



DARFUR

THE RESPONSIBILITY TO PROTECT

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List of abbreviations

AMIB	African Union Mission in Burundi
AMIS	African Union Mission in Sudan
ASF	African Standby Force
AU	African Union
CPA	Comprehensive Peace Agreement (the ‘North-South peace agreement’)
DPA	Darfur Peace Agreement
DRC	Democratic Republic of Congo
HCA	Humanitarian Ceasefire Agreement
ICC	International Criminal Court
ICISS	International Commission on Intervention and State Sovereignty
IDP	internally displaced persons
IGAD	Inter-Governmental Authority on Development
JEM	Justice and Equality Movement
MONUC	United Nations Mission in the Democratic Republic of Congo
NATO	North Atlantic Treaty Organisation
NGO	non-governmental organisation
NRF	National Redemption Front
OAU	Organisation of African Unity
PSC	African Union Peace and Security Council
RtP	responsibility to protect
SLA	Sudan Liberation Army
SLA/MM	Sudan Liberation Army/Minni Minawi
SPLM/A	Sudan People’s Liberation Movement/Army
UN	United Nations
UNICID	United Nations Independent Commission of Inquiry into Darfur
UNMIS	United Nations Mission in Sudan
UNSC	United Nations Security Council

1. Introduction

David Mepham and Alexander Ramsbotham

At the sixtieth-anniversary summit of the General Assembly of the United Nations (UN) in September 2005, the world's leaders endorsed an international 'responsibility to protect'. This defines an obligation to act to protect civilians in the face of war crimes or genocide, where the government locally is perpetrating these abuses itself or is unable or unwilling to stop them (United Nations General Assembly 2005). But the continuing crisis in the Darfur region of western Sudan – and the woefully inadequate international response to it – calls into question the seriousness of this commitment and the integrity of the leaders who made it.

The phrase the 'responsibility to protect' (RtP) was coined in 2001 in the report of the International Commission on Intervention and State Sovereignty (ICISS 2001). The Commission was set up to respond to the challenge laid down by the UN Secretary-General Kofi Annan at the 54th Session of the General Assembly in 1999:

'... if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that offend every precept of our common humanity?' (ICISS 2001: vii)

While the Commission acknowledged the significance of national sovereignty to the global political order, it sought to redefine the concept, placing a new emphasis on the idea of 'sovereignty as responsibility'. The Commission asserted that:

'sovereign states have the primary responsibility for the protection of their people from avoidable catastrophe – from mass murder, rape, starvation – but when they are unable or unwilling to do so, that responsibility must be borne by the wider community of states' (ICISS 2001: viii).

The Commission suggested that the responsibility to protect embraces three specific responsibilities. First, a 'responsibility to prevent' – to address both the root causes and direct causes of internal conflict and man-made crises putting populations at risk. Second, 'the responsibility to react' – to respond to situations of compelling human need with appropriate measures, which may include coercive measures such as sanctions and international prosecution, and in extreme cases military intervention. Third, 'the responsibility to rebuild' – to provide, particularly after a military intervention, full assistance with recovery, reconstruction and reconciliation, addressing the

causes of the humanitarian crisis that the intervention was designed to halt or avert.

While the findings of the ICISS report were overshadowed by the events of 11 September 2001, the report has found a steadily growing international audience over the last five years. The idea of the responsibility to protect featured strongly in the work of the independent commission on UN reform that reported to the UN Secretary-General in December 2004, *A More Secure World – Our Shared Responsibility* and in Kofi Annan's own document on these issues, *In Larger Freedom*, published in March 2005 (UN 2004 and 2005). But the biggest breakthrough for the idea of the responsibility to protect came at the September 2005 meeting of the UN General Assembly, where the world's leaders endorsed a responsibility to protect in the Outcome Document (United Nations General Assembly 2005).

Alongside the work of the ICISS Commission and the debate that it has generated within the UN and in key western capitals, there has also been much discussion and action on these issues within Africa. Interestingly, Africans and non-Africans who have addressed these questions have reached broadly similar conclusions. For example, the transition from the Organisation of African Unity (OAU) to the African Union (AU) has involved a formal shift from a policy of non-interference in the internal affairs of states to one of non-indifference in circumstances of war crimes or genocide. This thinking within the AU mirrors the ideas of conditional sovereignty and the responsibility to protect developed by the ICISS.

But the ICISS report remains the best single document for setting out the principles and operational parameters for a responsibility to protect. Of the three responsibilities identified by ICISS, the most contentious is the responsibility to react, particularly where this involves the use of military force.

One of the really critical questions is over how bad a situation has to be to warrant military action. But there are also important questions about the conditions that need to be met for such action to be a legitimate and effective response. The Commission suggests that all of the relevant decision-making criteria for reaching such a decision can be summarised under the following six headings: right authority, just cause, right intention, last resort, proportional means and reasonable prospects (ICISS 2001).

The situation in Darfur is precisely the kind of case for which the responsibility to protect was developed and it meets some of the key criteria for intervention identified by the ICISS. But the international community is still failing to discharge its responsibilities to the people of Darfur. The essays in this collection suggest why this is the case, and they make proposals for what can and should be done now. They primarily represent the views of practitioners with a very pragmatic view of the successes and failures of the various regional and international efforts to reduce the suffer-

ing of Sudanese civilians affected by the crisis in Darfur.

The crisis in Darfur

The conflict in Darfur has deep roots. For decades there have been tensions over land and grazing rights between the mostly nomadic Arabs, and farmers from the Fur, Massalit and Zaghawa communities. But the start of the most recent crisis has been linked to a meeting in July 2001 between a group of Zaghawa and Fur, where they pledged to work together to defend their villages against government attacks (De Waal and Flint 2005). Another critical moment occurred in April 2003 when two rebel groups in the region, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM), mounted an attack on a military garrison at al-Fashir, provoking a brutal and disproportionate response from the Sudanese government and its allies. The al-Fashir raid can be seen as a turning point both militarily and psychologically. It was from this point onwards that the conflict escalated dramatically, with a huge increase in Sudanese government attacks on rebel groups in Darfur.

Since 2003, more than 200,000 people have been killed in the area and more than two million displaced (UN 2006a). And nearly four million people now depend on humanitarian aid for food, shelter and health care. While some of the rebel groups have also committed serious human rights abuses, and have shown very little interest in resolving this conflict diplomatically, primary responsibility for this human tragedy rests with the Sudanese government and the government-backed militia, known as the Janjaweed.

For three years now, the Janjaweed have engaged in ethnic cleansing and forced displacement by bombing, burning and looting villages. Women and girls have been particularly vulnerable to violence and abuse, with large numbers of them becoming victims of sexual attacks when going out of their villages to get water or firewood or when taking goods to local markets. The livelihoods of millions more Darfurians have been destroyed. Fighting has also impacted on Sudan's neighbours. For example, some 200,000 people have sought safety in Chad, although many of these remain vulnerable to attacks from Sudanese forces across the border.

Africa's response

Much of the response to the situation in Darfur has come from within Africa itself, particularly through the work of the African Union (AU). There have been two aspects to this – the AU's role in mediation, ceasefire talks and peace negotiations and the deployment of the AU Mission in Sudan (AMIS).

Initial mediation efforts in Darfur were led by neighbouring Chad, but

the AU took the lead in negotiations in the Chadian capital N'djamena in early 2004 – with the support of the Geneva-based Centre for Humanitarian Dialogue. These negotiations produced a Humanitarian Ceasefire Agreement in April that year. This was supplemented in late May by an agreement to establish a Ceasefire Commission, and by the deployment of AU observers to Darfur.

At first, the AU authorised the deployment of a small force of 60 military observers and 310 protection troops to monitor and observe the compliance of the parties to the N'djamena Humanitarian Ceasefire Agreement. But a worsening security situation convinced the AU Peace and Security Council (PSC), at meetings on 20 October 2004 and subsequently 28 April 2005, to expand the AMIS mandate and force. The force was expanded to include 2,341 military personnel and 815 civilian police, and then 6,171 military personnel and 1,560 civilian police, respectively. Under its enhanced mandate, AMIS was tasked with overseeing compliance with the N'djamena Ceasefire Agreement and subsequent accords, helping to establish a secure environment for humanitarian assistance, and a restricted role in protecting civilians under imminent threat.

As Kofi Annan noted in his September 2006 report to the Security Council on Darfur, AMIS's efforts have brought some limited relief from the worst excesses of this vicious war (UN 2006b). But it has managed to do little more than that. With fewer than 7,000 troops, poorly equipped and lacking a credible mandate, AMIS has failed to provide effective civilian protection to the people of Darfur.

The AU has also been deeply involved in trying to facilitate peace talks between the various parties, through a series of negotiations between the Sudan Government and rebel groups. The seventh round of these AU-led talks culminated in the Darfur Peace Agreement (DPA) in Abuja, Nigeria, in early 2006. This was signed on 5 May by the Government of Sudan, but only by one of the rebel groups, Minni Minnawi's faction of the Sudan Liberation Army (SLA/MM). The negotiation process was undermined by obstructive approaches by both the government and the rebels. In addition, as suggested by Alex de Waal in this collection, international support for the talks was sometimes unhelpful, particularly the setting of an arbitrary deadline to conclude the DPA.

While it was hoped that the DPA would lead to the cessation of hostilities and the creation of a lasting peace, it has not done so. Indeed, things have deteriorated sharply. Elements of the rebel groups that refused to sign the DPA have formed a new National Redemption Front (NRF) and have subsequently escalated attacks. In August 2006 and again more recently, the Sudanese government has also launched major military offensives in an apparent attempt to secure a decisive military victory in Darfur. The SLA/MM has sometimes acted as a paramilitary wing of the Sudanese army,

but more recently it has been involved in clashes with Sudanese government forces (International Crisis Group 2006). This worsening security situation has inevitably contributed to a still worse humanitarian situation (ibid). This has further compounded the problems facing AMIS, and increased the international demands for it to be replaced by a UN or a UN/AU hybrid force (an issue addressed in the next section).

The wider international response

The international response to Darfur has been seriously ineffective. Divisions among the permanent five members of the UN Security Council have prevented a concerted response by the UN. Significant Muslim bodies such as the Organisation of Islamic Conference and the Arab League have not supported serious international responses to protect civilians in Darfur. Nor have AU member states consistently maintained a united political front to require compliance by Khartoum.

Early attempts to galvanise international action on Darfur fell on deaf ears. As Mukesh Kapila notes in his chapter, senior UN officials and the foreign ministries of key governments failed to treat the situation in Darfur with the urgency or seriousness that it deserved, and put forward various arguments to excuse their failure to act more effectively.

