Mountains, the oil regions of southern Sudan, Darfur, or soon in Eastern Sudan, the NIF/NCP has repeatedly shown itself willing to destroy groups on an ethnic and racial basis to further its consolidation of national power and wealth.

This is the fundamental truth that Kofi Annan, George Bush, Jack Straw, and other western diplomats and military officials refuse to speak. Until they do, Khartoum will conclude that there is no price to pay for ongoing genocide.

June 28, 2006: Eastern Sudan

Eastern Sudan has been shamefully under-reported, although Khartoum's success in keeping both journalists and humanitarians out of the region explains much. Recent expulsions of humanitarian organizations have garnered some limited news attention, and it is worth citing them in their entirety (from a June 5, 2012 analysis):

On June 1, 2012, Khartoum expelled four international relief organizations from eastern Sudan, one of the most food insecure and least visible regions in Sudan; the African Centre for Justice and Peace Studies (UK) reported on June 7, 2011 that the number of international organizations was in fact *seven*. Reuters reported June 1:

Sudan is expelling four foreign aid groups from its restive eastern region, government and aid officials said on Friday, the latest restrictions

on aid agencies in the violence-marred African country. A senior official in Khartoum said the four groups had been asked to stop all projects in the underdeveloped east, one of Sudan's poorest regions "They didn't implement the projects we asked them to do," the official with the Humanitarian Affairs Commission told Reuters, declining to elaborate. He said the four included aid groups **Goal of Ireland** and the **Swedish chapter of Save the Children**.⁵²

Sudan Tribune reports that the Beja Congress, the oldest political party in eastern Sudan "has warned that the government's decision to suspend activities of *seven foreign aid groups is rendering the already impoverished region on 'the verge of famine'*" (June 3, 2012).

Khartoum Suspends Humanitarian Access to Darfur and Eastern Sudan June 28, 2006

Manuel Aranda da Silva, UN humanitarian coordinator and deputy special representative of the Secretary-General in Sudan, recently declared that in addition to paralyzing insecurity in Darfur,

aid workers had also been stopped from moving in Sudan's east, where a similar conflict has simmered for a decade. Rebels there complain of neglect by the central government. [] "We have been denied access to visit refugee camps [in eastern Sudan] and if we cannot have access then we cannot provide assistance," Da Silva said. "We will not be able to continue in the east if we do not have freedom of movement," he added. He said despite central government assurances that they would implement a freedom of access agreement signed with the world body, [Khartoum-appointed] local authorities in the east were not implementing that deal.⁵³

The people in camps and rural areas in the east—Beja, Rashaida, refugees from Eritrea and Ethiopia—are among the most bereft and endangered people in all of Sudan; global malnutrition rates in these regions considerably exceed those in Darfur. And yet as part of its "negotiating strategy" and its increasingly deadly war of attrition, Khartoum's ruthless leaders are willing to deny these people humanitarian access, despite explicit promises "that they would implement a freedom of access agreement" signed with the UN. Those looking to the Darfur Peace Agreement

(DPA) to resolve the humanitarian crisis in Darfur should study carefully Khartoum's behavior in eastern Sudan.

The UN Integrated Regional Information Networks reported on June 19, 2006:

UN staff have expressed concern about an apparent aid blockade in the troubled eastern region. In recent days, aid workers had been refused access to the area, despite formal agreements with the Sudanese government allowing them to work in the region, da Silva said. "Since the beginning of last week, we have been denied access to visit refugee camps," he said. "This is a very strange development. If it is not solved very soon, we are going to have enormous problems in these refugee camps in the east."

Rebels in Sudan's east have complained that the impoverished region remains underdeveloped due to neglect by the central government. A similar grievance sparked the Darfur rebellion, in which rebels, complaining about political and economic marginalisation, attacked government positions in the region.⁵⁴

Da Silva declares it "very strange" that Khartoum would deny humanitarian access to desperate civilians: it is strange only in a moral sense, not an historical one. Khartoum's *génocidaires* have a long record of precisely such denial.

Voice of America also reports from Khartoum:

Da Silva added that he is equally concerned over an aid blockade in volatile Eastern Sudan. The UN has been refused access to the region by the Sudan government in recent days. "When it comes to the east, I am very disappointed," he said. "Since the beginning of last week, we have been denied access to visit refugee camps. And if we cannot access, then we cannot provide assistance."⁵⁵

This is indeed the very point of Khartoum's denial of access—to prevent innocent civilians, viewed as possible supporters of an insurgency movement, from receiving life-sustaining aid.

Agence France-Presse recently offered a detailed and particularly well-informed account of the grim realities that to date have been noted by very few observers:

Helicopter gunships and a humanitarian crisis greet the few Westerners who make it to Kassala, an East Sudan town far from the Darfur region,

where analysts say a bad situation could be about to get worse. With international media and aid groups focused on war-torn Darfur in the West, restrictions on journalists and humanitarian workers travelling to the East mean that a crisis in many ways worse than Darfur's goes largely ignored.

The *crude mortality rate for this desert region [] is almost double that of Darfur*. There, 14,000 aid workers have been deployed to cope with the humanitarian crisis, but only a small fraction of that number work in the East, home to yet another Sudanese rebellion. A study carried out last year found that acute malnutrition in the East stood at around 19 percent, well-above the emergency level of 15 percent. In Darfur the figure was less than 12 percent. [NB: the malnutrition rate again exceeds 15 percent among many populations in Darfur—ER]

[Only a few correspondents] manage to make it [to the East,] thanks to World Food Program humanitarian flights. "The East is one of the least served areas [of Sudan]," the International Crisis Group's Suliman Baldo told reporters. "There are a lot of restrictions on [humanitarian organizations] in the East, not like in Darfur...The humanitarian needs are not receiving any attention so therefore it's a bad situation. It definitely needs to be highlighted...the lack of media attention is also responsible."⁵⁶

It is quite extraordinary that the deeply informed Suliman Baldo compares eastern Sudan and Darfur, and can assert that access is relatively "easier" in Darfur, where aid obstruction, harassment, and insecurity define the realities confronting humanitarian efforts in Darfur, as does Khartoum's recent suspension of UN aid efforts. Yet humanitarian assessments make clear how successful Khartoum has been in shutting down aid to the people of the East:

There has been no distribution of "non-food items" [medicine, water purification, shelter, mosquito netting] in four years, and the acquired items scheduled to be distributed are insufficient, according to a June 2006 UN High Commission for Refugees [UNHCR] report on Sudan operations.

The [UN] World Food Program has reported a sharp increase in malnutrition rates in eastern Sudan, and malaria cases are expected to rise during the rainy season, which began this month. However, according to UNHCR, "the available mosquito nets are not sufficient to be distributed to all needy people (children under five and pregnant women)."

“These people, who have already gone through so much, need more food,” [UN WFP spokesman Trevor] Rowe said. “It’s one thing to survive on the minimum, but it’s another to survive on half of the minimum” [this is the current ration in eastern Sudan because of funding shortfalls and Khartoum’s refusal to release additional food from its enormous strategic grain reserve—ER]. WFP suspended its food assistance in east Sudan, including for refugees, during the month of May [2006], due to the unsolved travel permit issue and lack of access to the camps, according to the UNHCR report.⁵⁷

In denying these travel permits, and thus humanitarian access, Khartoum knowingly exacerbated human suffering and destruction among the desperately needy people of eastern Sudan. This deliberate, vicious obstructionism was also reported on by the U.S. Agency for International Development:

UN Program Suspension in Kassala [Eastern Sudan]

According to the UN Mission in Sudan (UNMIS), Sudanese government restrictions on UN movement have led to the suspension of all non-lifesaving UN programs in Kassala State. Local officials have sought to curtail UN activity on the grounds that the [north/south] Comprehensive Peace Agreement [CPA] does not call for any civilian UN activities in the east, only military-related support for the CPA. [Khartoum-appointed] Authorities refuse to recognize the UN unified mission approach and are demanding that UN agencies abide by technical agreements that existed before the establishment of UNMIS [as part of the Comprehensive Peace Agreement].⁵⁸

This obstruction by technical and bureaucratic means has terribly real consequences for desperately needy human beings:

According to a May 20, [2006] [UN] World Food Program [WFP] report, restricted humanitarian access is limiting food distributions and may prevent WFP from pre-positioning food aid for tens of thousands of Ethiopian and Eritrean refugees in eastern Sudan in advance of the rainy season. WFP reported that due to an impasse over travel permit requirements, [Khartoum-appointed] government officials have denied WFP staff access to sites in 35 separate incidents countrywide between mid-March and mid-May. According to the report, 20 of the incidents occurred in eastern Sudan, resulting in no WFP access to Red Sea State and reduced access in Kassala.⁵⁹

Khartoum is deliberately escalating malnutrition and human mortality in eastern Sudan as part of its war of attrition against a civilian population that the regime perceives as supporting an insurgency movement (the Eastern Front). But because eastern Sudan has achieved little of the news profile that Darfur has achieved, these crimes against humanity continue unabated and unchallenged.

The June 7, 2006 Agence France-Presse dispatch also offered an important overview of the background to the crisis in eastern Sudan:

A recent report by international nongovernmental organizations working in the region said: “Eastern Sudan has not been a priority for international and domestic humanitarian and political actors, leaving the population there...extremely under-served.” Chronic poverty and neglect by the authorities prompted the region’s largest ethnic group, the Beja, to take up arms against Khartoum in 1996, eventually forging an alliance with the much larger, southern-based Sudan People’s Liberation Movement (SPLM). In 2004, having formed a new alliance with another marginalized minority, the Rashidiya Arabs, to create the Eastern Front, the Beja pledged to step up their attacks from the rebel-held town of Hamesh Koreb, just north of Kassala.

Eastern Sudan is a tinder-box, and the spark that will set off a new conflagration of human suffering and destruction has been in evidence for many months:

Now, with the well-armed [southern] Sudan People’s Liberation Movement/Army [SPLM/A] due to withdraw its forces under the terms of a peace deal it signed with Khartoum early last year, there is a growing fear that government forces will soon move in to wipe out the Eastern Front. Aid workers fear civilians will bear the brunt of any such offensive, further exacerbating the humanitarian crisis. “Increased instability will have an impact on the already fragile humanitarian situation in the region,” said Barabara Manzi of the UN’s Office for the Coordination of Humanitarian Affairs.⁶⁰

In fact, the SPLM/A has now completely withdrawn from Hamesh Koreb:

On Sunday, the SPLM/A officially pulled out its forces of Hamishkorieb and handed over the area to the civilian administration of Kassala State Hamishkorieb, about 500km northeast of Khartoum, was the largest town controlled by the SPLM/A in eastern Sudan during the 21-year north-south civil war.⁶¹

And as a particularly well-informed analyst notes of the increasingly ominous military situation in the same report:

“There has been an increased presence of SAF [regular Sudanese Armed Forces] and PDF [Popular Defence Forces] forces in the region [eastern Sudan], and they are occupying strategic positions.”

Even as Khartoum negotiates a “peace agreement” with the Eastern Front rebels in Asmara (Eritrea), it is simultaneously waging war by means of humanitarian obstruction and the assumption of militarily critical positions in eastern Sudan. If war comes, given the proximity of the strategic oil export pipeline and Port Sudan, it will be extraordinarily violent, and civilian casualties will be massive. As Julie Flint concluded in her superbly informed assessment of the crisis in eastern Sudan:

Any counterinsurgency campaign in eastern Sudan will be run by those who ran the war in Darfur. The security apparatus of the Sudanese state is unchanged. Eastern Sudan is not only a challenge to the international partners who drove through the Comprehensive Peace Agreement, turning a blind eye to the death in Darfur. It is a litmus test for the unity government and the Sudan People’s Liberation Movement’s ability to make the leopard change its spots. Most importantly, it is life or death for people who have already been patient long enough.⁶²

With the SPLM withdrawal from Hamesh Koreb concluded, and with the Movement now thoroughly irrelevant in northern Sudanese policy decisions, the question seems increasingly not “if” but “when” war will break out in eastern Sudan. Although peace could certainly be achieved in Asmara if there were good faith on Khartoum’s part, there is no evidence that this is the case; instead, we must look squarely at the regime’s history of reneging on all agreements with all Sudanese parties.

Again, the town of Hamesh Koreb is the most likely flash point for conflict, as the International Crisis Group pointed out in January.⁶³ More recently, the IRIN analyst points out that conditions have deteriorated and tensions are running extremely high:

“In Hamishkorieb town, there has been no provision of basic services after the activities of the two remaining international aid agencies in the area were suspended [by Khartoum] in January.”⁶⁴

Given the number of human lives directly imperiled, such suspension of humanitarian aid demands a robust international response. Instead, the international community offers only weak and too often oblique criticism of Khartoum; in turn, such criticism is neither reported prominently nor felt by international actors to require meaningful action. In the absence of a meaningful peace agreement and forceful international pressure, the situation in eastern Sudan will explode. Here it hardly helps that the rebel representatives negotiating in Asmara, like those who negotiated the Darfur Peace Agreement with Khartoum in Abuja, are badly divided:

Another concern was that the representatives of the Beja Congress, who were negotiating with the Sudanese government in the Eritrean capital Asmara, were not necessarily representative of the entire rebel movement, the analyst warned. Other rebel groups, such as the Justice and Equality Movement (JEM), which is also active in Darfur, remained outside the negotiations altogether. “There are big divisions between the Beja Congress in Port Sudan and the Beja Congress in Asmara and communications within the movement are very poor,” [the analyst] said. “The Sudanese government is very concerned about what is going to happen next, especially with regard to the other armed groups in the area.”⁶⁵

Of one thing we may be sure: if war comes, humanitarian access will be severed altogether and civilian destruction will be massive. Here, to see how Khartoum has most savagely prohibited and assaulted humanitarian assistance as a tactic of war, we must look to southern Sudan, where as many as 2.5 million people died in the course of 22 years of unspeakable violence and deprivation.

War did not come to eastern Sudan, in large measure because in addition to the withdrawal of SPLA forces, Eritrean president Isaias Afwerki—who had long given tacit support to the Eastern Front—ended his willingness to allow Eritrea to be used as a staging area by the rebels. This compelled the humiliating “peace agreement” signed in fall 2006—Khartoum has fulfilled none of the agreement’s significant provisions. Although militarily helpless in 2006, the Beja Congress has since joined the Sudan Revolutionary Front, which includes not only the Sudan People’s Liberation Army-North, but the major Darfur rebel groups as well. Certainly the “peace agreement” did not address the underlying grievances of the terribly marginalized people of Red Sea, Kassala, and Gedarif states; these have only grown and make eventual war more likely.

National Elections, 2009-10

Annex X comprises a series of analyses focusing on the national elections originally scheduled for 2009 but actually held in 2010. The census that preceded the voting, the registration process, and election period machinations by Khartoum are all discussed in detail, including what occurred in Darfur. Unsurprisingly, no independent election observers thought that international standard had been met. One analysis in **Annex X** also looks at the May 2011 election for governor of South Kordofan, foolishly ratified by the Carter Center (Atlanta), thereby playing directly into the hands of Khartoum.

The following are a series of excerpts that give some sense of how these elections helped define the fate of the Comprehensive Peace Agreement.

January 23, 2009

The survivalist instincts within the NIF/NCP suggest that following the announcement of an indictment of al-Bashir by the International Criminal Court there will be a continuation of present policies and attitudes towards humanitarian organizations: hostile, obstructive, threatening, harassing, and occasionally murderous. These have already forced the evacuation of many international staff, and have occasioned withdrawals by several organizations and the acute attenuation of humanitarian reach more generally. But serious reprisals against humanitarians and peacekeepers would represent actions that Khartoum will not be able to “walked back.” At that point, the regime will have significantly re-defined its position vis-à-vis the international community, leaving the regime with less to threaten in seeking diplomatic gain. As a consequence, we may expect that other points of leverage will be sought around outstanding North/South issues.

The current “Government of National Unity” (GNU), which incorporates participation by the Sudan People’s Liberation Movement (SPLM), may dissolve following a campaign of large-scale reprisals against humanitarians and peacekeepers in Darfur by Khartoum in the wake of ICC indictments. The SPLM has been put in an exceedingly difficult position by the ICC indictments of senior members of the regime—including the highly likely indictment of President al-Bashir. Southern leadership has tried to tread a very fine line on the issue. On the one hand, it wishes to express concern about the consequences of an ICC arrest warrant for al-Bashir; on the other hand, Juba also wishes to make clear that it is well aware of the threat posed by National Islamic Front/National Congress Party policy in Darfur, and the need to engage with the ICC. Salva Kiir, head of the SPLM and nominally First

Vice-President of the GNU, recently went so far as to raise the possibility that the NIF/NCP will abrogate the terms of the Comprehensive Peace Agreement, which remains the overwhelming concern of Southerners:

“The problem we have here in South Sudan is what would happen to the Comprehensive Peace Agreement (CPA) if Bashir is charged by the court?” Salva Kiir, Sudan’s vice president and president of the now semiautonomous region of Southern Sudan, was quoted as saying in the local press. “What about the outstanding items in the peace agreement? Will they be implemented afterwards?”⁶⁶

For a variety of reasons, the NIF/NCP found it advantageous to sign the CPA in January 2005. The regime did so in part because it believed that signing the agreement provided Khartoum with an insurance policy against excessive international pressure over the regime’s genocidal counter-insurgency in Darfur—a calculation that has unfortunately succeeded to a remarkable extent. Formerly, Khartoum had made clear that that if it was pressed excessively over Darfur, the CPA would never become a reality. Four years after signing the CPA, the NIF/NCP is threatening to abandon the CPA if the regime is held accountable for its atrocity crimes in Darfur. The regime counts on broad international understanding that if the CPA were to collapse—or if the NIF/NCP were to declare a “state of emergency” without support from the SPLM—the resumption of North/South war would become inevitable. Elections could not be held under such circumstances, nor would there be any incentive for Khartoum to abide by the terms of the CPA. The regime’s grudging and distinctly limited implementation of the CPA to date would come to a precipitous halt. Although historically Khartoum has shown itself to be unwilling to commit itself with real honesty and seriousness to the task of implementing the CPA, most of the international community nonetheless understand that the consequences of the Agreement’s collapse would be dire.

There have been few encouraging signs for the full or even partial implementation of the CPA, even without considering the issue of an ICC arrest warrant for al-Bashir. Khartoum seems bent on keeping the collapse of the CPA as a consequential threat for as long as possible. For this threat, like that of reprisals against humanitarians and peacekeepers, loses all potency once exercised. The upshot is that there will probably be no precipitous collapse in the process of CPA implementation, though it cannot be ruled out if “hard-liners” come to dominate the NIF/NCP leadership.

Another possibility is that of a “palace coup” in which either Senior Presidential Advisor Nafi’e Ali Nafi’e or Second Vice-President Ali Osman Taha seizes power

with support from other members of the NIF/NCP. It is also possible that al-Bashir will preempt such efforts by throwing his lot entirely with the army.

This possibility seems to have become at least a partial reality in the spring of 2011; see “[A Creeping Military Coup in Khartoum.](#)”

The *Christian Science Monitor* ([Khartoum] January 16, 2009) reports:

As one senior government official explained, there are three groups of important players in Sudanese power politics: Turabi and his connections within security organs; Vice President Ali Osman Taha and Presidential Adviser Nafie Ali Nafie, also Islamists who are often credited as the real power behind the throne; and the less religious Bashir and some senior officers in the Army.

For Mr. Nafie and Mr. Taha, “Bashir has become a liability on the party. He must go,” said the government source, who added that in any case, “all of them are conspiring against each other.”

Such splits have always existed within the ruling National Congress Party (NCP), but according to Suliman Baldo, Africa program director at the New York-based International Center for Transitional Justice, the ICC has sharpened those internal tensions. “It is accelerating the internal contradictions within the regime, to really spill out between those who are of a pragmatic nature, who want to be part of the world order and not face an environment of constant crisis and sanctions; and those in the regime who are very defiant and want to have that type of confrontation because they believe it reinforces their hold on power,” says Mr. Baldo.⁶⁷

“It’s too strong to say the National Congress Party is plotting against Bashir. But people are pondering ways out,” said another Western diplomat, who requested anonymity.

According to [a Western] diplomat, influential members of the ruling party—namely Taha and Nafie—are debating whether they should, in the case of an indictment, offer Bashir up to the ICC. For his part, Bashir is debating whether he could simply place them under house arrest and rule with the support of the military.

There are, finally, too many countervailing political and military forces at work to make any firm prediction about Khartoum’s response to the impending ICC announcement of an arrest warrant for al-Bashir. Having waited so long without vigorously signaling to Khartoum the consequences of violent reprisals or a reneging on

commitments—preeminently the CPA—the international community is at this late moment largely helpless. But not entirely so, and the disgrace of ongoing failure to rebuke Khartoum for its outrageous threats against humanitarians, peacekeepers, and civilians does not lessen for being so belated. In the end, the words of moral integrity have come not from the nations that have postured so shamelessly over Darfur, but from Costa Rica and Belgium:

“We know there could be reprisals, the situation could get even worse,” countered Costa Rica’s Ambassador Jorge Urbina. “Night is never so dark as before the dawn. We can’t have this arm wrestle between the [UN Security] Council and the Court and not allow responsibility to be taken for one’s acts.”

Belgian Ambassador Jan Grauls said the Council cannot allow itself to be “manipulated by blackmail” by caving to al-Bashir’s threats of more violence.⁶⁸

In fact, a credible case can be made that the ICC attention to Darfur’s atrocity crimes has actually prevented the Khartoum regime from engaging in more destructive actions in Darfur and elsewhere in the country, particularly in Abyei and Southern Kordofan. The regime is clearly rattled by the impending ICC announcement, and will thus think long and hard before engaging in more provocative actions. That such varied chatter is emerging from Khartoum about what might happen, and what the central cabal is considering in the way of a response to any ICC announcement should be sign enough that there is no consensus. We may not be able to enter fully into the vicious calculus that guides the NIF/NCP, but their ensuing actions will surely reveal the nature of their acutely considered survivalist strategy.

Khartoum’s ruling regime faces a series of challenges to its survival, most deriving directly from the brutal and viciously self-serving policies of the past 20 years. A series of recent developments—as well as the various timetables to which the NIF/NCP committed itself in the CPA (Nairobi, January 2005)—suggest that 2009 will be a defining moment in the history of Sudan.

[1] NIF President Omar al-Bashir faces the extraordinary prospect of indictment by the International Criminal Court (ICC) for crimes against humanity and genocide. A decision by the ICC’s three-judge panel is widely expected in January or February, and the inner cabal of the NIF is already engaged in a tense struggle over how to respond to issuance of an arrest warrant, and what role al-Bashir will play in this year’s national elections.

