

Testimony of Omer Ismail
before the Subcommittee on Domestic and International Monetary Policy, Trade,
and Technology
U.S. House of Representatives
3/19/2007

I was born and raised in El Fashir, the capital of Greater Darfur. My personal memories of Darfur are in sharp contrast with the Darfur of today that has been turned into killing fields by the Government of Sudan (GOS) and its proxy militia, the Janjaweed. I grew up in a region that was a picture of tolerance and peaceful co-existence. It is true that the environmental degradation and the competition over meager resources has been the cause of clashes between the different communities in the region. These clashes however, were limited in scope and their impact is less destructive than we have witnessed in recent years. Furthermore, the local communities have their own organic mechanisms that dealt with the conflicts without external intervention. As if the historical neglect of the region by the successive National Governments and the lack of meaningful investment and delivery of services was not enough, the current Government has applied policies, since the mid nineties that deepened the rifts between the Darfurian Communities resulting in the catastrophe that is still unfolding there.

The policy of forced Arabization and Islamization on a multi-ethnic, multi-religious Sudan, combined with a divide-and-conquer style of governance led the GOS to form an unholy alliance with some ethnic groups in the form of tribal militias to fight its wars by proxy. The final product of that policy was the ethnic cleansing that ravaged southern Sudan and the Nuba Mountains and later, Darfur. The pressure imposed by the international community on the GOS resulted in signing of the Comprehensive Peace Agreement (CPA) between the GOS and the Sudan Peoples' Liberation Movement (SPLM) that stopped the war in the south and the Nuba Mountains. Yet Darfur is still a gaping wound and a theater to what is rightly called by this honorable Institution, genocide. If left to its own devices, this conflict will not only destroy Darfur, it will threaten the CPA, and hence the future of the country as a whole.

The Current Situation in Darfur:

1- Pursuant to the signing of the Darfur Peace Agreement (DPA), the still-born attempt to find a negotiated settlement to the crisis in Darfur, the GOS continued its genocidal acts in the region, and the majority of the rebel groups who rejected the DPA re-grouped to continue the arms struggle against the GOS. The current situation is best described by the High-Level Mission of the Human Rights Council of the United Nations in its report released last week: "Today, millions are displaced, at least 200,000 are dead, and conflict and abuse are spilling over the border into Chad. Making matters worse, humanitarian space continues to shrink, and humanitarian and human rights actors are increasingly targeted. Killing of civilians remains widespread, including in large-scale attacks. Rape and sexual violence are widespread and systematic. Torture continues. Arbitrary arrest and detention are common, as is repression of political dissent, and arbitrary restrictions on political freedoms. Mechanisms of justice and accountability where they exist are under-resourced, politically compromised, and ineffective. The region is heavily armed, further undercutting the rule of law, and meaningful disarmament and demobilization of the Janjaweed, other militia and rebel movements is yet to occur. Darfur suffers from longstanding economic marginalization and underdevelopment, and

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the conflict has resulted in further impoverishment. As violations and abuses continue unabated, a climate of impunity prevails.”

2- Since May of last year, I have taken five trips to several countries neighboring Sudan and met with refugees fleeing the devastated region who spoke of the continuation of the horrors of war and abuse of human rights. I have met with aid workers, human rights observers, African Union (AU) officials and rebel leaders. The one common observation shared by all is the fact that the level of violence has increased and the protection of the refugees and the internally displaced peoples (IDP) has become almost impossible.

3- More and more people are seeking refuge in the IDP camps inside Darfur, hence becoming prey to the Janjaweed militias waiting outside the camps that attack the women in their daily practice of gathering fire wood or grass to thatch their huts. Delivering the necessary services to the increasing numbers of IDP's has become the new challenge for the aid workers who themselves have become targets of the indiscriminate violence. With access to the victims becoming more and more difficult and the attacks on the aid workers increasing, as many as 400 of the 1300 international aid workers in Darfur have been either evacuated or re-located, putting more pressure on an already tenuous situation.

What can be done?

The pursuit of justice and dignity and the adherence to the rule of law constitute the essence of the demands of the people of Darfur. The respect for human rights and the equality of all citizens in a unified democratic country is part of the aspirations of all the Sudanese, Darfurians included. That can only be achieved through a negotiated settlement that ends the war, and puts the Sudanese people on the road to healing. The GOS, being the instigator of the destruction in Darfur, should be pressured to come to the negotiation table. The suggestions argued below can only work if taken as a package, for none of them applied as an end in itself can achieve our objective. This package is of an international and domestic nature. In implementing this package however, we should remember that Khartoum responds well when pressed to take action. As International Crisis Group expert Colin Thomas-Jensen has observed, “In the past, strong punishment has forced the Sudanese government to change course. When the Clinton administration pushed to impose U.N. sanctions and unilateral trade restrictions on Sudan for supporting international terrorism, Khartoum responded by dismantling terrorist networks and cooperating with U.S. intelligence agencies. Last January, when the U.S. put the full court press on Khartoum to sign a peace agreement with rebels in southern Sudan, the Bush administration scored a rare foreign policy victory.”