However, as mounting evidence of atrocities in Darfur came to light in 2004, it became impossible for the international community to ignore the situation there. A report by the Secretary-General's High-Level Mission to Darfur in early May 2004 was candid about the scale of the humanitarian crisis and the culpability of the main players. A degree of international pressure at this time led to a slight improvement in the humanitarian situation: the N'djamena Agreement opened up some humanitarian space and Khartoum agreed to allow in a number of aid agencies.

The first UN Security Council resolution specifically on Darfur, resolution 1556 of 30 July 2004, endorsed the presence of AMIS. Successive resolutions have placed various demands and have threatened penalties on the parties to the conflict. They have called on all parties to allow humanitarian access, to cooperate with AU mediation initiatives, to uphold commitments to the ceasefire and other political agreements, and they have approved the transition of AMIS to a UN mission.

In April 2006, the Security Council also voted for targeted sanctions on four Sudanese individuals – a former Sudanese military commander, a Janjaweed militia leader and two rebel commanders. These sanctions included travel bans and the freezing of foreign bank accounts and other assets. Since May 2006, UN resolutions have also required non-signatories to sign up to the DPA. Threats by the Security Council have included financial, military and other sanctions, as well as referral of suspects of major war crimes to the International Criminal Court (ICC).

Since the September 2005 meeting of the UN General Assembly, the international debate about Darfur has been framed ever more explicitly within the context of the responsibility to protect (RtP). In a speech given in London in January 2006, Kofi Annan declared that the UN Summit's commitment to RtP would only be meaningful if the Security Council is prepared to act 'swiftly and decisively, to halt the killing, rape and ethnic cleansing to which people in Darfur are still being subjected' (Annan 2006).

Discussions in the Security Council during 2006 have also focused increasingly on the idea of a transition from the struggling AMIS to a much bigger and more capable UN mission. This idea was endorsed by the African Union Peace and Security Council in May 2006. In August 2006, it was also finally approved by the UN. The UN Security Council agreed to deploy a peacekeeping force of more than 17,000 troops and as many as 3,300 civilian police officers to Darfur to try to end the spiralling violence.

However, no one in New York or in key international capitals has been prepared to deploy UN forces without Khartoum's consent, and the Government of Sudan shows no interest in giving it. The Sudanese government claims that such a deployment would be a violation of its sovereignty and would be tantamount to declaring war on it.

But this claim is inaccurate and disingenuous. There are already UN troops of the United Nations Mission in Sudan (UNMIS) in the south of Sudan. They are there with Khartoum's support to underpin the 9 January 2005 North-South peace agreement. UN Resolution 1706 proposed to expand the mandate of UNMIS to cover Darfur as well. The UN force was mandated to take over the role of AMIS by no later than 31 December 2006.

The real reason for Khartoum's opposition is that it fears that a UN force would be more effective in curbing its military actions in Darfur. It is also concerned that a UN presence on the ground, backed by the Security Council, might lead to key figures in the Sudanese government being indicted for war crimes before the International Criminal Court.

The upshot of intense diplomatic negotiations in September 2006 was an agreement to extend the AMIS mandate for a further three months, but with no clarity about when or if a UN force might go into Darfur. Despite UN and AU resolutions calling for it, there is currently a serious deadlock on this and a tense stand-off between the international community and the Sudanese government. And there is some evidence that the international community is backing away from the idea of a UN force, in the face of determined opposition from Khartoum.

On 16 November 2006, Kofi Annan and the AU convened a high-level consultation on the situation in Darfur in Addis Ababa. This brought together the Chairperson of the AU Commission, the five permanent members of the Security Council and a number of African countries, including Sudan. There is some confusion about what was agreed at the meeting. The

UN argued that a breakthrough had occurred: that Sudan had agreed to a strengthened AU force (as an interim measure), to a re-energised peace process and to the deployment of UN peacekeepers in Darfur, in the context of an AU/UN hybrid mission. The Sudanese government has rejected this interpretation, particularly the last point.

To demonstrate its continuing contempt for the international community, Khartoum also stepped up attacks in Darfur in November 2006. As a result, the humanitarian situation has worsened further, with a number of relief organisations deciding to pull out of Darfur (United Nations 2006c). According to the UN Emergency Relief Coordinator, Jan Egeland, the number of people in Darfur needing aid to survive surged by hundreds of thousands to four million in just the six months prior to this report being published (United Nations 2006d).

What should be done now about Darfur?

There are no easy options left in Darfur, but there are two overarching priorities for international action: ensuring the deployment of an effective international force, and action to revive political negotiations.

An international force for Darfur

Much stronger and more concerted international pressure should be applied on the Sudanese government to make it accept an effective international force in Darfur. This should be a UN force, with adequate funding and a UN command structure. The November 16 meeting in Addis, convened by Kofi Annan and the AU, suggested that an AU/UN hybrid force be deployed in Darfur. This should not be ruled out, and there is a strong case for African troops and personnel constituting a large proportion of the deployment. However, the priority must be the efficacy of the force in protecting civilians. This is most likely to be secured through a UN mission, led by a UN commander and with sufficient resources and a clear mandate.

Earlier in 2006 Kofi Annan outlined what a UN Mission in Darfur might look like, highlighting key tasks to improve security and physical protection in Darfur, such as:

- Assisting in monitoring and verifying the implementation of the redeployment and disengagement provisions of the DPA, including actively providing security and patrolling the demilitarised and buffer zones and through the deployment of police in areas where internally displaced persons (IDPs) are concentrated, along key routes of migration, and other vital points.
- Taking all action necessary to protect vulnerable civilians under imminent threat, and deterring potential opponents of the peace process (so-called spoilers) through robust action.

- Assisting in the establishment of the DPA's disarmament, demobilisation and reintegration programme and actively participating in disarmament. (United Nations 2006a)

These tasks are more essential than ever and the UN is best placed to carry them out successfully.

While Khartoum continues to resist the deployment of a UN force, there are precedents for encouraging recalcitrant governments to concede. In 1999, international pressure of this kind compelled an equally reluctant Indonesia to accept international peacekeepers into the then-occupied territory of East Timor. Serious pressure has also worked before with Khartoum. For example, tough UN and US sanctions in the 1990s 'forced Khartoum to cut its ties with Al Qaeda and other terrorist organisations', and 'US pressure and the imperative of its own survival [...] later led it to end two decades of civil war with southern Sudan' (Grono and Prendergast 2006). Comparable international pressure today still represents the best hope for persuading the Sudanese government to end its offensive in Darfur, accept a UN force, take steps to demilitarise and disarm the Janjaweed and enter negotiations with the rebels.

Maximising international pressure on Sudan requires help from China, Russia and the Arab states. These countries can potentially play a major role in applying pressure on the Sudanese government to comply with international demands: China and Russia are allies of Khartoum on the Security Council, while key members of the Arab League maintain close ties with Sudan. So far, however, all have opposed more decisive international action on Darfur (Mephram and Wild 2006).

The Chinese have very significant economic interests in Sudan and they have been reluctant to press Khartoum about Darfur. But the Beijing authorities have been affected to some extent by sustained international criticism of their policy on Darfur, leading them to support a peacekeeping operation in southern Sudan in the context of the North-South peace agreement. Moreover, faced with international criticism, the Chinese did not prevent the UN Security Council from granting the International Criminal Court jurisdiction over gross human rights abuses committed in Darfur. The Chinese are aware that their stance on Darfur is damaging their image in Africa and the developing world more generally. This creates some opportunities for other parts of the international system to put pressure on China to put pressure on Sudan. Russia has also resisted a more concerted response by the Security Council, and Moscow should similarly be pressed to back effective action to protect civilians in Darfur.

The international community should urge the Arab League to address the situation more resolutely, too. Sudan currently serves as the president of the Arab League, and it has traditionally had close relations with Egypt and

other parts of the Arab world. But the Arab League has yet to criticise the massive human rights abuses taking place in Darfur.

Most obviously, there is a critical role for fellow African states in pressuring Sudan to accept a UN force. While the Constitutive Act of the African Union (article 4h) recognises a right of intervention when war crimes are being committed, most African states are still reluctant to put real pressure on Khartoum. But African states have the most to lose if the Darfur crisis deteriorates still further – and the most to gain if the AU can demonstrate a greater willingness to condemn gross human rights abuses and to hold the offending governments to account.

For the wider international community there are three additional policy options available for exerting leverage over Khartoum. First, there is scope for using economic pressures more assertively. As the International Crisis Group has argued, it is important to ‘change the calculus of self-interest for the Sudanese regime, and one of the most effective ways of doing this is to target its sources of illicit income and unravel the Sudanese government’s shadowy web of commercial interests’ (Grono and Prendergast 2006). Such interests include secret companies run by senior figures in the ruling National Congress Party, security companies run by Sudan’s National Security Agency and so-called ‘charitable companies’ that are affiliated with Islamic charities but controlled by Islamists within the regime. Grono and Prendergast (2006) recommend rightly the need to focus on what they describe as the ‘parallel economic network run by Sudan’s regime’.

Second, international legal instruments should be used more effectively, especially through the International Criminal Court (ICC). The UN Security Council referred Darfur to the ICC in March 2005. And the threat of ICC prosecution in Darfur is potentially one of the more effective tools at the disposal of the international community for changing the calculations of warring parties there. To date, however, there has been very little progress with the Darfur investigation. The Sudanese government has refused to cooperate with the ICC and is doing its best to undermine the investigation. This in itself suggests that senior figures in the government are genuinely worried about the possibility of being indicted for war crimes, and the threat can and should be used to put pressure on Khartoum.

Third, consideration should be given to international military options in Darfur. The critics are right to say that it would be hugely dangerous, difficult, costly and wrong to declare war on the regime in Khartoum. But there are military options that may help to bring real pressure to bear on the Khartoum authorities while avoiding a wider military confrontation. One option is the enforcement of a no-fly zone over Darfur (which has been agreed in successive UN resolutions, including the United Nations Security Council Resolution 1591 in 2005). Although there is a Chapter VII

resolution and Khartoum has made an additional commitment to the DPA to cease hostile military flights, there has been no effective system of surveillance or airport monitoring put in place, and aerial attacks have continued, 'presently involving Antonovs and helicopter gunships that carry out strikes in North Darfur and eastern Jebel Marra' (International Crisis Group 2006: 11). Given that the situation could further deteriorate, there is a strong case for the UN or key international governments putting in place contingency plans for other military options, including the idea of a rapid reaction force that could be deployed to eastern Chad (International Crisis Group 2006).

