

INTERNATIONAL COMMUNITY RESPONSE TO THE DARFUR CRISIS – SEEING THE FLAMES AND FEELING THE HEAT*

Introduction

The growing crisis and spate of killings in Darfur Western Sudan is today increasing at geometric progression, and has coincided with the 10th anniversary of the Rwandan genocide¹. The mass killings and humanitarian situation beg for quick response from the international community. However, the quibbling posture of the African Union, prevaricating stance of the United Nations and indeed that of the entire international community is due to the fact that there has been no consensus that “genocide” is taking place in Darfur. Does the crisis in Darfur amount to genocide? The former Secretary General of the United Nations, Mr Kofi Annan, talking of “ethnic cleansing” in Darfur said: “the international community cannot stand idle” in the face of such widespread human rights violations.² The failure of the League of Nations to ensure world peace and security after World War I, and the mass annihilation of lives and destruction of property which resulted from World War II, and in particular the genocide committed by the Nazis led by Adolph Hitler against the Jews, culminated in the establishment of the United Nations in 1945. The first two paragraphs of the preamble of the United Nations Charter provide:

*The peoples of the United Nations..... save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small...*³

It is a reasonable expectation that the UN should respond to stop any breach of world peace, but the response from the international community, particularly that of the UN apparently begs this reasonable expectation when juxtaposed with the extent of atrocities and *ethnic cleansing* going on in Darfur. It is a further expectation that where there is a threat to international peace and security, the UN is obliged to take necessary steps and measures to resolve it. This work examines the crisis in Darfur, Western Sudan and the international community response towards same. In particular, is the crisis in Darfur tantamount to genocide? What has been the attitude of the United Nations, the European Union, African Union and some International Non-governmental Organisations (INGO's) to the humanitarian situation in Darfur? Is there more noise than music, or is it flames without heat?

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1 In 1993, the conflicts between the Hutus and Tutsis culminated in a great catastrophe of our time in which the world recorded mass annihilation of lives which the mass media described as “ethnic cleansing”. Exactly 10 years after; February 2003, the crisis in Darfur Sudan began and till date, the killings and other humanitarian situations in Darfur are unabated. History is repeating itself, the question is, have we not learnt any lesson from the Rwandan experience?

2 Kofi Annan, Address to the UN Commission on Human Rights, Geneva, April 7, 2004 UN News Service, <http://www.un.org/apps/news/printnewsAr.asp?nid=10377>

3 Paragraphs 1 & 2 of the Preamble to the United Nations Charter 1945

1. Background to the Crisis

Sudan is the largest country in Africa with a total land mass of 966,472 sq mi (2503.813sq km), and Darfur is an area the size of France in western Sudan. It has a population of approximately six (6) million people.⁴ The region is divided into three; North, South and West Darfur.⁵ The current crisis in Darfur, which has resulted in population displacement within Darfur and in Eastern Chad, stems from fighting between Darfur-based opposition groups: the Sudanese Liberation Movement/Army, (SLM/A), the Justice and Equality Movement, (JEM), and the Government of Sudan and its supported militia group, known as the Janjaweed⁶. The conflict began in the arid and impoverished region of Darfur early in 2003 after a rebel group had begun attacking government concerns there, claiming that the region was being neglected by Khartoum (the Government of Sudan). The rebels claimed that the Government was oppressing the black Africans in favour of the Arabs. It has been observed that tensions have always existed between Darfur's African farmers and the Arab nomads, partly fuelled by the competition for land and other scarce natural resources, even though they are all Muslims in the region.⁷ This underscores the suggestion that it was more than a religious divide.

In response to the rebels' accusation of marginalisation in the sharing of the Sudanese national resources, the government unleashed the Janjaweed militia on the black villagers and villages: to kill, loot and ultimately drive the rebels and their sympathisers out of the region and out of Sudan altogether.⁸ The government admitted mobilizing "self defence militias" following the rebels' attacks, but denied any links to the Janjaweed, when accused of trying to "cleanse" large swatches of the territory of black Africans.⁹ However, refugees from Darfur claimed that following air raids by government aircrafts, the Janjaweed rode into the villages on horses and camels, slaughtering men, women and children and stealing whatever they could find. Some women were reported to have been abducted by the Janjaweed and held as sex slaves for over a week before they were released.¹⁰

Various human rights groups and the U.S congress suggest that genocide is taking place in Darfur¹¹. But the Sudan government denies this, on being in control of the Janjaweed, the President of Sudan, Omar al-Bashir calls the invaders "thieves and gangsters".¹² This disagreement on whether there was and still is genocide in Darfur or if it is merely the invasion by "thieves and gangsters" necessitates a moment pause on the definition and the very essence of genocide.

2. Genocide – Definition for Definition Sake?

The Genocide Convention came about largely through the efforts of one man, Raphael Lemkin. Lemkin is also credited with coining the term "genocide". He was a

4 British Embassy DFID information note on the humanitarian situation in Darfur, Sudan, October 2004 at www.africa-union.org

5 In the North are Arab speaking Muslims which make up about 75% of the population. The black Africans and the Nilotic people are found in the South and West.