[2] National elections within the coming year, mandated by the CPA, would present insurmountable challenges to the NIF/NCP stranglehold on national wealth and

power—if they are free and fair. Precisely for this reason the question is not whether the regime will attempt to control the election results, but rather how they will do so, and the extent and cost of this manipulation. A highly flawed national census, which excluded Darfur and much of the population of South Sudan, is the NIF/NCP's primary tool, but the buying of local politicians, control of the electoral machinery, and broader corruption of the electoral process has only just begun. The NIF/NCP will certainly not voluntarily surrender control of the army, security services, or indeed any claim on national power and wealth. Without enormous international support for the first national elections since the regime came to power by military coup in 1989, the political *status quo* will be preserved in Khartoum.

[3] The various marginalized regions of Sudan all present significant challenges to the ruling junta: electoral, political, and finally military. Darfur's rebellion has been the most widely reported since the signing of the Comprehensive Peace Agreement, but South Sudan remains ravaged not only by the consequences of decades of immensely destructive civil war, but also by Khartoum's failure to abide by various provisions of the CPA, including border demarcation and the sharing of oil revenues generated from reserves that lie largely in South Sudan.

Consequently, military tensions between Khartoum and the SPLM/A remain high, and there exist several likely flashpoints for resumed fighting. The most dangerous of these is the contested Ngok Dinka border enclave of Abyei, which lies in the heart of the oil region—specifically, Concession Block 4 of the Greater Nile Petroleum Operating Company (dominated by China). Abyei has already seen extremely serious fighting in May of this year, and recent incidents may portend another, perhaps uncontrollable series of clashes.⁶⁹ The danger posed by the Abyei crisis was urgently highlighted by UN Emergency Relief Coordinator John Holmes during a very recent visit to the enclave:

“[The CPA] is fragile but it is fundamental; it is absolutely vital to get it right because if the North-South agreement fails, everything else will also fall apart. If that goes, you can forget about Darfur; it is just a side show.”⁷⁰

Should fighting resume in Abyei, it will be in large part because the international community that invested so much diplomatic energy in securing the CPA has invested so little in ensuring that the terms of the Agreement are honored. With its poorly conceived mandate, the large UN peacekeeping force in South Sudan (UNMIS) has proved weak and has also deployed resources ineffectively.⁷¹ As a peacekeeping commitment, UNMIS is extraordinarily short-sighted, revealing why Khartoum has failed to honor any of its many agreements made concerning Darfur, including the ill-conceived Darfur Peace Agreement (DPA). The North/South

“Comprehensive” Peace Agreement provides much evidence as well of Khartoum’s renegeing on signed agreements. The final boundary of Abyei, for example, was to have been established by an international panel of experts, since the parties could not agree on this most contentious issue in final negotiations.

This panel duly delivered an authoritatively researched report by the Abyei Boundary Commission was delivered to President al-Bashir in July 2005—and has been completely ignored.⁷² UNMIS, the UN, and the broader international community have failed to hold the regime accountable for this signal instance of bad faith, and Khartoum has registered the encouraging implications of this failure for the regime.

Similarly, the long border between South Sudan and Southern Kordofan State (a newly created northern administrative unit) has not been delineated, despite the clear stipulations of the CPA. Leaving the border in question has enormous implications for any decision about precisely where oil reserves—and ultimately revenues—lie. Southern Kordofan is also the region of the Nuba Mountains, another exceedingly dangerous flashpoint, with many of the features of Darfur before the current conflagration began. The African tribal groups that make up the Nuba people have long been marginalized, mistreated, and had their lands appropriated; throughout the 1990s they were the victims of a campaign of extermination mounted by Khartoum as a religiously justified *jihad*—perhaps the clearest case of genocide by the regime prior to Darfur.

The restive and deeply impoverished eastern region, chiefly Kassala, Gedarif, and Red Sea States, have seen none of the promised benefits of a [peace agreement](#) signed on October 14, 2006. International assistance has not been able to lower what are terribly high rates of malnutrition, morbidity, and extreme poverty. Again, Khartoum simply ignored its commitments under the Asmara peace agreement. Along the Nile River north of Khartoum, various Nubian populations have been forcibly displaced on a large scale to make way for two large dam projects whose electrical generation will primarily benefit Khartoum, Port Sudan, and mechanized agro-business enterprises owned by the regime and its cronies. Violent rebellion seems a distinct possibility in Nubia (see [map](#)).

March 3, 2009

In his most recent report, UN Secretary-General Ban Ki-moon does not discuss Khartoum’s actions in Southern Sudan; however, these actions show great contempt for agreements made with the UN, in this case the separate peacekeeping force known as the UN Mission in Sudan (UNMIS). Here a more relevant report

comes from Refugees International (Field Report, January 7, 2009). A number of observations on this mission, which is failing in its own way, are offered and compared with assessments from other sources, public and confidential. RI acknowledges that the UNMIS mandate is different from that of UNAMID with respect to civilian protection:

The core priority of the mission continues to be the promotion of the Comprehensive Peace Agreement (CPA). But the mandate also includes a Chapter 7 element by the Security Council that gives the mission permission, although not the capacity, to protect civilians under imminent threat of violence. In spite of the severe limitations on the mission's protection capacity, the mere presence of large numbers of international military peacekeepers creates expectations among the local people that they will be protected if violence should erupt. In Sudan this expectation has been compounded by a failure on the part of the mission to communicate the UNMIS mandate and capabilities to people, and by a general failure on the part of UNMIS forces to positively interact with the communities in which they have been deployed.

But while there are practical limitations to what UNMIS can accomplish, these have been oversold by the mission:

[There is] a prevailing attitude within the mission that protection is not its responsibility. There is a widespread inclination to do less rather than more, and an unwillingness to be proactive, although the threat of a resumption of hostilities is widely acknowledged. Given the probability of increased violence and the reality of civilian expectations, UNMIS needs to take a more proactive, preventative stance with regards to civilian protection.

In Southern Sudan, as in Darfur, the party nominally responsible for protecting civilians is the national government, particularly the police and justice institutions:

In southern Sudan, however, these institutions are weak at best, and at worst non-existent in many places. In the long term it is essential that international donor governments continue to invest in the reform of security sector institutions like these to provide for sustainable community-level security in the south. However, in the short-term it is clear that international actors will continue to play a critical role in the protection of civilians.

The way forward, Refugees International argues, lies in a fundamental change in attitude on the part of UNMIS, especially regarding flash-points such as Abyei, the Nuba Mountains, and as recently demonstrated, Malakal. Khartoum is provoking conflict in Southern Sudan and the contested areas, with civilians the inevitable victims of renewed violence.⁷³ It is widely acknowledged that UNMIS failed badly in responding to last May's Abyei crisis, in which Khartoum-instigated violence drove more than 50,000 people from Abyei town. Making matters worse, Khartoum restricts the aerial movements of UNMIS north of Abyei, despite the Status of Forces Agreement (February 2008) that prohibits such restrictions. Still, there is vast room for improvement on the part of a mission that has achieved little considering the substantial resources and personnel it commands:

UNMIS, especially its military component, must overcome the attitude that protection is not its job. While robust civilian protection of the sort expected in places like the Congo or Darfur is not within the realm of UNMIS capability, improved conflict prevention efforts and the diffusion of tensions are roles that the mission can and should play more effectively. In cases where violence cannot be prevented, there needs to be context specific contingency planning to pool the creative ideas of UNMIS military and civilian protection staff, as well as NGOs with specific knowledge of communities at risk. UNMIS needs to communicate its aims and capacities more effectively to moderate unreasonable expectations and make its concrete protection strategies clearer. Given high risks and limited resources, UNMIS must identify areas where specific, targeted action can minimize the impact of violence on civilians.

[The UN Secretariat] must insist that UNMIS concentrate on proactive measures to prevent conflict and protect civilians, [and] the Department of Peacekeeping Operations must establish clear rules of engagement to empower UNMIS troops.⁷⁴

UNMIS is all too representative of the slow, fitful, and uncommitted attention given to the critical state of the Comprehensive Peace Agreement by the international community. Although this has begun to change in recent months—with the May 2008 fighting in Abyei sounding a forceful wake-up call—securing peace in Southern Sudan cannot be based on mere promises from Khartoum, but must entail direct and timely engagement with the many outstanding issues, chief being the regime's refusal to honor key terms of the CPA.

June 28, 2009

Sudan's significantly delayed national elections, now scheduled for February 2010, have been poorly supported by the international community and are at risk of even further delay. A host of technical, logistical, administrative, legal and policy issues have yet to be resolved. The beginning of the rainy season in both Southern Sudan and Darfur will badly hinder the critical task of effective voter registration, which is only now getting underway. The Sudanese census seems badly skewed in some of its results, and was conducted with far too little international supervision. Census issues are critical in determining legislative power in the National Assembly that will be formed on the basis of elections less than eight months from now. An abuse of illegitimate and excessive legislative power by the NIF/NCP could result in a pernicious re-writing of the terms of the Comprehensive Peace Agreement, which stipulated the current elections and legislative make-up. Or amendments to the Interim National Constitution could be passed with the same effect. There is little that the regime will not be able to engineer into "law," whatever its nominal commitments in the CPA.

Elections in Darfur amidst the current violence, insecurity, and displacement are hopelessly problematic, and it is highly doubtful that anything resembling a legitimate electoral exercise will take place. The electoral process may break down entirely, allowing the NIF/NCP a free hand in construing the Darfur results to their advantage. Violence in the South has also accelerated in recent months, and President Salva Kiir of the Government of South Sudan has a good deal of evidence for his recent ominous remarks, which hint at Khartoum's stoking of ethnic and tribal tensions:

The Comprehensive Peace Agreement, that we concluded as a result of enormous sacrifices, is seriously threatened by enemies of peace from without our realm and without. This is a well-designed strategy to discredit you [Southerners] as a people who cannot govern themselves, particularly as we approach general elections and [the self-determination] referendum.⁷⁵

There is also growing evidence that the Khartoum regime is again arming and supplying the maniacal Lord's Resistance Army in Western Equatoria State, as well as providing weapons to competing ethnic groups in Southern Sudan—all in an effort to undercut the South for precisely the same aim Salva Kiir articulates.

Censorship has increased in recent months and seems likely to increase further in the months before the election. The "Press and Printed Materials Bill of 2009"

was passed on June 8, 2009, and has several disturbing new features that will inhibit already severely limited freedoms of the press and public expression. The bill contradicts several features of the CPA as well as the terms of the Interim National Constitution mandated by the CPA. Most notably, it does not prohibit interference in political expression by the regime's security apparatus, and pre-publication censorship remains the prerogative of the intelligence services.

Moreover, twenty years after its military coup and the radical remaking of Sudanese governance, the NIF/NCP has consolidated its stranglehold on national wealth and power in a wide variety of ways, many of which work to ensure control of the electoral apparatus.

By far the most authoritative analysis of this consolidation of power and the way in which it is exercised comes from Gillian Lusk in the June 2009 issue of *Africa Confidential*, where she is Associate Editor.⁷⁶ With an unrivaled understanding of the inner workings of the regime, Lusk details the history and consequences of the National Islamic Front military coup of 1989; reveals the deep continuities within today's National Congress Party, particularly its leadership; and gives a compelling account of NIF/NCP methods, strategy, and outlook. The conspicuous failure to understand this strategy and outlook stands as the greatest obstacle to the success of efforts such as that currently being led by US Special Envoy to Sudan Scott Gration.

Edward Thomas has also argued in a recent Chatham House Report ("Against the Gathering Storm: Securing Sudan's Comprehensive Peace Agreement") that "[p]ower is being more securely entrenched in the informal and inaccessible networks of security men and business men that run the National Congress Party," and that as a consequence, "there is a real risk that elections will be managed through patronage systems that no longer provide meaningful political services for their people."⁷⁷

There have been a series of reports such as Thomas's over the past year that survey the prospects for national elections and the subsequent Southern Self-Determination Referendum. All present extremely gloomy outlooks and highlight a set of strenuous challenges that continue to go unmet. The present analysis surveys this now substantial body of literature (see brief bibliography below), and traces out their collective implications. It also surveys additional reports bearing on the specific conditions in Darfur, other marginalized regions of Sudan, as well as the continuing shift in US policy toward accommodating Khartoum's behavior.

The broadest conclusions are that the national electoral process leading up to February 2010 will be unacceptably compromised, and that the NIF/NCP will wage a deeply unfair campaign culminating in rigged election results. These results, which will translate into a dominant majority in the National Assembly, may be

so threatening to the Southern Self-Determination Referendum that the election will become the occasion for tensions that explode into violence in the near term. The most likely flashpoints remain Abyei and the Nuba Mountains, although recent fighting provoked by Khartoum in Malakal suggests that in fact much of the South is a tinderbox. Khartoum may also decide that the elections give sufficient international legitimacy as to oblige at least a halting movement toward the 2011 Referendum. But again, there is an extremely high risk that the NIF/NCP will ultimately undermine the Referendum, either by “legislative” or military means. If the Referendum is compromised in any way, the Government of South Sudan will be compelled to opt for war. The international community has very little time in which to avert this catastrophe, which can be prevented only by securing the kinds of meaningful agreements and cooperation from Khartoum that have been nowhere in sight during the four and a half years since the signing of the CPA.

To be sure, some are already writing off the national elections in facile fashion, arguing that the Self-Determination Referendum should be the only focus of attention. As Sudan commentator Alex de Waal has rather euphemistically put it: “[t]he result by now is pretty much a foregone conclusion. The NCP will navigate the elections without difficulty.”⁷⁸

But de Waal, in his casual acceptance of fundamentally compromised national elections, stands well outside the majority opinion of those who have researched these elections and their specific implications for the very Self-Determination Referendum that he declares to be “the centre of gravity of [Sudan’s crisis], and the other [Sudanese] problems are derivative from that.”⁷⁹ Much of his analysis argues that such acquiescence before Khartoum’s corrupting of the 2010 election will not only make the Self-Determination Referendum all the more difficult to hold, but will also turn the event (or its absence) into a catalyst for renewed war.

There are other and more persuasive views:

- Edward Thomas, “Against the Gathering Storm: Securing Sudan’s Comprehensive Peace Agreement,” Chatham House, June 2009. (hereafter Thomas)
- Adam O’Brien, “Sudan’s Election Paradox,” Enough, June 2009. (hereafter O’Brien)
- The Carter Center, “Sudan’s 2010 Elections; Critical Steps for a Genuine and Viable Electoral Process,” May 7, 2009. (hereafter Carter Center)
- Justin Willis, Atta el-Battahani, Peter Woodward, “Elections in Sudan: Learning from Experience,” Rift Valley Institute, 2009. (hereafter Willis et al)
- US Agency for International Development, James Heilman and Michael Chelius, “An Assessment of USAID Election Support Options in Sudan,” June 12, 2008. (hereafter Heilman and Chelius)

- Stephanie Schwartz, “Conducting Elections in Darfur: Looking ahead to Sudan’s 2009 Elections,” US Institute of Peace, March 2009. (hereafter Schwartz)
- Gerard McHugh, “National Elections and Political Accommodation in the Sudan,” Conflict Dynamics, June 2009. (hereafter McHugh)

Sudan’s National Census

McHugh articulates the most fundamental truth that seems to have been ignored in discussions of Sudan’s elections:

[E]lections in the Sudan cannot be the end goal in and of themselves. Rather, they must be a means to an end, and that end objective must be effective and sustainable mutual accommodation of oft-competing political interests and perspectives in the whole of the Sudan. (page 3)

The mutual political accommodation McHugh envisions is an enormous challenge in a country as vast and diverse as Sudan; achieving demographic clarity is an imperative. Sudan’s opportunity to count its population in a persuasively fair and representative way—the key to legitimate elections—has passed. The results of the 2008 census have been announced, and while yielding a plausible gross total, there are serious anomalies that demand attention.

[1] Of particular concern is the enumeration of displaced Southern Sudanese living in the north (and excluded from the population of Southern Sudan), particularly in the Khartoum environs. Even the former NIF/NCP director of the Census Commission has acknowledged a highly significant undercount:

The former director of the census commission, Awad Haj Ali, said that he believed the census had undercounted Southern Sudanese living in the north, and that their number might be nearer 1.5 million, rather than just 500,000, as found by the census.⁸⁰

Others put the number of uncounted Southerners higher yet, and given the range in estimates of internally displaced Southerners during the war years (4 to 5 million human beings), this is certainly plausible.⁸¹ Awad Haj Ali declared that “the total number of southerners in the north might be 26 percent.”⁸² Southern Sudan’s population was inevitably undercounted because the NIF/NCP insisted that the census form have no indication of place of birth or origin. Many “Southerners” thus became “Northerners” for census purposes.

[2] Luka Biong, until very recently the Government of South Sudan Minister for Presidential Affairs, makes a number of telling observations about the results from Darfur:

The process in the south could be described as transparent, but the problem was in the north where the data and results were not logical, such as the reports of a 60% increase of the population in Darfur since the last census in 1993, and the population of South Darfur increased by 90% during that period. We also have information that the census did not include the IDPs in their camps—leave alone the refugees in the neighboring countries. The strangest thing is that the results show a 322% increase in the population of the nomads [migratory Arab tribal groups, and likely to vote for the NIF/NCP]. What does this mean? Did they bring in people from outside Sudan?⁸³

In fact, there is compelling evidence that Arab groups from Chad, Niger, and Mali have indeed been settled by the NIF/NCP in various towns and rural areas, including villages and lands destroyed or confiscated by the *Janjaweed*. The newcomers were also provided Sudanese identity papers. This demographic stratagem is consistent with ambitions outlined in an August 2004 memorandum from a senior *Janjaweed* official. Nicholas Kristof of the *New York Times* (February 23, 2005) received the memorandum from someone with access to the classified African Union archive of photographs and documents from the first years of the genocide. It was leaked to him, subsequently vetted, and confirmed as almost certainly authentic. The African Union itself believes the document to be real, as do Alex de Waal and Julie Flint, who cite it in *Darfur: A Short History of a Long War* (page 39), identifying the document as a “directive from [Musa] Hilal’s headquarters”:

The memorandum calls for the “execution of all directives from the president of the republic,” and is addressed to both regional *Janjaweed* commanders and Khartoum’s three main security services, including Military Intelligence, which has dominated security policies in Darfur. It declares bluntly the purpose of the conflict going forward: “*Change the demography of Darfur and make it void of African tribes.*” Furthermore, it encourages “killing, burning villages and farms, terrorizing people, confiscating property from members of African tribes and forcing them from Darfur.”

Certainly a “changed demography” appears to be reflected in the new census results for Darfur.

[3] Reservations about the census figure for Eastern Sudan have also been expressed by the Beja Congress. But it is the deep distrust of the results by Southerners (who were given no opportunity to examine or contest census data in advance of their release by Khartoum), and the prospect of 3 million Darfuris being disenfranchised by virtue of displacement, that fundamentally threaten the national elections and any National Assembly constituted on the basis of these electoral results.

As to the broader integrity of the census, *Africa Confidential* recently provided a highly informed account of circumstances on the ground:

Census Monitoring Commission boss Abdel Bagi el Geilani Ahmed had declared census coverage was ‘100%’ in the North, with 85-90% in Darfur. Even the normally quiet United Nations noted that coverage was low in Darfur. Amid complaints nationwide, one veteran politician told *Africa Confidential* how he waited for three days in his village near Khartoum but no one came to count him or his neighbours. As criticism mounted, the NCP began praising the ‘international monitors’. No one AC contacted, including a UN official, had seen any—perhaps because there were only 34 for Sudan’s 2.5 mn. square kilometres. This gave the regime a free hand.⁸⁴

The census as it presently stands is a source of deep, perhaps irreconcilable disagreement between the NIF/NCP and the SPLM. Southern skepticism about the results is certainly animated by the electoral implications of losing what may amount to millions of votes in a process that gives compelling evidence of systematic exclusion and reworked data (the example of a 322 percent increase in the population of migratory Arabs in Darfur is only the most conspicuous anomaly). If the new national government is constituted on the basis of present census percentages, the SPLM will go from a 28 percent representation in the National Assembly to something approximating the 21 percent of the population the census deems “Southern.”

In a report appearing before release of the census figures and percentages (January 2009), Thomas presciently articulated the scenario that most concerns the SPLM and other opposition parties:

[“Worst case scenario”]: The census finds that the population of the South is under 25%, and Southern representatives no longer have enough seats in the National Assembly to be able to reject constitutional amendments, which require a three-quarters majority in separate sittings of both chambers of the national legislature. (Currently, the SPLM has 28% of seats in the appointed National Assembly and other Southern

political forces have 6%, against the NCP's 52%.) The non-enumeration of displaced persons in Darfur leads to their disenfranchisement, depriving the SPLM of a possible constituency in the elections. The NCP then uses the legislature to revoke key elements of the CPA, including the right to self-determination, or to extort an unacceptably high price for it. (page 17)

This scenario is far closer to being realized, and suggests further the foolishness of dismissing the implications of national elections for the Southern Self-Determination Referendum. Khartoum is working hard as well to divide Southern votes, covertly funding and supporting political efforts such as that of the grossly expedient Lam Akol. His "Sudan People's Liberation Movement – Democratic Change" is simply a means by which the regime hopes to sow division among dissatisfied Southerners, and to create leverage in dealing with the SPLM itself.

The international community has done far too little to heed these clear warning signs, which have come in many forms over many months. Indeed, delayed reaction seems to be the order of the day in the world's response to Sudan's growing electoral crisis.

