

Statement of
Roger P. Winter
Former Special Representative on Sudan
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Chairman Smith, Ranking Member Payne and Members of the Subcommittee, thank you for inviting me to testify on this important issue. I have appeared before this Subcommittee or its predecessors many times over more than two decades, primarily discussing conflict in Sudan. It is my greatest wish that peace will prevail in all of what is now Sudan. However, I believe the widely-shared aspiration for peace in Sudan is at risk, primarily because of the actions of the Khartoum government.

Having begun my work in and on Sudan in 1981, I was fortunate, first as the Executive Director of the nonprofit U.S. Committee for Refugees, then as Assistant Administrator of USAID and subsequently as the State Department's Special Representative on Sudan, to be a member from 2001 to 2006 of the U.S. team that worked on the Comprehensive Peace Agreement and the failed Darfur Peace Agreement. As a result, I have seen the effects on the people of Sudan of the brutal, self-serving, violence-prone Bashir government for more than two decades. From these experiences, I would like to make a few key observations on the South, the so-called 'Three Areas' (Abyei, South Kordofan/Nuba Mountains, and southern Blue Nile), and our and diplomacy on Sudan.

Two weeks from today, June 30, 2011, will be the twenty-second anniversary of the coup that brought the National Islamic Front, now called the National Congress Party, to power. Since then, President Bashir and his cronies have presided over the needless death of nearly three million Sudanese, in the South, in Darfur, in Abyei, in South Kordofan/Nuba Mountains, in Southern Blue Nile, in Beja and, in fact, throughout its territory. Mega-death in Sudan, however, has never precipitated an effective justice response. The unnecessary civilian death goes on unimpeded today. UN peacekeeping efforts, unlike the indispensable UN humanitarian initiatives, are often largely ineffective in protecting Sudanese civilians. The International Criminal Court has proven to be largely irrelevant to the victims. Protective diplomacy since the Comprehensive Peace Agreement in general has been for the most part ineffective. Khartoum sees these efforts to protect Sudanese civilians from political violence as bluster, not genuine protective initiatives of substance. History seems to have proven Khartoum right on that point.

As the CPA process lurched forward over the last six and one half years, it may have seemed to many that it was too long a process and would never end. However, in twenty-three days, South Sudan will become an independent country. Last January, in a political exercise without equal, virtually all the people of South Sudan voted for independence. I have been an observer in numerous elections in Africa and have worked in elections here in the U.S. I have never seen a more orderly, more dignified exercise than 'The Referendum' in South Sudan. It was quiet, efficient, unchallengeable and essentially unanimous. While I fully expect the Southern peoples' choice of independence will in fact occur on July 9, I believe the actions of Khartoum in Abyei, the Nuba Mountains(South Kordofan state), and potentially Southern Blue Nile are like huge flashing red lights. They are signaling that over the next few weeks, and during the post-Independence period, relations between Khartoum and the South will likely be poisonous at best, despite the fact that all these critical areas are not actually in South Sudan.

ABYEI

Historically, the borders between North and South Sudan have been changed numerous times. There are half a dozen currently-contested border situations that present major issues between the CPA signatories that, ideally, need to be negotiated between the parties before Independence. The situation of Abyei is the most controversial and its history should be better understood, even in an abbreviated way, to get the picture.

In 1905, the homeland of the Ngok Dinka, i.e. Abyei, was transferred by the British colonial authorities from South Sudan to North Sudan for administrative purposes. Over a half century the Ngok developed a strong sentiment to return to the South where their physical and cultural heritage would not be an issue. These aspirations, along with other grievances of other Southerners, became the basis for the first phase of civil war in Sudan, starting just before independence from Britain on January 1, 1956. In the 1972 Addis Ababa agreement ending that war, the Ngok were promised a referendum on whether Abyei should be in North or South Sudan. In fact, Khartoum never allowed that referendum. Key Ngok leaders subsequently became key leaders in the Sudan Peoples Liberation Movement (SPLM) when it 'went to the bush' in 1983, triggering the 22 year war that the CPA ended. The two warring parties, Khartoum and the SPLM, ultimately agreed in 2004 to the Abyei Protocol, which was drafted by the United States; it was the last major piece of the CPA to be signed. **Khartoum never implemented any of the key element of the Abyei Protocol** and the U.S. and others never made a major issue of that failure. As a result, there was virtually no functional governance or services for the abandoned population in Abyei for years.