6 Above, note 3.

7 Africa Today July 2004, Pg 23. Sudan has been involved in different wars since its independence. First there was the Anyanya War which lasted 17 years (1955 - 1972) and then the war by the Sudan's Peoples Liberation Army (SPLA) which began in 1983 till.....

8 Africa Today, October 2004 Pg. 21.

9 Ibid

10 Ibid

11 Don Cheadle an American Actor, teamed up with Activist Prendergast to write "Not on Our Watch: The Mission to End Genocide in Darfur and Beyond".... Africahit, France – June 26, 2007

12 Supra, note 3

Polish Jew who first began to warn the world about Adolf Hitler's plans to attack Jews in Europe as early as 1933. He was largely ignored and in 1939, after the Nazis invaded Poland, he was forced to flee to the United States. When he tried to warn U.S. government officials about the Holocaust he was again ignored, with officials maintaining that his claims of what was happening in German-occupied Europe were "rumours".¹³ Then Lemkin was inspired by a speech by British Prime Minister Winston Churchill that described what Germany was doing in Europe as "*a crime without a name*". In 1944, Lemkin published a long scholarly account of what was then unknown about the Holocaust, including copies of Hitler's anti-Jewish decrees. It was called *AxisRule*.¹⁴

In *Axis Rule* Lemkin introduced a new word "genocide" describing a crime that went beyond murder to the annihilation of a people. After the Second World War, the United Nations began work to update "the laws and customs of war". While negotiators worked to update the Geneva Conventions that set the rules for warfare, Lemkin began a major lobbying effort at the UN to create a law that would outlaw – if not prevent – new attempts to wipe out a people.¹⁵ On the debate whether to use the term "extermination" or Lemkin's wider "genocide", the UN passed the unanimously adopted Genocide Convention on December 9, 1948. Officially called *The Convention on the Prevention and Punishment of the Crime of Genocide*, it was passed by the United Nations General Assembly in December 1948 and came into force in January 1951. As at October 2005 there were about 137 State Parties to the Convention¹⁶ but more importantly, the Convention has become customary international law. *Article 2* of the Convention says "Genocide, whether committed in time of peace or in time of war is a crime under international law" which the parties to the convention "undertake to punish and prevent." It defines genocide as

Acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group" by:

- (a) *Killing members of the group.*
- (b) *Causing serious bodily or mental harm to members of the group.*
- (c) *Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.*
- (d) *Imposing measures intended to prevent births within the group.*
- (e) *Forcibly transferring children of the group to another group.*

The Cambodian genocide of 1975-1979, in which approximately 1.7 million people lost their lives (21% of the country's population), was one of the worst human tragedies of the last century. As in Nazi Germany, and more recently in East Timor, Guatemala, Yugoslavia and Rwanda, the Khmer Rouge regime headed by Pol Pot combined extremist ideology with ethnic animosity and a diabolical disregard for human life to produce repression, misery, and murder on a massive scale.¹⁷ However, the killings do not have to amount to such large number before the crime of genocide is committed. It must be noted that the operative words in the convention are "**acts committed with the intent**". Therefore once the intent is established, it is irrelevant if the number of persons killed are small or large. Furthermore, *Article 3* provides that the following acts shall be punishable:

- (a) Genocide;

13 CBC News, "Indepth: Sudan", CBC news online September 20, 2004

14 Ibid

15 Ibid, note 12

16 Last Update, "Convention on the Prevention and Punishment of the Crime of Genocide"; October 7, 2005

17 <http://www.yale.edu/cgp>

- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

In order to give effect to the convention, *Article 4* made provision for superior responsibility, thus prescribing punishment for persons committing genocide or any of the other acts enumerated above, whether they are constitutionally responsible rulers, public officials or private individuals.

3. *Effects of the Conflict in Darfur on Civilians*

Although the conflict has historical roots, the fighting since 2003 has escalated into a more widespread campaign of violence. Reports indicate systematic cleansing of areas based on the ethnic origin of the population. Civilians have clearly been targeted. An estimated number of 4 million people have been affected by food shortages. Attempts by security forces to persuade the refugees to leave the camps and return home have led to violence. Meanwhile, a drought and a big reduction in the number of active farmers mean a heavy dependence on food aid in the region; some 200,000 people have also sought safety in neighbouring Chad.