Logistical, technical, and administrative obstacles

The greatest obstacle to free and fair voting is the enormously compressed electoral calendar that Khartoum has engineered through policies of delay, obstruction, renegeing, and bad faith. It is worth looking at this calendar and its relationship to the time-frame envisioned in the Comprehensive Peace Agreement (CPA):

- Census: mandated by the CPA to be conducted by July 2007 (the exercise occurred almost a year late);
- National Electoral Law governing the elections: mandated by the CPA to be enacted by January 2006 (passed only in July 2008, two and a half years late);
- National Election Commission (NEC): mandated by the CPA to be established within one month of the election law (the NEC exists only formally; nothing remotely adequate to the challenges of national elections has yet emerged, despite last year's passage of the National Electoral Law);
- Determining the North/South border, critical for any accurate census, for oil revenue-sharing, and for the establishment of voter constituencies: a central demand of the CPA, it has yet to be addressed in any serious fashion by Khartoum, four and a half years after signing of the Agreement;

- Southern Self-Determination Act: mandated by the CPA to be enacted by mid-2007 (the Act did not come up for a vote during the now-completed legislative session; the Act may not pass for a number of months, creating a delay of well over two and a half years);
- National Elections: mandated by the CPA for July 2009 (these have been delayed until February 2010, further compressing the time-frame between national elections and the Southern Self-Determination Referendum);
- Southern Self-Determination Referendum: mandated by the CPA to be held in January 2011 (currently scheduled for February 2011);
- Abyei Self-Determination Referendum: mandated by the CPA to be held in January 2011
- July 9, 2011: end of the “Interim Period” stipulated by the CPA

Writing a year ago, Heilman and Chelius argue that “adhering to the mandates and timetable of the CPA is in the best interest of all parties, including the international community.” But given how “interests” are calculated in Khartoum, this optimism about how the NIF/NCP construes what is in its “best interest” seems naive. Nonetheless, their larger point about what has happened to the timetable was prescient in June 2008 and is now completely compelling:

[The electoral] timetable has already been voided by the extreme delays in meeting many of the critical milestones in the Agreement. There are indeed many operational obstacles to meeting the July 2009 target for General Elections, including:

- Lack of an electoral law
- Lack of an electoral system
- Lack of a voter registration system
- Lack of an electoral management body
- The logistical impossibility of performing many activities during the rainy season
- Lack of an agreed-upon North-South boundary (necessary for boundary delimitation)
- Lack of Census data (also necessary for boundary delimitation) and likelihood of its lack of acceptance once released. (page 7)

The lack of an electoral system, the beginning of voter registration only as the region enters into the present rainy season, and the absence of a clearly defined

North/South border loom as especially threatening to the integrity of elections. With these delays and their aggregate effects, Khartoum is in a position to ensure that the provisions of the Election Law will be implemented in the ways least threatening to NIF/NCP control of the electoral process. Given the host of difficulties and the sheer scale of many tasks, election outcomes will almost certainly be determined by vote rigging, voter intimidation, bureaucratic obstacles, and coercive patronage voting patterns.

Some of these difficulties have been detailed in the reports surveying elections prospects:

[a] Demarcation of individual election constituencies was supposed to be based on the census results. Because of disputes about the census (which, for example, left the Abyei region without the votes necessary to become an electoral constituency), constituencies cannot be demarcated. As Hafiz Mohammed of Justice Africa has put the matter:

“[The census dispute] is the main problem. How to solve it, no one knows. You have to come out with the demarcation [of constituencies] first, and then the registration of voters and then the other processes, and all that has to finish before February [2010].”⁸⁵

Given the nature of single representation constituencies, their demarcation becomes an extremely important issue, particularly in contested regions.

[b] Voter registration is only now beginning, even as the rainy season has already begun in both the South and Darfur. Even in the best of circumstances it would be a monumentally difficult task. Many people have never voted before, a high percentage of those in the South are illiterate, the balloting is excessively complex (twelve ballots are required in the Southern elections, with the possibility of run-off elections), and the absence of a fully constituted electoral management body guarantees that these problems will only become worse as the registration process proceeds. One NIF/NCP official is already speaking of delaying the registration process until November:

The deputy chairman of the National Elections Commission, Abdullah Ahmed Abdulla, told Reuters the commission was behind schedule because of delays in announcing results of a vital census and in setting up election committees in states. “We are considering a modification, an adjustment of our old timeframe to accommodate the delays that have taken place,” Abdulla said on Tuesday [June 9, 2009], adding it would

“not be very much of a delay.” Abdulla did not suggest any new time-frame but said voter registration—originally set for June—would now likely start in November after disruptive rains have finished.⁸⁶

Yet without a commitment of the appropriate resources—managerial, logistical, transport, and staffing—delays will only compound themselves, inevitably working to the benefit of the NIF/NCP.

[c] This lack of commitment points in turn to a critical difficulty identified in the Carter Center Report:

Substantial responsibility for implementation of the electoral process falls on the 26 subsidiary elections High Committees, one for each state and one for Southern Sudan. The National Election Committee appears to be close to appointing these committees, which will be an important first step. However, with a little less than one month to go until an extensive voter registration process is due to begin, there is a rapidly shrinking window for the High Committees to begin their work and make the necessary preparations for an inclusive registration process. It remains unclear what powers and authorities will be devolved from the NEC to the High Committees. Therefore, a critical priority for action is to clarify the delineation between national, regional, and state election management body responsibilities as the electoral process moves forward. (May 7, 2009)

A month and a half later, little if anything has been done to address the critical issues the Carter Center Report highlights.

[d] Willis *et al*, in their detailed survey of the history of elections in Sudan, highlight several areas of particular concern:

[T]here are many other kinds of malpractice [besides “ballot box stuffing and switching”], and in the light of previous experience the report draws attention to the need to support the following areas in particular:

- Ensuring press freedom and equal media access.
- Ensuring freedom of movement and association to allow proper campaigning.
- Preventing improper use of government resources in campaigning.

- Monitoring campaign spending as the campaign proceeds, rather than afterwards. (page 7)

The Khartoum regime is doing precisely the opposite. To be sure, the idea that the NIF/NCP would “monitor...campaign spending” during or after the election, or would refrain from “improper use of government resources,” is hopelessly quixotic—and misleading in suggesting that such monitoring and restraint are even remotely possible. But “freedom of movement and association” seems even more imperiled by recent legislative actions and inaction, as well as various regime pronouncements. President Omar al-Bashir has threatened the Sudan People’s Liberation Movement (SPLM) with a prohibition of campaigning in the North on wholly contrived grounds; the regime is holding up a new National Security Law that would constrain its most potent electoral weapon, the National Intelligence and Security Services (NISS); and the new censorship law fails to provide real “press freedom,” let alone “equal access” to the news media.

Idealistic exhortations are certainly in the spirit of the broader human rights project; and these electoral standards must be consistently promulgated, even when the chances of their being met is vanishingly small. But to urge the National Election Commission to “use its powers to ensure both greater equality of access to media, and the end of the current routine censorship” (page 60) is indeed mere exhortation. So, too, with the insistence that “more effective enforcement of regulations on campaign spending are essential” (page 60). No doubt. But as Willis *et al* well know, for over twenty years the regime has secured the means to buy votes in ways that escape all scrutiny. The patronage system dominates the political arrangements in Khartoum, and provides more than adequate means to escape any nominal ceiling on expenditures.

A revealing recent account of this patronage system comes from Sudan Human Rights Organization/Cairo [SHROC] and its report on the shamelessly corrupt investment deal offered to NIF/NCP cronies for the vast Gezira (Agricultural) Scheme:

SHROC reported on Sunday that Minister of Agriculture Abdel-Haleem Al-Muta’fi and the new Governor of Gezira Alzubair Bashir Taha took measures to purge hundreds of the Gezira specialized engineers and other key professionals from the cotton gins and the railway department, in addition to planned displacement of hundreds of thousands of the farmers’ families that have lived in and served for almost a century the Gezira Scheme.

“The new Governor, formerly a minister of interior with a violent record against unarmed civilians protesting government policies, launched a massive assault by armed regiments of the police force, the armed forces, and militias of the NCP ruling party, on the markets of Medani, the capital city of Gezira, that terrorized the population, especially the low-income farmers’ families selling tea or other local products. Hundreds of the terrorized citizens were then put on custody in appalling conditions,” stated SHROC.

The next day, the Minister of Agriculture promptly acted to sell cheaply the Scheme’s agricultural engineering establishments and machineries to members of the NCP ruling party in a closed private tender.

Another sale was made of the Gezira Railways Department, which serves to ship raw cotton bales to the Maringan Ginning Mills. According to the Cairo-based rights watchdog, the railways department was cheaply sold to GIAD, a company of the international Muslim Brotherhood. NCP party members also allegedly bought the major spare-parts workshop of Maringan, which for decades had ensured high productivity of the gins.⁸⁷

These sales provide yet more electoral leverage for the NIF/NCP and illustrate perfectly how the regime has operated for the past twenty years.

Censorship

So great is the issue of censorship in any imaginable election in Sudan, and so completely does the regime control the news media, that as an obstacle in the electoral process it deserves treatment as an issue unto itself, not least because of what it reveals of the character and methods of the NIF/NCP.

The basic logic of censorship in the current environment was outlined this past February (2009) by Human Rights Watch:

The Sudanese government’s active repression of journalists and human rights defenders not only violates the human rights of those who are directly abused, it severely impedes freedom of expression and access to information throughout Sudan. This repression is particularly critical in light of the national elections scheduled for mid-2009—Sudan’s first national elections in more than 20 years—and the ongoing International Criminal Court (ICC) investigation into crimes in Darfur. Severe limitations on freedom of expression and repression of media and human

rights defenders will act as a huge barrier to the holding of free and fair elections. Human Rights Watch is concerned that the elections and the ICC investigation may be used by the Sudanese government as excuses to further intensify repression.⁸⁸

Human Rights Watch details the slow demise of modestly increased press freedoms that followed the signing of the CPA (January 2005) through increasingly sharp crackdowns. It is in this context that we should see the implications of the recently passed Journalism and Press Publications Bill (June 8, 2009). As Reuters notes in its dispatch on the new law,

the new press bill leaves room for state interference on the grounds of national security or public order and it remains unclear if censorship will be reduced.⁸⁹

Actually, as a Human Rights Watch spokesperson noted, censorship remains quite “clearly” the predominant reality of all Sudanese news media:

“National Security has incredible sweeping powers of arrest for ill-defined acts against the state. Without its reform the new [press and media] act is not going to be enough to ensure freedom of the press,” Selena Brewer from the US-based Human Rights Watch said.⁹⁰

Press freedom in the new law is at once asserted and undermined: no restrictions will be placed on freedom of the press except on “issues pertaining to safeguarding the national security and public order and health.”⁹¹ And of course, as Brewer of Human Rights Watch rightly asserts, national security forces decide what is required to “safeguard national security.”⁹²

The newly created Press Council is nominally the organ responsible for determining the extent of press freedoms, but the Council ultimately falls under the authority of regime officials or appointees. The highly expansive 1999 National Security Forces Law specifically empowers the National Security and Intelligence Service to censor news reports and arrest journalists. The new law does not change this fundamental fact, and we will see that no honest reporting is permitted on the ICC arrest warrant for Omar al-Bashir, charging him with crimes against humanity. There will be no reporting on the regime’s support for Chadian rebels seeking to oust President Idriss Déby in N’Djamena; there will be no reporting on the May 2008 attack by JEM rebel forces on Khartoum; there will be no reporting on current violence in the south. And there will be no honest reporting on the reasons for the many and long delays in the electoral provisions of the CPA. All these topics will fall under the rubric of “national security issue.”

Khartoum's efforts to destabilize the South

For well over a year, the NIF/NCP has in a clear pattern of instigating violence in Southern Sudan and the transitional areas (primarily Abyei and Southern Kordofan). This is in addition to the violence that the regime has continued to orchestrate in Darfur, even if some refuse to acknowledge the continuation of such violence (see “‘Chaos by Design’: Khartoum’s Patterns of Violence in Darfur,” September 13, 2008) A particularly dangerous incident in Southern Sudan occurred in May 2008, when Khartoum’s Sudan Armed Forces (SAF) destroyed Abyei town itself along with a number of nearby villages. As many as 100,000 civilians were displaced, the vast majority of whom have not attempted to return, resulting in an ongoing humanitarian emergency.

The assault on Abyei was engineered by Khartoum, specifically by means of ethnic tensions created by the SAF. Roger Winter, who was present at Abyei in the months before the attacks and the days immediately following, offers an unusually authoritative account of what led to the assault:

During my visits in February and March of 2008, I documented the illegal presence of Sudanese Armed Forces (SAF) in the Abyei area. During this period, the Sudan Armed Forces’s 31st Brigade used terror tactics to systematically clear the population from the villages outside of Abyei town. The village of Today, for example, was rendered devoid of population due to nightly shooting by the Brigade. A nearby International Organization for Migration reception center, set up to assist returning people who had been displaced by Khartoum-inspired violence years earlier, was shut down.

The tension in the Abyei area was palpable. On May 13, an incident between the Sudan People’s Liberation Army, or SPLA, police and SAF occurred in Dokora village, about four miles north of Abyei. Violence exploded, quickly spreading across the area. On the afternoon of May 14, local officials reported heavy bombardment of Abyei’s civilian areas, as well as looting and burning of markets and homes by SAF forces. This precipitated the mass flight of thousands of civilians to safety in the South.⁹³

Despite signing the Abyei Protocol, which was a key part of the Comprehensive Peace Agreement, the NIF/NCP refuses to abide by what was intended as a binding determination by the Abyei Boundary Commission, which consists of international experts who performed with admirable professionalism and objectivity in demarcating the boundary of the Abyei enclave. Such bad faith reflects directly on the

credibility of the NIF/NCP as an electoral partner, as well as on its willingness to use violence to destabilize Southern Sudan.

Events unfolding in Southern Kordofan's Nuba Mountains (a region allied with the SPLM/A during the civil war) reflect many of the same trends toward violence as a means of controlling the elections.⁹⁴ And even in the South itself there is growing evidence of a determination to precipitate violence. In Malakal (Upper Nile), for example, there have been two major breaches of the cease-fire at the core of the CPA. The most recent was a deliberate provocation by the regime, as Human Rights Watch clearly implies in a letter to President al-Bashir:

The Sudan Armed Forces (SAF) contingent of the [north/south] Joint Integrated Units [JIU] in Malakal comprises former militia from several groups led by former militia leaders. Tensions surfaced on February 23, 2009, with the arrival of SAF Maj. Gen. Gabriel Gatwich Chan, known as Gabriel Tanginya ("Tang"), a notorious former militia leader whose followers include thousands of soldiers currently serving in the SAF unit of the Malakal JIU.

Tang's arrival inspired particular panic because of his role provoking previous clashes. In November 2006, his presence in Malakal contributed to clashes between the same JIU contingents that resulted in some 150 deaths, and Tang is wanted by the Government of Southern Sudan in connection with those clashes.⁹⁵

In other words, the NIF/NCP sent Major General Tang to Malakal in a deliberate effort to precipitate fighting, and succeeded as planned (Tang was withdrawn shortly after the fighting started, presumably for his own safety). The signal was clear: particularly in areas where the Joint Integrated Units are operating, Khartoum can undermine whatever civilian security exists and can provoke fighting that not only weakens SPLM authority, but creates unhappiness that has electoral implications. Malakal, for example, is close to the Southern Kordofan border and has a growing Arab population and character; Khartoum wishes to keep the city as a growing source of influence in South Sudan.

There is also evidence that the recent inter-tribal and inter-ethnic fighting, so worrisome in Southern Sudan at this point following the CPA, is being stoked by weapons provided by the NIF/NCP. Even the suspicion that weapons are being provided by Khartoum has precipitated fighting at various points of tense confrontation, especially in Jonglei and Upper Nile. Other SPLM sources insist that they have clear evidence that Khartoum has been providing weapons to some of the combat-

ants in ethnic fighting, particularly the Murle, who have been involved in some of the most deadly violence.

To date, this fighting at various locations in the South has exceeded the control of the Government of South Sudan (GOSS). This is in large measure because of the deeply felt conviction by many in the Southern government—and Southerners generally—that they are themselves the only military guarantors of the 2011 Self-Determination Referendum, and must plan now accordingly. This commitment has forced some hard choices in the allocation of military and security resources, and ultimately financial resources (this is one reason Khartoum keeps its payment for oil revenues to the South so far in arrears—hundreds of millions of dollars are owed at present).

For an excellent discussion of the particular dilemma confronting the GOSS, see “[Conflicting Priorities: GOSS security challenges and recent responses](#),” Small Arms Survey, May 2009. The report concludes by noting that

[a]s the CPA enters a critical period, Southern Sudan is under pressure from ceasefire violations [by Khartoum] as well as internal instability and security challenges. The GoSS’s focus on preparations for a possible military confrontation with the North has limited its ability to address divisions and community security concerns within the South, which are equally destabilizing. This dynamic has not been recognized by many outside observers. A better appreciation of the realities on the ground is crucial to assisting the southern government to reduce the risk of further political, ethnic, and social crisis. (page 7)

The most obvious contribution to a solution could be made by the UN force in Southern Sudan (UN Mission in Sudan [UNMIS], to be sharply distinguished from UNAMID in Darfur). This poorly conceived and badly under-tasked operation should be much more active in the field and in using that part of its mandate that comes under Chapter 7 of the UN Charter. The Small Arms Survey report puts the matter squarely:

First, UNMIS can make a significant contribution to building confidence in the peace by more effectively monitoring the ceasefire and security arrangements of the CPA—arguably the most fundamental task of the peacekeeping mission—through more direct interaction with local actors. Playing this role calls for more dynamic patrolling by military and civilian observers, greater interaction and cooperation at an operational level between the UN military, police, and their counterparts at all levels, and improved information sharing, analysis, and reporting.

To counteract the current perception that there is little recourse to address CPA violations and the tendency of peacekeepers to respond only after outbreaks of violence have occurred, UNMIS could work more with local actors to address concerns before they escalate. Part of UNMIS's mandate falls under Chapter VII of the UN Charter but it has yet to effectively operationalize this on the ground. This will require a substantial shift in the focus of current assets and human resources. A first step would be to patrol key areas more proactively, as is currently beginning to take place through a deployment in Jonglei. It is from this starting point that a discussion about more effective response mechanisms and protection could be developed. (pages 7-8)

The electoral implications are not fully drawn, but the report does speak to the dilemma that is at the center of this important assessment of how the GOSS should deploy its security and military assets:

A more realistic analysis and acknowledgment of possible future scenarios and threats would help enable the GoSS to plan for the Referendum and beyond, to create the conditions for peaceful secession—should this be the outcome of the Referendum—and to overcome the South's internal divisions after 2011. In the interim, a short- to medium-term strategy is also needed to realistically assess and manage internal threats to security, mitigate the potentially destabilizing impact of the financial crisis and upcoming elections, and moderate the ongoing internal conflicts and criminality that impact on the daily lives of ordinary people. (page 8)

Though eminently sensible, these recommendations are unlikely to be pursued by UNMIS, which—like UNAMID—seems excessively deferential, even fearful in dealing with Khartoum and its Sudan Armed Forces. Still, any reduction of inter-tribal and inter-ethnic violence would contribute to a more conducive electoral environment going forward over the critical next 19 months. Such diminishment of ethnic and tribal tensions will not affect the outcomes of the national elections, but may indeed help work to diminish the crisis that looms ever closer with the inevitable decision by Southerners to secede from the North.

There is as yet no clear evidence that Khartoum is supporting the resurgent Lord's Resistance Army [LRA] in its predations in Western Equatoria, but there are nonetheless disturbing claims being made by Southern officials. Martin Tako Moyi, deputy chairman of Gender, Social Welfare, Youth and Sports committee,

urged an Egyptian delegation to encourage Khartoum to make unity attractive to Southerners. In the course of his comments he declared, “I have seen with my own eyes Antonov aircrafts [which belong only to Khartoum] dropping arms and ammunition to the LRA, as well as helicopters dropping weapons to some tribes in the south.”⁹⁶ Dr. Anne Itto, a former commander in the SPLA, declared two weeks earlier:

“We have our [sources] in the region, especially in Western Equatoria, who found debris of Sudanese broad beans and dates.” Itto explained that the debris was packaging from high-energy foods typically used in desert regions by Sudanese armed forces and that the bags and packets had Arabic letters. “So ... it must have been air dropped to LRA by Sudan armed forces.”⁹⁷

If Khartoum is indeed again supporting the LRA, its intention to destabilize Southern Sudan at any cost will be transparently clear.

US policy towards Khartoum and the elections

Despite the high-profile Sudan gathering in Washington, DC this past week, there has been no indication or claim of a breakthrough—or even specific progress on the key North/South issues, national elections, the Southern Self-Determination Referendum, the failing peace process for Darfur, and Sudan’s critical humanitarian and development needs in marginalized regions. Representatives of the NIF/NCP, the GOSS, and the U.S., as well as other interested national and international actors, met, confabulated—and then departed. U.S. Special Envoy for Sudan General Scott Gration convened the meeting, and there can be no gainsaying the importance of the occasion for raising the profile of issues that had been left unaddressed by the Bush administration. But these are also issues that have received far too little attention from the Obama transition team and administration in the first place. Eight months into the Obama administration, and a vigorous campaign commitment to respond to ongoing destruction in Darfur, there is still no coherent Sudan policy in place.

The Sudan inter-agency working group (State Department, U.S. Agency for International Development, National Security Council, Defense Department, intelligence community) has still not reached consensus on this policy, and it is not at all clear that we will be provided with a forthright account of how claims about Khartoum’s “cooperation” in the war on terror insulate the regime from greater US pressure. Particularly worrisome is the lack of pressure on our European allies to do

more, and on strategic rival China. For now we are best able to gauge the intentions of the Obama administration by the words and actions of Special Envoy Gration.

What does all this suggest about elections in 2010 and the 2011 Self-Determination Referendum? If U.S. relations with the Khartoum regime are defined from the perspective of General Gration, and if his failure to see the connection between the genocidal destruction of the past and the regime's current policy of humanitarian attenuation governs ongoing diplomatic communication, then it appears extremely unlikely that he will be able to secure any of the cooperation that all election observers agree is fundamental to even marginal success:

The stakes are very high [in Sudan]. If the [2010] election should lack credibility, it is hard to see how the Comprehensive Peace Agreement can survive.

The 1996 [NIF/NCP controlled] election was an extreme example of electoral pretence. However, it illustrates how it is possible to go through some of the motions of free and fair elections without actually offering any significant degree of choice or ensuring any substantial popular participation.

