

Testimony of David Mozersky before the Subcommittee on African Affairs,
Senate Committee on Foreign Relations
“Assessing Challenges and Opportunities Facing Sudan”
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Mr. Chairman, Senator Isakson, and other members of the Subcommittee, thank you for the opportunity to testify today at this important time for the people of Sudan. I have a written statement and ask that it be included in the record in its entirety.

This hearing comes at a critical moment: the challenges facing Sudan in the coming year are of historic magnitude. The future of the country will be reshaped, for better or for worse. Southern Sudan’s self-determination referendum in January 2011 will likely result in the creation of a new independent country in the South. Yet, the risks ahead are great. Ensuring that events unfold peacefully will require sustained and high-level leadership from the international community—including the United States. As a guarantor of the 2005 Comprehensive Peace Agreement, or CPA, and the author of the Abyei Protocol, the U.S. government has a unique and important responsibility to help provide leadership and support to the people of Sudan in the months and years ahead.

It is widely expected that southerners will vote for secession, if the vote is free and fair. Some in the international community are beginning to exhibit reservations about the approaching referendum date, and the mounting list of matters that need to be implemented before the January vote. This includes unresolved issues between North and South that could sow the seeds for future conflict and governance and capacity challenges in the South that could be exacerbated post-referendum. Despite these concerns, the referendum remains a rallying cry for southern Sudanese, a common objective after two long and costly civil wars dating back more than 50 years. The developments of the coming period will have implications for all nine of Sudan’s neighboring countries and the entirety of the African continent. The African Union (AU), for instance, is built on the principle of the sanctity of existing borders and there is already much concern among AU member states about the potential fall-out from Sudan splitting in two.

There is a genuine risk of a return to large-scale North-South conflict in the run-up to the referendum and the fault lines for the coming months are becoming clearer. The referendum is the only non-negotiable red line in the CPA for the South and the southern-dominated Sudan People’s Liberation Movement (SPLM). The January 9th vote is set in stone and I believe that any attempts to delay, backtrack, or manipulate the vote will be a shortcut back to war. Pushing against this political deadline is a complex and ambiguous technical process and a significant number of steps still to be implemented. These steps include the formation of the Southern and Abyei referendum commissions, followed by the clarification of voter eligibility in the southern and Abyei referenda, with voter registration scheduled to be completed by July. Each of these steps requires some sort of agreement between the National

Congress Party (NCP) and the SPLM, yet the relationship between the parties continues to suffer from intense mistrust.

We can expect the NCP to drag its feet on procedural discussions in order to either extract greater concessions from the SPLM on post-2011 negotiations or to try to push back the referendum date given the already tight timeline before January. The response of the U.S. Government and the broader international community will be critical to determining how this transpires. Given the absolute southern commitment to the January date, as per the CPA, and the high risk of conflict that would flow from any backsliding, I would urge the U.S. Government to be vocal - early, often, and at the highest level possible - in reaffirming its commitment to seeing that the referendum is held on time per the terms of the peace agreement. The CPA is a contract between the parties in Sudan, the U.S. government, and the other international signatories. We must all live up to this responsibility and ensure that the terms of the agreement are implemented as originally agreed upon.

Despite the risks outlined above, there exist some important opportunities to help avoid the worst case scenarios and to promote sustainable peace and stability, whatever the outcome of the referendum. Allow me to briefly outline three openings that currently exist for conflict prevention efforts, where U.S. Government leadership and support to existing international efforts could have an important impact in ensuring a peaceful future for all Sudanese.

The first opportunity is to provide full and active support to early negotiations between North and South on post-referendum arrangements, to help ensure that these talks succeed. The greatest risk of conflict in the months ahead stems from uncertainties about the implications of the referendum on people's livelihoods, as well as national and economic interests - particularly in the context of a vote for independence. This uncertainty will lead to zero-sum calculations on the referendum and increase the chances of violence, particularly if key actors perceive that they stand to lose from the referendum going ahead or from a particular outcome. The importance of early negotiations on post-referendum arrangements is to provide some early guarantees to the governments in Juba and Khartoum, as well as affected communities, that their core interests and livelihoods will continue to be protected regardless of the outcome of the vote. What's more, these agreements will shape the nature of future relations between North and South. Where possible, we should be pushing for mutually beneficial arrangements that encourage continued cooperation and peaceful engagement between North and South.