According to the UN International Commission of Inquiry on Darfur's latest report, about 180,000 people have died in Darfur within 18 months as a result of violence, disease and malnutrition. This figure doubled the October 2003 estimate of 70,000 deaths¹⁸. The UN further estimates that the conflict has led to a total vulnerable population of two million people. This includes over 1.5m people internally displaced within Sudan. This movement of people has continued unabated, although at slower pace than earlier in the conflict. Local communities in Darfur and Chad are increasingly vulnerable, as the presence of large number of Internally Displaced People (IDPs) places additional pressure on their coping mechanisms.¹⁹

4. *Humanitarian Situation*

The humanitarian situation in Darfur and Eastern Chad at present remains dire, with large numbers of internally displaced people (IDP) living in camps and host communities with poor water, sanitation and health facilities. Essential food and non-food supplies are intermittent or non-existent and there is considerable risk from outbreaks of communicable disease. The rains escalate these problems, making some parts of Darfur and Eastern Chad inaccessible and increasing the vulnerability of IDP to disease. Recent years of drought have exacerbated this vulnerability of the whole population of Darfur²⁰.

Aid agencies are also facing ongoing difficulties from the insecurity, for example on 10 October 2004, two staff members of "**Save the Children UK**" were killed and another seriously injured in a 'mine-strike' incident. Another NGO vehicle was shot at, but no one seriously wounded. Major roads in Darfur are allegedly often closed due to insecurity and banditry, hindering delivery of assistance. The UN is in consultation with the Government of Sudan and the rebels about how to ensure safe delivery of aid.²¹

On mission along the border of Chad and Darfur, Human Rights Watch researchers gave children notebooks and crayons to keep them occupied while they spoke with the children's parents. Without any instruction or guidance, the children drew

18 The Guardian Lagos, Nigeria. Monday March 21, 2005 Pg 15.

19 Supra, note 3

20 Supra, note 17

21 Ibid

scenes from their experiences of the war in Darfur: the attacks by the Janjaweed, the bombings by Sudanese government forces, the shootings, the burning of entire villages and the flight to Chad²². The impact of the crisis on even the children in the region is alarming.

5. The Issue of Rape

Women and girls who have fled ethnic cleansing in Darfur are being raped and subjected to sexual violence around the camps where they have sought refuge²³ “Rape and sexual violence have been used to terrorize and uproot rural communities in Darfur,” said Peter Takirambudde, Africa Director of Human Rights Watch, “Donors urgently need to set up programs to protect women and girls from sexual violence and address the needs of those who have been raped.” Human Rights Watch documents how the Sudanese security forces, including police deployed to protect displaced persons, and allied Janjaweed militias continue to commit rape and sexual violence on daily basis. Even as refugees in Chad, women and girls fleeing the violence in Darfur continued to face the risk of rape and assault by civilians or militia members when collecting water, fuel or animal fodder near the border. Human Rights Watch interviewed some victims of sexual violence in camps in Chad and Darfur during two research missions to these areas in February 2005.²⁴

Some women living in the refugee camps in Chad had been imprisoned by the Chadian authorities for trying to collect firewood outside the camps, only to be raped by Chadian inmates while in jail. Human Rights Watch documented 10 cases of women and girls from **Farchana Camp** who were imprisoned in such circumstances²⁵. Rape and sexual violence against women and girls have been prominent feature of the “**ethnic cleansing**” campaign carried out by government forces and its Janjaweed militias, both during and following the displacement of civilians. The response of Sudanese authorities has exacerbated an already appalling situation. It has been reported that authorities in **Bindisi**, West Darfur, harassed and detained pregnant girls and women, many of who had become pregnant as a result of rape. The authorities threatened them with charges of fornication if they did not pay a fine. In some refugee camps in Chad, police and male residents have coerced women and girls to provide “**sexual services**” in exchange for “**protection**”²⁶.

Donors and humanitarian agencies have been called on to give more resources to prevent sexual and gender-based violence. They also must take urgent steps to respond to its medical, psychological, social and economic consequences. The high levels of sexual violence and displacement in Darfur create a risk of increased transmission of sexually transmitted diseases.

It is pertinent for the U.N. and humanitarian agencies to address the specific needs of women and girls who continue to suffer the consequences of sexual violence. At February 2005, only one out of six agencies that were providing health services in the refugee camps in Chad had a protocol for rape that included the provision of emergency contraception, comprehensive treatment of sexually transmissible disease and post-exposure prophylaxis of HIV/AIDS.

22 Human Rights Watch “Darfur Drawn- The Conflict in Darfur through Children’s Eyes” April 29, 2005
hrw.org

23 Human Rights Watch Oslo, April 12, 2005

24 Supra, note 16

25 Ibid

26 Supra 21 Takirambudde P, Africa Director of Human Rights Watch

26 Ibid

Sexual violence is a fundamental violation of human rights and has a profound impact on physical, mental, psychological, social and economic well-being of women and girls, both in the short and in the long run. Acts of sexual violence committed as part of widespread or systematic attacks against a civilian population in Darfur can be classified as crimes against humanity and should be prosecuted as such.