A peace agreement for Darfur

While an effective international security presence is essential in the short term to better protect civilians, it is also necessary to redouble international efforts to promote a political resolution of the Darfur conflict. There can be no secure future for the people of Darfur without this. While the DPA lacks popular support among most Darfurians, the AU and the international community cannot afford to give up on the idea of a negotiated solution.

On 5 May 2006, the Sudanese government signed the Darfur Peace Agreement (DPA) in Abuja, Nigeria, with a faction of the SLA headed by Minni Minawi. But two other rebel movements, JEM and the SLA faction led by Abdul Wahid Mohamed Nur, refused to sign. The reasons given by the rebels for refusing to sign included concerns about a proposed victim compensation fund, and doubts about the arrangements on power-sharing, rebel representation in government and the disarmament of the Janjaweed militia. There were also concerns that 'essential actors such as traditional leaders, the displaced and women were largely excluded from the talks' (International Crisis Group 2006: 13).

Alex de Waal, part of the AU mediation team during the Abuja talks, argues in this collection that the main parties to the talks were not that far away from a deal. He suggests, for example, that Abdel Wahid al Nur, the leader of largest rebel group that refused to sign, found the security arrangements 'acceptable' and the wealth-sharing provisions '90 per cent acceptable'. While highly critical of the mediation process, and of the excessive pressure placed on the parties to reach a deal by an agreed date, he believes that with a little more flexibility on all sides an accommodation could have been found and an agreement reached.

Six months on from the talks, following a dramatic worsening of the security situation, it will be harder to find a political agreement. Positions have hardened and mutual distrust and enmity have increased. But there is no credible alternative to reviving political talks.

There are three steps that should be taken, consistent with this goal. First, it needs to be acknowledged upfront that the DPA has failed to command suf-

efficient support in Darfur and that the Agreement should be amended to reflect this. That does not mean wholesale renegotiation of the DPA. But there does need to be a willingness to look more flexibly at the terms of the agreement, to persuade the non-signatories to come on board. Simply pressuring them to sign, without making any further concessions, will not work.

Second, the AU, with international support, should re-establish formal contact with the non-signatory groups. The decision to expel the non-signatories from the Ceasefire Commission after their failure to sign the DPA was a mistake and should be reversed. While the non-signatories remain highly fractured and have weak negotiating capacity, engaging them is essential to revive the prospects of a politically negotiated solution.

Third, the AU, with international support, should try to reconvene all the parties to the Abuja talks, providing a new forum in which the signatories and non-signatories and other previously excluded stakeholders can address issues around the DPA and resolve differences. This was proposed in the conclusions of the 16 November meeting in Addis. It should be taken forward as a priority.

Structure of the report

In the second chapter, Suliman Baldo addresses the African response to Darfur since 2003. Baldo notes that the Darfur crisis has been a huge test for the African Union and, in particular, for its new peace and security architecture. He notes that AMIS has been hamstrung throughout by an inadequate mandate and insufficient forces and capabilities. But despite these limitations, Baldo notes that AMIS did manage in 2004 and early 2005 to contribute to the reduction in violence and to provide a degree of protection to civilians in the areas where it was deployed. Baldo suggests, however, that by late 2005 and throughout 2006, AMIS has been overwhelmed by the cease-fire violations of all parties and by the worsening security situation, particularly following the signing of the Darfur Peace Agreement in May 2006.

Next, Mukesh Kapila focuses on the international response to Darfur, particularly during 2003 and 2004, at a time when he was the United Nations resident and humanitarian coordinator in Sudan. Kapila argues that the inadequacy of the international response to Darfur was not because of a lack of awareness of what was going on, or of a failure in early warning. He suggests that, on the contrary, within the UN system and in key national capitals, there was a full appreciation of the severity of the crisis unfolding in Darfur, matched only by a collective inability or unwillingness to act on this information,

Kapila notes that within the UN system, the crisis was dealt with within a humanitarian rather than a political context, with a focus on improving

the delivery of humanitarian assistance rather than addressing the factors that created a need for it. The most important claim in Kapila's piece is that 'earlier intervention could have averted or moderated the magnitude of the genocide'. Failing to act at an earlier stage, he suggests, worsened the conflict and made subsequent international options more costly and complex.

Jim Terrie's contribution considers the military and other options currently available to the international community for addressing the crisis in Darfur and providing more effective protection for civilians. Terrie observes a lack of international support for the kind of forceful action that he believes is necessary to protect civilians in Darfur. He suggests that there are some real weaknesses with the AU's peacekeeping capacity but also with the paradigm of peacekeeping currently dominant in the UN.

Terrie addresses military options for Darfur, but contends that to be credible these would need more troops than is generally suggested. There would also need to be a willingness to engage the Sudanese government in serious combat, for which existing UN member states appear to have no appetite. A UN force, along the lines of the one proposed in UN Security Council Resolution 1706, would be better than nothing, he argues, but would still fall short of a serious responsibility to protect.

Alex de Waal then looks at the negotiations process that led to the Darfur Peace Agreement in May 2006 (a process in which he was intimately involved as a mediator). He highlights some of the real difficulties experienced by the mediators and negotiators, not least the pressure exerted by key governments to clinch a deal within a specific timeframe. He sees this pressure as unhelpful and counterproductive. But de Waal also suggests that the distance between the signatories and non-signatories over the substance of a deal was not large. His piece calls for an early revival of political negotiations as the only way to secure peace and security in Darfur in the long term. This he sees as essential to the more effective protection of civilians.

Finally, editors David Mepham and Alexander Ramsbotham provide some brief conclusions, identifying six lessons about civilian protection to be applied to future Darfur-like situations.

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2. The African response to Darfur

Suliman Baldo

The eruption of the Darfur conflict in 2003 was a huge test for Africans and, in particular, for the African Union (AU). It occurred at a time when the AU was busy putting in place its new structures and institutions: the building blocks of its new peace and security architecture. Between its creation in 2002 and the launch of its Peace and Security Council in May 2004, the AU set out the components of an integrated peace and security strategy, consisting of an early warning system, a Panel of the Wise, and a quick-reaction Africa Standby Force (ASF).

But the AU had barely negotiated the transfer of its African Mission in Burundi (AMIB) to the United Nations in May 2004, when it was called upon to send monitors to Darfur to observe the belligerents' compliance with the N'jamena ceasefire agreement that they had signed the month before. The evolution of the African Union Mission in Sudan (AMIS) tells a story of lack of preparedness and capacity to cope with a situation that was by that time already qualifying as one of the world's worst humanitarian crises.

The launch of the African Union had marked a fundamental shift from the principle of non-interference in the internal conflicts of member states that had rendered its predecessor, the Organisation of African Unity (OAU), so totally ineffective in addressing the daunting conflicts of post-independence Africa. Instead, the AU gave itself the right to intervene in such crises to prevent or stop mass atrocities. The world's failure to stop the 1994 Rwandan genocide demonstrated the need for a more effective African response to the threat or actual unfolding of humanitarian crises, with the assumption that the international community would subsequently intervene to shoulder its share of the responsibility to preserve international peace and security.

This readiness to assume the responsibility to protect civilians against atrocities was part of broader reforms to political and economic governance systems in Africa, aimed at improving the welfare of Africans and preventing deadly conflicts. Reform has been driven by the recognition that conflicts are dragging the entire continent down, and that outsiders would not necessarily provide effective responses, as shown by the problematic UN peace support operations of the 1990s, particularly the fiascos of Somalia and Rwanda. The slow international response to the Darfur crisis made it necessary for the unprepared AU to step in.

The development of the AU's peace and security architecture has coincided with a period in which Africa has risen steadily up the international

political agenda. This trajectory in the international arena stems from a concern that Africa's failure to achieve greater progress could cause considerable problems for the wider international community. The fear that failed states, such as Liberia or Somalia, could easily provide breeding grounds for international terrorism is behind much of the international interest in supporting Africa's peace and security agenda. The continent's huge oil reserves are fuelling fierce competition between the United States, Europe and the emerging economic giants of Asia – China, India, and Malaysia. At a time when the price of a barrel of crude has broken the US\$70 peak, the security and political stability of oil-producing countries such as Nigeria, Sudan, and Chad has become a matter of national interest for their international clients or their competitors.

Deficiencies of governance in many African countries are also a matter of concern to the European Union, which is affected by waves of illegal African migrants fleeing miserable socio-economic conditions at home. Africa, as a result, has assumed an importance in the global security agenda that it had lost after the end of the Cold War.

The AU was the first international body to react to Darfur, and the AU's Peace and Security Council (PSC) was initially very clear on what would be required to contain the violence there and effectively protect civilians at risk. The Chair of the AU Commission, Alpha Oumar Konare, requested in July 2004 that the AU develop a plan for a full peacekeeping force, whose mandate would include the forcible disarmament of the Janjaweed militia, among other things. This was the right diagnosis for the problem, very early on, and if it had been followed through much of the subsequent bloodshed and death could have been avoided.

However, two political realities were established at this stage that would have a significant impact on any AU deployment to Darfur. First, any deployment would have to go through Khartoum, and therefore needed *de facto* acceptance by the ruling National Congress Party over the terms of the mission, thus effectively giving Khartoum a veto over any uncomfortable decisions. Second, the AU lacked the capacity to carry out this task on its own – it was new to the peacekeeping game and needed external financial and technical support. An AU official told the International Crisis Group in January 2005 that the organisation was like a house under construction, with no roof yet: 'people are asking us for protection from the rain and we are not yet ready' (Soderberg 2005).

The performance of AMIS

Even at the peak of its authorised force in 2005/06 of some 7,000 peacekeepers and civilian police, AMIS was hamstrung by an inadequate mandate, and insufficient forces and capabilities. There was also a political fail-

ure to acknowledge that the Sudanese government had demonstrably failed to meet its own responsibilities to neutralise its militia and protect its citizens, and that it was the main perpetrator of civilian killings in Darfur. More recently, rebel factions and bandits have also committed many atrocities against civilians and attacked humanitarian workers and AU peacekeepers. Such attacks have severely restricted the movements of neutral actors such as humanitarian non-governmental organisations (NGOs) and have curtailed their ability to protect the people of Darfur, either directly or indirectly.

The African Union first sent a small observation mission to Darfur in mid-2004 when it became clear that despite wide condemnation of the atrocities there was insufficient international will to intervene. Its arrival coincided with a reduction in the level of violence. This unwittingly misled the AU and its international partners into believing that AMIS would have a significant impact in improving stability in Darfur. In fact, violence had subsided at this time primarily because most of the targeted villages of the sedentary Fur, Massalit and Zaghawa people had already been destroyed and their inhabitants killed, raped, or herded into squalid camps.

