

Testimony of
Special Envoy for Sudan and South Sudan Donald Booth
before the House Subcommittee on Africa, Global Health, Global
Human Rights, and International Organizations
“The Growing Crisis in South Sudan”
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Chairman Smith, Ranking Member Bass, and Members of the Subcommittee, thank you for the opportunity to speak before you today. I want to express my appreciation to you, Mr. Chairman, for your recent trip to Juba and your engagement with leaders there on the importance of securing peace and holding accountable government soldiers responsible for sexual assault, murder, looting, and other serious crimes.

Today I want to discuss the alarming events we have seen over the past two months in South Sudan. I want to talk about the enormous efforts and good work of Ambassador Phee and her staff in Juba. Without ignoring the bitter reality on the ground, I want to talk about the possibilities for the way forward, and how we might help South Sudan pick up the pieces in spite of the very understandable skepticism many of us feel. And I want to talk about our current plans with regard to imposing real consequences on those responsible for violence and for derailing the chances for peace in South Sudan, including the possibility of an arms embargo.

Chairman Smith, as you know from your recent visit to Juba, South Sudan is in a dire state. The country and its people are suffering from multiple, converging crises—economic, political, and humanitarian. The most recent flare-up of violence, in early July, created a perilous security situation in many parts of the country; there is now fighting in Central and Western Equatoria, Jonglei, Southern Unity, and parts of Upper Nile. The potential for fighting to spread to other areas is real. The humanitarian situation is one of the most extreme in the world, with 4.8 million people—over 40 percent of the population—facing life-threatening hunger and 2.5 million people displaced by conflict. The economy is in free-fall, with year-on-year inflation soaring past 600 percent, and shortages of basic goods, as well as fuel. Serious crime, particularly a sharp increase in the occurrence of sexual violence, is now a part of daily life for many South Sudanese, and its effects are felt by ordinary citizens as well as the humanitarian agencies whose aid supplies are seen as targets.

I would like to discuss what I see as the way forward, but first I want to share my thoughts on events of the past two months. It has been a complex, consequential, and disheartening time for South Sudan, and for those of us who invested in its future. The violence that erupted in early

July was not inevitable. Unfortunately, neither President Salva Kiir nor then First Vice President Riek Machar were willing to work together to implement the agreement or set up the required security arrangements to prevent a return to fighting in Juba. Moreover, both lost control of their forces during a moment of tremendous political fragility; government soldiers engaged in sexual violence against civilians, including the attacks on both South Sudanese and foreigners at the Terrain Camp; and government forces spent weeks pursuing one of the co-signatories to the peace agreement. We saw the moment of greatest optimism since the signing of the August 2015 peace agreement—the establishment in late April of the Transitional Government of National Unity—shattered, once again, by the irresponsibility, recklessness, and ruthlessness of South Sudan’s leaders.

Following the early July violence, the political situation has become even murkier. President Kiir’s appointment of Taban Deng Gai as First Vice President, replacing Machar, followed Machar’s flight from Juba after several days of heavy fighting in the capital. We are of course concerned about adherence to the terms and the spirit of the peace agreement, but at the same time it is not for us to tell South Sudan who its leaders should be. The United States supported Machar’s return to Juba in April of this year not out of support for him personally, but because we supported the peace agreement under which he was returning. Now, given all that has happened, we do not believe it would be wise for Machar to return to his previous position in Juba. But this cannot become a justification for President Kiir to monopolize power and stifle dissenting political voices.

I would be remiss not to pause here and praise the work of Ambassador Molly Phee, Deputy Chief of Mission Jim Donegan, and their staff at Embassy Juba over the past two months. They have faced enormous hardship and real danger in doing their jobs, and their work has been extraordinary. They have maintained lines of communication with the government even during a time of unprecedented hostile rhetoric toward the U.S. government and the United Nations, and the few lines of communication we have for continued engagement are due to their efforts.