6. Is the situation in Darfur different?

From the foregoing, the situation in Darfur is tantamount to genocide. There appears to be a general consensus on the issue of genocide in Darfur amongst many commentators and nations save the UN. On June 16, 2007, UN Secretary General Ban Ki-moon released a statement in which he proposed that the slaughter in Darfur was caused "at least in part from climate change", and that it "derives, to some degree, from man-made global warming"²⁷. On the other hand, the United States Secretary of State Colin Powell said that an investigation by U.S. officials had found a **"pattern of atrocities: Killings, rapes, burning of villages committed by Janjaweed [militias] and government forces against non-Arab villagers... these were seen as coordinated effort, not just random violence."** He then said **"the evidence leads us to the conclusion that genocide has occurred and may still be occurring in Darfur."** Powell went on to say:

*So let us not be too preoccupied with this designation. These people are in desperate need and we must help them. Call it civil war, call it ethnic cleansing, call it genocide, call it 'none of the above'. The reality is the same. There are people in Darfur who desperately need the help of the international community.*²⁸

Beautiful as this position sounds, it came sometime in September 2004 almost 18 months into the killings and atrocities which began in 2003, what a late start? What a late realization of the fact of what has been and still going on in Darfur.

7. International Community Response to the Darfur Crisis 7:1 Darfur and the United Nations

It has been observed by the UN that up to 4 million people may have been affected by food shortages. Attempts by security forces to persuade the refugees to leave the camps and return home have led to violence and brought condemnation from the international community. Meanwhile, a drought and a big reduction in the number of active farmers mean a heavy dependence on food aid during the next few months. Some 200,000 people have also sought safety in neighbouring Chad, but many camped along a 600km stretch of the border remain vulnerable to attacks from Sudan²⁹. Moreover, Chad is worried that the conflict could spill over the border.

The question is; what is the United Nation's response to this crisis bearing in mind its principal objective of ensuring world peace and international security. The United Nations has been criticised for doing too little, too late. The systematic atrocities of the counterinsurgency war in Darfur have coincided with the 10th anniversary of the Rwandan genocide. This has led many people to see Darfur as something of a test case by which to judge whether the international community has got any better at responding

27 Ban Ki-moon. "A Climate Culprit In Darfur", Washington Post, 2007-06-16. Retrieved on 2007-06-23. <http://www.washingtonpost.com/wp-dyn/content/article/2007/06/15>

28 Supra, note 21

29 BBC News Uk Ed. Thurs 26th May 2005 <http://news.bbc.co.uk>

to genocide and crimes against humanity³⁰. Unfortunately however, the United Nations' team sent to Sudan noted that war crimes have been committed in Darfur but there was no intention to commit genocide. Thus, while the U.S Congress, Human Rights Groups and the US Secretary of State Colin Powell agree that genocide is taking place in Darfur, the UN disagrees³¹.

The issue of Genocide is therefore crucial to a proper analysis of the UN's response to the crisis. Recently, precisely in 1994 in Rwanda, within a space of 100 days about 800,000 Rwandans were killed³². An American Law maker Jon Corzine observed that the world might be watching a film "**Hotel Rwanda**" to be called "**Hotel Darfur**", and asking again why the world failed to stop the genocide³³. If the situation in Darfur does not amount to genocide, we wonder what else could. In April 2004, the UN sent three important fact-finding missions to the area. First, the Secretary General sent a mission of the Acting High Commissioner of Human Rights to Chad between 5th-15th April to visit and interview Sudanese refugees. Its powerful report was initially kept under wraps for fear that Khartoum would block a further mission into Darfur itself³⁴. A second mission was finally given permission to visit Khartoum and Darfur between 20th April and 3rd May. This mission produced a forceful and impartial report on the situation, based on detailed and verified testimonies of the atrocities and sufferings³⁵. The mission made it clear that far greater responsibility for human rights violations rested with the government of Sudan and its militia proxies than with the insurgent or rebel forces. The report described '**a reign of terror in Darfur**' and characterized government violations as '**systematic**' and forming a '**widespread pattern**' that 'may constitute war crimes or crimes against humanity'³⁶.

On July 30, 2004, the Security Council finally passed Resolution 1556, by a vote of 13/0, with 2 abstentions; China and Pakistan. The text of the resolution was to urge a stop to the conflict in Darfur and demanded that within 30 days the Sudanese government should facilitate humanitarian access, the disarmament of the janjaweed militias, civilian protection and the investigation and punishment of human rights violations³⁷. Following United States pressure on the need for punitive action against the Sudanese government, on September 18, 2004, the Security Council passed another resolution 1564, by which it threatened to impose sanctions on the Khartoum government if it does not stop the janjaweed attack on black Sudanese villagers in Darfur³⁸. Due to pressure to strengthen international monitoring force in Darfur, the United Nations threatened sanctions against Sudan's oil exports, if the violence is not quelled³⁹. However, this has been resisted by China and some other nations, which argue that Sudan should be left alone to find its own solution⁴⁰.