A. The International Package:

As the sole super power in the world today, the United States has a moral responsibility to work with the international community to ensure the safety of the citizens of Darfur and to use whatever

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resources and leverage at its disposal to see to it that peace and security are provided to the victims and the affected communities in Darfur. The United States should:

- 1- Work urgently through the Security Council to ensure the implementation of the three-phased package agreed upon between the GOS and the Former Secretary General of the United Nations Mr. Kofi Annan in November 2006 in Addis Ababa, Ethiopia. The deployment of the UN/AU peacekeeping/protection force is essential to provide security to the citizens of Darfur and the aid workers assisting them.
- 2- Considering the instrumental role of the US in the outcome of the DPA, the US should lead an international effort towards the expansion of the DPA to include non-signatory rebel groups in addition to the representatives of civil society and other stakeholders. The main antagonists have signaled their interest in the process, and the joint Envoys of the UN and the AU have made progress in their wide consultations with both parties.
- 3- With the spillover of the conflict into the Sahel sub-region, the US should spear-head the efforts to organize a regional conference on peace and security with the participation of Sudan's neighbors, the European Union and other concerned countries. The UN and the AU should facilitate such a conference.

B- The Domestic Package:

- 1- Upon filing an application against two of the alleged perpetrators of crimes against humanity in Darfur, the Chief Prosecutor of the International Criminal Court (ICC) alluded to the fact that his office did not seek, and the US did not offer any information that helped in determining the indictments. According to the reports of several human rights groups, the US does have information that would be useful in bringing those who have committed horrendous crimes in Darfur to justice. With the utmost respect and full understanding of the position of the US Government on the ICC, as a Darfurian who strives for justice for my people, I urge the United States to avail that information to the ICC, should that information in question be in the custody of the US.
- 2- There is no question that divestment is an effective tool in bringing pressure on the Sudanese government and cutting off the funding that feeds the genocide. Many believe that the campaign against Talisman Energy in 2001 accelerated the signing of the 2003 Comprehensive Peace Agreement with the rebels from the South.

As The Nation magazine noted in its May 8, 2006 issue "The Sudanese government is starting to feel the pressure from the divestment movement. It took out an estimated \$1 million in ads in the New York Times in March, and the Sudanese embassy recently published a press release decrying

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divestment efforts.” It quotes Smith College professor and Sudan expert Eric Reeves as saying “The fact that the regime is responding so distinctly to the [divestment] movement means they certainly understand the implications.”

Divestment is occurring at two levels: institutional and individual. The Sudan Divestment Task Force has spent the last several years encouraging state governments and colleges / universities to divest. Recently the Fidelity- Out- of -Sudan campaign has enlarged the campaign to include encouraging individuals, and the large mutual funds that represent them, to also divest.

Divestment has come a long way from the approach used in South Africa. As the Sudan Divestment Task Force states, the current program is “targeted to those companies that have a business relationship with the government or a government-created project, impart minimal benefit to the country's underprivileged, and have expressed no significant corporate governance policy regarding the Darfur genocide. Such targeted divestment implicitly excludes companies involved in agriculture, the production and distribution of consumer goods, or the provision of goods and services intended to relieve human suffering or to promote health, religious and spiritual activities, or education.”

What specific steps can the United States Congress take to help the targeted divestment movement succeed in influencing the Government of Sudan? I suggest the following:

2.1- Remove barriers to state divestment. The recent court decision striking down the Illinois Sudan Act covered an extreme example and most proposals now being considered by the states present no constitutional issues. However, an explicit statement by the Congress that divestment is a lawful approach to responding to genocide would remove any residual concerns and doubts.

2.2- Explicitly address the claim that fiduciary responsibility creates a barrier to divestment. Fund managers can clearly fulfill their fiduciary responsibilities while still making socially responsible investments. However, to completely eliminate this specious argument, that some fund managers use to justify their actions, Congress should make it explicit that it is reasonable and practical to be socially responsible while still maximizing profit.

2.3- Identify the worst offenders. Private groups, notably the Sudan Divestment Task Force, have been researching and publicizing the “worst offenders” (i.e., the targeted companies described earlier) so that responsible individuals and institutions can take appropriate action. The State Department should be tasked with applying its greater resources into formalizing this list and making it available to the public on a periodic basis.

2.4- Restrict investments in the worst offenders. In 1997 President Clinton issued Executive Order 13067 to block property and assets held by the Sudanese government in the U.S. and to prohibit most transactions with Sudan. In October 2006, President Bush issued an Executive Order that prohibited “all transactions by United States persons relating to the petroleum or petrochemical

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industries in Sudan, including, but not limited to, oilfield services and oil or gas pipelines”. Despite these orders, investment companies, like Berkshire Hathaway and Fidelity Investments are free to make huge investments in foreign companies that do exactly that. This leads to the irony that US companies, like Exxon Mobil, are prevented from operating in Sudan but American investors are helping Chinese companies to do so. Investment companies should be prohibited from investing in the “worst offenders” identified by the State Department.

2.5- Force investment companies to explain their behavior. The House Committee on Financial Services should require that the Chairman of Berkshire Hathaway, and the Chairman of FMR Corp, and other fund managers with large Sudanese investments appear before you to explain why they believe it is acceptable to continue their investments in companies that are funding the genocide. Thus far, public pressure has failed to create any meaningful response from Fidelity and only a self serving and inaccurate response from Berkshire.

Finally, thanks very much for affording me the honor of testifying before your honorable Committee. The freedom and security that are enjoyed by the citizens of this country are universal principles for dignity and the pursuit of happiness. With the help of this body, as the representative of the People of the United States, I dream that one day, the People of Sudan will enjoy the same.