Given its restrictive mandate and limited forces, AMIS tried to improve security by deploying assets selectively across the mission's eight sectors. It sent out patrols to areas of tension or actual security incidents to preempt violence through diplomacy or investigate incidents after the fact.

The mission could not sustain daily patrols. In the tense environment of overcrowded IDP camps, AMIS's response consisted of deploying its civilian police alongside the Sudanese police. But the IDPs had no trust in the latter. Even then, the AU mission lacked the logistical and operational capacity to carry out effectively the bulk of its field tasks. Its early operations were hampered by delays in the construction of accommodation and the delivery of vehicles, helicopters, and communications equipment. Also, due to chronic shortfalls of expert personnel, AMIS was unable to coordinate effectively between the strategic, operational and tactical military levels.

Despite the structural and mandate limitations, AMIS in 2004/05 did contribute to the reduction of violence and the resulting protection of civilians in areas where it was deployed. Examples include the overall improvement in civilian protection that followed AMIS deployments in Kebkabiyah (North Darfur) in late 2004 and in Labado and Graidia (both in South Darfur) in early 2005, as well as improvements to the success of AMIS in protecting women from assault and rape outside the camps in several sectors.

The deployment of AMIS also helped open up space for what would become one of the largest humanitarian operations in the world, with some 14,000 relief workers (1,000 of them expatriates) who contributed to the protection of war-affected populations by helping to improve their food security, health, and sanitary conditions and providing a deterring presence of witnesses.

By late 2005, stalemate in political negotiations (mediated by the AU) and the failure of the Sudanese government to live up to its commitments to disarm the Janjaweed led to a gradual worsening of the security situation. The fragmentation of the two leading rebel groups, the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM), and increasing infighting among the competing factions, caused further violence. AMIS was overwhelmed, and its structural weaknesses became increasingly apparent as it failed to check ceasefire violations by all the parties.

Ironically, following the May 2006 signing of the Darfur Peace Agreement (DPA), there has been a serious deterioration in the security and humanitarian situation, to levels comparable to the peak of the killings in 2004. In July and August 2006 more humanitarian workers were killed than at any time since the conflict began two years before – a total of 12. Much of the fighting was between the SLA faction that had signed the accord and rebel groups that continued to reject it. The latter formed the National Redemption Front (NRF) on 30 June 2006. In late August 2006, the Khartoum government launched an offensive aimed at crushing the remaining rebels militarily and punishing civilians suspected of supporting them. One NRF leader told me: ‘the government will not crush us; we will not defeat it. The solution sooner or later has to be political’. But until there is a return to the political track, the situation for many civilians remains desperately insecure. In the face of this deterioration, AMIS peacekeepers have stood by helplessly as the AU-brokered agreement has effectively disintegrated.

In early September 2006 the government threatened to expel the AU force from Darfur at the end of its mandate on 30 September. The following day, it offered a deal to the AU in which it would finance the cost of the operation jointly with the Arab League. This was on condition that the AU de-linked the renewal of AMIS’s mandate from the transfer of the mission to the UN. The government’s offensive and its ultimatum to the AU were both aimed at preempting the replacement of AMIS by the UN peacekeeping mission that had been agreed through Security Council Resolution 1706 of 31 August 2006.

At a 16 November 2006 high-level consultation in Addis Ababa, attempts were made to break the existing stalemate. A communiqué from the meeting suggested that there was agreement to bolster AMIS with much more extensive UN support, ultimately in the form of a ‘hybrid’ AU-UN mission comprising 17,000 troops and 3,000 police (United Nations 2006:). Despite the Sudanese government’s participation at the meeting, the agreement was almost immediately called into question by Khartoum, which contested the UN’s interpretation of the outcome.

Political shortcomings

The AU has also displayed serious shortcomings at the political level. Most damaging was the manner in which the AU led the mediation process that culminated in the Darfur Peace Agreement (DPA), and the serious weaknesses of that settlement. The AU was initially reluctant to consult with the Inter-Governmental Authority on Development (IGAD) team that had successfully mediated between the Government of Sudan and the southern Sudan People's Liberation Movement/Army (SPLM/A).

IGAD's efforts had resulted in the signing of the Comprehensive Peace Agreement (CPA) in January 2005. Because the SPLM/A's ideology of a 'new' secular, democratic Sudan was a source of inspiration for the Darfur rebels, the strategies and approaches that had worked for the conclusion of the CPA were relevant to the AU mediation process. But these strategies were largely ignored. There was a lack of consistency in the AU's political approach to Darfur: the AU changed lead mediators three times before the 26 May 2005 appointment of Salim Ahmed Salim. It was under his watch that the DPA was reached.

As it sought to deliver the DPA, AMIS also failed to heed the warning of the Brahimi Report on UN peace operations, which noted that, 'the first six to twelve weeks following a ceasefire or peace accord is often the most critical period for establishing both a stable peace and the credibility of the peacekeepers'. The report concluded that 'credibility and political momentum lost during this period can often be difficult to regain' (UN 2000: para. 87).

During the critical first few weeks AMIS did little to implement the provisions of the DPA that came under its mandate, and this inaction did much damage to its credibility later. The revitalised Joint Commission and a restructured Ceasefire Commission¹ were paralysed, following their relaunch in June, by the insistence of those rebel factions that had rejected the DPA that they were nonetheless committed to the earlier N'jamena Ceasefire Agreement.

When the AU finally gave in to intense government pressure to expel from their bases the remaining rebel factions that were still holding out, it removed the stalemate but signalled to these factions that the earlier ceasefire no longer held. By implying that the ceasefire to which all parties had previously agreed was now superseded by one that only some acknowledged, the decision contributed to an increase in violence and ceasefire violations. The violence restricted AMIS's movements in areas controlled by the non-signatories, preventing it from monitoring the situation and reporting on ceasefire violations.

1. The Joint Commission and Ceasefire Commission were set up under the terms of the April 2004 Humanitarian Ceasefire Agreement to oversee the implementation of the agreement.

A lack of progress on implementation, and widespread ignorance of the terms of the DPA agreement, have contributed to the increased unpopularity of the DPA among the IDPs and have isolated the faction that had signed up to the DPA. Tension among supporters and opponents of the agreement has led to initial unrest in the large camps, and to confrontations among rebel factions, with both developments at times taking ominous ethnic turns. AMIS's slowness in implementing the DPA unwittingly comforted Khartoum in its obvious intention to use the DPA as a weapon for dividing the rebels along ethnic lines and for weakening the political support of those who opposed the agreement.

The 16 November Addis Ababa 'agreement' included provisions to revive negotiations and to breathe new life into the DPA. It sought to engage international partners and all parties to the conflict in the process – in particular involving non-signatories of the DPA. But in the weeks following the Addis meeting there was a further increase in Sudanese government attacks.

Averting catastrophe

On 8 August 2006, the Sudanese government stated its intention to deploy up to 26,000 troops in Darfur in an effort to gain 'control of the security situation'. Despite the plan's obvious violations of all Security Council resolutions related to Darfur, and even the terms of the DPA, international diplomacy persisted in pursuing a conventional approach aimed at persuading Khartoum to accept the UN deployment. In the meantime, the government in early September unleashed the 10,000 troops it had already amassed against rebel positions in North and South Darfur, only to suffer two humiliating defeats at the hands of the rebels. In response to these setbacks, the government amassed additional troops and mobilised the Janjaweed, in flagrant violation of the DPA and UN Security Council resolutions. As the offensive unfolded, the International Crisis Group and other agencies received eyewitness reports of indiscriminate government aerial bombings on civilians, ominously presaging the next phase of the campaign.

The decision to maintain the AMIS force until December is better than nothing. If nothing else, AMIS will act as a witness to whatever might unfold, and that by itself could have a deterrent effect on the government's hardliners who are eager to impose a military solution at whatever cost. But as others argue in this volume the AMIS force needs to be replaced as soon as possible by a properly resourced and mandated UN force, and concerted pressure should be directed at the government in Khartoum to get it to consent to such a deployment.

Lessons learned

There are three key lessons to draw for the Africa Union and its international partners from what sadly could be characterised so far as a 'failure to protect' in Darfur.

First, to stop the bloodshed, the AU and its international backers should have gone in with the maximum necessary resources from the start. Deployments that are strengthened gradually in terms of size and mandate are a recipe for ineffective containment of massive attacks against civilians – or the prevention of impending attacks. The AU should have followed through with its initial assessment of the level of troops required and the type of mandate needed. Even then, given the limitations of its peacekeeping capacities, the AU's international partners should have made the rapid build-up of its peace support capabilities a top priority, and should have planned for a transition to the UN at a much earlier stage.

Second, at the political level, a viable peace agreement is the most effective tool for ending atrocities and bringing about sustainable peace. To make up for the deficit of attention of the international community to the actual conduct of the AU mediation, and the structural deformities of the resulting document, the AU and international actors should prioritise the revival of the political process to complement the DPA and reach compromises acceptable to all the warring parties. Since the DPA process has by necessity excluded some key stakeholders in Darfur, and has failed to address the root causes of the conflict, the inter-Darfurian dialogue outlined in the DPA should receive greater attention from the AU than has been the case so far.

Finally, to focus the minds of the warring parties on a political exit from the current escalation, and to improve the security of civilians in the process, the international community should apply maximum pressure on all the parties immediately to end all hostilities. International diplomacy has excelled thus far in making threats that have rarely been followed through. This approach needs to change, starting with the well coordinated application of targeted sanctions against belligerent commanders under whose commands UN Security Council resolutions have been violated, atrocities have been committed, and arms embargoes imposed by the UN on Darfur have been breached.

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3. Why the international community failed Darfur

Dr Mukesh Kapila

It took half a century from the end of the second world war for the UK to have its first Holocaust Memorial Centre, and that only because of the uncommon passion of the commonly-named Smith family. The Centre is located in a most improbable setting – amid the rolling green meadows of Nottinghamshire in prosperous middle England. It has a curious atmosphere. While visitors cannot help but be moved by the poignant exhibits, there is no unproductive sentiment at work here, and this is not a museum of the dead. The Holocaust Centre is also the businesslike headquarters of the Aegis Trust, dedicated to the prevention of future genocide. Aegis means shield in Greek and, since the beginning of human history, vulnerable people have needed protection against genocide. Also, since that time, vulnerable people have been let down in this regard.