The Misseriya are a neighboring pastoralist population whose large traditional home area lies to the north of Abyei with Muglad as its principal town. The Misseriya, along with another group, constituted the so-called Murahaleen, that in the 1980s were active in raiding Dinka communities for capturing and selling slaves. President Bashir has frequently mobilized Misseriya elements for military purposes in his Popular Defense Forces (PDF) and the Sudan Armed Forces (SAF). He has often mobilized Misseriya for his legions by publically promising them that he would get **all** of Abyei for them, virtually a commitment to a policy of ethnic cleansing. These promises and his payoffs fueled high levels of tension between Misseriya and Ngok Dinka. This had strong implications for the Misseriya way of life. For several dry months of each year, by long-standing agreements with the Ngok, the Misseriya need to bring their animals into Abyei and even further into South Sudan for water and pasture, a necessity that Bashir's inflammatory actions could threaten.

In May, 2008 the 31st brigade and other Misseriya elements of the Sudan government's military attacked Abyei and burned most of it to the ground, displacing the entire Ngok population. The UN protective force in Abyei hunkered down in their fort and did not venture out for days. I was there with several others to document the destruction by photograph and video. There was little if any reaction from the U.S. to Abyei's travail. In the aftermath of Abyei's destruction, the SPLM and the Khartoum government went to the Permanent Court of Arbitration in the Hague. The Court defined the territory of Abyei, which was in dispute; both the SPLM and the Khartoum government promised to implement the PCA decision, though Khartoum ultimately failed to do so.

Specifically, Khartoum sought to undermine the Protocol's intentions: the Protocol clearly sought to

provide the basis for a self-determination referendum in which the voters would be members of the Ngok Dinka community and other Sudanese who are **residents**. In an illegitimate effort to takeover Abyei Khartoum began to move nomad Misseriya into Abyei in order to claim residency. (The equivalent of Khartoum's proposal would be if I, a resident and voter who lived in Maryland ten months a year, could also claim at the same time to be a resident of and vote in Delaware by virtue of spending my summers on Delaware's ocean beaches.) Consequently, the NCP and SPLM could not agree on who would be able to vote in the Abyei referendum and, thus, that referendum has never been held, enraging and terrifying the Abyei population. U.S. Special Envoy Scott Gration essentially threw gasoline on the situation by suggesting, as he approached the end of his tenure, that a sizeable chunk of northern Abyei should be jointly administered by both Ngok and Misseriya, a proposal that would not even come close to improving the livelihood situation the Misseriya could have by having a constructive relationship with the Ngok. Rather, it would help Khartoum. Because of Gration's intervention, many Ngok I know, when I saw them in January this year, literally had tears in their eyes, believing with cause that the U.S. had abandoned them.

After the Southern Referendum vote on January 9, 2011, Khartoum escalated the pressure on Abyei, and last month (May 21) stormed it militarily. Once again, the Ngok had to run for their lives and become homeless paupers; their homes destroyed and looted, their dreams dashed again. Letting Khartoum get away with this kind of repetitive destruction and dislocation makes a sick mockery of the so-called 'right to return'. On June 8 the Associated Press reported that a confidential UN report dated May 29 expressed concern about 'ethnic cleansing' in Abyei. Juba appealed the takeover to the international community, making no military threats, at least for now.

Some observers suggest that Khartoum 'took' Abyei as a bargaining chip to maximize its leverage in negotiating a final North-South agreement on oil revenues: Khartoum, it was thought by some, would compromise on Abyei if their oil share was big enough. Others suggest the SPLM is holding off any military response until after July 9. Either could be right. What is clear is that additional violent possibilities are likely to be in Abyei's future, with unknown implications for the North-South relationship after July 9. It is clear U.S. diplomacy on Abyei under two Administrations has failed miserably on one of the most predictably explosive elements in the CPA, a failure that may violently ricochet through the region for decades to come.