The Government of Sudan and National Election Commission should take every opportunity to secure electoral assistance—in the form of physical resources and training—from the international community, and the provision of such assistance should be treated as a priority in that community. Failures in procedure will undermine the process as swiftly and completely as will malpractice. (Willis *et al*, pages 6, 8, 62)

Citizens of South Sudan are more interested in voting in [the Self-Determination Referendum] than they are in the General Elections that are supposed to precede the referendum. However, little planning has taken place to prepare for the referendum. As with the General Elections, the Self-Determination Referendum has already fallen behind its timetable. Passage of the Referendum Act is a year late [now over two years late, without any near-term prospect for passage—ER] and the [USAID] assessment team detected little forward movement there. (Heilman and Chelius, pages 2, 4; June 2008)

As McHugh concludes:

The primary objective of this paper was to explore whether elections can achieve effective political accommodation in the Sudan. The as-

assessment presented here has found that the process and likely outcomes of elections, in the absence of other modalities, will not achieve political accommodation in the Sudan, and as such will not deliver on the desire for equitable sharing of power at the core of the Comprehensive Peace Agreement. (McHugh, iv)

And as Thomas points out:

For elections to be free and fair, other conditions are needed. The CPA and the Interim National Constitution require the transformation of the security services into a body for information-gathering and analysis. To implement this, the current broad powers of the security services to arrest and detain people without charge for up to nine months needs to be abolished. The director of the security services can grant security officers immunity from criminal proceedings and this has created a situation of near-total impunity for abuse. (Thomas, page 17)

Schwartz is also not encouraging:

All of these stipulations [concerning security, transparency, transport logistics, early planning, civic education] will require cooperation from the Government of Sudan. From a logistical standpoint, electioneers will need support in establishing security and logistics, such as approving visas for staff and getting the required equipment through customs. On a political level, maintaining security and an atmosphere conducive to free and fair elections will require full government support for the elections process. (Schwartz, page 10)

In turn, these observations force the question articulated by O'Brien:

The NCP is notorious for ignoring the rule of law, persecuting dissenting Sudanese voices, breaking existing agreements, and using ruthless force against civilians. Why should international diplomats believe the NCP will behave any differently during the course of an election, and what guarantees and safeguards will be put in place to prevent cheating? (page 1)

This is precisely the question that Gration, the U.S., and other international actors should be asking—urgently, forcefully, and relentlessly. Only realistic answers

can serve as an effective basis for policy toward Khartoum. Instead, Gration offers soothing words to the regime, speaks with irresponsible ignorance about the humanitarian crisis in Darfur, and evidencing no understanding of the fatal threats facing national elections or the Self-Determination Referendum.

On the present course, both elections and peace in Sudan are doomed in one way or another.

August 25, 2009: Khartoum's Strategic Assault on Southern Self-Determination Referendum

The right of Southern self-determination has been the issue at the core of all peace negotiations in Sudan, specifically in the form of a referendum that allows Southerners to choose between remaining in a unified Sudan or seceding to create an independent country. This bedrock principle of Southern self-determination was firmly established in the Machakos (Kenya) Protocol of July 2002, and animated negotiations in the Naivasha process that culminated in the Comprehensive Peace Agreement (CPA) of January 2005. Although subsequent peace negotiations for Eastern Sudan and Darfur failed to produce viable agreements, the example of the CPA loomed large in the thinking of these marginalized populations; and it is certainly the case that an end to hostilities in Southern Sudan created the political circumstances that made even these fatally flawed agreements conceivable.

Certainly it could be argued that military pressure from the Darfur insurgency helped push the regime in Khartoum to accept the terms of the CPA—terms that some within the regime thought too favorable to the South. Fighting on two fronts threatened to present Khartoum with excessive military challenges, particularly given the strength of the Sudan People's Liberation Movement/Army (SPLM/A) in 2002 and the early military successes of Darfur's Sudan Liberation Movement/Army (SLM/A)—and to a lesser degree the Justice and Equality Movement (JEM)—in 2003. But by the time the ill-fated Darfur Peace Agreement was signed in May 2006 by Khartoum and a single rebel faction, this military leverage no longer existed. The CPA had been signed, and the Darfuri rebels had lost their military initiative. The large-scale genocidal violence that produced 3 million displaced persons (IDPs or refugees) and hundreds of thousands of deaths diminished considerably, although massive insecurity for civilians and humanitarians continues even now. However, a strategic military stalemate, punctuated by significant episodes of large-scale violence, quickly set in throughout most of Darfur. Violence is likely to continue to ebb and flow, depending on a host of factors. But it will not end without a just peace.

The Eastern Front, primarily the Beja Congress and the Rashaida Free Lions, became a lost cause when the SPLM/A agreed as part of the peace process to withdraw from its positions in Kassala Province, and Eritrea's President Isaias Afwerki ended his support for the movement. The Eastern "peace agreement" (October 2006) was a weak document whose only meaningful provisions have never been implemented. The May 2006 Darfur Peace Agreement was still-born and succeeded only in producing a deeply fractured rebel movement.

Still, for both the East and Darfur, the example and implications of Southern self-determination have loomed large, as they have for all the marginalized populations in Sudan, including Nubia, Southern Blue Nile, and the Nuba Mountains. At the very least, the people of these regions wish for a degree of meaningful autonomy and legitimate political representation in Khartoum. They are well aware that only such representation offers the chance for any meaningful wealth-sharing, development aid, judicial reform, and freedom from the tyranny of Khartoum's pervasive security apparatus.

Precisely because so much is at stake in the Southern self-determination referendum (SSDR)—presently scheduled for January 2011—it should hardly be surprising that an abundance of evidence now suggests that the ruling National Islamic Front/National Congress Party is intent on undermining or completely forestalling this critical electoral process. This analysis examines the possible strategies and tactics the NIF/NCP may deploy in this effort, and the various indications that a decision has in fact already been made to abort the SSDR. Well aware of Khartoum's ambitions, the Southern leadership has become more outspoken on a range of issues, particularly those that bear on the legislation that will define the specific terms and conditions of the SSDR.

At the same time, for fear of further endangering the referendum, the Government of South Sudan and SPLM leadership have been treading very carefully on both the continuing Darfur crisis and the International Criminal Court (ICC) indictment of NIF/NCP President al-Bashir for war crimes and crimes against humanity. Khartoum has made clear that these are both "red line" issues: if the Southern leadership becomes too outspoken on genocide in Darfur or supports the ICC in any public fashion, the regime will respond by targeting the SSDR. But if the South acquiesces too completely before Khartoum's demands and becomes too narrowly focused on securing the referendum, this carries risks as well, particularly going into the national elections scheduled for April 2010.

In the words of a particularly compelling new report from the International Crisis Group:

The NCP [NIF/NCP] has held back the key concessions required for

the democratic transformation that [the CPA] appeared to promise, including repeal of repressive laws and restoration of basic freedom of association and expression, and it has blocked the actions necessary for a peaceful referendum, such as a credible census, demarcation of the [North/South] border, fuller wealth-sharing and de-escalation of local conflicts in the transitional areas of Abyei, South Kordofan/Nuba Mountains and Blue Nile. It appears to have decided to allow neither the secession of South Sudan nor meaningful political reforms in the North. The South's goal is now to maintain its 2011 self-determination referendum.⁹⁸

Certainly the Southern leadership has strenuously challenged the obviously corrupt national census and has long complained bitterly about Khartoum's refusal to demarcate the North/South boundary. Abyei has also been the focus of concerted efforts at resolution. But without more effective attention to the conditions necessary for meaningful national elections in April 2010, including an end to the pervasive impunity that enables so much of Khartoum's behavior, the Southern leadership may actually diminish the chances for a successful SDDR. I have argued in a recent analysis that all evidence suggests these elections will not be free and fair. Surveying a series of reports on the elections and their consistently grim conclusions, I highlighted the critical problems posed by an unacceptable census, the enormous logistical and technical difficulties of a complex election carried out in Africa's largest country, and the resources available to the NIF/NCP to engineer electoral results to its satisfaction.

Beyond this, opposition candidates face a highly abusive system of censorship and threatening, sometimes brutal, repression by the state security apparatus. Precisely for this reason it is important that these results are clearly revealed as fraudulent: otherwise the NIF/NCP will use these putatively "national" elections to legitimize their continuing rule, and to de-legitimize both the SPLM and the Darfur rebels, as well as northern political opposition groups (which have recently threatened to boycott the elections).

The Southern Self-determination Act, per the CPA

Highlighting NIF/NCP fraudulence is important for a number of reasons. For one, the national elections results may be rigged to ensure that the NIF/NCP has sufficient legislative power to re-write the CPA, or the terms of whatever SDDR legislation eventually passes in the National Assembly. A "Southern Self-Determination Act" is explicitly mandated by the CPA and should have been enacted by mid-2007.

Yet the Act did not come up for a vote during the legislative session completed earlier this summer, and may not pass for a number of months. This represents a delay of well over two and a half years, a delay that compresses the electoral calendar in an especially dangerous fashion. For at this point, any extended debate on the legislation may lead Khartoum to push for a delay in holding the referendum. Any such delay is likely to be explosive and trigger full-scale war.

There are also a number of provisions currently being proposed by senior members of the NIF/NCP that suggest how the SDDR might be fatally compromised. Broadly, Khartoum has claimed that on their reading of the CPA, a successful vote for secession is to be made more difficult than a vote for unity. In the regime's view, this is not to be a referendum with two equally viable and acceptable electoral options. One recent example of this view is Khartoum's assertion that a vote for secession requires 75 percent of votes cast. Although support for secession among Southerners runs extremely high—well over 90 percent, a figure largely confirmed in a survey by the non-profit, non-partisan National Democratic Institute—Khartoum feels that if it can manipulate the vote to indicate 26 percent for unity, then it will be able to declare that the vote for secession has failed. As part of this effort Khartoum is also insisting that southern Sudanese everywhere in Sudan be included in the vote, while the Southern leadership insists that only those actually in Southern Sudan should vote. There is a very large and extremely vulnerable population of Southern Sudanese in and around Khartoum that the regime is confident it can intimate or manipulate into voting against secession. Tellingly, the former director of the Sudanese census commission, Awad Haj Ali, has said that

he believed the census had undercounted Southern Sudanese living in the north, and that their number might be nearer 1.5 million, rather than just 500,000, as found by the census.⁹⁹

The *Sudan Tribune* reported Awad Haj Ali declaring that, “the total number of southerners in the north might be 26 percent.”¹⁰⁰ At the time this seemed, peculiarly, to support SPLM claims about the inadequacies of the census. But more consequentially, “26 percent” is a figure that might prove extremely useful for Khartoum if the SDDR legislation does indeed contain a threshold of 75 percent for secession.

Other disputes concerning the referendum legislation are emerging. The Nation (Kenya) reports from Juba (August 16, 2009) on a forum interview with Michael Makuei, Southern Sudan's Legal Affairs Minister:

According to the peace agreement [the CPA], the [referendum] Commission's head office is Juba. But the NCP now wants it in town. Ac-

ording to the CPA, the Commission would have nine members—three from the Government of National Unity [GONU], and six from the Government of Southern Sudan. But the NCP now wants 15 members—ten from the GONU.

This latter provision would bring the NIF/NCP representation on the Commission within striking distance of blocking all action, and would certainly create a near stalemate on any number of issues. The Nation dispatch continues:

They can't agree over which security forces should monitor the vote. The NCP wants forces should be brought to the south to monitor the exercise. The SPLM says the CPA lays [out] clear[ly] who is in charge of security in the south: in this case, the Sudan People's Liberation Army and the Joint Integrated Units.

They can't agree on the ballot papers. The NCP wants ballot papers to have names and with two issues—unity and secession—with voters merely ticking their choice. The SPLM wants a single-issue ballot, with the option for “yes or no,” saying putting both Unity and Secession on the ballot could confuse a population that can hardly read and write.

It is difficult to know which of these, and other, proposals Khartoum truly expects to be included in the final referendum legislation, but the sheer number of obstacles the regime is attempting to create—some clearly contravening the terms of the CPA—is a sign of its willingness to compromise the legislative process. President al-Bashir may also simply veto the legislation, a decision made easier if all these pernicious suggestions are rejected by the SPLM/Government of South Sudan. For the undoubted consequence of such rejection will be unthinking international criticism, whatever the responsibilities of the two parties for such a crisis.

Weapons from Khartoum to South Sudan and the LRA

In recent weeks there has been an acceleration of reports that Khartoum is sending weapons to militia groups in the south, as well as particular ethnic groups, and to the maniacal Lord's Resistance Army (LRA), originally from northern Uganda and now operating in northern Democratic Republic of Congo and Western Equatoria in Southern Sudan. The SPLM leadership has repeatedly called attention to this explosive issue, which represents the most direct possible assault on the peace process and the terms of the CPA. The stakes in such a weapons campaign are enormously

high, and have led such senior SPLM officials as Pagan Amum to speak of a unilateral declaration of independence. Since the parties to the CPA have addressed none of the issues that must be resolved for a peaceful Southern secession (oil revenues and ownership, the North/South boundary, financial relationships, security relationships, and many others), war would almost certainly ensue following such a unilateral action by the South. There can be little doubt that Khartoum is now willing to risk the fate of Sudan as a whole to retain its control of national wealth and power. As the recent International Crisis Group report notes, “Ultimately, the NCP will probably do whatever it takes to survive, even if it means taking Sudan toward disintegration.” Certainly, renewed North/South war will “take Sudan toward disintegration,” as conflict would quickly spread to Southern Kordofan, Darfur would re-ignite, and the East might see this as its only chance to escape present oppression and impoverishment.

What is Khartoum’s motive in sending weapons to the South? The most obvious answer was provided by Salva Kiir, President of the Government of South Sudan (GOSS) and nominally first vice-president of the Government of National Unity (GONU). Speaking of the “abnormal pattern of insecurity” that has plagued Southern Sudan in recent months, Kiir declared in a public address several months ago:

This is a well designed strategy to discredit you as people who cannot govern themselves, particularly as we approach general elections and the [self-determination] referendum.¹⁰¹

Sima Samar, until recently the UN Special Rapporteur for Human Rights in Sudan, also noted:

The size and scale of inter-tribal clashes over cattle rustling has been unprecedented, with the use of sophisticated firearms and targeting of women and children in villages [such targeting is also unprecedented in traditional cattle raiding between tribes—ER].¹⁰²

Where are “sophisticated firearms” coming from? There are many reasons to believe from Khartoum, including an ominous note in the June 26, 2009 issue of *Africa Confidential*:

Juba is worried by the alarming spread of ethnic clashes, in which hundreds of people have died this year, and wants an international investigation of NCP arms flows into the South. Northern soldiers who passed

on this information to the SPLM were recently secretly executed by the NCP, AC understands.

A number of extremely seasoned Sudan workers on the ground have indicated to me that, though without “smoking gun” evidence, they are fully convinced Khartoum is indeed supplying weapons to militia forces, particular ethnic groups, and the LRA. They base this assessment on many years of experience in the south, conversations with SPLM leadership and Ugandan military personnel, and the incontrovertible evidence of Khartoum’s actions in the Abyei area, the Nuba Mountains, and Malakal. In the latter case, Khartoum deliberately provoked extremely heavy fighting in February 2009 by sending Gabriel Tanginya (“Tang”)—a former militia commander and now a major general in the Sudan Armed Forces—to Malakal. Tang had been responsible for provoking heavy fighting and civilian casualties during a previous clash in Malakal (November 2006), and Khartoum was well aware that he was wanted by the GOSS for his role in this brutal episode. The provocation was deliberate and conspicuous.

In recent testimony before the House Africa subcommittee, SPLM Secretary General Pagan Amum asserted that “thousands” of AK-47s had been distributed to Khartoum’s allies in the South. General Oyay Deng Ajak, a former SPLA chief of staff who now serves as the south’s regional cooperation minister, very recently declared,

“We suspect with some evidence that our partners in the north are still training, arming and sending to southern Sudan the former militia groups who fought alongside them during the war. There is an increase in weapons and supplies coming into southern Sudan from the north. Somebody, somewhere is coordinating this operation and we very much suspect it is our brothers in Khartoum.”¹⁰³

Most recently, SPLM Spokesman Yien Matthew said on August 22, 2009 that “southern Sudan authorities seized guns bearing a logo of a Khartoum manufacturer.”¹⁰⁴

The Telegraph dispatch from Malakal also reports:

The claim of a “hidden hand” behind at least some of the killing is supported by independent evidence. A ship recently arrived in Malakal having travelled up the Nile from Khartoum. A 30-year-old man, who saw the vessel being searched, told the Sunday Telegraph that it contained Kalashnikov assault rifles and ammunition, hidden beneath a

cargo of food. Another 20-year-old man said the national army had tried to recruit him for a monthly salary of 200. Those who sought to entice him said they had been ordered to sign up 400 southerners in Malakal alone.

Another experienced, and wisely skeptical, Sudan observer has noted the following:

The SPLM have assured me that there is clear evidence of Khartoum supplying arms to some of the warring ethnic groups in the south. I was told that weapons and ammunition boxes recovered from the Murle [one of the tribal groups involved in some of the worst ethnic violence] recently are brand new and appear to have come from Khartoum. A number of people have told me they have seen military helicopters and aircraft in the Murle area, and that wounded were evacuated in helicopters, although none said they had actually seen weapons being dropped.

The SPLM, Ugandan forces, and others suggest that the early phases of Operation Lightning Thunder against the LRA were remarkably successful in capturing weapons and communications kit, and that LRA was scattered. They say that Kony went to DRC and from there to Khartoum. Two weeks later he had new weapons and new communications kit.

The Governor of Rumbek said a few weeks ago that they had caught a Sudan Armed Forces officer giving weapons to one of the warring Dinka clans there.¹⁰⁵

The UN Integrated Regional Information Networks also reports (Juba; August 24, 2009) that

with an upcoming vote for Southern Sudan on its potential full independence due in 2011, some fear the LRA may resume its role as a proxy force for those keen to block the emergence of a fully autonomous south. [Louise Khabure of the International Crisis Group] said she suspected that “residual support from Khartoum is still maintained,” referring to support north Sudan gave the LRA during Sudan’s 22-year civil war against Southern forces.

Given the horrendous human suffering and destruction wrought by the LRA over so many years—the terrible fate of so many children forcibly recruited, tortured, disfigured, used as sexual slaves—we must not forget the grim implications of Khartoum’s willingness to provide substantial support for this most brutal of proxy forces.

Unilateral declaration of independence

The evidence here is certainly sufficient to warrant a vigorous and thorough investigation, and one must wonder why UNMIS—the UN force in South Sudan tasked with overseeing the implementation and observance of the CPA—has not already conducted precisely such an investigation and made its findings public. The most likely answer is that UNMIS is not prepared to deal with the consequences of the allegations proving true. For if Khartoum is indeed deliberately destabilizing Southern Sudan by military means for political and electoral purposes, then it stands revealed as having no real commitment to the CPA, and certainly not to the Southern self-determination referendum. This may explain SPLM reluctance to share fully the evidence that it has: comments to date—by Salva Kiir, Pagan Amum, and others—put Khartoum on notice that their machinations are fully known. In effect, Juba is signaling that there is a very limited window of opportunity for Khartoum to halt this strategy, so deeply subversive of the chances for real peace. At the same time the SPLM is also highly constrained in what it can do or say, given the overriding need to see a Southern Self-Determination Act emerge in uncompromised form from the National Assembly. Catching the NIF/NCP out in its shipping of arms to the South may win the SPLM’s case in the court of world opinion, but as the regime’s 20 years in power have all too clearly shown, this will not be enough.

In this context, Pagan Amum’s threat of a unilateral declaration of secession is neither hollow nor unreasonable, however insistently the NIF/NCP declares such action to be a “red line.” If Khartoum is determined to preempt, deny, or disallow a legitimate vote for self-determination—the very cornerstone of the CPA—then there is no other choice for Southerners. Certainly Amum and others in the SPLM understand full well that Khartoum has other ways of collapsing the CPA both before and after the national elections of April 2010 (what follows are hypothetical possibilities):

[1] Al-Bashir, perhaps on the strength of a large margin of “victory” in these elections, finds occasion to declare a “state of emergency” and abrogates the terms of the Interim National Constitution and the CPA, including not only the SSDR but also revenue- and power-sharing;

[2] Prior to the SDDR Khartoum declares that the Government of South Sudan is a “threat to national security” and militarily seizes the oil regions of Southern Sudan, reaching as far south as logistics permit. Certainly the regime’s ability to project mechanized military power southward has been vastly increased by virtue of the network of elevated, all-weather oil construction roads, which are perforce dual-use. Withdrawal would be negotiated only on the basis of the South abandoning its right to a self-determination referendum;

[3] In the most extreme response, the regime could decide to act preemptively by decapitating the Government of South Sudan, and deploying its MiG-29s and other aircraft to destroy key installations in Juba and Rumbek; at the same time, well-armed ethnic militias could be loosed in Southern Kordofan, the Nuba Mountains, and Abyei. A powerless UNMIS force would be obliged to withdraw, along with a great many humanitarian organizations.

These represent increasingly dire possibilities, but none can be ruled out. This is the context for SPLM Secretary-General Pagan Amum’s declaration of August 11, 2009, highlighting the significance of Khartoum’s recent efforts to obstruct passage of reasonable SDDR legislation:

“We are warning the National Congress [Party]—we are also alerting the people of southern Sudan—that we have a serious problem,” Mr Amum told the BBC World Service’s Focus on Africa. “The National Congress is poised to betray the people of southern Sudan again.”

“We are not threatening anything at all,” he said. “We are saying that any attempt to deny the people of southern Sudan the right to self-determination will force the people of southern Sudan to declare a unilateral independence.”¹⁰⁶

In fact, the modalities of possible secession should be negotiated well in advance of the referendum. Such negotiations will remain impossible, however, if the NIF/NCP will not work in good faith to fashion legislation enabling the SDDR. Issues such as economic and commercial relations, a military buffer zone, oil revenues (most oil lies in the South, even as the infrastructure and pipeline to the Red Sea lie in the north), and a host of other difficult problems must be confronted if there is to be a “soft landing” for an independent South Sudan. Even while entertaining the possibility of a vote for unity, Khartoum should be willing to show good faith in discussing the consequences of secession. In fact, there is no such good faith or any real willingness to entertain the prospect of Southern independence.

In advance of military responses

The military options by which Khartoum will seek to forestall any peaceful secession by Southern Sudan are not likely to come into play before next year's national elections. Khartoum is confident that it has the means to contrive a significant electoral "victory"; even if the results are transparently rigged (as during the last NIF/NCP-orchestrated elections in 2000, in which President al-Bashir "won" with 87 percent of the vote), Khartoum will count on its legitimacy being enhanced. The regime shamelessly asked the UN for a \$1 billion election allocation, much of which would have been used to pay for manipulation of the electoral machinery. UN head of peacekeeping operations Alain Le Roy dismissed this preposterous request out of hand, but it is a measure of the regime's boldness that it would ask for such an amount.

The primary means of ensuring electoral victory, as well as a controlled release of information within Sudan and to the outside world, are the relentlessly efficient state security apparatus and the regime's control of the news media. Access for international news reporters to areas outside Khartoum will continue to be tightly controlled, especially in Darfur where last year's national census has virtually no meaning. The camps and host locations that house some 2.7 million Internally Displaced Persons were not included in the census, and yet a 60 percent increase was still registered in Darfur's population since the last census in 1993, including a 90 percent increase in South Darfur (in turn, the SPLM calculates that according to the census there has been a 322 percent increase in the population of Arab tribal groups). Khartoum will not permit news reporting on an election that non-Arab Darfuris emphatically declare they do not want, and in which they cannot participate in any event.