In a historic step towards justice, the United Nations Security Council passed what one could describe as "**a late-night**" resolution referring Darfur to the International

30 Hugo Slim; "Dithering over Darfur? A preliminary Review of the International Response"

31 Supra, note 21

32 Ibid

33 Supra, note 12

34 Supra, note 30

35 "Report of the Acting High Commissioner on the Human Rights Situation in Darfur", E/CN.4/2005/3 May 7, 2004

36 Ibid

37 <http://www.independentbias.com/darfur-uñ-relations>

38 <http://www.cfr.org/bacground/africa-darfur.php>.

39 Ibid

40 It has been observed that China is the main customer for Sudan's oil export; their position is therefore not a surprise. They need to protect their interest albeit at the expense of thousands dieing and millions being displaced.

Criminal Court (ICC) on March 31, 2005. This resolution gives the ICC authority to investigate and prosecute those most responsible for massive human rights violations committed in the western Sudanese region⁴¹.

Though a belated start to ensuring justice and accountability for the crimes committed against the people of Darfur, this referral of Darfur to the ICC by the U.N. Security Council is, we must hope, the beginning of the end of Darfur's awful nightmare. The world now looks to the ICC prosecutor to respond swiftly and assume the responsibilities entrusted to him⁴². However, Sudan's humanitarian affairs minister, Ahmed Haroun, and a Janjaweed militia leader Ali Kushayb, have been charged by the International Criminal Court with 51 counts of war crimes and crimes against humanity. Ahmed Haroun said he "did not feel guilty," his conscience was clear, and that he was ready to defend himself.⁴³ A recent UN Security Council Resolution 1706 of August 31, 2006 mandated a reinforced United Nations Mission in Sudan (UNMIS) to take over the African Union's overstretched African Mission in Sudan (AMIS).⁴⁴

7:2 Darfur and the African Union

The African Union, which has deployed about 2,400 troops and 244 civilian police in Darfur to try to restore peace, agreed to more than double the force to 6,171 military personnel and 1,560 police by the end of September 2004. The Security Council applauded the African Union's leadership in Darfur and its decision to expand the force⁴⁵. The African Union (AU) formerly known as the Organization of African Unity (OAU), appeared to have turned a new leaf from its history of ignoring internal matters of member states as happened with Zimbabwe. Thus following the Rwandan's catastrophe in which it also failed to act, the OAU commissioned a study calling for explanations from the Western Nations, particularly U.S, for not stopping the genocide. It is therefore not a surprise that in the wake of the Darfur crisis, the AU took on a vanguard role in monitoring and verifying the April 8, 2004 Ceasefire Agreement brokered between the Sudanese government and the rebels in neighbouring Chad⁴⁶. The two rebel groups signed a ceasefire agreement April 2004, but this has not yielded expected results.

Subsequent African Union brokered peace talks in Nigeria have failed to make much progress though agreement has been reached on banning military flights in Darfur. Some 3,000 African Union troops have slowly been deployed in Darfur on a very limited mandate. The number is expected to rise to 12,000 with the west pledging logistical and financial support. Khartoum is resisting allowing them to beef up their powers to disarm combatants⁴⁷. The Sudan government has agreed to let southern Sudan have its own government as part of a deal to end the several years of conflict in the region, but so far the crisis shows no signs of abating although some significant diplomatic progress is now being made⁴⁸ as the Sudanese officials agreed to allow more AU troops to enter the country in August 2004.

41 Sudan is not a State Party to the Rome Statute of the ICC, only by referral of the UNSC could the ICC assume jurisdiction over persons who allegedly have committed war crimes crime against humanity. Unfortunately however, the Sudanese Government has questioned the jurisdiction of the ICC and has refused to surrender some of the suspects to the ICC Prosecutor.

42 Supra, note 21 {Report of the Human Rights Watch}

43 "Darfur War Crimes Suspect Defiant" BBC News February 28, 2007 <http://news.bbc.co.uk/1/hi/world/africa/6404467.stm>

44 International Crisis Group <http://www.crisisgroup.org/home/index.cfm>

45 Edith M. Lederer, The Associated Press, May 12, 2005 9:31 PM <http://www.phillyburbs.com/pb-dyn/news/91-05122005-488736.html>

46 Supra, note 35

47 Noel King "UN Says Shaky Security in Darfur Hinders Humanitarian Aid" September 7, 2005

48 Ibid

The typical predominance of western power in driving and funding a process of international response was obvious once again in Darfur, but there were exceptions, namely Chad and the AU⁴⁹. Working through its Peace and Security Council, the AU issued several informed and critical communiqués making known its concern about the violence in Darfur⁵⁰. Through its envoy and then also its offices in Addis Ababa, the AU gave important support to the N'djamena process and immediately became committed to seeing it through on ground⁵¹.