Ambassador Phee was instrumental as well in the response to the July 11 attack against foreigners and South Sudanese at the Terrain Camp compound in Juba, and in averting an even worse outcome. I cannot put this more simply: Ambassador Phee did everything within her power and resources to assist those who were under assault at Terrain Camp as soon as she became aware of what was happening. I believe the Members of this Subcommittee are by now familiar with events of that day, but it behooves me to put into the record a clear and complete accounting of those events.

At approximately 1600 local time on July 11, 50 to 100 armed men in uniform entered the Terrain Camp residential compound in Juba, where multiple international staff employed by Internews, Management Systems International, and DynCorp resided. Residents included both

third-country nationals and U.S. citizens, and the national staff of the camp. Based on eyewitness accounts shared by the survivors and what we understand to be the geographic disposition of government forces throughout Juba at that time of the day, we assess that government forces were the perpetrators of the heinous crimes at the Terrain Camp.

During the attack, the Internews South Sudanese journalist and USAID implementer John Gatluak, who appears to have been targeted because of his Nuer ethnicity, was killed, and numerous expatriate staff members of both our implementing partners and the UN were robbed, beaten, and sexually assaulted.

Upon receiving word of the attack on Terrain Camp, Ambassador Phee immediately contacted South Sudanese government officials, including the heads of the Presidential Guard and the National Security Service (NSS)—two officials who she rightly assessed had personnel still under their personal control who could respond effectively—and demanded their intervention. As a result, the NSS sent personnel to the site. However, they had to move through the city in the midst of ongoing clashes occurring in multiple areas, and arrived around 1830 local time and put a stop to the attacks on the civilians at Terrain and removed most of those affected from the site, transferring them to an NSS facility and then to a hotel in a secure section of Juba. There were three expatriates who were hiding on the compound when the NSS arrived, and because of that they were not moved to a secure location. Terrain’s local security company located them the next day and transferred them out of harm’s way. Presidential Guard forces also went to the scene, but arrived after the NSS personnel had moved the survivors to safety.

Following the attack, and amid ongoing fighting throughout Juba—including in the immediate vicinity of the Embassy’s residential compound—the U.S. Embassy worked to ensure that U.S. citizens and foreign nationals affected by the attack were moved to safety and received emergency medical treatment. The U.S. Embassy also provided for the rapid departure of those affected by the attack on an air ambulance, contracted by the Department of State, and U.S. MILAIR the following day, July 12.

During the time of the attack on Terrain Camp, the UN Mission in South Sudan (UNMISS) received distress calls, and requests for Quick Reaction Force (QRF) assistance. It remains unclear why a QRF was not sent, but the UNMISS camp itself was in the midst of the firefights between government and opposition troops at that time. We remain deeply concerned that UNMISS did not respond to the Terrain Camp attack. We strongly support the Secretary-General’s establishment of a special, independent investigation into the UNMISS response to these terrible events, including the extent to which government obstruction played a role. If peacekeepers are deemed unwilling or incapable to carry out their mandate, which includes the protection of civilians, we will demand swift corrective action. We have asked to receive a full

and detailed briefing when the report is complete. We will continue to press the UN to improve security for all UNMISS personnel, NGO workers, and civilians.

On August 16, the Government of South Sudan set up a commission, chaired by the Deputy Minister of Justice, Martison Oturomoi, to investigate the incident at the Terrain Camp.

The South Sudanese government arrested and charged five Sudan People's Liberation Army (SPLA) soldiers with looting at Terrain Camp and an additional 14 for looting in general. It is unclear if there will be further arrests in connection with the attack on Terrain Camp. The government has not charged anyone with more serious crimes, such as rape, assault, and murder. We believe this is unacceptable, and we are demanding that the government to fully investigate and hold accountable all those involved in the attacks, including thorough criminal prosecutions.

The State Department publicly condemned the outbreak of violence and the reports of government soldiers raping women, and called for an end to attacks on civilians, UN peacekeepers, and humanitarian workers, as well as criminal accountability for those determined to be responsible for any crimes against humanity. The government must hold accountable those responsible for this violence and other violence in early July that killed and displaced thousands.