Domestic control of news is guaranteed by the meaninglessness of recently passed press laws that leave control of the news media fully in the hands of the President and the National Intelligence and Security Service (NISS). The legislation has been roundly condemned by international human rights groups, as well as by UN Special Rapporteur for Human Rights in Sudan, Sima Samar (June 4, 2009). All too revealingly, Samar's uniquely valuable contributions as special rapporteur have, as the result of an Egyptian initiative, been ended by the scandal that is the UN Human Rights Council, demonstrating yet again the moral and political bankruptcy of this body. Fortunately, a new human rights reporting organization has appeared, the Sudan-focused [African Centre for Justice and Peace Studies](#) (ACJPS). The first and second issues of its "Sudan Human Rights Monitor" (March-May 2009, June-July 2009) provide comprehensive reporting on a range of human rights abuses, including detailed accounts of arbitrary detention and arrest, harassment of human rights

defenders, torture, denial of press freedoms, and unfair trials. These constitute a remarkable compendium, laying bare the highly repressive nature of the Khartoum regime and the wide range of its domestic abuses. The African Centre for Justice and Peace Studies is clearly a highly informed and committed organization, and much may be expected of it in the coming months.

Humanitarian Situation in Southern Sudan

Even as the approach of national elections and the Southern self-determination referendum deepen the political crisis in the South, humanitarian conditions are also deteriorating rapidly. This dangerous situation results from the ethnic violence discussed above, as well as from the failure of the international community to provide the “peace dividend” that had been promised following consummation of the CPA. Compounding the larger problem, Khartoum has been continually in arrears in payment of oil revenues due the Government of South Sudan—revenues desperately needed for both humanitarian and development purposes. And an unfortunately predictable pattern of corruption on the part of too many Southern officials has resulted in the squandering of desperately needed resources. Furthermore, the overburdened GOSS has been unable to oversee an equitable program of civilian disarmament, and has moved much too slowly in creating an effective civilian police force.

All these problems must be seen in the context of a region that has not known true peace for over half a century, and which has never had the benefit of any substantial development aid. The tasks facing the GOSS are overwhelming, and thus the deepening humanitarian crisis at hand calls out for urgent and substantial international aid. Lise Grande, the Deputy Resident Humanitarian Coordinator in Southern Sudan, recently spoke of the South as facing the “perfect humanitarian storm,” declaring that:

“Southern Sudan is facing an almost unmanageable set of problems.” She stressed three factors led to this difficult situation. Since the independence of the country in 1956, the southern Sudan remained undeveloped due to the different civil wars in the region. After the signing of a peace agreement in 2005, the semi-autonomous region did not get the expected international support. Besides allegations of corruption that harmed its image, much of the international efforts are focused on Darfur. “We are seeing a convergence of factors in the south that are putting at least 40 percent of the entire population of southern Sudan at real risk.”¹⁰⁷

The first rains and crop plantings have failed, more than 200,000 people have been violently displaced, and insecurity makes delivery of food to areas such as Akobo almost impossible except by air. Yet the Khartoum regime, nominally the “government of Sudan,” will not offer assistance, just as it has continuously failed to assist the distressed populations of other marginalized regions of the country. It is far too infrequently remarked that despite its now considerable oil wealth, despite massive foreign investment in and around Khartoum, and despite very significant agricultural export capacity, there is no movement of national wealth or even food assistance from the center to the desperately needy periphery. For twenty years, the NIF/NCP has been responsible for a relentless war of attrition against international humanitarian efforts—in the South, in the Nuba Mountains, in the East, and currently in Darfur. The regime has frequently imposed humanitarian blockades, especially in the South and the Nuba Mountains (and in the early months of the Darfur conflict)—some affecting millions of people.

Indeed, at the very time the international community is struggling to provide food assistance to some six million people throughout Sudan, the regime is engaged in a lucrative agricultural export business and selling large tracts of arable lands to foreign countries. Precisely a year ago, *New York Times* correspondent Jeffrey Gettleman filed a remarkable dispatch (from Ed Damer, north of Khartoum) highlighting just how perverse national agricultural policy is under the NIF/NCP regime. Noting that Sudan “receives a billion pounds of free food from international [aid] donors, [even as it] is growing and selling vast quantities of its own crops to other countries,” Gettleman asks, “why is a country that exports so many of its own crops receiving more free food than anywhere else in the world, especially when the Sudanese government is blamed for creating the crisis [in Darfur] in the first place?” An excellent question, which the international community refuses to ask with sufficient resolve, particularly given the rapidly growing food crisis in Southern Sudan.

Gettleman details how Khartoum has monopolized for itself all opportunities for significant economic gain in the field of agriculture:

[Sudan] is already growing wheat for Saudi Arabia, sorghum for camels in the United Arab Emirates and vine-ripened tomatoes for the Jordanian Army. Now the government is plowing \$5 billion into new agribusiness projects, many of them to produce food for export.

Take sorghum, a staple of the Sudanese diet, typically eaten in flat, spongy bread. Last year, the United States government, as part of its response to the emergency in Darfur, shipped in 283,000 tons of sorghum, at high cost, from as far away as Houston. Oddly enough, that is about

the same amount that Sudan exported, according to United Nations officials. This year, Sudanese companies, including many that are linked to the government in Khartoum, are on track to ship out twice that amount, even as the United Nations is being forced to cut rations to Darfur.¹⁰⁸

Just as remarkable in its way was a declaration by NIF/NCP President al-Bashir at the recent AU summit in Libya:

The Sudanese president Omer Hassan Al-Bashir told the African Union (AU) summit in Libya that Sudan is willing to put its resources at the disposal of the continent. Bashir said that Sudan through its agricultural wealth “is in a position to make a big contribution to achieving the food security in Africa...We prepared a strategy for agricultural revival for 2008-2011 that is aligned with the goals and principles of comprehensive agricultural development in Africa,” he said.¹⁰⁹

Al-Bashir is prepared to share Sudan’s agricultural wealth with other African nations, but not with the people of his own country. Again, the unsurpassable callousness of such a policy has not been challenged by the international community that is providing so much food aid to Sudan.

A regime that exports food while so many of its own citizens lack food and face malnutrition and starvation can survive only through tyranny. Present agricultural policy, which benefits only this regime, is but one of many reasons that the NIF/NCP can never prevail in free and fair elections. For some, it is proving expedient to ignore this fundamentally revealing reality.

The U.S. Special Envoy for Sudan, Scott Gration

The response of the new US special envoy for Sudan to the looming failure of national elections, and the growing crisis in North/South relations, seems deeply naive—or deeply disingenuous. Scott Gration, representing President Obama, declared following a meeting recently convened in Juba that he had engineered an “agreement” (the “result of months of work”) that is a “precursor of good things” and “will result in better co-operation and stronger relations that will result in a brighter future for Sudan, for Khartoum and Juba.”¹¹⁰ This assessment is simply nonsense, as any close examination of the nominal “agreement” quickly reveals. Most notably, of the twelve issues to be addressed, two were left unresolved:

[1] the census, whose integrity is obviously deeply compromised but which has become a *fait accompli* in the electoral process Khartoum has engineered, and [2] the self-determination referendum, which as I have sought to demonstrate has become the central issue confronting international diplomacy, whether acknowledged as such or not. Moreover, the points of “agreement” Gration elaborates do not represent new or significant commitments, but rather stand as merely hortatory. Some of the points are merely reiterations of what is already clear in the language of the CPA, or are so vague as to be useless:

“Making Unity Attractive: the parties agree to begin the national reconciliation process as called for in the CPA and Presidential Decree and Directives issued on 27 December 2007”;

“Darfur: the Parties agree that the conflict in Darfur is a political problem and of national concern, and both are committed to redoubling efforts within the Government of National Unity to resolve the conflict”;

“Blue Nile and Southern Kordofan: the parties agree that there is a role for both the national government and the state governments in the popular consultations to be held in these states.” (Statement by special envoy for Sudan Scott Gration, “Progress,” August 21, 2009, Washington, DC)

And so on. None of these exhortations, and they are little more than that, has any meaning or can be measured by clear benchmarks. The one exception among the ten points of agreement concerns the North/South border:

“Border Demarcation: the parties agree to demarcate the North-South boundary line by 30 September 2009, in accordance with CPA provisions and timelines.”

Here we should recall that North/South border demarcation was a priority in the CPA, and has now been delayed for four and a half years by the NIF/NCP. This delay has in turn allowed the regime to create sufficient geographical ambiguity to enable much Southern oil production to be moved into the north, and thus deny the GOSS the considerable oil revenues to which it is entitled. The refusal to create a functioning, adequately resourced team for border demarcation is entirely a function of Khartoum’s obduracy. Moreover, there is little reason to expect that between now and September 30 the regime will do more than propose a tendentious and self-serving demarcation—reflecting neither partnership with the GOSS nor a

good faith use of historical and relevant cartographic material. It will simply be arrogant assertion backed by implicit military threats. Khartoum's demarcation will be challenged by the GOSS, but this will only put the central dispute in new terms.

Gration has been critical of the Southern leadership for its military expenditures despite the fact that the SPLA alone serves as guarantor of the security protocol for Southern Sudan under the CPA. Dismayingly, there has been no corresponding criticism of Khartoum's aggressive purchase of advanced weapons systems, including the highly advanced Chinese WS2 Multiple Rocket Launching System.¹¹¹ Purchase of sophisticated weaponry, including an additional twelve highly advanced MiG-29 combat aircraft, helicopter gunships, and heavy artillery, has been the hallmark of military development since the signing of the CPA. Recently President al-Bashir also celebrated Khartoum's burgeoning domestic weapons production, which has been accelerating for the past decade:

The Sudanese president Omer Hassan Al-Bashir today pledged to support efforts by the army to develop its military arsenal particularly through locally manufactured arms. The Sudanese president hailed the manufacture of Sudanese-made "planes and weapons," saying his government would develop these institutions so that they can assemble all the equipment required by the armed forces.¹¹²

A great deal of this new weaponry is deployed in or very near the oil regions that straddle the North/South border. If Special Envoy Gration wants to ratchet down military purchases and tensions, his focus should be Khartoum, not Juba.

In a separate part of his current tour of the region, Gration met in Addis Ababa with four representatives of smaller rebel factions. It is not clear what the particular significance of their presence was, or even whether they represent yet further fracturing of the SLM. Notably, the Justice and Equality Movement (JEM) was not present (although a representative of the breakaway United Resistance Front was in attendance), and indeed JEM's powerful leader Khalil Ibrahim has openly taken issue with Gration. Further, the SLM/al-Nur delegation invited to Addis Ababa by Gration was openly criticized, indeed dismissed, by Abdel Wahid al-Nur himself; al-Nur is still perhaps the most influential rebel figure within Darfuri civil society, even if maddeningly unreasonable in his terms for starting peace negotiations. His view of Gration is not without consequence:

"Instead of playing a positive role in the resolution of Darfur conflict in order to stop the ongoing violence against Darfur people, the special envoy of President Obama to Sudan abandoned his mission and has

become a problem and an obstacle due to his non-neutral position,” Al Nur said.¹¹³

It is clear from Gration’s previous criticisms of al-Nur that the group of commanders invited to Addis represented a deliberate effort to undermine al-Nur’s authority among the Fur tribe, which is Darfur’s largest. But while his authority has diminished with time, frustration, and growing despair on the part of displaced persons, al-Nur still has strong backing among his fellow Fur tribespeople, including support for his insistence that security issues be resolved on the ground in Darfur before peace negotiations begin. One must question the presumption and wisdom of the U.S. special envoy so publicly seeking to marginalize al-Nur. Certainly it is presumptuous for Gration to declare on the basis of his agreement with the leaders of four groups of questionable authority that, “[t]his is a strong foundation that paves a way to the unification of all groups in Darfur.”¹¹⁴ Moreover, Gration has managed to anger not only two of the most powerful rebel leaders with his actions and statements to date, but he has also generated deep resentment and bitterness within the community of displaced Darfuris with his comments about the timing of returns from the camps and his insistence that there are only “remnants of genocide” in Darfur. *The Washington Post* reports:

The Obama administration’s Sudan envoy is facing growing resistance to a suggestion he made recently to civilians displaced from Darfur that they should start planning to go back to their villages. Darfurian civilians and UN relief agencies say it is still too dangerous to return to the region where a six-year-long conflict has led to the deaths of more than 300,000 people. In the latest sign of tension, Sheik al-Tahir, a leader at Kalma, one of Darfur’s largest camps for displaced people, said Tuesday [August 4, 2009] that homeless civilians would protest retired Air Force Maj. Gen. J. Scott Gration’s strategy for resolving the conflict and his assertion in June that genocide in Darfur has ended. Tahir and other camp leaders have accused Gration of taking the side of the Sudanese government, which has been seeking to dismantle the camps.¹¹⁵

Darfur (specifically el-Fasher) had been on Gration’s itinerary for the current tour of the region, but was quietly dropped when the prospect of large demonstrations against his policy views became clear. There was a high likelihood that any demonstrations would have been violently suppressed, and images of wounded or killed civilians protesting the US envoy’s visit would have been intolerable. Extraordinarily, this leaves open the question of whether the US special envoy for Sudan will again be able to travel to Darfur.

Gration on Egypt and Libya

Compounding Gration's recent diplomatic bungling was his excessive praise of Libya and Egypt for their roles in the Darfur peace process:

"I'm very impressed and very grateful to the role that the Libyans are playing not only in rebel unification but in bringing peace between Chad and Sudan," he said. "I see the Libyans have a very positive role... and we are very proud to be partners with the Libyans," he added.

Gration also praised Egypt's role, after what he said were four-party talks involving Egypt, Libya, Sudan and the United States, hosted by Egypt's Foreign Minister Ahmed Abul Gheit and intelligence chief General Omar Suleiman. "Egypt has played such an important role in Sudan and we continue to look for the leadership and perspectives and input from our friends here in Egypt," he said.¹¹⁶

Gration either is unaware of Libya's nefarious history in Darfur or finds it convenient to ignore. Muammar Gaddafi has done much to stoke conflict and ethnic tension in Darfur and Eastern Chad over the past several decades, including supporting the hateful Arab supremacism represented by the "Arab Gathering," and has also allowed the region to become awash in weapons. It was Gaddafi who set the tone for abortive peace talks in Sirte, Libya (October 2007) by declaring that the Darfur genocide was nothing more than "a quarrel over a camel." And it is Gaddafi who is leading the African Union charge against international efforts to end impunity in Darfur by means of the International Criminal Court (ICC), even as such efforts to end impunity have become essential as a means of pressuring Khartoum. As the new ICG report argues:

The US and other international partners of the Sudan peace process should increase pressure on the NCP in order to create a chance for meaningful policy changes. The best way to do so is to reconfirm their support for execution of the ICC arrest warrants and to deliver a firm message in Khartoum that they will only consider a Security Council resolution suspending execution (via the procedure for one-year renewable deferral provided in Article 16 of the Rome Statute that established the ICC) if the NCP first takes a series of specific and irreversible steps, including but not limited to acceptance of judicial reforms and transitional justice mechanisms as key elements of a Darfur settlement.¹¹⁷

Graton praises Gaddafi, who has relentlessly worked to undermine ICC efforts in Darfur, yet says nothing about the ICC or the claims of justice for Darfur. Moreover, he misses the fundamental point that ICG so cogently articulates:

What is needed is not to sacrifice peace in Darfur to save the CPA—in any event a self-defeating proposition—but to strengthen peace-building throughout Sudan by taking aim at the system of impunity that has led to and prolonged the country’s multiple conflicts.

Graton’s failure to see the fundamental logic of this argument reveals his dangerous ignorance of Sudan.

So, too, does his fulsome praise of Egypt, for it was the powerful Safwat Al-Sharif, Secretary General of the ruling Democratic National Party who recently declared that “the Darfur crisis is an ‘artificial’ one directed against the people of Sudan.”¹¹⁸ The dead, displaced and despairing people of Darfur can attest, even if only silently, that their suffering and losses are not “artificial” in any sense; but the Egyptians have long shown they have no real interest in Darfur or its people, and that their concerns for Sudan are solely in maintaining a sufficiently pliant regime in Khartoum and unfettered claims to the Nile waters.¹¹⁹ For this reason officials of the Mubarak regime have strenuously opposed self-determination for Southern Sudan for over a decade.

They have done so through a variety of means, beginning in earnest with the successful conclusion of the Machakos Protocol in July 2002.¹²⁰ Throughout the summer and into the fall of 2002, the government-controlled press and senior Egyptian officials excoriated the Protocol in the harshest of terms. Since the signing of the CPA in January 2005, Cairo has made no effort to hide its intense opposition to the contemplated SDDR—a diplomatic asset not lost on the NIF/NCP regime as it calculates the costs, regionally and internationally, of abrogating the CPA’s terms.

At the same time, Egypt is involved in an ugly dispute with Qatar over “ownership” of the Darfur peace process. This is made possible by the disturbing lack of clear ownership on the part of the UN/African Union chief mediator Djibril Bassolé of Burkina Faso. Although Bassolé should have long ago either been staunchly supported by the international community or quickly replaced, he has plodded diligently along, with little success to show and indeed no obviously central role in the negotiations in the fruitless Doha (Qatar) negotiations. He took on the job speaking neither Arabic nor English—an enormous disadvantage. Without robust, outspoken, and unambiguous international support, his mission was doomed to end in the disarray we presently see.

It is difficult to see how “ownership” of the peace process can be claimed, with rival Egyptian, Qatari, and Libyan ambitions jostling one another, and the U.S. envoy making enemies of Darfuri civil society and the two most influential rebel leaders. The AU “High-Level Panel of Eminent Personalities,” appointed in February 2009 to address issues of justice in Darfur, appears an elaborate effort to circumvent the ICC. The EU is without initiative or real commitment. The UN Secretariat has been a consistent disaster on Darfur, particularly in confronting Khartoum. And the Security Council, particularly China, has proved obstructionist in considering any measures that might pressure the NIF/NCP regime to engage more honestly and directly in the peace process.

All this has left Khartoum with little to resist, except for the looming threat of the ICC indictment of al-Bashir—a threat that other senior members of the regime know they may soon confront themselves. The indictment has been enough to create serious tensions within the broader NIF/NCP regime structure, and it is in this context that we must understand al-Bashir’s recent decision to remove Saleh Abdalla “Gosh” from his role as head of the National Security and Intelligence Service (he is now a presidential advisor with unspecified portfolio). The role of second vice-president Ali Osman Taha has also become considerably more ambiguous, even as Nafi’e Ali Nafi’e becomes more assertive in his own powerful role. The resurrection of Ghazi Saleh el-Din Attabani as the face of the NIF/NCP in peace negotiations is also of note.¹²¹ Nonetheless, the fundamental truth about the regime remains unchanged: they are ruthless, canny survivalists, and their policies reflect a willingness to do all that is necessary to maintain their control of national wealth and power.

It is not at all clear that Gration understands this truth, and much that he has said indeed suggests otherwise. Although there is still no formally articulated US government Sudan policy, informed sources in Washington indicate that Gration is receiving no criticism for his words or policy pronouncements (President Obama’s reaffirmation that genocide continues in Darfur remains the only exception). Gration’s shift in emphasis from support for Southern Sudan to rapprochement with Khartoum gives evidence of being decisive, with critical implications for how Khartoum calculates the means by which it can undermine the Southern self-determination referendum.

November 9, 2009: Sudan Election Crisis Reveals a Country Lurching Toward War

With growing inevitability, Sudan has begun what evidence suggests is a final lurch toward renewed North-South war—and the likely spread of intense fighting to other marginalized areas, including Kordofan and Blue Nile, as well as Kas-sala, Gedarif, and Red Sea states, Nubia, and most ominously Darfur. Darfuri rebel groups will certainly see the outbreak of war between Khartoum’s forces and the Sudan People’s Liberation Army as an occasion for overcoming the prevailing military stalemate in the west. War will either begin when Khartoum decides that it has nothing further to gain from its nominal commitment to the Comprehensive Peace Agreement, or when Southerners become convinced that the bedrock principle of the Comprehensive Peace Agreement—a Southern self-determination referendum guaranteed in the Machakos Protocol (July 2002)—will not be honored by the NIF/NCP regime. Whether in the form of Khartoum’s abrogation of yet another agreement or a unilateral Southern declaration of independence, this will be the moment in which war hinges and the fates of millions of Sudanese held be in the balance.

In the short term Khartoum may still decide that its interests lie in making temporary concessions on the referendum legislation meant to have been passed more than two years ago. However, recent public comments from both the Southern political leadership and Khartoum officials suggest that this is growing unlikely. Several other key issues impinge on the final meaning of the self-determination referendum, including a demarcation of the North-South border; the final status of Abyei (which is to have its own self-determination referendum, with the choice of joining the South); the role of a deeply compromised census favoring Khartoum on virtually every demographic issue; and the use to which the regime will put the April 2010 national elections, which have already been delayed twice and now lie only five months off. Further delay would push these elections into the rainy season, making the already overwhelming logistical challenge of voting utterly impossible.

Moreover, Khartoum’s manipulation of the electoral results has already begun in earnest, reflecting an understanding that neither party to the CPA can now afford to be seen as initiating a call for further delay of the elections. The SPLM in particular would be inviting postponement of the self-determination referendum with any call for delay, a point recently made by long-time Sudan observer John Ashworth in a powerfully informed report on the CPA.¹²² Ashworth goes on to note:

A further danger lies in recent statements by the [NIF/]NCP “that any action to stop the next year elections would threaten the political stabil-

ity in the country and endanger the implementation of the Comprehensive Peace Agreement” in response to calls from opposition parties to boycott the elections. This is a very worrying statement as it could be seen as a precursor to a State of Emergency and other drastic security-led actions in the name of “political stability,” and could be an excuse to put implementation of the CPA on hold “temporarily.” (page 16)

Given the virtual certainty that about ninety percent of Southerners will vote for secession if given the chance, urgent negotiations should begin now on the terms with which the new country of South Sudan will be established. Facilitating such negotiations between Khartoum and the present Government of South Sudan should have been central to the highly belated Sudan policy announced by the Obama administration on October 19. Clear recommendations should have been made for diplomatic roles by Sudanese parties (including non-CPA signatories), the African Union, the European Union, and the US itself. Instead, the State Department’s “comprehensive” policy document of October 19, 2009 speaks only vaguely of

implementation of the North-South CPA that results in a peaceful post-2011 Sudan, or an orderly path toward two separate and viable states at peace with each other,

and working

with international partners to support the parties in developing a post-2011 wealth-sharing agreement and other post-2011 political and economic issues.¹²³

There are a great many such “political and economic” issues, and it is not at all clear that the Obama administration understands just how difficult negotiations will become as the deadline for the referendum looms closer. Division of oil wealth will surely prove the most contentious issue, even as it has been the primary reason for the long delay in resolving the status of the Abyei region and the continuing failure by Khartoum to negotiate and demarcate the North-South border. Most of the oil reserves lie in the South and along the border, even as the oil pipeline and infrastructure lie in the north. Some equitable sharing of oil wealth will therefore have to be established if the border region is ever to be stabilized, but this will require both time and good will. The newly announced US policy speaks of quarterly inter-agency assessments of progress, but one quarter hence and the April 2010 elections will lie only two months further off; the self-determination referendum itself will lie less than a year off.