The story that follows does not break the historical mould. It explains why the international community failed in Darfur. This is not about lesson-learning because Darfur has little new to teach us. It is, in fact, a familiar tale – just with some new (but also many old) actors in a different location. On current trends, there are likely to be more Darfur-like situations in the world. Unless, that is, we can move beyond lessons. This will require something more than the incremental implementation of many worthy recommendations that have been made before. They are, of course, worth pursuing, to make the world generally safer and better. But that will not stop the ultimate and special evil of genocide. That will only happen by acting very, very differently.

International responses: a familiar tale of inaction

The start of my personal Darfur story goes back to the 1990s when, as a mid-ranking British government official, I witnessed the chemical bombardment of Halabja in northern Iraq, the decimation of the Marsh Arabs in southern Iraq, the massacre in Srebrenica in the former Yugoslavia and, at very close hand, the 1994 genocide in Rwanda. I also had had a modest role in helping to define UK Government policy towards the establishment of the International Criminal Court and, in 2002/03, I served for a short period with the UN High Commissioner for Human Rights; this took me, among other places, to the setting of the earlier genocide in Cambodia. Thus, arriving in Khartoum in March 2003 to head the United Nations system in Sudan, I was well-briefed on the oft-repeated doctrine of ‘never again’.

The picture of what actually happened in Darfur in 2003/04 has been gradually pieced together and the nature of the brutality inflicted on the people there has been well-documented by courageous eye-witnesses and expert testimony. It has been described elsewhere in official reports, including from my own Office of the United Nations Coordinator, from civil society groups and in the media. We called it the world's greatest humanitarian crisis of that time and a massive human rights catastrophe. I described this to the BBC in March 2004 as a systematic and organised attempt by supremacist-racist perpetrators (the Janjaweed aided by their government allies, and led by a military-political elite of that time) to 'do away' with another group because of their black African identity.

This was done through inflicting forced displacement with a 'scorched earth' policy as well as extreme violence, including murder, rape, torture and abduction on a massive scale. The characteristics satisfied the definition given in the 1948 Genocide Convention, the only difference between Darfur and Rwanda being the numbers of victims involved.

Although Darfur was a particularly remote and isolated corner of the world with very little international presence in 2003/04, the genocide did not happen because of a lack of awareness of what was going on, or of a failure in early warning. As the evidence for massive crimes against humanity in Darfur mounted towards the last quarter of 2003, I raised my concerns with the Sudanese government authorities, which retaliated by stepping up their campaign of intimidation of the international community and deliberate obstruction of humanitarian access.

With little – and deteriorating – cooperation from the government, I sought greater backing for meaningful action from within the UN system. Though this resulted in some strong statements of concern from high levels of the United Nations multilateral system, these were quickly discounted by the Sudanese authorities. This was because the private dialogue by most visiting senior UN envoys (where serious business might have been expected to be transacted) did not match the public rhetoric, or gave mixed messages. A fragmented approach, and personal competition and rivalries between certain UN envoys did not help, especially in a climate where some may have had their own future career prospects in mind. This was paralleled by certain UN in-country aid agencies, which were reluctant to take an energetic approach to assistance and protection in Darfur because of the fear that putting their heads above the parapet would compromise their personal and institutional position with the authorities.

The UN mandate in Sudan in 2003/04 was largely limited to humanitarian work, along with some development support and, latterly, planning for the recovery and reconstruction, which was expected to ensue after the signing of the 2005 North-South Peace Agreement. When I asked for UN political guidance on Darfur, I was told to improve our humanitarian assis-

tance and coordination efforts. Senior levels of the political wing of the UN Secretariat refused to give serious consideration to a political approach, remitting the problem instead to the humanitarian wing of the Secretariat.

The lessons of the UN-commissioned enquiries into its own very serious internal failings in Srebrenica and Rwanda were forgotten. This was especially the case in respect of personal responsibilities to act in situations where grave crimes against humanity are being perpetrated or suspected. In essence, while Darfur burnt, we fiddled with humanitarian aid.

Having achieved very little within the UN system in terms of seeking a political engagement, I turned to powerful member states for help. I made representations to their embassies in Khartoum and directly at capitals through visits in Europe and North America. I discovered that western members of the Security Council had very good sources of information and were well aware of what was going on. I lobbied for the Security Council to consider asking for a briefing, and this was pushed even more strongly by my immediate superior in UN Headquarters in New York, Jan Egeland, the emergency relief coordinator, who supported my efforts.

It seemed extraordinary to us that Darfur, at that time, was the world's greatest humanitarian and human rights catastrophe, taking place in the context of Africa's longest running war in the continent's largest country, and had generated the largest population of displaced people in the world. But still the crisis failed to rouse any serious discussion in the Security Council. Security Council members were reluctant to act, some of them because of their own strategic interests for resources or influence in Sudan. The exception was the US, which was under considerable pressure from internal faith-based lobbies. However, the US was also preoccupied with the so-called war on terror and the turbulence from its military engagement in Iraq had dimmed its moral authority and its international influence. In effect, while the agony of Darfur multiplied, the Security Council refused to hear.

In addition, key member states argued that the solution to Darfur lay in a successful North-South peace process, the conduct of which had been contracted out to the Inter-Governmental Authority on Development (IGAD), supported by the troika of US, UK, and Norway. They argued that such an agreement would bring fairer wealth and power sharing to all parts of Sudan, and hence address the alleged grievances of the people of Darfur. Therefore, they were reluctant to compromise these peace talks by being too tough on Darfur, in case this upset the Sudanese government.

Indeed, there was even some talk in the corridors of Naivasha, Kenya – where North-South negotiations were taking place – on who would get the Nobel Peace Prize. The personal reputation of the negotiators and the prestige of their own countries were at stake. This was a deeply flawed approach. John Garang, the leader of the SPLM/A, told me that he would delay sign-

ing as long as he could, partly because he did not want the responsibility for solving Darfur when he became part of the new unity government in Khartoum that had been agreed in the 2005 North-South Peace Agreement. Therefore, he prevaricated. This suited the regime in Khartoum, whose representatives told me that they wanted to sort out Darfur finally, before they signed the North-South Agreement. As progress was made with the latter, the violence in Darfur got worse. In effect, there was a morally repugnant trade-off between the North-South peace process and the suffering of Darfur.

So, we were well set for failure: Darfur was doomed and genocide could not be prevented, yet again. There were many similarities to Rwanda. In both places, a decade apart, similar factors were at play: a UN management that gave mixed messages and could not be bothered enough, a Security Council that was deaf, key member states with other interests to pursue, and flawed assumptions and analysis; this fed prevarication and inaction.

Missed opportunities for early action

In Darfur, my involvement was close enough for me to be able to assert with conviction that earlier intervention could have averted or moderated the magnitude of the genocide. That is to say that though serious crimes against humanity would probably still have been committed, we may have reduced the suffering. That alone would have been worth the effort. Furthermore, by acting more decisively at that time when the perpetrators were less entrenched and had a stake in not going too far, or were more open to influence, we may have had more feasible and less expensive options for peacemaking, peacekeeping, and peacebuilding than have turned out to be the case.

These earlier actions should have included immediate and strong Security Council engagement, suspension of the North-South talks until they could be widened to include Darfur (and other emergent problem areas such as eastern Sudan), imposition of economic sanctions against the oil industry that fuels the war machine, suspension of Sudan from international forums, and smart travel and asset sanctions against implicated individuals. These measures would have directly hit those who commanded and controlled the apparatus that generated the genocide, without seriously affecting the mass of ordinary decent people in Sudan who receive no benefit from the oil wealth.

By inserting Darfur into the North-South peace process, we would have leveraged a powerful international political engagement that was already in existence. There was no merit to the concern that this would have compromised the North-South Peace Agreement, because there was already long-standing de facto peace between the North and the South and little appetite

to go back to war. Indeed, this was allowing the Government to redeploy its stretched military capabilities to oppress Darfur. In any case, all the evidence indicated that the worsening Darfur situation in 2003/04 was hindering the successful conclusion of the North-South peace process.

These arguments are not the wisdom of hindsight, and neither are they particularly insightful, since the logic was evident to anyone who wished to read the writing on the wall. They were made at the time to anyone who would listen. But, as has been said so often elsewhere, 'for evil to flourish it is only necessary for good people to do nothing'. Why did apparently good people in the international community do nothing? There were eight different excuses, alibis, ripostes, rebuttals, and prevarications that were put to me.

The first was *cynicism*: 'What do you expect in Sudan – it is a nasty place where people have been doing nasty things to each other for so long. What is different here?'

The second was *denial*: 'Surely, the situation is not as bad as you make it out to be. You are exaggerating, to gain attention.'

The third was *prevarication*: 'You have to be patient. It takes time. In any case, it is best if they find their own solutions to their own problems.'

The fourth was *caution*: 'You know that these are complicated, difficult matters. Sudan is not a small country. If we intervene, it will only make matters worse. Let us think carefully first.'

The fifth was *distraction*: 'You know that we have other things to do, too. Let's solve the more important/pressing issues first and then we will think about this one.'

The sixth was *buck-passing*: 'Why does it have to be us, all the time? Other countries/groups need to do their bit. Let someone else take this on, and then we will join in.'

The seventh was *evasion of responsibility*: 'We have brought this to the President/Prime Minister/Pope/Secretary-General/Commission/Council... and so on. So, it is being discussed at a very high level. Let us see what they decide.'

Finally, there was *helplessness*: 'You know, we can't really act because we have to get a proper framework for intervention. Discussions will take place and then we will do something.'

Individual accountability for decisions

At the end of my futile quest, I realised that institutional decisions are actually made by individuals and that apparently decent and caring individuals are also cowardly, hiding their feeble judgments behind the safety of the institutions whose policies they shape. Perhaps, they find it difficult to be stirred, because it does not hurt them enough personally. Thus, it is not so remarkable that despite all the protestations of 'never again', we failed to

prevent the Darfur genocide while, bizarrely, carefully and comprehensively recording the act of failing, even as we were living through it as a sort of evil nightmare. It is also noteworthy that no high officials with responsibility for this lost their jobs or even received censure for the failure to prevent the genocide in Darfur. It appears that in parallel to the impunity of perpetrators, there is an immunity enjoyed by those international duty-bearers who fail to act. In the world of public or private sector enterprises that have serious obligations to the public good or public protection, comparable acts of omission or neglect would be expected to result in dismissal or even prosecution for gross dereliction of duty. Ultimately, this lack of personal responsibility is why we failed in Darfur, and the continuing lack of accountability is why we are likely to fail again elsewhere.

Studying genocide is popular nowadays, as is the debate on future prevention. The most significant practical development has been the International Criminal Court. But for it to do its job of bringing justice and deterring future perpetrators, it needs more cooperation and support for its investigatory work than it gets in practice. Also, the tendency to go for the easier target of non-state actors rather than state perpetrators of crimes against humanity will need to be watched.

