



**Breaking the Circle of Violence: US policy toward Sudan and South Sudan
Testimony by Adotei Akwei, Amnesty International USA before the
House Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations
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Thanks for invite, for holding the hearing and acknowledgements of activities MOCs
Intro AIUSA who we are, what we do and our history of work
Review of US engagement in the region positive and negative
Overview of ongoing and current crises in both Sudan and South Sudan and their impact on human rights in both countries, (talk to Jasmine about individual cases)
Recommendations

On behalf of the members of Amnesty International USA I would like to thank the subcommittee for this opportunity to testify. Chairman Smith your continued efforts to improve the respect and protection of human rights in Africa and around the world are well known and continue to be an inspiration to all of us. Ranking member Bass your record of advocacy in support of justice and rights for the continent goes back to the anti-apartheid struggle. AIUSA looks forward to working with both of you as we continue to support and strengthen efforts with Africa to build societies where the dignity and rights of individuals are protected and individuals can achieve their full potential.

Amnesty International and our work on Sudan and South Sudan

Amnesty International is the world's largest human rights organization, with more than 3 million supporters in more than 150 nations and territories. There are 80 country chapters of Amnesty International and here in the United States we have nearly 500,000 supporters whose dedication to human rights has impacted both policy and practice around the world.

Amnesty International has been seeking to protect and improve human rights in Sudan since its formation in 1961 and on South Sudan since it seceded from Sudan and gained its independence in 2011. We have issued reports, held meetings with the government representatives for Sudan and South Sudan and have also submitted reports to various UN bodies.

These hearings take place at an important time for the United States regarding its engagement with Sudan and South Sudan.

Sudan

The situation in Sudan remains critical. Over two years after the secession of South Sudan, armed conflict continues to devastate large parts of Darfur, Southern Kordofan, and Blue Nile. The government

has continued to repress fundamental rights and freedoms including through widespread arbitrary detention of perceived opponents and stifling independent media and civil society.

Restrictions on Civil and Political Rights

Sudan continues to apply restrictions on freedoms of expression, association and assembly in what appears to be a concerted effort to shut down all dialogue opposing the views of the ruling National Congress Party (NCP). The government continues to use the National Intelligence and Security Services (NISS) and other security forces to arbitrarily detain perceived opponents of the NCP, censor media and shut down public forums and protests.

Over the years, Amnesty International has documented the arbitrary arrest and detention of critics of the government by the NISS and other security forces. For example, Tajeldin Ahmed Arja, a 26-year-old Darfuri student, has been detained without charge since 24 December 2013. Presidential security guards arrested him after he criticized both the Chadian and Sudanese presidents during a conference. Amnesty International believes that Tajeldin is at serious risk of torture and other ill-treatment.

Amnesty International is particularly concerned about the extensive discretionary powers provided to NISS agents and the explicit exemption from accountability granted under the National Security Act of 2010, and has repeatedly called for its reform. The NISS has with broad discretionary powers of arrest and detention for up to four and a half months without judicial review, broad powers of search and seizure, and grants NISS agents with immunity from prosecution and disciplinary action for all acts committed in the course of their work. These provisions have contributed to creating a culture of impunity where NISS agents can commit human rights violations without accountability.

Security forces continue to use excessive force to disperse protests and gatherings.

More recently, during nation-wide protests against cuts to fuel subsidies in September 2013, security forces used excessive force – including lethal force, killing upwards of 200 protestors. The NISS also censored and shutdown newspapers, and arrested hundreds of activists, members of political opposition parties, and journalists who were suspected of participating in the protests. Although the Government of Sudan set up two committees in December 2013 to investigate allegations of human rights abuses that occurred during the events of September 2013, no findings have been issued to this day.

Sudanese authorities continue to stifle independent print and electronic media. In the past year, the NISS ordered pre- and post-print censorship of newspapers, blocked websites and harassed or threatened journalists with prosecution for work considered to fall outside of “red lines” drawn by the ruling NCP such as for instance reporting on the situation in Darfur, Southern Kordofan and Blue Nile. For instance, in February 2014, the NISS prohibited three newspapers of distributing printed copies of their daily issue.

Armed conflict: Darfur

Intensified violence and international human rights and humanitarian law violations and abuses forced more than 300,000 people to flee their homes in the first five months of 2013 alone. Government forces, and allied militias, and various armed opposition groups continue to clash.

Inter-communal violence over land and other natural resources surged causing deaths, injuries, destruction of villages and massive displacement. Amnesty International has documented the involvement of members of the government paramilitary forces in attacks against civilians in North and Central Darfur in 2013.