The importance of this early dialogue is most obvious in the oil sector. The bulk of Sudan's oil lies in the South, yet the sole pipeline for export passes through the North. Oil revenue currently provides the majority of government revenue for both the national and southern governments. A threat to that revenue source could quickly torpedo the ability of the governments in Juba or Khartoum to rule effectively post referendum. An early deal on continued cooperation in the oil sector in the event of a secession vote will provide reassurance that southern oil can

continue to make the journey to international markets via Port Sudan and that some share of revenue from oil can still be counted on in both Juba and Khartoum in the near and middle term. By contrast, the failure to reach such a deal is likely to lead to fears among the NCP that the referendum will mean economic suicide. From that perspective, a return to war or an attempt to recapture some of the southern oil fields seems entirely plausible.

While an oil deal matters for the economies of both North and South, an equally important set of negotiations are those related to issues of citizenship and nationality. The immediate fear is the status of the 1.5 million southerners currently living in the North, should the South vote for secession. There are worrying signs about Khartoum's intent towards this population, including possibly stripping southerners of citizenship, and the resulting threat of massive forcible displacement back to the South, which could lead to outright conflict between North and South. While the citizenship criteria will ultimately be the sovereign choice of the government, the international community must ensure that at a minimum there are guarantees for sufficient protection of minority rights and that rights and responsibilities under international law are upheld. Here, there is an important precedent to build on. In 2004, Sudan signed the Four Freedoms Agreement with Egypt, whereby each government granted the right to work, and the rights of movement, residence, and ownership to each other's citizens. If Khartoum and Juba could be persuaded to make a similar public commitment at this early stage, it would go a long way toward reducing the risk of a preventable humanitarian catastrophe and toward building the framework for a sustainable peace between North and South.

The discussion on citizenship and minority rights has implications for a range of other highly charged post-referendum issues. The goal should be to find win-win solutions and to encourage continued North-South cooperation and interaction, both as a short-term safety net for vulnerable populations and as a basis for a sustainable long-term peace. A more generous agreement on citizenship options and minority rights will be crucial for opening up a series of pro-peace, mutually beneficial arrangements and will help facilitate a soft landing for all parties post-referendum. For example, such an arrangement opens the door for agreements on cross-border grazing access for pastoralist populations who reside along the border. It encourages a soft border and facilitates North-South economic cooperation, an important pillar for long-term peace. And it increases options available for the tens of thousands of northerners in the Sudan People's Liberation Army (SPLA) and southerners in the Sudan Armed Forces who may find themselves cut from their mother armies in the event of a secession vote, a serious and immediate security concern. These issues address the people most directly affected by the referendum. It remains to be seen if the effect will be positive or negative, but a package of win-win solutions begins with the question of citizenship and minority rights, and a strong U.S. position on these issues could be of tremendous value in helping to shape the direction of the process in a positive way, benefitting the people and reducing the risk of war.

The second conflict prevention opportunity is related, in that it too seeks to help reduce the chances of war along the border. Specifically, the U.S. government should promote the creation of a demilitarized zone between the Sudan People's Liberation Army (SPLA) and Sudan Armed Forces along the North-South border, with UN forces monitoring and enforcing the arrangement. Though still contested in parts, the North-South border is the de facto frontline between the northern and southern armies. Tens of thousands of troops are deployed there, among and between the communities who call this area home. There have been a handful of clashes between the two armies over the past five years - all of them have been started by a local conflict that has quickly escalated to fighting between the armies. Communities along the border are generally aligned along the North-South axis. Establishing a demilitarized zone would help to separate local tensions from national fault lines and help to avoid a violent incident from escalating to a full return to war. With Sudan heading into a period of high tension and tremendous uncertainty, separating the armies doesn't make a return to war impossible, but it does help ensure that a return to war is a policy decision out of Juba or Khartoum—and not just an escalation of local conflict that engulfs the armies (as occurred in the fighting Malakal in 2007 and in Abyei in 2008). The UN mission could help monitor the pullback of forces and patrol such a demilitarized zone. This kind of set-up could be a game changer, reducing the tension along the border and promoting stability in the transitional areas of Abyei, Southern Kordofan and Blue Nile, helping reduce the ambiguity associated with the proliferation of arms and paramilitary groups in Sudan, and reducing the risk of a return to large-scale war.