In sum, our principal concern in this case was ending the attack and getting the survivors to safety, ensuring that their immediate needs were met, and then protecting their privacy. Ambassador Phee urgently responded as soon as we were made aware of the attack.

Moving forward, USAID and the Embassy have been meeting regularly with our implementing partners in Juba and with their headquarters here in Washington, and are providing guidance to partners in light of the new security situation in Juba. Through these engagements we have held an open dialogue with our partners on the latest conditions in South Sudan and staff security, and steps taken by the U.S. Government to improve partners' safety.

Given the persistent fragility of the security situation in Juba, the safety of our personnel at the Embassy remains a top concern. The additional military and Diplomatic Security personnel who deployed to Juba on July 12, following the outbreak of violence, remain in place, with some personnel having been replaced in routine rotations. The U.S. military remains positioned outside South Sudan as well to assist in the event of renewed violence and a need to evacuate additional Embassy personnel or U.S. citizens. The U.S. Government is appreciative of Djibouti and Uganda's flexibility in supporting U.S. response forces during these uncertain times. The Department of State and the Embassy's Emergency Action Committee are regularly reviewing this security posture. In the event of another rapid deterioration in the security environment, the Department of State again will do everything it can to assist U.S. citizens in South Sudan, in addition to ensuring the safety of our own personnel. The State Department's July 10 press statement stressed that "the Embassy's ability to provide emergency services to

U.S. citizens in Juba is extremely limited,” echoing previous Travel Warnings and security messages to U.S. citizens in South Sudan.

Now I would like to turn to what I see as the way forward. South Sudan presents a bleak picture at the moment. But I believe there are steps that South Sudan can take to implement key elements of the peace agreement. I believe it is more useful to speak in terms of the agreement’s key reform elements, which allows us to home in on the most important steps that the Transitional Government can take to pull back from the precipice.

First, we continue to press all sides to adhere to the ceasefire. We have been clear in our message that there is no military solution to this conflict, and that we expect all sides to stop military operations. We will use the tools available to us to increase pressure on those who seek a return to fighting.

One particularly upsetting aspect of the current crisis is the conduct of South Sudanese government forces. We continue to receive reports of civilians being targeted, including with brutal sexual violence. Recent reports indicate a new campaign by government commanders to recruit child soldiers. The State Department released a statement on August 31 underscoring our alarm at the new reports of child soldier recruitment. I want to make clear that the United States has provided no direct military assistance to the Sudan People’s Liberation Army since the outbreak of conflict in December 2013. Prior to that, our engagement did not involve the provision of any lethal material assistance.

We are also insisting that the government end obstruction of aid and instead adhere consistently to commitments to create an enabling environment for the delivery of humanitarian assistance and civilian protection. Humanitarian access cannot be sporadic and conditional, but should entail the unhindered ability to reach all populations by all means necessary, as well as freedom of movement for civilians accessing aid or endeavoring to return to their daily lives.

What is most urgently needed is the restoration of stability in Juba. Without a stable security situation, there can be no hope for an inclusive political process. That is why we strongly support the Intergovernmental Authority on Development’s call for a Regional Protection Force (RPF) to deploy to Juba as part of UNMISS and help provide for free and safe movement throughout the capital, so that political actors can engage without fear of intimidation or worse.

The RPF should proactively contribute to stability and thereby allow for the demilitarization of Juba as called for in the peace agreement, helping to reduce tensions overall. But we must be clear that the government will need to allow the RPF to do its job once it is in Juba. No political process can take place as long as Juba is home to large numbers of armed men and heavy weaponry that are closely aligned with specific political actors. The peace agreement called for

SPLA forces to redeploy outside Juba, and that must happen. Elements of the government-controlled National Security Service must be firmly under civilian control and monitored closely to ensure that they do not contribute to instability. Any informal militia elements outside of the formal chain of command in and around Juba must be immediately disarmed. If these measures happen, the RPF would function to fill any security vacuum. The UN Security Council, in authorizing the renewal of the UNMISS mandate, included language calling for a security arrangements workshop to determine the number of forces that should remain in Juba; with deployment of the RPF, we believe this number should be the absolute minimum.