The government continues to restrict UNAMID and non-governmental groups from accessing conflict affected areas to provide humanitarian assistance, protect civilians, or monitor the human rights situation. These restrictions severely hinder UNAMID from monitoring and carrying out its civilian protection mandate in areas most affected by conflict. In March 2013, the government issued a directive denying all humanitarian organizations access to conflict-affected areas in Darfur. Restricting the provision of humanitarian assistance to civilians is prohibited by international humanitarian law.

Armed conflict: Southern Kordofan and Blue Nile

In Southern Kordofan and Blue Nile states, more than a million people have been forced to flee from their homes in the two years since conflict started between government forces and the Sudan People's Liberation Army-North (SPLA-North). Many remain in Sudan but more than 200,000 live in refugee camps in South Sudan or Ethiopia.

The armed conflict continues in both states with indiscriminate attacks by both parties, including aerial bombardments by the Sudanese Armed Forces, which has killed and injured men, women, and children; destroyed schools, clinics, and other buildings; instilled fear in the population, disrupted livelihoods and forced people to flee. The human rights situation remains concerning with almost daily indiscriminate bombardments which have resumed since the rainy season ended in November. Sudan also continues to obstruct humanitarian access to areas controlled by the SPLM-North, leaving many civilians in a dire situation.

While an agreement between the Sudanese government and the SPLA- North has not been reached, both parties to the conflict have an obligation to facilitate humanitarian access, and the Sudanese Government should not interfere with civilians' right to access basic goods and services.

South Sudan

Armed conflict

South Sudan's armed conflict broke out on the evening of 15 December. An exchange of fire between factions of the Presidential Guard loyal to different members of the ruling Sudan People's Liberation Movement (SPLM) spread into conflict throughout the capital city and within days had expanded beyond the city to other states. President Salva Kiir, accused his former Vice President, Riek Machar, and a group of senior politicians that were sacked in 2013 of being behind an attempted coup. Machar fled and went into hiding but 11 politicians were arrested.

Civilians have borne the brunt of this fighting, which has been characterized by indiscriminate use of heavy weapons, killings of civilians and captured soldiers, sexual violence and destruction of property, including looting and the destruction of civilian homes. During the first days of fighting in Juba mortar and tank fire was reported in civilian areas and evidence also emerged of targeted killings, with soldiers

loyal to the government killing Nuer soldiers and civilians in the street and during house to house searches in areas predominantly populated by Nuer. The majority of the casualties in Juba's Teaching Hospital resulted from rifle fire, some of it close-range, and some of the casualties showed signs of being bound before being killed. On 16 December at least 200 men of Nuer origin are alleged to have been killed after being rounded up by security forces, detained in a police facility and then shot at through the windows.

The violence during the week of 16 December resulted in civilians, among them a large number of Nuer, fleeing their homes, either out of Juba or into the city's two United Nations Mission in South Sudan (UNMISS) compounds. Two months later Nuer areas of Juba are deserted and 36,000 civilians remain sheltered in the two bases. The news, or perception, that pro-government forces were targeting Nuer in Juba, was also cited by opposition forces as the motivation for killings of Dinka by defecting Nuer soldiers and armed civilians in Jonglei State, which has a large Nuer population. On 18 December opposition forces entered Bor, the capital of Jonglei state, and began shooting randomly, prompting Dinka civilians to flee in large numbers to UNMISS bases and to neighboring Lakes State. Some of those crossing the White Nile between Bor and Aweril County in Lakes State drowned, while those that made it to Aweril County ended up living in open areas with little access to food, water, sanitation and shelter. There are currently 92,000 internally displaced people sheltering in Lakes State. Opposition forces in Bor are alleged to have carried out several prominent abuses, including the killing of several civilians, including at least six female members of the clergy, at a church compound, and the rape and killing of several patients at the hospital. Attacks on civilians were also carried out in other parts of Jonglei State. On 19 December, a large group of armed Nuer civilians stormed the UNMISS base in Akobo, which was sheltering Dinka civilians, killing two peacekeepers and an estimated 27 civilians sheltering in the base.

Between late December and early January the major towns were seized by anti-government forces and then retaken by the government, including Bor, Bentiu, the capital of Unity State, and Malakal, the capital of Upper Nile State. The fighting for control of these towns and human rights violations carried out by forces occupying them resulted in mass displacement of civilians, high numbers of civilian casualties by indiscriminate and targeted violence, and evacuation of staff of humanitarian agencies, who would then struggle to gain access to the cities to provide humanitarian assistance.