There are other extremely difficult bilateral issues to be negotiated, none made easier by the increasing compression of the electoral calendar: customs, tariffs, and immigration regulations must be determined; overland and air transport arrangements finalized; the terms of citizenship for Southerners in the North decided; the massive external debt the NIF/NCP has run up (much used for military acquisitions) fairly apportioned; and a military stand-down overseen by an international peacekeeping force. All will demand near-term and intense negotiations if a “soft landing” is to follow the inevitably wrenching effects of secession. For the truth could not be clearer: Khartoum has failed miserably in “making unity attractive” to the people of South Sudan.

Perhaps of greatest concern is that this failure has been deliberate—part of Khartoum’s ongoing effort to convince the world that ethnic strife, endemic violence, and poor governance will be the defining features of an independent South Sudan. It is hardly surprising that recent comments from senior officials of the Sudan People’s Liberation Movement (SPLM) have made explicit the prevailing views of Southerners. Pagan Amum, Secretary General of the SPLM, has spoken of a unilateral declaration of independence by the South in the event that Khartoum refuses to bring to the National Assembly enabling legislation for the referendum during the present session. Recently Deng Alor is reported to have said in Khartoum, “Let us make it a peaceful divorce, [] let us part ways peacefully and remain as neighbours and friends.”¹²⁴ And President of the Government of South Sudan, Salva Kiir, has declared:

“When you reach your ballot boxes the choice is yours: you want to vote for unity so that you become a second class in your own country, that is your choice,” Kiir said addressing worshippers Saturday [October 31, 2009] at Juba cathedral. “If you want to vote for independence so that you are a free person in your independent state, that will be your own choice and we will respect the choice of the people,” he stressed.¹²⁵

Although there were efforts by the SPLM to “walk back” Kiir’s statement, and to point out its indebtedness to a speech by the late SPLM leader John Garang, his words too clearly speak a fundamental truth felt by Southerners.

Southern passion for secession is but one reason to regard U.S. Special Envoy Scott Gration with deep suspicion. It is not simply the dangerous foolishness of his assessment of how to confront the machinations of the NIF/NCP (“We’ve got to think about giving out cookies. Kids, countries, they react to gold stars, smiley faces, handshakes, agreements, talks, engagement”), but his willingness to compromise on the CPA itself:

This week [Government of South Sudan President Salva] Kiir disclosed that an unspecified US official hinted to him that postponement of the 2011 referendum might be needed but said that he [Kiir] rejected any such proposal.¹²⁶

One highly reliable source reports that the U.S. official in question was Gration himself; in any event, it is certainly the case that such a consequential proposal—delay of the Southern self-determination referendum—could never have been made without Gration’s explicit approval. There are other reliable and well-informed reports that Gration is attempting not to secure compliance from Khartoum on implementation of the terms of the CPA but rather opening up issues that were in fact resolved by the CPA.

The immediate task of the Obama administration should be to move from the abstract formulations of the October 19 policy announcement to a specific set of publicly articulated demands and expectations of Khartoum concerning the April 2010 national elections. In the absence of Khartoum’s meeting a clear set of benchmarks, the US should refuse to accept the election results, and should deal with the NIF/NCP regime only as a party reneging on its commitments to the CPA, which will have been fundamentally violated if present trends continue. The greatest risk of accepting the elections as engineered by Khartoum is that this will inevitably confer an undeserved legitimacy, making easier the regime’s task of aborting the Southern self-determination referendum. The means may be legislative or military.¹²⁷ Either will trigger war.

National elections, April 2010

We cannot doubt that the NIF/NCP regime is brazen enough to engineer, by any and all means, a national electoral victory that it believes will serve its strategic purposes. Signs of this brazenness are evident in the present obstruction of international election monitors, who have not been accredited individually to oversee the voter registration process that began November 1 and runs through November 30. The Carter Center, based in Atlanta, Georgia and the primary monitoring organization for Sudan’s elections, has

expressed concerns about the obstacles facing election observers, including delays in finalising their accreditation procedures and delays in election preparations, as well as continued reports of harassment of political party and civil society activity.¹²⁸

Aly Verjee, deputy director of the Carter Center’s election monitoring mission in Sudan, offers a revealing account of the bureaucratic obstacles Khartoum has perfected over many years:

Verjee [] says that despite having been formally invited to observe the election process, the national election commission is not being fully cooperative. “On an individual person-by-person basis, nobody has accreditation. The organization itself has been invited, but officially no individual has the right to observe registration at this point,” he said.¹²⁹

Verjee would soon resign from the Carter Center, and in August 2011 authored as senior researcher for the [Rift Valley Institute a measured but nonetheless blistering critique](#) of the Carter Center’s ratification of the gubernatorial election in South Kordofan.

Of course the fundamental problems run much deeper than bureaucratic obstructionism. As Human Rights Watch observed in a recent press release:

Although Sudan is scheduled to hold national elections in April 2010, the country currently lacks conditions for free and fair elections. The armed conflict in Darfur is ongoing. In addition, over the last year the National Congress Party-led government has stepped up repressive tactics against civil society throughout the northern states with arbitrary arrests and detentions, as well as censorship and harassment of activists and journalists.

Human Rights Watch documented these trends in its October 2009 report, “The Way Forward: Ending Human Rights Abuses and Repression across Sudan.” “The United States should not support an election process that is unlikely to be free and fair just so they can check it off their list,” [Africa Director Georgette] Gagnon said. “The US should make it absolutely clear that Sudan needs to improve human rights now, ahead of elections.”¹³⁰

This assessment was echoed by the London-based African Centre for Justice and Peace Studies, which notes in a recent report an

increasing crackdown on freedom of expression in Sudan, targeting public discussion of, and preparation for, the elections. Since the be-

ginning of August [2009], Sudanese authorities have systematically targeted any activities, symposia, public rallies or lectures related to the elections.¹³¹

Early reports on the registration process bear out fears that fraud, intimidation, and bureaucratic obstruction will be the essential tools of a NIF/NCP victory. There are already numerous reports from the ground of electoral registration fraud. A Reuters dispatch (Khartoum; November 8, 2009) reports on recent allegations:

Opposition political party monitors told Reuters they had evidence of intimidation, buying of votes and other irregularities by Sudan's dominant National Congress Party (NCP), headed by President Omar Hassan al-Bashir.

"The (NCP) are using government resources for their campaign," said opposition Umma Party official Mariam al-Mahdi. She told Reuters her observers had seen many cases of faked papers and other fraud. "We are going to double up efforts in the coming week to collect this (evidence)," she said.

Registration made a slow start on November 1 with an information blackout in Khartoum and confusion outside the capital. The SPLM said the [NIF/]NCP was bussing in hundreds of people without identity cards to register at centres where they are not resident. An SPLM monitor had been offered a bribe to turn a blind eye and had refused to take it.

The UN Integrated Regional Information Networks (IRIN) reports from Juba (November 5, 2009):

Sudan has started registering voters for presidential, legislative and regional elections, but officials in the south and international observers say the process has begun on a flawed note. "This process could easily be referred to as 'dead on arrival,'" Anne Itto, secretary-general for the south of the Sudan People's Liberation Movement (SPLM), said on 3 November.

"In the context of Southern Sudan, where you don't have [telephone] networks, where you don't have roads, where you don't have public transport, it is very unrealistic to expect registration to be completed by 30 November," Itto told reporters in the Southern capital, Juba. Should

the National Election Commission fail to take immediate and drastic action, warned the SPLM, fewer than 10 percent of eligible voters in the south would be able to register and vote.

“If things go the way they are going now, I believe less than 10 percent of the total population will be registered,” Itto said.

The radical flaws in the 2008 census only magnify the implications of Khar-toum’s efforts at manipulation. John Ashworth again provides a useful overview, one deeply informed by the views of Southern civil society:

It is generally accepted that the results have been rigged in favour of the north. Various conditions made the census in the south difficult, particularly logistics, weather, availability of personnel and census forms, and availability of funding for census personnel. Anecdotal evidence from workshops suggests that more than 40% of the southern population may not have been counted.

The census did not include questions on religion or ethnicity. Since identity (both religious and ethnic) is one of the main root causes of the conflicts in Sudan, it seems incredible that this was omitted. SPLM was outmanoeuvred by NCP into allowing the papers to be printed without these questions. One week before the census was due, SPLM dug in its heels and cancelled the census, but by this time it was too late and eventually it had to back down and allow the census to take place a week late.

After the census, the southern census body freely shared its raw data with its northern counterparts, but those in the north refused to reciprocate. It is generally believed that this is the point where the census was deliberately rigged, with northern statistics being changed in the light of southern figures. The southerners involved were mistakenly treating it as a technical rather than a political exercise.

Nobody in the north or south believes the elections will be free and fair. The [NIF/]NCP held two sham elections during the war, and is experienced at rigging them. The conflict in Darfur will make elections there extremely difficult. Within the south there is a strong perception that the elections have already been rigged as a result of the census, which will be used to prepare the election and particularly constituency boundaries. Given the census claim that only 20% of the population is in the south (instead of the more widely accepted 33%), there is a strong

possibility that even in a “free and fair” vote, northern parties would win a large enough majority to be able to change the constitution and potentially derail the CPA. (pages 14-15)¹³²

In short, national elections now loom as a threat to the process of “democratic transformation” that is so often and uncritically invoked in discussions of any electoral exercise that may occur in Sudan. Whatever might have been true a year ago—and the signs from the census exercise should have given serious cause for alarm—evidence now at hand makes clear that elections controlled by Khartoum will have the opposite effect: consolidating the NIF/NCP stranglehold on national wealth and power, providing the legislative means for aborting the Southern self-determination referendum, and affording the veneer of legitimacy that is all that many in the African Union and Arab League are concerned to see preserved.¹³³

Conducting national elections in Darfur

Conducting national elections in Darfur represents an even more daunting challenge and, if conducted, a flagrant abuse of the electoral process, given the displacement of some 3 million civilians (approximately 2.7 million Internally Displaced Persons and more than 250,000 refugees in Eastern Chad). An environment of brutal intimidation prevails in many areas, including IDP camps, preventing any secure participation in the registration and electoral processes; hundreds of thousands are in rebel-held territory or areas too insecure for voter registration. Khartoum’s census results are particularly distorting of Darfur’s demographic realities. Yet the decision by the regime to proceed with elections in Darfur has not received appropriate criticism from international actors claiming to support the people of Darfur. There is of course an understandable desire that the people of Darfur not be disenfranchised, but a vote taking place under the circumstances that will prevail five months hence simply cannot be credible or representative.

Precisely because of these circumstances, the regime has pushed forward with plans to include Darfur’s electoral results (or at least selective results), and to include the outcomes from geographic constituencies where concerted gerrymandering is already in evidence. The likely nature and circumstances of the electoral exercise in Darfur are aptly reflected in findings by the UN Panel of Experts in its October 29, 2009 overview of the human rights situation in Darfur, as well as the obstruction experienced by Panel members in their efforts to identify violations of the weapons and munitions embargo imposed on all armed actors in Darfur by UN Security Council Resolution 1591 (March 2005). All of these observations by the

UN Panel have direct bearing on any potential election monitoring as well as the voting behavior of those threatened by violence and abuse:

The Government of the Sudan, while demanding respect for its privileges as a sovereign State, also falls short in exercising transparency and accountability. Government officials often object to inquiries made by the Panel under its mandate and offer lip service while committing sanctions violations. Restrictions placed by the Government of the Sudan on the freedom of movement of UNAMID flight operations have had a direct impact on the Panel's ability to conduct some of its independent monitoring missions. (page 3)

The Government of the Sudan remains intransparent and unwilling to account for its efforts to disarm and control its various auxiliary and formerly affiliated forces, in particular combatants commonly referred to as members of Arab tribes or as Janjaweed. Many individuals identified by internally displaced persons as Janjaweed continue to carry arms and engage in frequent violent behaviour against and harassment of internally displaced persons and, according to the Panel's findings, enjoy impunity for their offences. This remains one of the major reasons cited by internally displaced persons in describing their lack of physical security. (page 4)

In the aftermath of the issuance by the International Criminal Court of an arrest warrant against the Head of State of the Sudan, the Panel has received reports of severe violations of international humanitarian and human rights law, involving the harassment, persecution and torture of collaborators and individuals opposed to Government policies. (page 4)

The crackdown by the security apparatus of the Government of the Sudan on the rights of Darfurians and their sympathizers to political affiliation, freedom of expression and peaceful assembly has manifested itself in violations of a catalogue of human rights and fundamental freedoms. These abuses, some of which have been documented by the Panel, were further exacerbated in the aftermath of both the Omdurman attacks [May 2008] and the issuance of the arrest warrant by the International Criminal Court [March 2009], and have resulted in the departure from the Sudan of scores of activists and human rights defenders. (page 5)

Reform of the national security laws

Beyond controlling the armed forces, Khartoum's political power depends chiefly on the 1999 National Security Forces Act, which grants the National Intelligence and Security Services (NISS) sweeping powers of arbitrary arrest and detention. NISS is active throughout Northern Sudan, including Darfur and Eastern Sudan, and the capital area, and political opposition has long been suppressed by this fearsome and ruthlessly efficient organization, which by law enjoys complete legal immunity for crimes committed in the name of "national security." This immunity stands in clear violation of the Interim National Constitution that is an integral element of the Comprehensive Peace Agreement, and legislation to reform the NISS has been a high priority for both the SPLM and Northern political opposition.

All too predictably, the NIF/NCP is unwilling to forego this potent tool of self-preservation and refuses to allow reform legislation to move forward. In response, the SPLM has boycotted the current session of the Legislative Assembly, the last session prior to the April 2010 national elections. The SPLM well understands that the power of the National Security Forces Act precludes precisely the conditions necessary for free, fair, and open elections. Their demand that the Act be repealed has been widely supported by human rights organizations, to no avail. The hopeful talk of "democratic transformation" that has so long defined discussions of these elections is finally starting to dissipate, and even Ban Ki-moon is obliged to note in his most recent report to the UN Security Council that "the new National Security Bill of 2009, a critical step towards a credible electoral process, has yet to be passed."¹³⁴ Judging by the lack of progress to date, it is increasingly unlikely that meaningful reform will emerge.

The present Assembly session is also one of the last opportunities to pass legislation that will govern the Southern self-determination referendum. This legislation is critically important, and at present the source of deep and rancorous disagreement between the NIF/NCP and the SPLM—disagreement that seems only to harden. US Envoy Gration left Sudan on November 8, unable to bridge the differences on two key elements of the referendum: the quorum for Southern participation necessary to consider the referendum vote binding, and the percentage of votes for secession that will constitute a decision.

The willingness of the parties to compromise seems to have been exhausted, with Khartoum cleaving to an unreasonable 67 percent participation as the quorum. Such a turnout would be impressive in many developed Western democracies, but as a quorum for Southern Sudan it is almost inconceivable: illiteracy, lack of voting experience, faltering registration, inadequate transport to polling stations, poor communications, intimidation by Khartoum's proxies, and other difficulties

abound. The necessary percentage of those voting for secession is also disputed: Khartoum at one point was demanding a 90 percent vote for secession to be legitimate; the SPLM is declaring that a simple majority should determine the outcome.

Khartoum is likely prepared to see the current Assembly session proceed without either reform to the security law or enabling legislation for the Southern self-determination referendum. For its part, the Obama administration has made no specific statement about the consequences for Khartoum if it fails to reform the security law that will serve as a primary instrument of electoral fraud and intimidation. In turn, Special Envoy Gration seems unable to move the parties closer to agreement on the terms of self-determination legislation, and is rapidly losing credibility as an interlocutor, both among Southerners and Darfuris. To date, the new Sudan policy he represents is mere hortatory language with no effect on regime behavior.

It certainly does not help that the Europeans have committed even less to an effective multilateral Sudan policy, and it is intensely dismaying that EU foreign policy chief Javier Solana should have presumed to judge what is best for the people of South Sudan, particularly on the basis of Egyptian preferences:

Javier Solana said shortly after holding discussions with Egyptian President Hosni Mubarak that he favors a united Sudan.¹³⁵

Ezekiel Lol Gatkuoth, head of South Sudan's mission to the United States, rightly observes that Solana's publicly declared preference is deeply presumptuous:

"The statement is not in line with the Comprehensive Peace Agreement spirit because in the CPA one of the options is united Sudan and another option is separation of the south to be an independent state. So, yes all of us have agreed that we are going to make unity attractive to the southerners so that they can vote for unity in 2011. But if the unity is not attractive to them at all, then they also have another option, which is separation," Gatkuoth said.¹³⁶

Europe may find it convenient to accommodate Egypt on this issue (the Cairo regime is dead-set against Southern self-determination, despite conciliatory words of late), but by pre-judging the referendum, the EU is denying itself any role in arbitrating between the two parties. This in turn creates even greater need for a US policy that maintains pressure on Khartoum—something that runs directly counter to Gration's "smiley faces" and "gold stars" approach.

The next war in Sudan

What will war look like in the event that the Southern self-determination referendum is aborted or its results are not accepted by Khartoum? The answer lies primarily in the geography of oil reserves and infrastructure, including the location of many all-weather roads constructed by the Chinese and Khartoum's other oil development partners.¹³⁷ The roads will allow for an unprecedented projection of mechanized military power by Khartoum into the South, even during the rainy season. But the task of creating a defensive perimeter for continuing oil extraction and transport activities is enormous, and the vulnerabilities of the 900-mile pipeline running to Port Sudan on the Red Sea will be exploited relentlessly by the SPLM.

John Ashworth yet again provides an authoritative overview of the "third southern civil war" (key excerpts from "State of Sudan's Comprehensive Peace Agreement," [September 4, 2009](#)):

Both parties are clearly preparing for the possibility of war. "We don't want war," southern President Salva Kiir says, but "we will be prepared to fight if it comes...I will not be the one to take this country back to war, but if war was to be imposed on us we can all feel assured that we are capable of defending ourselves."

The third southern civil war in Sudan will be more terrible than the first two, and will have some very different characteristics:

Both the previous wars began with the northern government controlling the south. The liberation movements began in the bush and had to fight to control territory gradually. The third war will begin with the SPLA in control of virtually the whole south, except perhaps parts of the oil fields which are still occupied by northern security forces.

Organised fighting [] will begin on the north-south border. Depending on the scenario, either northern forces will invade, and may quickly capture some of the towns close to the border, or SPLA will attempt to reoccupy southern territory being held by the north.

SPLA will maintain its hold on most of the south, giving it secure rear bases and an undisputed border with friendly neighbours. It will be able to reinforce its forward bases rapidly and maintain its military logistics flow.

A limited war to annex the oil fields of Greater Upper Nile and the rich agricultural lands of Renk, Kordofan and Blue Nile may be all that Khartoum wants, but southerners will not rest easy while any of the

south remains in northern hands. And next time round they might go the extra mile to secure a referendum for their comrades-in-arms in the contested areas too.

This time it will be the north which uses insurgents in the bush in the south. These will be made up of ethnic groups and militia such as those who supported the north in the last war, and LRA.

Southerners have vowed that they will take the third war to the north. Both previous wars were fought in the south, apart from Abyei, the Nuba Mountains and southern Blue Nile. When Kurmuk, a town which the northerners perceive as northern, was taken in 1987 and again in 1997, there was consternation throughout the north.

SPLA will have air power during the next war. "Air power" does not have to be very sophisticated. In the second civil war Khartoum found itself unable to make effective military use of its jet fighter bombers and helicopter gunships as they got shot down by ground fire too easily. In fact its air power had very little military value at all. Helicopter gunships were used in support of militias against civilians in various ethnic cleansing exercises, and the notorious Antonovs bombed civilians for several years; both these activities continued in Darfur. The north theoretically has air-to-air and ground-to-air interception capability, but in the 2.4 million square kilometres which make up Sudan's air space it is likely that SPLA Antonovs and gunships will have plenty of opportunity to cause panic amongst civilians in the north.

Both sides are preparing for war. In the two previous civil wars, the south was unprepared, and its liberation armies began from very small ad hoc forces. This time the south will begin with a large standing army and with arms and materiel which it could never have dreamed of before. The north will probably have more sophisticated weaponry and will have more of everything, but it lacks committed troops. Much of Khartoum's front line army consisted of southerners and westerners; it is by no means certain that they will do their master's bidding a third time. 'Real' northerners have shown a marked reluctance to get their hands dirty in real fighting. The Popular Defense Forces, a mixture of mujahidin and reluctant conscripts, has not proved too effective as a fighting force. Much of the real fighting was done by militias, and their loyalty cannot be guaranteed in the next war. SPLA troops, on the other hand, will be fighting on their home ground to defend their own nation. Their morale will be high. (pages 20-21)

On the issue of weapons in the arsenals of the North and South—and the arms flow throughout Sudan—an excellent new study has recently been published by the Small Arms Survey (“Skirting the Law: Sudan’s Post-CPA Arms Flow,” by Mike Lewis, [September 2009](#)). It details what we know about the role of various international actors, primarily state actors, in providing weapons to both Khartoum and Juba, and thus provides a snapshot

of what is known about arms transfers to Sudan’s state forces since the signing of the CPA, as well as the distribution and circulation of weapons to non-state armed groups. [This report] argues that arms flows to and within Sudan remain substantially characterized by patterns, actors, and methods established during the second Sudanese civil war. (page 12)

China continues to be the dominant arms supplier to Khartoum as it prepares for renewed war in the South, even as Chinese weapons and munitions predominate in Darfur (notably, the UN Panel of Experts establishes that a great deal of the Chinese weaponry and ammunition in Darfur was manufactured after the date of the arms embargo established by the UN Security Council in March 2005). But in an important finding, “Skirting the Law” declares that:

Evidence indicates that the government’s acquisitions of heavy weaponry as well as small arms and light weapons are embedded within military governmental relationships established during the North South civil war in the 1990s. Yet these involve much more international, commercialized, and, crucially, *Europeanized* [italics in original text] networks of supply actors than has been acknowledged by many humanitarian and human rights advocates. (page 22)

Despite a nominal EU arms embargo on Sudan, the report “presents new evidence that EU nationals and companies continue to be involved in the supply of military equipment, including small arms and light weapons, to SAF and SPLA forces” (page 21).