Recently, the Assembly of the AU, amongst others condemned in the strongest possible terms the continuing violations of the Ceasefire Agreement in Darfur by all the Parties and attacks perpetrated on the civilian populations. "The Assembly URGES the parties to put an immediate end to these acts and to strictly adhere to their commitment to desist from any attacks by land or by air"⁵². The Assembly requested the Peace and Security Council (PSC) to keep the situation in Darfur under constant review and to take all necessary measures to promote an early negotiated solution. The Assembly also requested the PSC to review the operations of the African Mission in the Sudan (AMIS) and to take all necessary steps to strengthen the Mission⁵³. This initiative of the AU is indeed highly commendable.⁵⁴ The Sudanese government, following the UN Security Council Resolution 1706, had released major offensive in Darfur killing over 20 members of the AU force and about 1,000 displaced in the clash that ensued.⁵⁵

7:3 Darfur and the European Union

In June 2004, British Secretary of State for international development, Hilary Benn traveled to Khartoum on a three-day official visit. Though the visit was officially paraded as aimed at consolidating bilateral relations, the crisis in Darfur ultimately came to the fore. On arrival in Khartoum, Benn declared that Britain was concerned with the peace process in Sudan and the situation in Darfur. When he returned home, Benn said the world had to act fast to arrest the horrible humanitarian situation and accused the UN of its late response to the crisis⁵⁶.

The European Commission is extremely concerned about the magnitude of the humanitarian crisis in the greater Darfur region of Sudan, where a violent conflict has

49 Supra, note 30

50 See for example section A of the communiqué on "The Solemn launching of the tenth meeting of the Peace and Security Council", African Union, May 25, 2004 PSG/AHG/comm.(X). Cited by Hugo Slim note 30 supra

51 Ibid

52 AU Assembly "Decision on the Situation in the Darfur Region of the Sudan". Assembly/AU/Dec.68 (IV) of 30-31 January 2005 <http://www.africa-union.org/DARFUR/homedar.htm>

53 Ibid

54 Chief Olusegun Obasanjo, the former President of the Federal Republic of Nigeria and also the former Chairman of the AU did a lot to push forward the peacekeeping process in Darfur, we hope that John Kufuor of Ghana on whom the leadership of the AU rest currently would build on what has been achieved so far

55 Resolution 1706 of August 31, 2006 of the UNSC approved the release of a new peacekeeping force of about 17,300 to assist the AU troop. Sudan was certainly not happy with this development and on September 1, 2006 released major offensive on the AU troop and asked them to leave the region at the end of the month saying that they have no right to transfer the assignment to the UN or any other party. Though in April 2007, the ruling National Congress Party (NCP) in Khartoum allowed about 3,000 UN personnel in Darfur to assist the AU troops, it continues to protest the deployment of a compromise hybrid AU/UN Force.

56 Supra, note 7 pg 25, and recently, the EU sounded through the Diplomat Urged Strong Action on Darfur that "We alone have called the atrocities in Darfur genocide. We must lead the coalition that will stop it. We must demonstrate to the world our resolve and" Guardian Unlimited, UK - Jun 28, 2007. [http://news.google.com/news/
url?sa=t&ct=us/2-8fd=r&url=http://www.guardian.co.uk/world/latest/
story/0-6742127,00](http://news.google.com/news?url?sa=t&ct=us/2-8fd=r&url=http://www.guardian.co.uk/world/latest/story/0-6742127,00)

been raging since early 2003. The ceasefire agreement signed in N'djamena on 8 April is clearly a welcomed development, particularly insofar as it commits the parties to allow fast and unrestricted humanitarian access and to facilitate delivery of humanitarian assistance in accordance with international humanitarian law and principles.

However, there is a long way to go before durable stability and eventually, peace can be re-established. In the meantime, protection remains a top priority and daunting humanitarian needs in all sectors will have to be addressed⁵⁷. The United Kingdom has contributed \$4million to the United Nations World Food Programme (UNWFP) as part of appeal for urgent funding to help the refugees in Darfur and Chad. Also the European Union provided \$14.7million (12 million Euros) to support peacekeeping operations in Darfur in July 2004. The money was used by the AU to monitor the implementation of the Ceasefire Agreement in Darfur over a period of 12 months⁵⁸. The European Union Commissioner for Development and Humanitarian Aid said that the EU is willing to allow the AU to be the instrument for resolving the conflicts in Africa and bringing peace to the continent and that EU will be a credible partner in the AU's aspirations to assume the necessary leadership⁵⁹. Unfortunately however, NATO and the European Union are delaying protection for civilians in Darfur as they quarrel over who should take the lead in coordinating the airlift of African Union troops to the troubled western region of Sudan⁶⁰.

Be that as it may, the European Commission has urged the Government of Sudan to abide by its obligations regarding the protection of its own citizens. This includes actively disarming and prosecuting armed groups acting against civilians. The EC has also provided funds to organisations with an international mandate to protect vulnerable civilians. Following a ceasefire agreement between government and rebel forces in April 2004, the Commission agreed to provide €92 million to support African Union peace keeping efforts⁶¹.