Bentiu, capital of Unity State, was taken by anti-government forces around 21 December. While under rebel control parts of Bentiu, including civilian homes, markets and other buildings, were destroyed. Human rights monitors received testimonies of sexual violence, extra-judicial executions, destruction of Dinka property, looting of resources belonging to UN and humanitarian agencies and attacks on foreign nationals. Government forces retook control of Bentiu on 10 January, firing heavy artillery into the town from outside and firing light weapons indiscriminately upon entering. Control of Malakal, capital of Upper Nile State has been exchanged at least three times between government forces and the opposition since 25 December. While under the control of opposition forces people from the Dinka and Shilluk communities are alleged to have been targeted and killed in the street and during house-to-house searches, along with foreign nationals from Ethiopia. After government forces retook control of the town on 20 January they were reported to have killed Nuer and civilians from other communities in their homes.

By late January the government had retaken control of major towns with the assistance of Ugandan troops. A cessation of hostilities agreement brokered by the Intergovernmental Authority on Development (IGAD) was signed on 23 January but broken almost immediately by both sides as fighting

continued, mainly in rural areas, and continued to be accompanied by attacks on and unlawful killings of civilians. On 31 January Médecins Sans Frontières staff based in Leer, Unity State, were forced to flee their hospital with their patients. On 5 February 28 civilians were killed in the village of Kolnyang in Jonglei State in a coordinated attack in which armed men surrounded the village and then entered, firing at civilians.

In February, UN Mine Action Service (UNMAS) announced that it had found the remains of several cluster bombs on a stretch of road between Bor and Juba. UNMAS asserted that these cluster bombs had been used during the current conflict and had been dropped by either fixed wing aircraft or helicopters, both of which the South Sudanese and Ugandan armies possess. Cluster munitions are indiscriminate weapons that leave unexploded bomblets behind, which put lives and livelihoods at risk long after a conflict may have ended.

Harassment of political opposition, human rights defenders, independent journalists and civil society

Four of the 11 opposition politicians detained between 16-19 December 2013 remain in detention in Juba. Although the Minister of Justice announced that the four had been charged with treason on 28 January, they and their lawyers have not been given written charges, seen the evidence behind the charges or been informed of a date for a trial. Treason in South Sudan carries the death penalty or life imprisonment.

CSOs and independent journalists have been increasingly pressured by the government and opposition forces. Some, like the Executive Director of the South Sudan Human Rights Society For Advocacy, have left the country after threats by the National Security Service and anti-government forces, while others, such as staff from the independent Radio Tamazuj or the United Nations supported Radio Miraya, have had to flee to UN bases or go into hiding. Not only is this harassment and suppression of the right to freedom of expression a human rights concern in itself, but it will also be a stifle independent voices that could contribute to a post-conflict phase.

Ongoing peace talks in Addis Ababa, and any future discussions during the transition to a post-conflict environment, will require the involvement of civil society and an environment where ideas can be exchanged freely without fear of harassment. Since the start of the conflict, civil society organizations based in South Sudan and the diaspora, including church networks and coalitions of civil society organizations have been releasing statements with proposals to resolve the conflict and manage issues of justice and reconciliation. Past reconciliation process, including the 2005 Comprehensive Peace Agreement, emphasized negotiations between political parties at the expense of civil society, and therefore failed to account for structural problems and underlying human rights concerns that ultimately helped cause the current conflict.

Investigating abuses carried out during the conflict

On 30 December 2013, the African Union Peace and Security Council (AUPSC) issued a communiqué in response to the fighting in South Sudan. This communiqué requested the Chairperson of the Commission, in consultation with the Chairperson of the African Commission on Human and Peoples' Rights, to establish a Commission of Inquiry (CoI) to investigate abuses perpetrated during the conflict. The CoI would ensure accountability, reconciliation and healing among all South Sudanese communities.

As of 21 February, AU negotiators were still drafting its terms of reference, but reports from inside the AU discussions on the Col suggested that member states disagreed over the mandate of the commission, including the extent to which it would have power to bring perpetrators to justice. A strong Col would need to:

1. Contain terms of reference that expressly require the Col to assess the underlying causes of the conflict.
2. Be an open inquiry, in which all aspects of the Col's work are made public. So far as possible, the media and public should be given access to the proceedings and to the evidence on which the Col bases its findings.
3. Have powers to identify those suspected as responsible for abuses perpetrated during the conflict with a view to bringing them to justice, and contain follow-up measures to ensure justice.
4. Identify measures to ensure full reparation to victims including measures for non-repetition. These measures would include truth, justice and reconciliation.
5. Have express authority to obtain all the information it needs, with full freedom of movement and freedom of inquiry to carry out its tasks.
6. Have the authority to require South Sudanese authorities to suspend from duty any officials involved in matters it is investigating, if there is reason to believe that they may interfere with witnesses or otherwise interfere with the inquiry or other proceedings.
7. Contain people of demonstrable/proven integrity, independence, impartiality and competence and have a balance of men and women.
8. Consider the impact on all people and groups affected by the conflict, including women or other marginalized people.