Other important suggestions have been made from multidisciplinary perspectives. These range from public education and training, such as is being carried out in Rwanda by the Aegis Trust, where it runs the Genocide Memorial Centre, to efforts to strengthen the international human rights and law machinery, including the Office of the UN Special Adviser on the Prevention of Genocide. These and associated measures to address civilian protection, and to improve conflict management, peacekeeping and humanitarian assistance are all worthy of support as important foundations for a safer future for the world.

History has repeatedly shown that genocide is not just the extreme end of a spectrum of violence that is part of the human condition, and against which investment in social progress will guarantee immunity. Though reducing the circumstances of hatred and intolerance in which genocidal ideas can germinate and flourish is a valid enterprise, these ideas also represent a special evil that can erupt in any society, in any state of development. The prospect of special evil requires consideration of special measures that go beyond the incremental approach of our international systems. There are three particular responses that should be adopted.

First, it is only by making individuals take responsibility for their personal duty to act to prevent that we will see progress. This duty applies at all levels, and self-evidently the higher the position of that person, the greater is their responsibility for which they must be held accountable. This would make it impossible to hide behind anonymous institutions.

Second, we must recognise that prevention will have a chance only if the

stronger response measures (such as sanctions) available to us are deployed at the earliest of warnings. A moment's thought makes it apparent that if the usual incremental approach of slowly escalating international concern and engagement is adopted in response to situations where there is a serious possibility of crimes against humanity, this provides cover for evil regimes and evil-minded people to complete their deadly deeds. So, by the time the world wakes up and takes the action that needs to be taken, the worst damage has occurred and is irreversible. By then, it is far too late for the victims.

Third, good-hearted but irresolute policymakers need help to make courageous decisions on what are, in effect, life and death matters. National politicians or national and international civil servants are subject to many demands and pressures, and their room for manoeuvre can be limited. A rules-based approach reliant on independent judgment but triggering automatic action could take certain decisions out of the discretionary area. So, the less courageous may be able to do the right thing by hiding behind excuses such as, 'Well actually, we have to act because this is what the law says, or this is what the international agreement says'. How such a system would work will need to be defined, but most certainly it would go beyond the discretionary considerations of the Security Council.

In conclusion, let us return to the Holocaust Centre on the edge of Sherwood Forest in England. Near its entrance is the famous quote from George Santayana: 'he who does not learn from history is doomed to repeat it'. Our capability not to learn is well proven, as the history of genocide prevention is essentially a history of failure. But that would be a pointless and depressing note on which to end. Perhaps the Holocaust Centre organisers should put up a new sign at the exit, this time quoting the pioneering American computer scientist Alan Kay: 'the best way to predict the future is to invent it'.

4. Military options for Darfur

Jim Terrie

The conflict in the western Sudanese region of Darfur has resulted in 200,000 dead and has displaced an estimated two million people. Most of this death and destruction is attributable to the policies of the Sudanese government. Since 2003, the regime in Khartoum has used grossly disproportionate levels of force in an attempt to crush an insurgency led by various rebel groups in Darfur. This is despite the tragedy in Darfur unfolding during the tenth anniversary of the genocide in Rwanda and an endorsement by UN member states in September 2005 of a 'responsibility to protect' civilians against war crimes or genocide.

In response, the international community has done little. Providing effective protection to the people of Darfur, in defiance of Khartoum, requires a military response beyond either the AU or UN's current capabilities; and entities that possess the military capacity to act lack the resolve to do so. Khartoum's central role in the crisis implies that a peacekeeping operation reliant on some level of consent can at best have only a very limited impact. Given the existing geopolitical environment, tragically there appears to be little chance of the international responsibility to protect being realised in Darfur.

An international consensus for effective action on Darfur has been lacking. The US and UK are heavily committed in Iraq and Afghanistan, while most European states appear constrained by their preference for diplomatic rather than military solutions and are also focused on NATO's commitment in Afghanistan. Other governments, such as China, have staunchly defended Sudanese sovereignty and their own rights to access Sudanese oil, while yet others, particularly the Arab League, have denied the Sudanese government's responsibility for war crimes in Darfur and described the situation there as a civil war. Meanwhile, Khartoum has threatened the international community with 'jihad' should Western troops enter Sudan.

Despite numerous UN resolutions condemning Khartoum, there is no prospect of an early end to the conflict. In fact, the situation has greatly deteriorated in recent months. Various attempts to find a negotiated solution to the conflict have been undermined by an unwillingness to seriously challenge Khartoum.

With little international taste for action outside the Security Council, the responsibility for seeking a solution to the conflict has been devolved to the African Union (AU) – an organisation with all the political weaknesses of the UN but without its access to resources. This political reality has been reinforced by the idea of 'African solutions for African problems'.

This concept is strongly promoted by some African leaders, but it has also become a dogma among some western governments, who understandably seek to support the development of Africa's capacity to resolve its own conflicts. However, African capacities will take many years to mature and will have little impact in Darfur. Promoting African solutions in the current crisis conveniently avoids the need to send non-African troops to African conflict zones.

The result has been disastrous for the people of Darfur and current international policies are still failing them. The conflict in Darfur has exposed the limits of multilateral peacekeeping, as delivered by the UN and the AU, when faced with a member state that refuses to consent to external intervention. Often the deployment of peacekeepers is not part of a comprehensive solution to a conflict, but a way to mitigate its worst excesses. However, in many cases, the weakness of the military response fails to achieve even this limited objective.

The AU and regional peacekeeping

Some commentators have suggested that regional organisations, such as the AU, are better able to deliver effective peacekeeping than the UN. But this is likely to be a false hope in Africa. Unlike NATO, the AU currently lacks the military and financial capacity to deliver and sustain effective peacekeeping forces in difficult environments. Moreover, the AU displays all the weaknesses of consensus-driven multilateralism. This has been shown in Darfur, where the AU Mission in Sudan (AMIS) has had little real impact on the political, security or humanitarian situation in Darfur, despite the best efforts of many of its troops.

The AU deployed peacekeepers in Darfur to support a ceasefire agreement signed in April 2004. These forces were given a 'Chapter VI' type observation mandate.² However, it was quickly apparent to everyone that the ceasefire agreement was a farce, particularly as Khartoum pursued its military objectives through its proxy militia, sometimes with overt support from government forces.

The AU was only able to undertake this mission with substantial financial support from western donors and with the presence of numerous foreign advisers at various levels of the mission, particular in the areas of logistics. On the ground the AU force faced many material and operational limitations, which it sought to overcome as best it could. However, even accounting for these efforts, the mission was ill-equipped, inadequately resourced and inappropriately mandated for the realities it faced, as evi-

2. Broadly, 'Chapter VI' refers to operations in which peacekeepers are not allowed to use aggressive force under the terms of the UN Charter, as opposed to 'Chapter VII' missions, where aggressive force is allowed under pre-determined conditions.

denced by the mounting civilian death toll. The logistical difficulties of operating in Darfur without Khartoum's consent were always going to be prohibitive. So even if the AU had possessed the political will to confront Khartoum, which it did not, the AU was unable to mount a more proactive mission.

In addition, international donors were resistant to paying for an expanded mission. They knew that a stronger mandate would require more troops and that it would increase the likelihood of a direct confrontation with Khartoum. This would involve greater commitment from donors, including the possibility of their troops being deployed if the AU became involved in serious combat with Khartoum's forces.

While the violence in Darfur continued, largely unimpeded by the AU military presence, the efforts of the AU and key donors were focused on attaining a final peace agreement. This involved maintaining Khartoum's cooperation to remain at the negotiating table and maintaining the AU presence in Darfur to continue monitoring the previous flawed agreement, and doing little to mitigate the humanitarian consequences of Khartoum's own actions.

The signing of the Darfur Peace Agreement in Abuja, Nigeria on 5 May 2006, has led to a worsening situation on the ground. The agreement was only signed by the government and one faction of the Darfurian rebel groups. The agreement has exacerbated tribal divisions within Darfur and it has given the Sudanese government a new proxy through which to continue its plan for subjugation of the Darfurian population. Khartoum initially rejected the idea of extending the presence of the AU mission. However, it then backtracked when it seemed likely that this might trigger a greater involvement on the part of the western powers.

In these circumstances, Khartoum supported the continued presence of the AU force in Darfur as the lesser of two evils. The AU is now faced with the continuation of a mission that it cannot afford to support and that many in the AU realise is being used as a political pawn by Khartoum. However, the AU is also unlikely to withdraw the force without something else replacing it. The AU is further constrained by the idea of 'African solutions for African problems', which militates against taking a more confrontational line with Khartoum or acknowledging that outside assistance may be needed.

Additional financial and logistical support from donors will prolong the AU mission, but in the end may amount to shuffling deckchairs on the Titanic, and it will do little to improve the situation of the vulnerable in Darfur. Failure in Darfur will also be a significant setback to building an effective African capacity for dealing with conflict on the continent.

The UN and 'global' peacekeeping

The UN has insisted that a peacekeeping force of 20,000 is needed to secure more effective civilian protection. While a UN force will avoid some of the problems that have beset AMIS, it would be wrong to assume that it will make a significant difference, supposing – and this is still a big if – agreement can be reached to actually deploy it.

There are a number of serious limitations to UN peacekeeping and the multilateral decision-making process that authorises it. First, there is the issue of making UN deployment conditional on Khartoum's consent. The Sudanese government has denounced a UN deployment as tantamount to an invasion and full-scale war. This is disingenuous as it has recently agreed to a UN presence in the south of the country to support the North-South peace agreement. But it is unlikely that the UN Security Council will authorise any peacekeeping force that is not acceptable to Khartoum, and there appears to be no stomach for a non-consensual intervention. The idea of a UN-led forceful intervention is beyond the UN's current capabilities. It is also anathema to many in the UN system.

While it is possible that Khartoum might agree to a UN presence under duress, as occurred with Indonesia in 1999 in respect of East Timor, there has been little such pressure applied to date and the application of long-overdue measures, such as targeted sanctions, will take years to have any effect. Even if Khartoum finally consents to a UN presence, presumably after achieving most of its strategic objectives, it is doubtful that it will fully comply or cooperate with this force, as it has not done so with the AU.