7:4 Non Governmental Organization (NGO) and Darfur

Interestingly, the crisis in Darfur is the center stage for actors, stakeholders and participants of the international legal system, the Non Governmental Organizations (NGOs) are not left out. The activities and influence of NGOs particularly the International Crisis Group (ICG) and Justice Africa are worthy of mention. At one of its briefing, the ICG noted that more than two years into the crisis, the western Sudanese region of Darfur is acknowledged to be a humanitarian and human rights tragedy of the first order: as many as 10,000 people - overwhelmingly civilians - are dying every month. The humanitarian, security and political situations continue to deteriorate: atrocities and crimes against humanity are being committed daily, people are still dying of malnutrition and disease in large numbers and a new famine is feared⁶².

57 European Union, "The Humanitarian Crisis in Greater Darfur, Sudan-EU by far the Biggest Donor" No. 120/04 July 30, 2004 <http://www.eurunion.org/news/press/2004/200400120.htm>

58 <http://www.ipsnews.net/africa/internet.csp?idnews=25204>

59 Ibid

53 Human Rights News, "NATO and EU Must End Squabble over Darfur Airlift" Turf Battle Delays Dispatch of African Union Troops to Protect Civilians <http://hrw.org/english/docs/2005/06/09/darfur11105.htm>

61 Europa Echo in the field in Darfur, Sudan Humanitarian Aid, "The Humanitarian crisis in Greater Darfur, Sudan" http://europa.eu.int/comm/echo/field/sudan/darfur/index_en.htm June 15, 2005

62 Sudan: Darfur Genocide Graphically Depicted in Documentary AllAfrica.com, Washington – June 27, 2007 Darfur report shows deterioration of the security situation in the past year, say a second phase of genocide is in progress. ... Darfur Genocide Graphically Depicted in Documentary NewsBlaze. <http://news.google.com/news/url?sa=t&ct=us/0/0&fd=r&url=http://allafrica.com/stories/200706286379>

The international community has failed to protect civilians itself or influence the Sudanese government to do so⁶³.

The ICG called on the international community to do much more about the interconnected problems of humanitarian relief and security on the ground. The key international organisation and concerned governments should urgently agree and coordinate at a high level on what is necessary, without regard to institutional prerogatives or national prestige⁶⁴. The ICG further demanded the International community to meet certain objectives which were critical to permanent resolution of the crisis. Amongst these objectives were: the *Protection of Civilians and Relief Supplies in Darfur*, *Implementing Accountability in Darfur*, *Building a Darfur Peace Process*, *Implementing the Comprehensive Peace Agreement between Khartoum and the SPLM* and *Preventing New Conflict in Sudan* through proactive efforts to deal with the explosive situation in the eastern part of the country before it becomes the next major civil war⁶⁵.

ICG has written to heads of government and foreign ministers of the G-8 and the permanent members of the UN Security Council, and to the UN ambassadors of all fifteen members of the Security Council, calling for Security Council's action on Darfur.

Justice Africa

Another NGO commentator on the Darfur crisis and probably one of the most insightful commentators is Justice Africa. As a London-based NGO, Justice Africa works closely with the Pan African Movement Secretariat in Kampala and the Inter Africa Group in Addis Ababa, it has extensive experience in the Horn of Africa. It has coordinated a series of conferences with Sudanese civil society and human rights organizations. Justice Africa noted in one of its African focus⁶⁶:

Is this a crime planned at the highest level of the Sudanese state and executed according to a carefully designed central plan? Or is it a counterinsurgency that has got out of control, running wild beyond the designs of its sponsors? It would seem to be a bit of both.

In answering the question whether what is happening in Sudan amounts to genocide JA said:

The number of killings may not yet come close to those perpetrated in Rwanda or Nazi Germany, and the entire destruction of the targeted ethnic groups does not seem in prospect, but these extreme manifestations are not legally necessary for a crime to count as genocide.

It is therefore safe to conclude that what we have in Darfur is a case of genocide and it is only an abdication of responsibility to hide behind the cloak of: **“there is no intention to commit genocide”** and therefore not do anything about the crisis.

8. A response too late

The international community has indeed responded to the Darfur crisis but how effective has this been? Could they have done better if the responses came earlier? One of the key restraints to humanitarian intervention is the issue of state sovereignty and the

63 International Crisis Group (Crisis Group) “Darfur: The Failure to Protect” <http://www.crisisgroup.org/home/index.cfm?id=3060&l=1#C2>. March 8, 2005).

