

ADVISORY COMMITTEE ON SOCIALLY RESPONSIBLE INVESTING (ACSRI)

DATE: January 14, 2021

TO: Members of the Trustee Subcommittee on Shareholder Responsibility

FROM: Advisory Committee on Socially Responsible Investing (ACSRI)

RE: Recommendation to End Divestment in Sudan

The ACSRI voted on December 9, 2020 to recommend ending divestment in Sudan. This recommendation is the result of a three-year review to assess whether Columbia's divestment policy is still in the best interest of Sudan's citizens. Particular consideration was given to whether the divestment policy hurts or helps human rights in Sudan.

The Situation in Darfur, Sudan at the Time of Columbia's Divestment

(Excerpted from April 4, 2006 ACSRI Statement of Position and Recommendation on Divestment from Sudan)

The situation in Darfur, Sudan¹:

In Sudan's western province of Darfur, the Arab Janjaweed militias, believed to be acting in cooperation with the Sudanese Khartoum regime, have been systematically perpetrating atrocities, including rape, torture, and murder, against the indigenous, non-Arab ethnic groups in the region. Estimates vary, but there are reports that since February 2003 well over 200,000 Darfurian civilians have died² and over 2 million have been displaced internally or to neighboring Chad.³ On July 22, 2004 the U.S. House of Representatives passed House Concurrent Resolution 467 and the U.S. Senate approved Senate Concurrent Resolution 133 by voice vote, declaring the atrocities committed in Darfur to constitute

genocide; in September 2004, the U.S. State Department confirmed this designation. While the United Nations has stopped short of classifying the atrocities in Sudan as genocide, the January 25, 2005 U.N. Report of the International Commission of Inquiry on Darfur refers to the offenses in Darfur as “war crimes,” “crimes against humanity,” and crimes that “may be no less serious and heinous than genocide.” As recently as December 21, 2005, the U.N. Security Council passed a resolution (S/RES/1651 2005) determining that “the situation in Sudan continues to constitute a threat to international peace and security in the region.”

¹ For a more extensive discussion of the situation in Darfur, the reader may wish to consult the Columbia University Sudan Divestment Taskforce’s *Proposal for Divestment from Sudan*.

² Gareth Evans, “[End the Death, Suffering and Destruction in Darfur](#),” International Crisis Group (March 10, 2005)

³ *Intelligence Unit, Sudan Report, The Economist*, 27 (Sept. 2005).

Conditions for Policy Review

(Excerpted from April 4, 2006 ACSRI Statement of Position and Recommendation on Divestment from Sudan)

At the time of divestment, the ACSRI included conditions for policy review as follows:

The Committee will review its recommended divestment policy periodically and as information becomes available suggesting that human rights violations and atrocities in Darfur have ceased; or

the Khartoum government can be shown to no longer be complicit in these acts; or

the government of the United States, the United Nations or other credible and international human rights organizations have deemed the situation in Sudan significantly improved; or

OFAC has lifted economic sanctions against Sudan and its government.

Expert Consultations and Research

Over the past three years, the ACSRI has consulted with several experts on U.S. policy and the changing situation in Sudan. They are as follows:

- **Dr. Shambel Aragaw**, Technical Director at ICAP at Columbia University, South Sudan (via 12/2/20 email)
- **Michelle Avallone**, Director of Export Controls, Office of Research Compliance and Training, Columbia University (via 11/15/17 presentation to the ACSRI)

- **Payton Knopf**, an advisor to the Africa program at the United States Institute of Peace and a former diplomat (via 11/18/20 and 10/16/19 presentations to the ACSRI)
- **Mahmood Mamdani**, Herbert Lehman Professor of Government, MESAAS, International Affairs, and Anthropology; Columbia University (via 9/11/19 presentation to the ACSRI)
- **David L. Phillips**, Director of the Program on Peacebuilding and Rights at Columbia's Institute for the Study of Human Rights (via 11/30/20 Zoom call with Sudan subcommittee)
- **Dirk Salomons**, Special Lecturer in the Discipline of International and Public Affairs, Senior Staff Associate; Columbia University (via 11/15/17 presentation to the ACSRI)

Rationale for Recommendation to End Divestment

We recommend ending divestment due to the significantly lower level of violence in Darfur and the lack of complicity by the new Sudanese government in supporting said violence. Further, investment is necessary to stabilize the country and reduce human rights violations.

- This committee recommended divestment in 2006 due to “human rights violations and atrocities being committed in Darfur and against the Khartoum government’s complicity with offending militias,” atrocities which a U.S. Senate resolution concluded "constitute genocide." Since then, violence has periodically occurred in the Darfur region. However, it is no longer at the level of genocide nor near the same level of violence as occurred at that time of divestment. Human rights generally in the country have similarly improved.
- The key architect of the genocide in Darfur, ex-President Omar al-Bashir, was ousted in April 2019 and there is a new transitional military-civilian government that will lead until elections are held in 2022. The ACSRI can no longer say that the “Khartoum government” is “complicit in these acts.” In addition, Sudan’s government is cooperating with the International Criminal Court (ICC) in its case against ex-President Omar al-Bashir for genocide, war crimes, and crimes against humanity charges and is working to adopt a law on transitional justice. Many Sudanese citizens who previously protested against ex-President Omar al-Bashir, including many women, now hold high-ranking government positions.
- Multiple specialists from different organizations believe that the decision to not invest will negatively impact human rights and contribute to more instability. Sudan is in desperate need of investment to stabilize and support the transitional government on its path to democratization.

- Economic and trade sanctions on Sudan have been lifted by the U.S./OFAC, including recent removal from the U.S. State Sponsors of Terrorism list.

Dissenting Views

The Committee's recommendation was not unanimous. Eight (8) members of twelve (12) voted to end divestment. Two (2) members dissented, and two (2) members abstained from voting.

The two committee members' reasons for dissenting are:

- The current situation is tenuous, and a decision to divest is premature. The plan to transition to complete civilian rule will take into 2022, meaning Sudan has not had free and fair elections yet. The unstable political process raises the possibility that the country will backslide into increased violence.
- Darfuris continue to face violence from groups that were supported by former President Omar al-Bashir. Darfuris note that the transitional government is doing little to stop violence, and they fear losing protections as multilateral peacekeeping forces have ended their mission in Darfur on January 1, 2021.
- The dissenting members propose adding a benchmark to see adoption of a law on transitional justice, and revisit in 12-24 months or earlier if there is clear evidence of progress and stability.