Supposing that the UN did deploy a peacekeeping force of approximately 20,000 with a Chapter VII mandate, it is still unlikely that it would be able to contain the conflict. UN officials often use the word 'robust' in an effort to imply greater military engagement and willingness to use force. But to most in the UN system this has clear limits. In the Democratic Republic of Congo (DRC), where the UN currently has its largest mission, it has belatedly, after numerous failures, undertaken some military operations against Congolese militia in the Ituri region. However, its operations against Rwandan Hutu rebels, the remnants of the 1994 genocide, have been very limited and have had little effect. The UN will be powerless if the current agreement with the main Congolese parties breaks down and they resume fighting, an outcome that is possible if the 2006 elections in the DRC are not regarded as sufficiently fair and free.

UN military operations are currently in limbo, between traditional peacekeeping, where compliance by belligerents is largely forthcoming, and offensive military operations to enforce compliance. The reasons for this are numerous and go to the heart of the limitations of multilateral peacekeeping.

Many of the largest contributors to UN peacekeeping come from developing countries, which often lack modern capabilities in intelligence, sur-

veillance, communications and mobility. These capabilities can greatly increase the effectiveness of a mission and can go some way towards making up for the characteristically low troop levels in UN missions.

A related and more significant issue in relation to countries that contribute troops is their willingness to have their troops place themselves in harm's way. MONUC (United Nations Mission in the Democratic Republic of Congo) – the current UN mission in the DRC – has responded in a variety of ways when faced with threats aimed at themselves or Congolese civilians. The capture of the town of Bukavu in the eastern DRC by the rebels in 2004 was largely the result of some UN contingents handing over the airfield without resistance. In any normal conflict, involving national armies subject to a national chain of command, this would have involved most of the offending troops facing court martial.

This is less of a problem in Darfur. Most of the African troops that might be re-hatted for a UN mission come from African nations committed to peacekeeping, with commensurately trained and focused military forces. However, the belligerents in Darfur are far better organised, equipped and motivated than many of the militia in the DRC and will require a far more capable and committed force than is currently available in Darfur.

UN mandates are problematic as they often represent a political compromise – and lowest common denominator multilateralism. The concessions and ambiguities that often frame a mission's mandate are a poor basis on which to establish a military mission and much is left to the interpretation of political and military commanders on the ground. This can produce widely different results, according to differing analyses, levels of professionalism and commitment or national interests.

The ability of the UN – and, even more so, the AU – to manage the many facets of preparing, deploying and sustaining military operations is questionable, especially in highly volatile large-scale conflicts. The global scope of UN operations alone would require a capacity for political and executive operational direction the size of a government defence department of a 'middle power' such as Australia, Canada or South Africa, instead of the 600 or so people that the UN has currently in the Department of Peacekeeping Operations.

One US observer of UN operations, paraphrasing Clausewitz, said that: 'UN military operations have their own grammar (no matter how unintelligible), but their logic is the logic of the UN's political character' (Hillen 1996: 17-34). This political character is determined by two factors – the dynamics of multilateral decision-making and the ideological framework of those who work within the UN. The decision to engage in military operations, whether in support of traditional national security objectives or peace support missions in complex environments, requires a political unity of purpose and effort that is seldom achievable within the context of UN

operations.

Most of the successful military interventions in recent years have been led by coalitions from outside the UN (albeit with the exception of Kosovo, with Security Council authorisation), usually with a lead nation delivering the political impetus, command and control framework and the forces. On numerous occasions these interventions have been necessary to rescue a UN mission that was at the point of failure. This was the case in East Timor, Sierra Leone and the Ituri region of the DRC.

The political framework of the UN and its foundational ideology as a force for global peace itself determines the operational limits of UN military action. There is a strong belief in the need for the UN to maintain its 'neutrality' (often incorrectly confused with impartiality) and a belief that 'peacekeepers should not kill'. Action in the DRC, where UN peacekeepers killed scores of militia members, seems to have raised more anxiety in New York than the deaths of UN peacekeepers or of Congolese civilians expecting protection.

Any change in UN peacekeeping operations will necessarily require a change in the logic and grammar of the UN's perspectives. However, it is likely that the UN in its current form has reached its organisational and political capacity for military operations and that its attempts to act more robustly are doomed to failure. A different UN might be able to undertake more wide-ranging military operations. But any response to the situation in Darfur today will need to come from within the UN we currently have. This greatly limits the chances of a response that will make a significant difference.

Compared to the current AU mission, a UN force would be able to deploy more peacekeepers to more locations in Darfur, thereby offering greater protection from imminent threat to larger numbers of civilians. What it will not be able to do is confront and neutralise (whether by killing, capturing, disarming or coercing) the various forces and proxies in Darfur that will continue fighting and attacking civilians in areas where the UN is not physically present. The fact is that as long as Khartoum is able to pursue its overt and covert military campaign in Darfur, neither a UN presence nor appeals to international law and ICC indictments will alter its strategy.

Action without consent

If the international community and multilateral bureaucrats were serious about saving the people of Darfur from their own government, then they would need to promote real options as they did in Kosovo and in Northern Iraq after the first Gulf War. This would mean putting civilian protection of the vulnerable before the rights of regimes such as those in Baghdad, Belgrade – or Khartoum. However, doing so would require achieving an elusive consensus within the Security Council – at least one without a

Chinese, Russian or French veto and a desire by all to override Sudanese resistance, especially in the face of objections from the Arab and Muslim world.

Any forceful and non-consensual intervention into Darfur would require a force level in the order of at least 40-50,000 troops and substantial logistical and technical capabilities. These would only be forthcoming if there was US participation. Yet given the US commitment to Iraq and Afghanistan and the likely domestic and international backlash, it is unlikely that the US would assume more than a supporting role in any such force. The same goes for the UK. The French, as well as having responsibilities in Lebanon and Côte D'Ivoire, have resisted the notion of a NATO (for which, read US) role in a region where it has traditionally had influence. Most other European nations are constrained by the political and military limitations of any EU-led response and/or are committed to NATO's growing role in Afghanistan. Therefore, even if there were a political will to act in Darfur, with or without UN Security Council consent, it is difficult to see where the required troops would come from.

Other actions such as a no-fly zone have been suggested. Certainly this would have some impact on the ground but would be mostly political in showing that there is some intention to apply more pressure on Khartoum. However, without a concurrent and effective field presence, in part to coordinate the application of air power, it may be of limited effect. Khartoum and its allies will simply alter their tactics and minimise the use of vulnerable aircraft and ground forces.

Conclusion

The current situation in Darfur has shown the limitations of the current international system in the face of a clear case of a state carrying out atrocities against its own people. The tools available to those seeking an end to the conflict have proved to be limited. Appeals to international law and norms, and threats to refer individuals to the International Criminal Court, will have little immediate effect. Nor will political engagement do much to convince Khartoum to change its ways – at least until its objectives are achieved – especially while it maintains considerable support from key nations such as China and Russia and the Arab League.

Consensual peacekeeping – that is, with the approval of the Sudanese government – will at best be able to mitigate some of the effects of the conflict and at worst provide the appearance of action and cover for Khartoum to continue its campaign.

In the current climate only a non-consensual and forcible humanitarian intervention that removes Khartoum's influence in Darfur will bring about necessary civilian protection, but this is highly unlikely in the current geo-

litical situation. In the end we are likely to be left with a 'robust' UN peace-keeping operation. This will make some limited difference, but not enough of one, and will certainly fall well short of a 'responsibility to protect'.

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5. Is there a political solution for Darfur?³

Alex de Waal

There is only one long-term solution to Darfur's tragedy: a negotiated peace agreement. Credible progress towards that deal also holds out the best chance of unlocking workable responses to the crisis of protection. But the failure of the Darfur Peace Agreement, signed on 5 May 2006 between the Sudan Government and the Minni Minawi faction of the Sudan Liberation Movement, has complicated the search for peace.

The African Union mediation team that laboured in Abuja, the Nigerian capital, to try to bring a peaceful resolution to the conflict in Darfur was neither naïve, deluded, nor opportunistic. It was headed by Dr Salim Ahmed Salim, former secretary general of the Organisation of African Unity (precursor of the AU) and included some very experienced diplomats. Many times during our interminable sessions with the Sudan government and rebel delegations, and with the international partners, the members of the mediation team – of which I was one – asked ourselves whether we were part of a fraudulent process. We were well aware of the shortcomings of the mediation effort, and foresaw the perils of the path taken. It is tragic that the worst fears have come true. But that failure does not make the peace negotiations, however flawed, a pointless exercise. Sooner or later the process will have to restart.

It is not always clear that a negotiated agreement is possible or even wise. A mistimed peace deal can sustain a government in power that is about to fall, or can award impunity to war criminals who would otherwise face court for their crimes. A bad peace deal can make things worse, and indeed things have certainly got worse since the incomplete signing of the DPA in Abuja on 5 May.

The DPA was the outcome of two years of on-off talks that culminated in six months of continuous mediation in a small hotel on the edge of the city of Abuja. It was a desultory inn with intermittent water and electricity supplies, appalling food and a painfully slow internet connection. But more frustrating than the hotel accommodation was the refusal of the negotiating parties to accommodate one another.

The African Union mediation faced some formidable constraints. One, specific to Darfur, was the mismatch between the adversaries. Just as the war was an asymmetric war – the government had fought the rebels to a

3. A version of this chapter was originally published on the independent online magazine openDemocracy: *Darfur's Fragile Peace* (5 July 2006).

standstill and had the power to push them back further, though not to achieve a military solution – the negotiation was also asymmetric. The Sudanese government delegation was headed by experienced and capable negotiators. They were rarely tested by rebel negotiators, who were divided and incapable, and who rarely entered into meaningful dialogue, preferring to restate their extreme positions and to try to convince the mediators and the international community of the correctness of their position. What is more, some of the rebels made it clear throughout that they hoped that the Americans or the UN would come in by force, arrest the leaders of the army and Janjaweed and hand over control of Darfur to them.

Real negotiation was rare in Abuja. The parties were divided by deep mutual distrust, even hatred, and little confidence was built between them. What happened instead was the continuation of a historically-rooted pattern of political bargaining between powerful groups at the centre, and much less powerful ones at the periphery. Here it is crucial to note that central government in Khartoum consists of competing groups, none of which have total control over the state and its policies. They too compete among themselves for power, and for clients in the peripheries, such as Darfur. Throughout the mediation, rebel leaders were privately approaching government figures and trying to strike personal deals. They talked often, but rarely did they go deep into the substantive political issues.

A second constraint was the Comprehensive Peace Agreement signed by the Sudan government and the erstwhile southern rebels, the Sudan People's Liberation Movement, in January 2005. Although the CPA was less than comprehensive in that it failed to include specific provisions for Darfur (or indeed for that other unresolved war, in eastern Sudan), it did provide important mechanisms for the transformation of Sudan into a democratic country. Notably, it provided for elections in 2009, a form of federal government with wealth-sharing between centre and states, and a host of measures to guarantee human rights.