Given Khartoum’s penchant for conducting war by proxy, a further finding of the report is not surprising:

[A]rms originating from the Sudan Armed Forces [Khartoum’s regular military forces] and its regional and international suppliers dominate the holdings of armed groups on all sides in both Southern Sudan and Darfur. (page 15)

There are many reports from the ground, including from church and civil society groups, that current violence in South Sudan has been deliberately fueled by Khartoum's profligate distribution of weapons to particular ethnic groups and to militia forces defined on an ethnic basis. "Skirting the Law" certainly provides additional support for such reports. This important account also details the growing arms flow to the Sudan People's Liberation Army (SPLA), but does so in the context of two critical considerations:

[1] Commercial documentation and informants close to SPLA arms procurement [] indicate that in fact negotiations for major new SPLA arms acquisitions began in early to mid-2006, forming part of a longer-term process of developing the SPLA's post-war capacities. The extent of the 2007/09 arms shipments to the SPLA illustrates the considerable scale of the arms build-up on both sides since 2005. The symmetry of this build-up should not be overestimated, however: despite their substantial new arms acquisitions, the SPLA's capabilities remain dwarfed in comparison to the sustained and increasing flows of military equipment to the SAF since 2000 [].

And most significantly,

[2] Post-2005 SPLA rearmament must thus be understood in terms of the SPLA's assessment of its capability needs as a force charged with responding to internal armed security threats in Southern Sudan as well as its aspirations to become a national force capable of protecting Southern Sudan's territorial integrity. Recently arrived arms shipments form part of a long-term SPLA procurement plan rather than an immediate response to the deterioration of the CPA since 2008.

Despite the enormous expenditures on weapons and military salaries as a percentage of both the national budget and GDP, the Government of South Sudan rightly believes that the SPLA alone can serve as military guarantor of the security arrangements negotiated in the CPA. There will be no military assistance of real consequence from other international actors in the event that Khartoum abrogates security agreements, and the South will have only itself to count on. An earlier report from the Small Arms Survey makes this point emphatically:

The Government of South Sudan's security planning continues to be driven by the belief that a future confrontation with the North is likely,

and this orientation constrains its ability to address insecurity and conflicts emerging within the South. GoSS faces a combination of internal divisions and external pressures from an increasingly hostile National Congress Party (NCP) in the North; numerous violations of the CPA have been left unresolved, and there has been associated violence in a number of areas throughout Southern Sudan.¹³⁸

The elections dilemma

Should the international community attempt to shift gears and work to postpone national elections in Sudan? Should the empty rhetoric of “democratic transformation”—which would celebrate the mere occasion of elections in Sudan, no matter how fraudulent they are in the event—be replaced by clear demands for an end to the tyranny of the state security apparatus and its comprehensive censorship of news and political discourse? Should elections be supported in the absence of concrete and measurable commitments to observe international humanitarian law and to disarm proxy militia forces in Darfur? Do uncritically supported national elections pose a near-term threat to implementation of key elements of the CPA? Is there any international will to address these concerns? Even to enumerate the issues is to see how very little commitment exists, and why support for national elections and their putatively “transformative” effects has been the default diplomatic position of so many. But elections held in April 2010 simply cannot fulfill the ambitions to reform the Khartoum regime; on the contrary, they are almost certain to be used as a means for the NIF/NCP to claim legitimacy and perhaps even a legislative majority sufficiently great to alter the terms of the CPA.

Should the international community then work to delay the elections until some of the key benchmarks in Darfur and the South have been met? The great danger, of course, is that this is a slippery slope: if the national elections can be postponed, the regime will declare, then so too can the Southern self-determination referendum. And once a firm date for the referendum has begun to slip, it will be exceedingly difficult if not impossible to re-set a firm deadline. The CPA spells out clearly that enabling legislation for the referendum was to have been drafted and passed into law over two years ago; it remains uncertain whether this legislation will be tabled during the current session of the National Assembly.

Whether to proceed will be a difficult national discussion, particularly since the views of Sudanese in Darfur, in other parts of Northern Sudan (including the Nuba Mountains and southern Blue Nile), and in the South are guided by very different perceptions of what lies in their own interest. But on matters of human

rights, ending impunity for those committing the most egregious of international crimes, and bringing a close to the reign of intimidation and brutality that is Sudan's security state, Sudanese in the marginalized regions have much they can agree on. But without vigorous international pressure on the regime in Khartoum, of a sort that seems less and less likely, this national discussion will have no resonance, no force, and no chance of avoiding the worst of outcomes: elections in April 2010 that end up deeply compromising the self-determination referendum of January 2011, whose slim chances of being realized should now be clear to all.

December 21, 2010: Encouraging Khartoum: South Sudan Victimized by “Moral Equivalence”

In the grim end-game to negotiations that seek to bring about a peaceful self-determination referendum for South Sudan, the Obama administration seems willing to surrender honesty in the process. Operating under the pressures of an excessively compressed electoral calendar, the administration has committed substantial diplomatic resources and apparently significant presidential attention. But if these efforts are compromised by expediency and dishonesty, they may harm rather than help the chances for a peaceful referendum and a fair settlement of outstanding North/South issues. To be sure, dishonesty, disingenuousness, and equivocation have a long history in Western diplomatic engagement with Khartoum's NIF/NCP regime. Under special envoy Gration's tenure, together with unfortunate assistance from the Obama administration's State Department and National Security Council and UN officials, the refusal to speak the truth has become habitual and may soon lead to disaster.

One recent and telling example stands out: on December 16, 2010 the White House issued a press release concerning the recent repeated attacks by Khartoum's Sudan Armed Forces on the South Darfur village of Khor Abeche, and the forces of Sudan Liberation Army faction leader Minni Minawi (formerly a partner in the regime). Deploring attacks that “left many injured, some dead, and thousands displaced,” NSC spokesman Mike Hammer went on to say:

This attack comes at a time that we are also seeing increased evidence of support to militant proxies from the Governments of Sudan and Southern Sudan. All Sudanese leaders have a responsibility to protect civilian populations—to do otherwise is unacceptable. (White House Statement, December 17, 2010)

The implicit claim here is that the Government of South Sudan is giving “support to militant proxies” and irresponsibly putting civilian populations at deliberate risk. In short, more than seven years of savage, finally genocidal predations by the Khartoum-directed “militant proxies”—*Janjaweed* militia, the Popular Defense Force, the Border Intelligence Guards, the Central Reserve Police (the *Abu Tira*), and other paramilitary elements in Darfur—are here being directly compared to the actions of the Government of South Sudan (GOSS).

This attempt at “even-handedness” in fact outrageously distorts the truth in a deeply consequential fashion. It may be true that the GOSS has hosted in Juba some of the Darfur rebel leadership, including Minni Minawi. It is also likely true that the Sudan People’s Liberation Army (SPLA) has provided some medical assistance to wounded Darfuri rebels who make their way into Western or Northern Bahr el-Ghazal. It may or may not be the case that some elements of the SPLA have provided limited supplies, on an *ad hoc* basis, to rebel elements in Bahr el-Ghazal, something the Obama administration has warned against, and which indeed would be ill-advised. None of these activities, however, are in any way comparable to Khartoum’s recruiting, arming, and deploying of the *Janjaweed* and other “militant proxies” in Darfur. Moreover, we should also bear in mind the longstanding animosity of the SPLM toward Darfur’s Justice and Equality Movement: Khalil Ibrahim, leader of JEM, played a brutal part in the *jihād* against the South. Indeed, he had a leading role in one of Khartoum’s “militant proxies”; this has not been forgotten by the SPLM or Southerners generally, and affects to some extent attitudes towards Darfuris and the Darfuri rebel groups.

The real perversity of the NSC comparison lies in the nominal subject of this brief press release, Khor Abeche. Perhaps Mr. Hammer of the NSC and Team Graton have forgotten the history of Khor Abeche (South Darfur), and the brutal *Janjaweed* attack of April 7, 2005. To be sure, this was a time that some now argue lies outside the range of the worst genocidal violence; perhaps it should be considered, in General Graton’s words, a “remnant of genocide.” Yet the brutal savagery of the civilian destruction defies such easy categorization.¹³⁹ What follows are some of the details of the consequences of real “militant proxies” at work in Khor Abeche:

In the wake of the April 2005 attack on Khor Abeche, the UN and African Union Mission in Darfur (AMIS, the predecessor to UNAMID), declared on the basis of their investigation that the sustained assault on this civilian village was “savage,” “pre-meditated,” and ultimately a function of “deliberation official procrastination” by Khartoum, which prevented the deployment of AU observers who might have been able

to forestall the clearly impending attack. The Abeche attack was one of the many occasions on which the *Janjaweed* has worked hand-in-glove with the SAF. Although the UN and AU both declared their “utter shock and disbelief of the relentless daylong attack on Khor Abeche,” two years of fully comparable violence, amply chronicled by human rights organizations, should have forestalled both “shock” and “disbelief.” Still, it would have been difficult to become accustomed to what occurred at Khor Abeche:

The *Janjaweed* proceeded to] rampage through the village [of Khor Abeche], killing, burning and destroying everything in their paths and leaving in their wake total destruction. (“Joint Statement by the African Union Mission in Sudan and the UN Mission in Sudan,” April 7, 2005.)

The “Joint Statement” was unusually explicit in assigning responsibility for the brutal destruction wrought by “militant proxies” :

The African Union had been engaged in discussions with the Wali [Khartoum-appointed governor] of South Darfur and Nasir al Tijani Adel Kaadir [commander of the Arab militia/Janjaweed force] on several occasions in the past on how to maintain the security situation in the area. Indeed, the AU had prepared to deploy its troops in Niteaga and Khor Abeche since 3 April [2005], to deter precisely this kind of attack, but was prevented from acting by what can only be inferred as deliberate official procrastination over the allocation of land for the troops’ accommodation.

The attack came precisely at a time of rapidly growing humanitarian need—growing in part because of the many extremely costly delays and penalizing obstacles by which Khartoum had diminished the capacity of international aid organizations seeking to avert catastrophe:

The UN World Food Programme said today [April 8, 2005] that for the first time since WFP’s major emergency operation for Darfur began, a drastic shortage of funds will force it to cut rations for more than one million people living in the western region of Darfur. Starting in May [2005], WFP will have to cut by half the non-cereal part of the daily ration. This is a last resort to help stretch current food supplies through the critical months of July and August—the region’s traditional lean months, when food needs become most acute.

“The people of Darfur need urgent aid. They don’t have other options. The conflict in the region has robbed them of their homes and livelihoods,” Carlos Veloso, the WFP emergency coordinator for Darfur, said.¹⁴⁰

Moreover, the UN Darfur Humanitarian Profiles of the time made clear that those aid workers seeking to help people such as those fleeing from Khor Abeche faced serious, sometimes deadly threats from Khartoum and its proxies:

Increasing levels of harassment, detentions, accusations through national media outlets and others security incidents involving relief workers are placing further strains on humanitarian operations. Though responsible for the overwhelming majority of incidents, the Government of Sudan is not the only party guilty of intimidating humanitarians and denying Darfurians access to humanitarian assistance. [The insurgency groups are the target of criticism here.]¹⁴¹

At least some of those who saw what was happening had the courage to speak out, if to an audience that showed no real concern. At the April 2005 annual meeting of the UN Human Rights Commission in Geneva, Emmanuel Akwei Addo of Ghana (“the independent UN expert on the situation of human rights in Sudan”) made a number of telling remarks: that “aid workers were pulling back due to deteriorating security,” that “2,000 African Union troops lacked power to deter crimes in the remote region of [Darfur],” and in particular, that “aerial bombardment [by Khartoum] still goes on.” Speaking specifically of real “militant proxies,” Addo declared that, “the Khartoum government, which had responsibility to protect all citizens, had ignored repeated demands to disarm the militia who are waging a ruthless campaign in near total impunity.”¹⁴²

This, NSC spokesman Mike Hammer, is what “militant proxies” do. What is even vaguely comparable in the actions of the GOSS or the SPLA? And in answering this question, Mr. Hammer should acquaint himself with the scores of other human rights reports that chronicle countless examples comparable to the destruction of Khor Abeche. He would do well to acquaint himself with the history of such places as Labado, Mershing, Kailek, Muhajeriya, Silea, Tawilla, Donki Dereisa, Shearia, Abu Sarouj, Shangil Tobay, Guereda, Sirba, Hamada, Haskanita, Adila, Wadi Saleh, and too many others—names that would run to pages and pages and pages if we had anything remotely approaching full reporting.

A similar deployment of “militant proxies” defined Khartoum’s military strategy in the South during the civil war extending from 1983 to 2005, particularly

during the years of the current regime. Khartoum’s “divide and conquer” strategy made terribly effective use of ethnic militias, turning Southerner against Southerner. As long as the victims of these Khartoum-funded militias were Southerners, the regime calculated that it was winning. Khartoum also engineered brutal raiding into Bahr el-Ghazal by the *Murahaleen*, Arab militia proxies who enslaved many thousands, perhaps tens of thousands of Southerners, pillaged many scores of villages, and laid waste to the lands and livelihoods of people living near the rail line running between Babanusa (Southern Kordofan) and Wau (capital of Western Bahr el-Ghazal). Some ethnic militias are still controlled by Khartoum and have been active in the years following the signing of the Comprehensive Peace Agreement (January 2005).

Finally, one might hope that Mr. Hammer and the NSC review the extensive evidence that Khartoum supported as a “militant proxy” the maniacal Lord’s Resistance Army (LRA). A good starting point might be the 2006 study by the International Crisis Group, which reports that

*Khartoum now admits that the LRA was given sanctuary and logistical support as part of a destabilization strategy and scorched earth campaign against Sudanese civilians.*¹⁴³

If Mr. Hammer and his colleagues at the NSC have even the slightest understanding of what the LRA has been responsible for during more than twenty years of violence against civilians—the countless murders, mutilations, abductions, enslavements, and torture—perhaps they might develop a more discriminating sense of what a “militant proxy” really is.

The question for the Obama White House, then, is obvious: what on the part of the GOSS compares with Khartoum’s longstanding, highly diverse, and unfathomably cruel and destructive support for and deployment of “militant proxies”? No doubt the Darfur rebel groups have much to answer for in the compromising of humanitarian aid in the region; their inability to negotiate collectively and overcome political, ideological, and ethnic differences is deplorable. But they are neither controlled nor deployed by the GOSS, nor have they engaged in predations comparable in scale or number to the genocidal assaults committed by the Janjaweed and other “militant proxies.” The fatuous comparison offered by Mr. Hammer not only distorts the truth, but works toward a larger goal: establishing “moral equivalence” between Khartoum’s *Janjaweed* and other militia proxies, on the one hand, and the Darfur rebels on the other—and most perversely, a “moral equivalence” between the NCP regime and the GOSS.

Moral Equivalence: Abyei

By “moral equivalence” I mean the various distorting representations, disingenuous linkages, and specious comparisons that have been used to equate the actions, statements, and attitudes of the Sudan People’s Liberation Movement (SPLM) with those of the NIF/NCP regime. The evident goal is to push the SPLM into a more tractable negotiating position, by whatever expedient means are judged necessary. This tactic of “moral equivalence” is to be distinguished from the more direct and blunt threats—typically issued behind closed doors—against the SPLM. Here an example would be former U.S. special envoy John Danforth’s insisting in early 2002 that SPLM leader John Garang give up on self-determination for the South, this shortly after Danforth’s meeting with the Egyptian leadership. Garang courageously refused and six months later the historic Machakos Protocol was signed, guaranteeing the right of a Southern self-determination referendum. In his stance, Garang was strongly supported and indeed influenced by the Sudanese Church’s historic declaration, “Let My People Choose.” His was not simply a politically principled decision but one reflecting the will of the Southern Sudanese people.

Recent examples of public assertions of “moral equivalence” by the Obama administration are often more subtle than that offered by NSC’s Hammer, but they have been relentless and should be highlighted if we are to understand why Khartoum remains so intransigent. For seeing that the U.S. and others are willing to put unreasonable pressure on the SPLM leadership, the Khartoum regime is perfectly willing to allow others to do their diplomatic dirty work. Abyei—the most dangerous sticking point in negotiations and the most likely flash-point for renewed war—offers a revealing example. Senator John Kerry, a newly enlisted envoy for the Obama administration, is reported to have declared that the larger South Sudan referendum cannot be held hostage to claims over a small and insignificantly populated region (Abyei), and that the SPLM must do what it takes to resolve the issue one way or another. This, we should recall, is the same Senator Kerry who shamefully declared that humanitarian assistance would be fully restored in Darfur following Khartoum’s March 2009 expulsions of 13 critical international aid organizations: “‘We have agreement [with Khartoum] that in the next weeks we will be back to 100 percent capacity,’ [Kerry said.]”¹⁴⁴

Kerry’s statement was a shameful bid to deflect attention from U.S. impotence in responding to the expulsions, which have now cost thousands of lives. More than a year and a half later, key aid sectors are still at best only two-thirds of pre-expulsion capacity. Al-Bashir has also recently threatened to expel even more aid organizations if they do not respect “Sudan’s sovereignty.”¹⁴⁵ But Kerry, in commenting on the Darfur humanitarian crisis and now Abyei, has put himself fully

in line with Obama administration policy. His recent characterization of the Abyei crisis comports fully with calls from Secretary of State Hillary Clinton and special envoy Gration declaring that now is the time for “compromise” on both sides. Gration declared in October—just days before an aborted meeting in Addis Ababa scheduled to discuss Abyei:

There’s no more time to waste The parties must be prepared to come to Addis with an attitude of compromise [over Abyei]. The entire world is watching and will make judgments based on how the parties approach these talks, on how they act in the next couple of months.¹⁴⁶

More recently, Clinton insisted that, “Most urgently, the parties [Khartoum and the southern leadership] must make the tough compromises necessary to settle the status of Abyei.”¹⁴⁷

However, compromises by the SPLM were already embodied in the Abyei Protocol of the CPA, which guaranteed both that Abyei would have a self-determination referendum on January 9, 2011, and that the delineation of Abyei itself would be undertaken by an international panel of experts, the Abyei Boundaries Commission. It was President al-Bashir who was unhappy with the outcome, and so refused to accept these findings—and refused also to allow for the formation of an Abyei administrative body or preparation for the referendum.

The southern leadership protested against this flagrant violation of the CPA, but with little international support and to no avail. Foreseeing the consequences of continued stalemate, the SPLM compromised again, agreeing to allow a final decision on the findings of the Abyei Boundaries Commission (ABC) to be made by the Permanent Court of Arbitration (PCA) in The Hague. A decision was made by the Court in July 2009 finding that the ABC had exceeded its mandate. The Court then redrew the boundaries of Abyei in a way highly favorable to Khartoum, including moving to Northern Sudan areas in the east and north within Abyei that have very significant oil reserves. Although the historical reasoning and expertise of the Court were not nearly as compelling as that of the ABC, the SPLM accepted the decision as the only way to move forward on the Abyei referendum.

In doing so, the SPLM made a painful compromise. And they have offered yet further compromise solutions for Abyei beyond accepting the binding arbitration of the PCA. For an “uncompromising” attitude, in contrast, we need only look at the statement this past July by Presidential advisor and former director of national security Salah Abdullah “Gosh.” “Gosh” suggested that the Abyei issue had still not been settled: “The [PCA ruling] ruling did not resolve the dispute.”¹⁴⁸ Although he would later retract this assertion, he had tipped Khartoum’s hand: over the past six

months the regime has reneged on terms of both the Abyei Protocol and the PCA ruling.

Yet the Obama administrations still insists on more compromising by the SPLM. Gration declared recently that the Abyei crisis “is probably not a situation where either side will be happy. What we’re looking for is a solution that makes both sides angry but neither side mad.”¹⁴⁹ Gration’s meaning is clear: there must be “equivalence” in the sacrifice, even as this demand ignores what the SPLM has already sacrificed on the issue.

The apparent “even-handedness” of the State Department (“[a solution to the Abyei crisis] has to be a mutually agreeable alternative”) belies the truth that the SPLM has been put in a position in which there is no possibility of finding “a mutually agreeable” resolution. The perils of “moral equivalence” could hardly be more conspicuous.

Moral Equivalence: Further Examples

Another telling example of “moral equivalence” that holds potentially destructive diplomatic implications lies in the repeated calls from international actors demanding that the “rhetoric to be toned down on both sides.” Secretary Clinton declared last month that, “both sides ‘must avoid inflammatory rhetoric, quell rumors, and dampen animosities.’”¹⁵⁰ Ban Ki-moon urged both Khartoum and Juba to refrain from “hostile public statements” and “accusations of cease-fire violations, which risk heightening anxiety and provoking isolated security incidents that can escalate into a wider conflict.”¹⁵¹

But the UN force in South Sudan (UNMIS) has confirmed that bombings of Southern targets by Khartoum’s military aircraft have in fact violated the cease-fire—bombings that were occurring precisely as Ban indulged his penchant for fatuous equivocation. Civilians have been killed and wounded, and many thousands have been forced to flee southward from these repeated bombing attack, which have been confirmed not only by UNMIS but also by journalists and other reliable sources on the ground. Yet the regime has comprehensively denied these now-documented attacks.

In fact, many hundreds of aerial attacks on civilians have been confirmed during Ban Ki-moon’s tenure as UN Secretary-General—in South Sudan (including after Southern independence), Blue Nile and South Kordofan, and Darfur. Ban has

never condemned these despicable attacks with anything approaching appropriate outrage.

More broadly, there is no comparability in the kinds of statements coming from Khartoum and those coming from Juba, and any survey of what has actually been said in the two capitals should make this abundantly clear. Concerning Abyei, Khartoum has been stoking the rhetorical fires with tendentious and bombastic claims about the Misseriya Arabs, a constituency that seemed of no concern until after the regime had pocketed what it had gained from the July 2009 decision by the Permanent Court of Arbitration. Khartoum continues to work hard, in public and private statements, to convince the Misseriya that Southern secession will deny them grazing rights in the Abyei region, despite the fact that such rights are guaranteed by the CPA and have been repeatedly reaffirmed by the SPLM.

Regarding citizenship and residency for Southerners who remain in the North, the proclamations from al-Bashir and other regime officials are deeply threatening, verging on incitement to racial violence. While the North needs considerable cheap Southern labor for parts of its economy, most Southerners are being told that they will be unwelcome in the North if the South secedes. The very opposite has been true of statements coming from the Southern leadership concerning Northerners who remain in the South.