The only way to ultimately protect the horribly and continuously abused residents of Abyei who have suffered more than almost any community anywhere in this world, is to move Abyei and its residents to the independent South Sudan.

South Kordofan/Nuba Mountains and Southern Blue Nile (SBN)

These two areas are located in Northern Sudan, just above the north-south border. During the war that the CPA ended, many thousands of the people in these areas joined and fought for the Sudan Peoples Liberation Army. They were attracted by the SPLM's vision of a 'New Sudan' in which people from all walks of life, regardless of race or religion, could benefit equally. Most recruits were of African heritage. Religiously they included both Muslims and Christians. The Deputy Governor of South Kordofan is SPLM General Abdul Aziz Al-Hilu, a heroic figure who led the first SPLA forces into Darfur in the 1990s to protect the people from the ethnic cleansing actions of Khartoum; he is targeted now for death by Khartoum's forces.

For many years, there was a fatwa by Islamic leaders in Khartoum against the people of the Nuba Mountains in what is now South Kordofan State. As a result they lived remotely in the mountains for

security. I remember very well in August 1995 going to Nuba, which had essentially been a 'no go' area for years. There was no transport capacity anywhere at the time so I walked, passing burned out churches on the way. After meeting with a group of Nuba Christian leaders for several hours trying to understand their tribulations at the hand of the Khartoum government, I then went directly into a similar meeting with the Nuba Muslim leadership. Those two communities get on well in Nuba, but the Muslim Nuba leaders insisted to me that Khartoum treats them worse than it does the Christian Nuba because Khartoum views the Nuba Muslims as "not the right kind of Muslims". The genocide in Nuba was real and documented by African Rights, Alex de Waal and many others. Nuba were often just shot on sight by Khartoum forces, no questions asked. Today, again, Nuba are positioned for liquidation by Khartoum forces.

South Kordofan's governor is a fugitive wanted by the International Criminal Court and under his leadership all hell has broken loose in the state-literally. The underlying issue is implementation of the CPA requirements on redeployment of combatants. For the Khartoum forces, this process was simpler than for the SPLA. The SAF elements in the South were overwhelmingly northerners who could return to the North. Southerners who fought on Khartoum's side were generally in Southern militia groups, most of whom were integrated into the SPLA when their units were disbanded. However, in the large SPLA forces in South Kordofan and in Southern Blue Nile, the fighters were overwhelmingly residents of South Kordofan and SBN, i.e. SPLA northerners. While many have been demobilized or otherwise integrated, many have not. Like the 'Popular Consultation' provisions of the CPA, which have been seriously delayed and are in fact controversial, so too has the demobilization or redeployment process been running behind schedule, though the deadline is the end of the transition period **plus 90 days**.

Rather than negotiating a realistic solution, Khartoum sought first to try to force all those not yet redeployed or demobilized SPLA soldiers to go to South Sudan, unsuccessfully seeking to compel these Northerners to move to the South. On June 5, fighting between SAF and these SPLA Nuba forces started, quickly turning into a broader attack on local opponents and Christians. Quickly senior northern SPLM and NCP leaders flew to Kadugli. The SPLM proposed and the two sides negotiated and signed a ceasefire agreement and returned to Khartoum. Two hours after the delegation left, Khartoum forces attacked Abdu Aziz's residence as well as civilians; large-scale violence exploded. Throughout South Kordofan reports of gratuitous violence by SAF and their allies are now the norm. In Kadugli, Christian civilians and clerics have been attacked; 100 Christians were tear-gassed out of a church compound. Advanced Mig 29s are bombing in numerous locations. People are being dragged out of their living space and killed. In Kadugli the Church of Christ was burned. Reputable eyewitnesses saw people, presumed to be SPLA sympathizers, dragged out of the UNMIS compound in Kadugli and executed in front of UNMIS personnel, who did not intervene. And so on. The U.N. High Commissioner for Refugees is reporting that 140,000 people have already been displaced. John Ashworth, an internationally recognized authority on Sudan, and others explains that 'ethnic Nubans are being targeted by the northern military and Arab militias...they are being hunted down for their ethnicity'. Other reports, not just from Kadugli, but in Dilling, Kauda and a dozen other locations, people thought to be supporters of the SPLM had their throats cut. The sky is full of airplanes-Migs, Antinovs, even a Hercules, doing their deadly work but humanitarian flights into SK have been denied since June 5. As one friend on the humanitarian front line told me, "We are losing access from the south and have had none from the north. Nuba needs help! NUBA NEEDS HELP!" What little humanitarian capacity exists is draining away quickly.