But South Sudan's leaders must also think beyond the most immediate security needs, and look ahead to the creation of a professional, inclusive South Sudanese national army – which is the only way to prevent further atrocious violence in the future. We are pushing South Sudan's leaders, as the agreement requires them, to contemplate the end state of security sector reform: what is the size and composition of a professional, inclusive national army? How will they disarm and control informal armed elements outside the formal military chain of command? South Sudan's leaders need to be able to articulate what that end state looks like, and any international support for cantonment or DDR activities will depend on, among other things, the credibility of their envisioned end state.

Stabilizing the security situation is only the first piece, and ultimately its importance is that it will allow a political process to resume. Any political process, to be credible and viable, must be more inclusive than it has been to date. Once the security situation somewhat normalizes, I believe what is needed is an all-parties conference to reconstruct the power-sharing provisions of Chapter I of the peace agreement. However, such a conference and new power-sharing arrangements can only succeed if those currently in power are willing to effectively share control of the state and its resources. We have seen time and again in both Sudan and South Sudan that implementing effective power-sharing arrangements is difficult. Without broad, inclusive access to resources and representation in government for all of South Sudan's groups, violence will continue, as many will continue to see violence as the only path to political relevance. The violence in early July drove out of Juba significant factions of the Sudan People's Liberation Movement-in-Opposition, the Former Detainees, and other political parties. They must be deterred from supporting any further violence. Thus they must see a means of peaceful engagement to rebuild South Sudan.

President Kiir and those around him bear much of the responsibility for the extent to which the Transitional Government has failed to become the representative body it needs to be, both before and after the recent return to conflict. In addition to the egregious action of militarily pursuing his First Vice President out of South Sudan, President Kiir has continued unilateral implementation of his 28 states decree from December 2015, stoking grievances in many parts of the country and among various tribes for the way it privileges his own Dinka ethnic group; he

has reconfigured the Cabinet following his elevation of Taban Deng Gai into Machar's previous position and demoted Nuer politicians loyal to Machar; and he has facilitated a zero-tolerance policy toward dissent both within the government, from fellow politicians, and without, from civil society and the media. His recent call for early elections is an apparent attempt to circumvent the timeline laid out in the peace agreement, which calls for elections after a constitution has been drafted and ratified through an inclusive, consultative process.

Only once the transitional government arrangements are reconstructed based on discussion among an inclusive and nationally representative group of South Sudanese leaders, and state resources are more equitably distributed, can South Sudan plausibly expect to escape further conflict.

Accountability is also key to achieving peace. We believe the Transitional Government should prioritize passage of legislation regarding the African Union-led Hybrid Court for South Sudan; in the meantime, the African Union should take steps towards setting up the Hybrid Court by laying the administrative and technical groundwork. A nationwide survey by the UN Development Program and a South Sudanese NGO indicated that 93 percent of respondents supported holding individuals accountable in court for war crimes and crimes against humanity and 83 percent supported the involvement of international justice mechanisms. We strongly support the establishment of the Hybrid Court, which will have jurisdiction over any criminal acts committed during the current transitional period. The Transitional Government should also prioritize legislation establishing an open, consultative process for drafting and ratifying a new constitution, under which new elections will be held at the end of the transitional period.

What I have described is a sequence of interdependent events: beginning the process of drafting a constitution cannot happen until an inclusive process reconstructs the peace agreement's power-sharing arrangements; and such an inclusive process cannot happen until the government undertakes to demilitarize Juba and allow different political actors to move around without fear for their safety; and the demilitarization of Juba cannot happen until the Regional Protection Force deploys with the robust mandate described in UN Security Council Resolution 2304.