64 ICG briefing on: “A new Sudan Action Plan” April 26, 2005 Ibid

65 ICG briefing on: “The AU’s Mission in Darfur; Bridging the Gap” July 6, 2005 Ibid

66 Sudan: Justice Africa Analysis Africa Focus Bulletin June 18, 2004 (040618)<http://www.africafocus.org/docs04/just0406.php>

rule against intervention of state sovereignty. It has been the view of some of the western states that Sudan be left alone to find its own solution. However, we think that the United Nations Charter of 1945 spells out the circumstances where interventions particularly on the ground of ensuring world peace are permissible. It is pertinent to note that **Article 39 of the UN Charter** allows the Security Council to determine the existence of any threat to the peace, breach of peace or acts of aggression and to take necessary measures in accordance with **Articles 41 and 42** to maintain or restore international peace and security. If the UN agreed that the crisis in Darfur constitutes genocide, their response would have been timely and several lives would have been saved. The “**foot dragging**” attitude of the UN with respect to the Darfur crisis is suspect. Darfur has been cited as another example of UN’s inefficiency⁶⁷ though recent developments; particularly with the referral of the crisis to the ICC, seems to suggest that they have suddenly woken up to the reality of the crisis in Darfur. The question may be asked; does referring the crisis to the ICC stop the killings and several deaths being recorded? It would appear that since the referral in March 2005 till date not much has been done with regards to stopping the crisis. However, the new Secretary General of the UN Ban Ki-moon said recently that the root cause of the current genocide in Darfur is Global warming.....⁶⁸ This is suggestive of the late acceptance by the UN that the crisis in Darfur is tantamount to genocide. Again, as noted by the Crisis Group, necessary measures must be taken to create the most conducive environment and give credible assistance to the ICC prosecutor to assist him in the process of investigation. Recently, the UN Security Council adopted a resolution in August 2006 to arrange for the rapid deployment of more than 20,000 military and civilian personnel and 16 police units of the UN-Mission in Sudan (UNMIS).⁶⁹ The resolution co-sponsored by the US and Britain had a vote of 12-0 with China, Russia and Qatar abstaining. The resolution called for the cooperation and support of the government of Sudan in allowing deployment of the new UN peacekeeping force, which is meant to strengthen and support the AU force. In the words of John Bolton, US Ambassador to the United Nations;

It is imperative to move immediately to implement the resolution fully to stop the tragedy unfolding in Darfur. Everyday we delay only adds to the suffering of the Sudanese people and extends the genocide⁷⁰

Whilst commending the step by the Security Council in passing this resolution one wonders to what extent can same be implemented seeing that much of what is required is the cooperation of the Sudan government. Recently, it was reported that the Sudanese government gave the AU an ultimatum to withdraw its troop from Darfur before the end of September 2006.

At the time of writing, the killings and humanitarian situation in Darfur has not abated, the civilian population is victim of all; the killings, internally displaced persons, rape to mention but a few. According to **Julie Flint**, a prolific writer and campaigner on the Darfur crisis;

The important thing is that the deaths stop. How many more will die while the international community argues?⁷¹

67 Supra, note 11

68 Fred Thompson, “The Darfur Genocide and Global Warming” Town Hall, D.C June 27, 2007. <http://news.google.com/news/url?sa=t&ct=us/1-0&fd=r&url=http://www.townhall.com/columnists/FredThompson/2007/06/28>

69 The Guardian, Lagos Monday, September 4, 2006 Pg 10

70 Ibid

71 <http://news.bbc.co.uk/1/hi/world/africa/4268733.stm>.

9. **Conclusion**

As overwhelming evidence of atrocities in Darfur continues to emerge, there are new calls for action to stop the genocide⁷². In response to the question "Is the Darfur conflict genocide?" Justice Africa replies,

If we strictly apply the provisions of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, there is no doubt that the answer is yes. However, this establishes a firm international obligation to act, which is why governments and the United Nations are weary of using the term. Such action, Justice Africa implies, must lead to changes in Khartoum. "The ruthlessness with which the security elite at the heart of the Government of Sudan have operated, and their readiness to turn Darfur into an ethics-free zone, means that Sudan's future stability rests on the political exclusion or containment of key members of this security elite.

Much as this position appears compelling, we believe that no longer will Sudan remain the same. The war in Darfur threatens to paralyse and fragment the Government of Sudan. The conflict reaches into the heart of the government, the power structure and the wider socio-political consensus of northern Sudan in a very destabilising way. If the Darfur conflict is not resolved rapidly and decisively, the government may become paralysed altogether, if that is not already the case. This catastrophe is of no benefit to Sudan, Africa and the entire world community. Not only are there political repercussions, there are certainly, economic, socio-cultural and security repercussions as well.

The traditional international reluctance to use the 'G-word', genocide has only worsen the crisis in Darfur. We think that the inaction on the part of the UN or its quibbling stance may not be far from the fact that some of the permanent members of the Security Council have economic interests in Sudan. China, for example, is the main customer for Sudanese oil export and in order to protect that interest, will not support any sanction on Sudan's Oil Sector. Again, Russia is main provider and supplier of weapons and aircrafts to Sudan. No wonder the "duo" have consistently vetoed or abstained from the resolutions of the Security Council geared towards stopping the crisis in Darfur.

Granted that the international community has delayed in bringing the crisis to an end, we believe that there is a lot to be done about the killings, the humanitarian situations, women and their daughters being taken into sex camps and constantly being raped, internally displaced persons etc, all these cry out for help and restoration. We therefore call on the international community to do that which is needful and expeditiously too.

72 Supra, note 55