Conclusion

Mr. Chairman, members of the subcommittee the United States government has been heavily engaged in Sudan since the 1970's first providing support to the government in Khartoum and since 1989, leading the international effort to end the protracted and bloody civil war between the SPLM and the government of Sudan as well as responding to different humanitarian crises that have cost millions of lives. The United States played a key role in brokering the end of the civil war and orchestrating the process that resulted in the secession of South Sudan, its birth as an independent nation has been the largest single donor to the new government in addition to providing support to a government formed from an armed group that had been fighting for over 20 years. In other words the near collapse of the new government in Juba represents not only another tragedy for the people of Southern Sudan unless resolved in a manner that leads to sustained improved governance and respect for human rights, it sends a chilling message for the entire continent and arguably here in Washington. This is why the peace talks in Addis Ababa must not be conducted in a "business as usual" style, leaving the shaping of the ceasefire, its implementation and hopefully ensuring the longevity of the peace afterwards to only the Government of South Sudan and the forces allied to former Vice President Riek Machar and their supporters. The manner in which a peace agreement is reached will be as important as the agreement itself because it will either help cement the legitimate and critical role of civil society in affairs of their country, and include historically marginalized populations, it will also underscore the concept accountability for governments and the people in those governments.

Recommendations

It is important that as policy makers in Washington deliberate on steps going forward there is clarity on the nature of the issues that both countries face individually that are similar but in different contexts and those where seeking to address the issue in one country would benefit from better coordination of efforts to address the same issue with the other. In this category we would include

- improving the delivery of humanitarian assistance and
- expanding and robustly enforcing the UN arms embargo

Well over 800,000 people have been displaced by the current crisis in South Sudan, with over 700,000 of those internally displaced and either seeking shelter in crowded UN bases, or staying in rural, open settings with little or no access to food, water, sanitation and shelter.

In Sudan, the delivery of essential humanitarian assistance to civilian populations in conflict-affected areas has been severely hindered due to government restrictions and widespread insecurity in the region.

The United States and the international community must prioritize getting the governments of Sudan and South Sudan to facilitate the delivery of humanitarian assistance.

This includes removing obstacles to their operations, working to ensure the safety of staff delivering humanitarian assistance, ensuring access to at risk communities and ensuring the safety and protection of refugees and the internally displaced.

The destructive role played the glut of small arms in both Sudan and South Sudan has contributed to conflicts, loss of life and destruction of livelihoods.

Darfur is awash with small arms, with their widespread availability viewed as one of the main contributing factors to insecurity. Despite the UN Security Council imposed arms embargo on Darfur, there has been compelling evidence that arms have been and continue to be used to commit serious violations of international humanitarian and human rights law in Darfur, and other parts of Sudan. As such, the UN Security Council needs to immediately expand the current UN arms embargo to cover the whole of Sudan, in order to stop military and related supplies reaching all parties to the conflict in Darfur.

The flow of small arms in to the region has not stopped and the civilian population continues to suffer the consequences. Reducing the availability of these weapons will be critical to helping curb abuses in Darfur, Blue Nile and Southern Khordofan states and will be essential for conducting effective DDR processes in South Sudan where abuses carried out by soldiers and armed civilians in the last few months have underscored the dangers of having easy access to arms.

Even as these larger bi-lateral challenges should be taken up, renewed focus on human rights issues in both countries must be continued.

For Sudan, the United States must:

- Call on the Sudanese authorities to immediately cease all attacks in violation of international human rights and humanitarian law in Darfur, Southern Kordofan and Blue Nile including deliberate attacks on civilians and indiscriminate aerial bombardments in civilian areas.
- Urge the Sudanese government to promptly, independently, impartially and efficiently, investigate all allegations of attacks against civilians by members of the Sudanese paramilitary forces, in line with the requirements of international law and standards of fair trial, and to ensure that perpetrators are held to account.
- Demand that the government of Sudan complies with the existing UN arms embargo on Darfur, including by stopping all offensive military flights and seeking prior authorization from the UN Security Council Sanctions Committee to move military equipment and supplies into Darfur.
- To express concern over the on-going restrictions of basic civil and political rights, and the continued harassment of critics of the government, including through the practices of arbitrary detention, torture and ill-treatment, and restrictions on freedoms of expression, association and assembly.

For South Sudan, the United States and the International community must:

Continue efforts to ensure a durable ceasefire is achieved.

Ensure that ongoing peace negotiations and the establishment of an AU Commission of Inquiry prioritize accountability, as well as reconciliation, ensuring that those responsible for abuses during the conflict are brought to justice.

Open up ongoing negotiations in Addis Ababa between the Government of South Sudan and representatives of the opposition so that all stakeholders, women, civil society groups and other marginalized communities can participate in building lasting peace and ensure that there is broader ownership protecting human rights in the country as well as helping to strengthen national institutions charged with this work.

Thank You