The southern part of Blue Nile state also is required under the CPA to redeploy SPLA forces, including those in the Joint Integrated Units, and is also subject to the CPA provision that demobilization would

happen by the end of the transition period plus 90 days. While no violence has been reported in SBN, Khartoum's massive violence in South Kordofan could well erupt in SBN.

American Diplomacy: The CPA and its implementation-Some Thoughts

It is my view that the American initiative, in partnership with Kenya, Britain, Norway and others, which produced the CPA was a truly noteworthy American diplomatic success. President Bush deserves significant credit for that achievement. However, producing it and seeing that it was implemented are two very different processes. In my view, the ultimate flaw in the implementation phase that we now face was the inattention or the misguided attention that was paid by the U.S. to the volatile issues beyond those of South Sudan itself. I am referring to the so-called 'Three Areas', all three of which then were potential time bombs, and two of which have exploded in massive violence just as the CPA comes to its close. In my view, Abyei was almost totally ignored by the Bush administration after the CPA was signed. Even when it was destroyed in 2008, Abyei remained 'a lost ball in the tall grass'.

One complication is the many very unique aspects of the Three Areas. These range from location, visibility, history, political importance, political allegiances, and many others. The location factor is key. When Dr. John Garang before his death would make his case for a 'New Sudan', a broad swath of Sudanese as individuals and as a people could visualize the attractions of a 'new' and better Sudan. After the shock of his death, a revitalized National Islamic Front/National Congress Party, having been threatened by Dr. John's vision of a New Sudan, took the low road of selective implementation of CPA provisions. They slow-rolled boundary demarcation, assured no Abyei referendum occurred and seriously undermined any genuine NCP-SPLM partnership, all with explosive implications.

Yes, it is a good thing that Khartoum allowed the Southern Referendum to be held; but Khartoum allowed this to occur only because of the threat posed by the local and international consequences. But destroying Abyei in May, 2008 and invading Abyei several weeks ago, destroying opposition populations in South Kordofan and perhaps elsewhere---these kinds of actions are achievable by the NCP and, they think, strengthen them for the future. And unfortunately for the populations at risk, they are all in the North: Khartoum may attack and expect only a neutered international reaction.

I believe the more than two years of the Obama administration's approach to Sudan made matters worse, emboldening Khartoum, and setting the stage for Abyei's and South Kordofan's current horrors. Perhaps the eccentricities of General Gration's approach to being Special Envoy for Sudan are related to the Administration's commitment to 'reach out' to the Arab and Islamic world. His seemingly intimate relationship with the NCP leadership led to his many public references to that leadership as 'my friends', a penchant that was always noticed by observers, including the NCP's victims, North and South. How does one justify friendship with men who are responsible for three million civilian deaths? Another of his very harmful legacies is the subtle implantation in the U.S.G. system of the characterization of Khartoum and the SPLM as moral equals, a distortion some journalists have picked-up. My greatest issue, though, was General Gration's highly biased approach to Abyei.

General Gration and I one afternoon had an extended discussion about Abyei. I tried to convey my views on Abyei based on fifteen years of studying and visiting Abyei. Periodically he would say, speaking of Abyei residency, "I have to be fair to the Misseriya". I would say "Of course you need to be fair to the Misseriya but which Misseriya are you talking about? Do you mean those that are actual residents living in Abyei or are you referring to others?" In the course of our discussion, he repeated that mantra a half dozen times without ever answering my question. Unfortunately his blind commitment surely

underpinned his proposal to give the Misseriya a role in administering northern Abyei thereby emboldening the latest SAF invasion and occupation of Abyei. In my view this misguided approach to Abyei reveals far too much of the Administration's Sudan policies of the past two and a half years.