I am describing this as the way forward not because it will be easy or simple, but because it is almost impossible to see any other path that does not lead to a future of oppressive one-party rule, renewed conflict, or—most likely—both at once. I am not naïve about the chances of all these things happening. As we have seen in the past two months, and the year before that, our ability to influence events in South Sudan, and to steer its leaders toward more constructive behavior, is limited. President Kiir and his inner circle may well not see an inclusive political process as being in their interests, but without such a process it is hard to have much hope for South Sudan. This is why we are continuing to work to preserve regional and international unity in pressing the government on the need for fundamental reform. As I have said before to this

Subcommittee, South Sudan has no greater friend than the United States, and here I mean the people of South Sudan. It is their future that grows bleaker by the day, and on their behalf that we must continue, even against long odds, to push their leaders to act responsibly and put the interests of their people above their own.

We have had extensive discussions with the African Union on their efforts to establish the Hybrid Court for South Sudan, and continue to urge AU officials to move expeditiously to establish the court. While there are numerous difficult technical questions to address regarding the court's location, procedures, and personnel, we have suggested that they demonstrate concrete progress by establishing an office of the prosecutor and hiring key administrative staff. We have also had productive discussions about providing initial financial support, and anticipate being able to finalize a grant – fulfilling Secretary Kerry's pledge to support justice and accountability in South Sudan – by the end of this fiscal year.

We have made clear to government officials our expectations that they cooperate fully with the Hybrid Court. We have also made it clear that we expect South Sudanese officials to hold accountable their security forces—both formal and informal—who are responsible for violations of international humanitarian law and the law of armed conflict, including those responsible for the unconscionable targeting of civilians and sexual violence.

The UN Security Council just returned from a trip to South Sudan, where they urged implementation of UNSCR 2304 and the deployment of the Regional Protection Force. We were pleased that the Council was able to come to agreement with the Transitional Government on several key issues, including granting consent to the deployment of the RPF and to work with UNMISS. However, we now need to see these words turned into action. Should the South Sudanese government obstruct deployment of the Regional Protection Force, or otherwise place impediments in its way, then it must face consequences as envisioned by UN Security Council Resolution 2304. The August 12 authorization of the mandate for the UN Mission in South Sudan included a stipulation that the Security Council would consider other measures should the Government of South Sudan obstruct operationalization of the Regional Protection Force or UNMISS operations generally.

If the Government of South Sudan obstructs deployment of the Regional Protection Force, we will be forced to interpret this as a signal that the government is not serious about working with the UN Security Council and its IGAD neighbors in restoring security in Juba and allowing an inclusive political process to resume.

If the Secretary General's report after 30 days finds that the government is obstructing deployment of the Regional Protection Force or continuing to prevent UNMISS from fulfilling

its mandate, or there is other clear evidence of such obstruction or impediment, we are prepared to support the imposition of an arms embargo on South Sudan in the UN Security Council.

Beyond an arms embargo, we stand prepared to impose visa restrictions on individuals involved in public corruption. As has been exhaustively discussed, including with Members of this Subcommittee, official corruption has a long history in South Sudan, and it has played a direct role in the furtherance of conflict in the country.

I would have liked to come before this Subcommittee today with better news. When I was last here, in April of this year, it seemed we might be on the verge of the first real progress since the peace agreement was signed. Now, as we contemplate events of the past two months, we face an ever-narrowing set of options to pull South Sudan back from the brink. It is a frustrating and disheartening situation, particularly, of course, for South Sudanese. With them in our minds, I believe we must remain engaged and continue to press South Sudan's leaders to give peace a chance, to allow deployment of the Regional Protection Force, demilitarize Juba, broaden political participation in the government so that it can effect reform of the security sector, stabilize the economy, pursue accountability, and prepare a new constitution that will guide South Sudan's future.

Thank you for inviting me to speak today, and I look forward to your questions.