The third opportunity for conflict prevention requires that we look beyond the referendum timeline and begin to plan for the fall-out in both North and South. In either a unity or secession scenario, the terms of the CPA – the main framework for politics, and international engagement for the past five years - are due to expire in July 2011. The current interim national constitution will need to be renegotiated and there are no guarantees that the limited progress seen over the CPA's lifetime will continue. We must work to promote the creation of processes over the seven months remaining this year that encourage inclusive and consultative governance and that will survive beyond the referendum.

If we assume a southern secession vote in the referendum, then North and South Sudan both face a new and potentially more difficult set of challenges. In the South, the challenges of nation building will be great and the recent elections have highlighted dangerous intra-southern divisions that could be exacerbated once the unifying event of the referendum is over. The elections also demonstrated worrying heavy handedness at times by southern security forces against opposition candidates, the media, and civil society. These trends must be monitored closely. As part of any U.S. support to the South, we must be consistently be pushing the principles of transparency and inclusiveness in the exercise of nation building that lies ahead.

The situation in the North post-referendum is equally worrying. The April elections in the North delivered the intended result for Khartoum. Since that time, there has been a series of post-election government crackdowns and arrests of opposition, independent media, and civil society activists. A post-referendum North will still face an active rebellion in Darfur, and Sudan's long history of center-periphery conflict will likely continue, but without the South in the mix. In short, while the referendum may allow the South to opt out of one set of problems, many of Sudan's long-term troubles will remain. The U.S. can help reduce the chances of new conflict in vulnerable areas in the North by continuing to support the popular consultation processes in Southern Kordofan and Blue Nile, and helping to ensure that these processes succeed. Any U.S. engagement with Khartoum should be focused on issues of good governance and combating the culture of impunity that drives the cycle of conflict. The U.S. and the region have a stake in the nature and direction of a post-referendum North, but getting this right will require policy planning that stretches beyond the short-term.

There are two specific recommendations for initiating longer-term processes, where U.S. leadership could be catalytic. The first relates to the recent elections: Their lack of credibility, particularly in the North, but also in the South, was widely reported, and they left millions of people unsatisfied. But they were elections. Valuable lessons were learned and experiences accumulated. The next step is to ensure that elections are held again in the North and the South in four or five years time, so that those lessons can be applied and processes improved. The U.S. should lead the international community in putting the expectation of another round of multiparty elections back on the table. The second recommendation is to promote the importance of an inclusive and consultative process in North and South for the drafting and development of the new constitutions, post-CPA. These processes will create a new legal framework for one, perhaps two, new countries. Ensuring they are inclusive and consultative will go a long way towards shaping the kind of countries they're likely to govern. While much of the coming period will require the U.S. to react to events, there are opportunities to proactively lead and help shape processes that can pay dividends for peace, stability, and democracy down the road.

Finally, we must recognize that the ongoing conflict in Darfur is likely to continue for the foreseeable future. The level of fighting has increased significantly in 2010, and recent weeks have seen a number of heavy clashes between government forces and the JEM, which led to the latter's withdrawal from the Doha peace process. The war in Darfur will continue to be a cause of immense human suffering and instability throughout Sudan. The international community must continue to push for improved security, unimpeded humanitarian access for the UN and aid organizations, and the meaningful inclusion of civil society in the peace process. The United States should insist that the UN be allowed to conduct a humanitarian needs assessment, so we can better reduce current suffering and continue to work for a long-term solution.

I want to thank you again, Mr. Chairman and members of the Committee for the opportunity to testify and I am prepared to answer your questions.