President al-Bashir's recent approving remarks about the flogging of a young woman in Khartoum (captured in a now notorious [You Tube video](#)) are entirely revealing of the character of his "Islamic state." Moreover, al-Bashir's statement has as context his history of intolerance and discrimination, long in evidence but rarely so publicly expressed:

"If south Sudan secedes, we will change the constitution and at that time there will be no time to speak of diversity of culture and ethnicity," [al-Bashir] told supporters at a rally in the eastern city of Gedaref. "Sharia (Islamic law) and Islam will be the main source for the constitution, Islam the official religion and Arabic the official language."¹⁵²

"There will be no time to speak of diversity of culture and ethnicity." Northern Sudan itself is far from homogeneous ethnically, culturally, linguistically, or even religiously; al-Bashir's comments here thus attempt to strike a preemptive blow against other marginalized populations that might contemplate secession, even as he is shoring up his position among the radical Islamists who still make up such

a large part of his political support. A brutal new tyranny is in the making, yet the international community either says nothing or speaks in worried tones about a failed state in “South Sudan.” The reality is that there is much more to fear from a collapse in the North than the South.

There are consequential, strategic political implications to al-Bashir’s remarks. They reflect not only hateful bigotry, but also reveal that he recognizes the growing threats to his presidency. Al-Bashir has managed Sudan terribly, on all counts, and many may now be prepared to hold him to account, even within his own security cabal. Under his leadership the economy has begun to fail: the general inflation rate and food prices are rising significantly, the Sudanese pound has been forced into an unplanned and uncontrolled devaluation, foreign reserves are dangerously low, cronyism in lucrative sectors of the economy—on a vast scale—has left huge numbers of potential businessmen and entrepreneurs disaffected, and more than U.S. \$38 billion in external debt hangs over the economy—debt that Khartoum cannot begin to service, let alone pay down. Collectively, these issues have diminished international confidence in the Northern Sudanese economy. Although the economy has grown rapidly over the past decade, it has done so mainly on the basis of oil revenues, which derive from oil reserves lying predominantly in the South. As a consequence, and in an effort to forestall a further erosion of international confidence, regime officials have recently made a series of falsely optimistic statements about oil potential in the North, as well as nebulous plans for huge increases in agricultural output and exports, despite rampant food shortages in many regions of Sudan, North and South.

Yet as al-Bashir is well aware, the combination of the loss of the South and the North’s economic desperation may precipitate a coup, or at least a staged “coup” that changes nothing in the larger distribution of power. If it occurs, such a change is likely to be a reshuffling of the ruling cabal, attended by claims about a “new age” in Sudan’s political history; al-Bashir will be discarded, perhaps even surrendered as a scapegoat to the ICC. Or the coup may be directed by the army and hardliners expressly determined to abort Southern secession. The opacity of politics in the highest reaches of the NIF/NCP makes any prediction a guess, but the international community should be prepared for such an eventuality, and should make clear that no political change in the North will lessen the world’s commitment to a free, fair, and timely self-determination referendum in the South.

“Moral equivalence” is a betrayal of the electoral realities in Sudan

Those in the international community calling for a diminishing of the rhetoric on “both sides”—Khartoum and Juba—seem willing to overlook the fact that the regime has made repeated, unfounded, and irresponsible claims about the conduct of the Southern voter registration process, which has received high marks from international and Sudanese observers. A remarkable 96 percent of eligible voters have registered, suggesting how determined the people of the South are to express themselves on their future, which is clearly perceived by an overwhelming majority as an independent nation. Even so, the regime-controlled Sudan Media Center (SMC) declared on December 13 that

South Sudan citizens boycotted the procession called for by the SPLM after the voter registration process period came to an end. According to [SMC] sources, the SPLM leadership is frustrated due to the rise of the unionist trend amid the southerners.

Were the stakes not so high, such absurdity would be laughable. However, the regime has orchestrated a “legal” challenge to the referendum and there are some indications that the highest court (the Constitutional Court, which will ultimately do the regime’s bidding) may uphold one of these challenges, potentially derailing the referendum.¹⁵³ If this occurs, and the regime seizes upon such a ruling as a pretext for delaying the January 9, 2011 vote, the odds of a return to war are greatly increased.

Sudan Tribune and a few other Sudanese news websites appear to be the only organizations to report on the extremely inflammatory remarks by senior presidential adviser and former security chief Salah “Gosh”:

“Gosh” said that the NCP was ready for its own “plan B” should the SPLM violate the CPA, cautioning that the “battle smoke would cover the south and not the north.”¹⁵⁴

Warnings to both parties to “avoid inflammatory rhetoric” seem strangely uncomprehending of what is actually being said in Khartoum and Juba; yet again, a perverse “moral equivalence” between the two parties works to embolden the regime.

The Tools of Moral Equivalency

The assertion of “moral equivalence” between the NIF/NCP regime and the SPLM is complemented by a range of deeply distorted assessments of realities in the South, the North, and Darfur. For example, Thabo Mbeki, the former South African president who heads the “African Union High Level Implementation Panel” (which nominally focuses on Darfur) was tasked with monitoring Khartoum’s compliance with the “roadmap” set out in a report by Mbeki in his capacity as head of the original AU “High-level Panel on Darfur.” The report was anything but a “roadmap,” and its recommendations and criteria for “implementation” were largely worthless. This failure, however, does not prevent Mbeki from claiming that his Panel has noted remarkable “progress” on Khartoum’s part:

Nonetheless Mbeki in his report to the AU lauded the “remarkable relaxation of state control over the media” in the pre-election period and the “more open debate on national political issues than had been seen for more than two decades...This represents an important step towards the democratization of Sudanese political life. Although there have been some retrograde steps since the election, much of the progress towards greater openness has been sustained. This is commendable.”¹⁵⁵

“Some retrograde steps since the election”? This is Mbeki’s characterization of an extraordinarily brutal crackdown on journalists (including international journalists), Sudanese human rights investigators, citizen protestors, and all news media. Human rights groups around the world, including those representing Sudanese and African Union countries, have been vehement in their condemnation of a wide range of actions by Khartoum. Mbeki appears unmoved. Like “moral equivalence,” distortions such as Mbeki’s encourage Khartoum to believe that it may safely continue to flout agreements, prevaricate in various negotiating fora, ignore third-party recommendations, and hold the international community in contempt. To be sure, justice that meets international human rights standards has a long and difficult road to realization in war-ravaged South Sudan. But there is no equivalent to the actions in Khartoum condemned by Amnesty International, Human Rights Watch, the African Centre for Justice and Peace Studies, the Committee to Protect Journalists, the UN expert on human rights for Sudan, and many others.

Moreover, Mbeki’s report makes virtually no mention of its highlighted recommendation: that Khartoum agree to a “hybrid justice” process for atrocity crimes in Darfur, whereby jurists from other African countries would be part of securing meaningful justice for the countless victims of the past seven years. This is because

Khartoum controlled the proposal from the beginning and evidences no intention of allowing for any internationalizing of the justice process—for the straightforward reason that the regime itself is the chief criminal. Indeed, impunity for Khartoum’s regular and proxy forces in Darfur continues to reign supreme. Mbeki’s glossing over Khartoum’s refusal, together with the continuing impunity enjoyed by the regime’s “militant proxies,” informs the regime’s future calculations about how to respond to AU proposals, demands, exhortations, and negotiations.

Insofar as Mbeki has ever more forcefully inserted himself into North/South negotiations, his yielding to Khartoum only makes the process more difficult. On Abyei, as *Africa Confidential* recently reported, Mbeki acquiesced before the intransigence Khartoum has relentlessly urged on the Misseriya leadership:

[There is] widespread Sudanese criticism of Mbeki’s handling of both the Darfur and the North-South issues; [he is] widely seen as soft on the National Congress Party. One Ngok Dinka civil society leader told [*Africa Confidential*] Mbeki was basically telling the Ngok that the Abyei Protocol and Permanent Court of Arbitration boundaries must all be renegotiated because the Misseriya wouldn’t budge.¹⁵⁶

Mbeki is far from alone in distorting Sudan’s realities in what he says and does not say.

The Costs of Moral Equivalence

Unchallenged by the international community for its most egregious assaults on civilians, humanitarians, human rights, and previous agreements, Khartoum only presses harder—a lesson the world seems incapable of learning, even as the evidence continually mounts. Most recently, for example, the UN High Commissioner for Human Rights publicly declared that Khartoum “is blocking aid workers from entering the country ahead of next month’s referendum on independence for the south”:

The UN High Commissioner for Human Rights says almost 1,000 visas for humanitarian staff appear to be deliberately held up by the government in Khartoum. Navi Pillay said in an interview Thursday [December 16, 2010] that human rights observers and aid workers need to be in place before the January 9, [2011 referendum]. She says her own request for a visit to Sudan earlier this month was ignored by the government.¹⁵⁷

Khartoum's response to this immensely serious allegation? "An official at Sudan's mission in Geneva, Naima Lazaar, says the claim of a visa holdup is 'baseless.'"¹⁵⁸ But as we know from seven years of experience, Khartoum has repeatedly denied visas to humanitarian and peacekeeping personnel working in Darfur. This is not a new tactic, but one well honed by experience. Khartoum has long observed closely just how pusillanimous the UN and other international actors can be, even on urgent humanitarian issues affecting millions of innocent lives.

It would be difficult to overstate the current need for humanitarian assistance in South Sudan, particularly as hundreds of thousands of Southerners make their way from the North to the South, often arriving with nothing and having endured privation, harassment by Khartoum's proxies, and asset-stripping on their journey south. As many as 800,000 Southerners may arrive in the next six months, according to some UN estimates.¹⁵⁹ And threats of a harsher enforcement of *sharia* in the North, a loss of citizenship and rights (including education), and an increasingly hostile environment may make of this figure an understatement.¹⁶⁰ To add to the difficulty, there has been a terrible outbreak of kala azar this year, a very painful disease that is extremely difficult to treat. Food shortages are increasing as those returning arrive in areas that are already terribly poor and lack available land and pasturage. An absence of clean water and livelihoods are all that greet many of these desperate people, who nonetheless feel that returning is their only option.

This is the context in which Khartoum is obstructing visas for humanitarian workers seeking entry to South Sudan. Should war resume, an internal UN document indicates that planning is underway "for the possibility that 2.8 million people will be displaced in Sudan if fighting breaks out over the south's January independence referendum."¹⁶¹ Additionally, a recent study by European and African economists estimates that in addition to the unfathomable human costs, resumed war will cost Sudan, the region, and the international community some U.S. \$100 billion in coming years—a truly staggering figure.¹⁶²

The history is clear: as the U.S., the UN, and other international actors know, Khartoum's recent obstructive behavior is entirely consistent with the regime's actions during the 1983 – 2005 civil war, when at various times Khartoum simply cut off all access for Operation Lifeline Sudan, which operated primarily from Lokichoggio, Kenya. In July 2002, for example, the UN estimated that Khartoum's actions were denying all humanitarian assistance to some 1.7 million war-ravaged civilians in the South.¹⁶³

The Real Lesson of Khor Abeche

The “moral equivalence” that is so destructive of the search for a just peace in Sudan derives in part from a willingness to assess the country’s various crises in excessively abstract fashion, and to ignore the most basic facts of individual suffering.

Only such abstraction permits the kind of expediency that lies behind the evident goal of equating Khartoum with its various adversaries, whether in Darfur or the South, or the Nuba Mountains and Southern Blue Nile.¹⁶⁴ Khartoum, however, is not “morally equivalent”: this is a regime that has committed serial genocide as a domestic security policy—in the Nuba Mountains, in the oil regions of Southern Sudan, and currently in Darfur.¹⁶⁵

The Obama White House believes that the recent SAF assault on Khor Abeche is an appropriate occasion to make an assertion of such moral equivalency: “we are also seeing increased evidence of support to militant proxies from the Governments of Sudan and Southern Sudan.”¹⁶⁶ This statement is mistimed, and belied by the terrible events that occurred in April 2005, at the hands of true “militant proxies.” This suggests that the Obama administration is willing to accommodate Khartoum in a range of ways; indeed, envoy Gration set the tone early in his tenure, declaring on his first trip to Khartoum: “Like all Americans ‘Ana ahib Sudan,’ or ‘I love Sudan.’”¹⁶⁷ Gration fails here to note the character or actions of his hosts, and even more tellingly fails to acknowledge that “Sudan” is hardly singular, and that there are in fact enormous tensions between Khartoum at the center—geographically, politically, economically—and the many marginalized regions of the periphery that have suffered grievously under the tyranny of the NIF/NCP regime. As if to emphasize his diplomatic naiveté in dealing with such tyranny, Gration argued for a new U.S. attitude toward the regime:

We’ve got to think about giving out cookies. Kids, countries—they react to gold stars, smiley faces, handshakes, agreements, talk, engagement.¹⁶⁸

Little has changed on Gration’s part, and such an attitude earns not only Khartoum’s contempt, but also offers the regime an incentive to push further and further for concessions from the SPLM. Given al-Bashir’s precarious position, and the humiliation that will attend the loss of the South, U.S. policy guided by such sentiments—and a corresponding diplomatic assertion of “moral equivalence” between Khartoum and the SPLM—may end up convincing the regime that there are manageable costs to renewed war in which its first military act would be to seize the

oil regions. Full-scale war would ensue, and we have been given too many glimpses of just how vast human destruction and suffering would be.

Here perhaps the advocacy community should recall the words of Roméo Dallaire, UN force commander in Rwanda during the genocide, published several years ago, but precisely relevant in the present moment:

If there is any useful lesson that can be drawn from the events of April 1994, it is surely one about just how personal genocide is: for those who are killed, of course, but also for those who kill, and for those, however far away, who just do nothing. Our governments are no better than we are. The United Nations is no better than its governments.¹⁶⁹

All too true, and our refusal to accept expedient “moral equivalence” would be a first step in doing something about the failing Sudan policies of the Obama administration.

In the end, the CPA is a largely failed agreement: there has been no self-determination for Abyei, but rather military seizure by Khartoum; there have been no “popular consultations” of the sort promised South Kordofan and Blue Nile, but rather the beginning of a war of extermination; wealth- and power-sharing were never realities during the Interim Period; citizenship issues for Southerners in the north remain unresolved; the North/South border is neither delineated nor demarcated, and the number of flash-points for renewed conflict has grown dangerously; and CPA protocol on security arrangements has become completely irrelevant.

It remains the case that “moral equivalence” dominates the thinking of the Obama administration in confronting these failures—and administration policy as articulated by special envoys and senior State Department and NSC officials. The full cost of such expediency is assessed in Section Three, “The Hour of the Soldiers.”

Notes

- 1 United Press International, January 13, 2005.
- 2 Human Rights Watch News, January 13, 2005.
- 3 Opheera McDoom [Khartoum] “Sudan’s forgotten victims live life on the edge,” January 6, 2005.
- 4 Reuters [United Nations] January 12, 2005.
- 5 UN IRIN, January 13, 2005.
- 6 *Sudan Tribune* [Cairo] January 13, 2005.
- 7 For a record of aerial attacks in Sudan, see <http://www.sudanbombing.org/>
- 8 Violations of international law in Darfur were referred to the ICC by the UN Security Council on the basis of a January 2005 report from a UN Commission of Inquiry.
- 9 BBC, July 2, 2005.
- 10 Refugees International, “Sudan: A Climate of Impunity in Darfur,” March 2, 2005.
- 11 UN Sudan situation report of July 5, 2005.
- 12 CPMT report, June 29, 2005.
- 13 *Los Angeles Times* [Rumbek, South Sudan] July 8, 2005.
- 14 *Los Angeles Times*, July 8, 2005.
- 15 www.sudaneseonline.com, July 10, 2005; translation provided to the author.
- 16 Email to the author received July 8, 2005
- 17 UN Integrated Regional Information Networks [IRIN] July 19, 2005.
- 18 *Africa Confidential*, Vol 46, No 16, August 5, 2005.
- 19 Agence France-Presse, July 20, 2005.
- 20 ICG 2005, page i.
- 21 ICG 2005, page i.
- 22 Khartoum Monitor, September 15, 2005.
- 23 Kofi Annan, September 12, 2005 report to the UN Security Council, paragraph 12.
- 24 For an analysis of these requirements, see [my October 2012 analyses](#).
- 25 United Press International, January 13, 2005.
- 26 Agence France-Presse, January 13, 2005.

- 27 See [“Sudan’s forgotten victims live life on the edge”](#) by Reuters correspondent Opheera Mc-Doom, January 6, 2005.
- 28 Reuters, January 9, 2005.
- 29 Interview with Egeland reported by the *Financial Times*, December 15, 2004.
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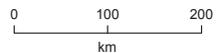
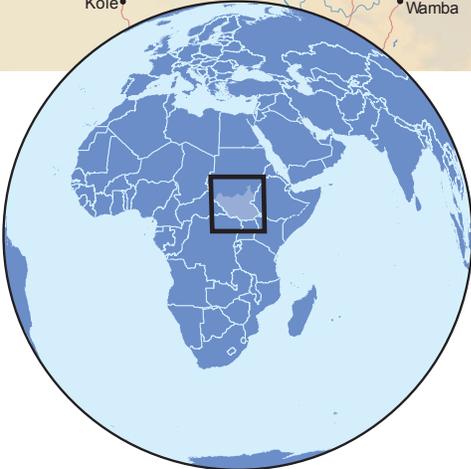
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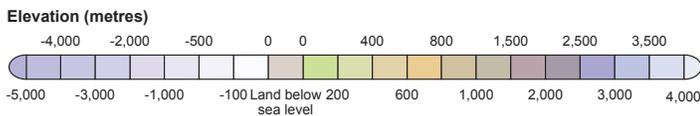
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- 158 Associated Press [Geneva] December 16, 2010.
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- 161 Associated Press [Juba] December 21, 2010.
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- 164 The latter were granted only "popular consultations" in the CPA, a largely meaningless gesture that will do nothing to change the most basic geographic reality: both regions will remain north of the new border between South Sudan and North Sudan.
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SOUTH SUDAN - Reference Map 



- Legend**
-  National capital
 -  State capital
 -  Populated place
 -  International boundary
 -  State boundary
 -  Primary road
 -  Secondary road



Disclaimer: The designations employed and the presentation of material on this map do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Map data sources: CGIAR, United Nations Cartographic Section, ESRI, Europa Technologies, UNMAS. Date: 19 May 2011.

THERE ARE MANY CAUSES TO THE CIVIL WAR THAT HAS WRACKED
GREATER SUDAN SINCE INDEPENDENCE;
THE FOLLOWING PHOTOGRAPHS SUGGEST SOMETHING OF THE PEOPLE AND
THE LIFE THAT SOUTHERNERS HAVE FOUGHT FOR.



Eric Reeves—Dinka man in Rumbek 2003



Eric Reeves—young Dinka cattle herder, Rumbek 2003



Eric Reeves—tukuls near Yei, 2003



Eric Reeves—woman in Yei market, 2003



Eric Reeves—Rumbek center on a hot day, 2003

Note the bomb shelter in front of the crowd: Rumbek, like most major Southern towns, was repeatedly bombed during the war by Khartoum's Antonovs



Eric Reeves—Rumbek, 2003



Eric Reeves—the thriving Yei market, 2003



Eric Reeves—woman in the thriving Yei market, 2003



Eric Reeves—Dinka woman and children, Rumbek, 2003



Photography credit: Enough Project

DINKA NGOK CATTLEMEN IN ABYEI.

Abyei is the traditional homeland of the Dinka Ngok, although encroachment on their lands by Khartoum began in the early 1980s with the discovery of oil in and near the region. It becomes increasingly unlikely that these people will ever be able to resume their traditional ways of life.



Tim Freccia/Enough

Photography credit: Tim Freccia/Enough Project

A SUDAN PEOPLE'S LIBERATION ARMY SOLDIER, WOUNDED DURING THE WAR. Finding a place in a post-war economy will be very difficult for men such as this, often without any formal education. But there is enormous and justifiable pride on the part of the men who won the South its independence.



Photography credit: Enough Project

FISHERWOMAN NORTH OF BOR, SOUTH SUDAN (DECEMBER 12, 2010)

Bor is in Jonglei State, site of some of the worst ethnic violence since Southern independence. Below, a man from Juba.



Photography credit: Enough Project



Photography credit: unknown

SOUTHERN SUDANESE ARE SEETHING, PARTICULARLY IN THE BORDER REGIONS
THAT KHARTOUM HAS REPEATED BOMBED



Photography credit: Enough Project

THE UN IS PERCEIVED BY MOST OF GREATER SUDAN'S MARGINALIZED
PEOPLES AS INCOMPETENT AND TIMID



Photography credit: Enough Project



Photography credit: Enough Project

THE BURNING OF ABYEI TOWN CULMINATED KHARTOUM'S MAY 21, 2011 MILITARY SEIZURE OF THE ENTIRE ABYEI REGION. IT ALSO DEMONSTRATED YET AGAIN THE IMPOTENCE OF THE UN IN SUDAN.



Photography credit: Enough Project

LONG BEFORE KHARTOUM ACTUALLY SEIZED ABYEI AND BURNED ABYEI TOWN, THE DINKA NGOK OF THE REGION KNEW WHAT WAS IMPENDING AND FLED SOUTH TO WARRAP AND OTHER PARTS OF SOUTH SUDAN. ABYEI WAS LARGELY EMPTY (BELOW) WHEN IT WAS ATTACKED.



Photography credit: Enough Project



SOUTHERN SUDANESE RETURNING TO THEIR HOME VILLAGES

Thousands pass through Bentiu, the main route from Khartoum, and many are stranded here without sufficient food, shelter, water, and basic health services, unable to afford the journey from Bentiu to their home villages. Khartoum has ensured that returns are made as difficult and debilitating as possible; many returnees face brutal “asset stripping.” All too often these people have little to return to. And still they come, fearing for their lives and welfare in northern Sudan. Among other things, they are fleeing sharia law that will soon be imposed in drastic form in northern Sudan (see next page). (Photography credit: UNHCR/UN)



Photography credit: unknown

FOUR MEN WHO HAVE BEEN PUNISHED WITH “CROSS-AMPUTATION.”

As part of the hudud penal code that is part of Sudan’s sharia (Islamic law), this cruel punishment is meted out for a range of crimes. The refusal of people in the South—and elsewhere—to be governed by sharia has been one cause of war, and now endangers those of Southern ethnic origin who still reside in northern Sudan. (See analysis of hudud)

Southerners in northern Sudan and those of “Southern ethnicity” have no wish to be governed by such a barbarous penal code.