There are major concerns with the implementation of the CPA, but even its critics agree that it has brought an end to the war between North and South, set up a government of Southern Sudan, and brought the SPLM into the central government with senior positions. If fully implemented, the provisions of the CPA for democratic elections would lead inexorably to regime change in Khartoum – through the ballot box. The smartest opposition politicians in Khartoum realise that their best chance is to support what they see as an incomplete settlement, because of those democratic provisions. If they wait, and succeed in participating in free elections, their turn will surely come.

Recognising that the question of democratic transformation had already been agreed in the CPA, the most that the Darfur peace negotiations could achieve was an interim distribution of power between the ruling parties and

the rebels, until elections were held. Related to this was the fact that the rebels could not expect to win at the negotiating table what they had failed to do on the battlefield; they could not negotiate the government out of power.

A third constraint was time. Most mediations that bring African civil wars to an end are long, drawn-out processes, with negotiations interspersed with the implementation of intermediate agreements (such as ceasefires) and confidence-building mechanisms. As the AU mediation began and continued, advisers (including myself) repeatedly asked for sufficient time to allow the parties to negotiate and build at least a modicum of trust.

But, constantly, a stream of high-profile international visitors insisted that the process be hurried to a conclusion, because the humanitarian crisis was so bad. In January this year, the then UK foreign secretary Jack Straw berated the parties for moving too slowly, and said that the patience of the international community was running out. The UN Special Representative, Jan Pronk, reminded us that he had set a deadline of 31 December for concluding the deal, and this had not been met. People were dying, we were told, so we should not be so slow. What finally convinced the US to push for an accelerated conclusion to the talks was Khartoum's promise that if a deal was signed, it would allow UN troops in. President Bashir then reneged on that promise.

A final problem was the nature of the representation at the peace talks. Usually, peace talks begin when belligerent parties recognise that they need to talk to each other, and when each side has a coherent leadership. In this case, neither held true. The government still believed it could buy off parts of the rebel movement and crush the remainder militarily. The rebels had a fragmented leadership, always in flux, and they were often encouraged to believe that their cause would ultimately be realised through an international military intervention. The question of who should represent the rebels was a fraught issue, and ultimately some fairly arbitrary decisions were taken to allow two factions of the Sudan Liberation Movement to be present, one headed by Abdel Wahid al Nur and the other by Minni Minawi.

So, the Darfur peace talks did not represent a textbook mediation. The odds were stacked heavily against success. Most of the plenary meetings were farcical. The mediators knew that no agreement would overcome the mutual suspicions, and that the more important deals would be made under the table, and would not be reflected in the formal agreement in the signing ceremony. But although the peace talks were slow, they were for real. They kept the rebel movements in a coherent set of discussions with each other, with the international community, and with the government. They held the government in check.

The fatal problem with the mediation was not that it existed, but that it was rushed to a premature conclusion in the first days of May 2006. The reason for this was that the UN Security Council had met at the beginning of April and had demanded that the mediation meet a wholly artificial deadline of the end of the month to conclude the talks. The mediation rushed to complete a text a week before this deadline, knowing that it could not possibly be properly negotiated in the days remaining. The hope was that a relatively fair text would be acceptable to the parties. Much of it was. In particular, all parts of the security arrangements chapter and almost all of the wealth-sharing provisions had been discussed in advance, though not necessarily agreed. It was encouraging that, when the text was presented, all the rebels initially accepted the security arrangements text in its entirety and said that the wealth-sharing was '90 per cent' of what they had hoped. Where they were disappointed was on the power-sharing, where the government still retained its majority in most institutions.

Many in the mediation team believed that with another month or six weeks, the Abdel Wahid al Nur faction could have been brought on board, giving the agreement the critical political mass needed to make the Darfur Peace Agreement work. Without this group, most of us knew that it simply would not work, as Minawi's faction was too small and its reputation for human rights abuses too bad to make it a trusted representative of Darfurians. The remaining differences between Abdel Wahid and the government on 6 May were agonisingly small. For a week, Dr Salim's number two, Ambassador Sam Ibok, and I remained in Abuja, and we worked on language that would allow Abdel Wahid's concerns to be addressed. He wanted more compensation (an additional US\$100 million immediately into the compensation fund), more representation in Darfur's local governments, and some tougher guarantees that his troops would ensure the security of returning refugees and in monitoring the disarmament of the Janjaweed.

It did not work, but I continued on my own for another month. Abdel Wahid's advisers drafted a memorandum of agreement with the Sudanese government and got agreement to his proposals on security. We then worked on an 'implementation protocol' that explored ways of closing the remaining gaps. It was not a new or separate agreement – which would have lost the support of Minawi – but spelled out precise ways in which the DPA should be implemented so as to overcome its shortcomings. Khartoum was ready to talk and the leader of South Sudan and Sudan's First Vice President, Salva Kiir, was ready to mediate the deal.

We came desperately close to an agreement that, I firmly believe, would have tipped Darfur towards peace. What killed this process was Abdel Wahid's own erratic behaviour, which by July had caused even his most senior lieutenants to desert him and announce a new SLA leadership. This was

compounded by an AU error: at Khartoum's insistence, Abdel Wahid's representative was expelled from Darfur's ceasefire commission, in effect condemning his group as outlaws.

The way forward

The people of Darfur face some grim options. UN troops are a stopgap measure at best. A mediated political settlement will not be easy. It is harder now than it was in May, as positions have polarised and distrust has deepened over the last few months. Without it, any elections in 2009 will be meaningless, and the achievements of the North-South Comprehensive Peace Agreement will unravel.

Much of the international commentary on Darfur is simplistic and Manichean. It is easy to see Darfur not as a complex and messy war that has led to horrendous massacre and humanitarian crisis, but as a test case for international resolve. It is easy to sit on the sidelines, foretell doom and demand the impossible. In Sudan, the doomsayers will often be proven right. Occasionally they are confounded, as with the January 2005 CPA. It is worth persisting with painstaking and flawed processes, and growing the thick skin that any constructive engagement requires, for those rare victories. Step one is to reconstitute a proper ceasefire commission, and step two is to restart political negotiations, beginning with the unfinished text of the 'implementation protocol'.

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6. Conclusion – lessons from Darfur

David Mepham and Alexander Ramsbotham

The experience with Darfur highlights six lessons for international policy responses to future Darfur-like situations.

First, in situations of crisis or impending crisis it is crucial to act early. The ICISS report rightly says that of the three responsibilities to protect, the responsibility to prevent is the most important. There is a lot that can and should be done to address the underlying drivers of crisis and instability, for example by a more sustained and better-resourced international effort to promote inclusive and sustainable development, better governance, the rule of law and respect for human rights (Prime Minister's Strategy Unit 2005).

But there is also a role for what might be called 'direct prevention'. This includes measures such as high-level diplomacy and mediation, or more coercive instruments, for example sanctions or legal pressures. The most important claim in Mukesh Kapila's piece in this collection is that, 'earlier intervention could have averted or moderated the magnitude of the genocide' in Darfur. Failing to act at an earlier stage, he suggests, worsened the conflict and made subsequent international options more costly, complex and dangerous.

Second, it is important to address the 'capacity gap' for effective intervention for humanitarian purposes. The experience with Darfur suggests that the AU and the UN still lack the military and non-military capacity for these kinds of intervention. This is partly about having adequate numbers of troops that are appropriately trained and equipped and can be deployed at short notice. Jim Terrie's chapter reveals that this is patently not the case for either the UN or the AU at present. In recent years, there has been a huge expansion in the number of UN peacekeepers deployed, up from 12,700 in 1999 to 60,200 in 2005 (Center on International Cooperation 2006). New demands for UN peacekeeping, for example in Lebanon or, perhaps, in Darfur, imply further strains on the already heavily overstretched UN system and UN member states need to commit to providing additional troops for UN operations.

Within the AU, the proposed African Standby Force (ASF) should enhance Africa's own capacity to react to crisis situations, but there is a lot of work still to be done before this capability is truly operational. There are also capacity constraints on the non-military side. Civilians can play a very important role in ensuring more effective civilian protection (Centre for Humanitarian Dialogue 2006). Civilian presence is important both in the field, such as for the delivery of humanitarian aid, and for more political tasks, such as implementing sanctions regimes or facilitating political nego-

tiations.

Third, there needs to be much more thought given to the 'how' of intervention. To date, much of the debate about humanitarian intervention has focused on threshold criteria – how bad a situation has to be to warrant international intervention. But the ICISS report stresses the importance of ensuring that 'decent motives are not tarnished by inappropriate means' (ICISS 2001: 5). There is also a need to develop new operational doctrine and methods to better protect civilians under imminent threat (Holt and Berkman 2006).

While humanitarian motives were not ultimately a significant factor in the calculations of the US and others before military intervention in Iraq or Afghanistan, these two cases have some wider generic lessons about the costs and complexities of outside intervention, which are of relevance to RtP. At the very least, they suggest that priority must be given to four key issues:

- a) *Local legitimacy* – it is vital that intervention is viewed as legitimate by the people on whose behalf it is being undertaken. (This is distinct from 'international legitimacy', for instance gained through authorisation by the UN Security Council.) A significant factor in sustaining 'local legitimacy' is ensuring that interveners operate fully within the framework of international human rights and humanitarian law.
- b) *Basic security* – ordinary people need to feel more secure after an intervention than before.
- c) *Economic circumstances* – people must be able to meet their economic needs through an early revival of economic prospects.
- d) *Political process* – intervention needs to be linked to a process in which the country's affairs are speedily transferred back to national actors.

Prioritising these issues depends on very detailed planning and preparation for the circumstances following an intervention, something that was lamentably missing in the case of Iraq.

The fourth lesson arising from Darfur is that the international community needs to demonstrate greater resolve to advance the responsibility to protect agenda. Opposition by key international players to implementing RtP in practice has been a major impediment to deploying an effective mission in Darfur. The inadequacies of the AU's response to Darfur highlighted by Suliman Baldo's piece reflect, at least in part, the inability of the international community to demonstrate the concerted resolve necessary either to provide better support for the efforts of the AU, or to mount a more effective response by the UN.

A lack of political will is a familiar explanation of the failure of the international system to fulfil its responsibility to protect civilians in Darfur and in other crises. But what do we actually mean by the term political will and

how should policymakers address the issue? Ultimately, political will is about values and interests and about the ability and willingness to act in specific situations. In the context of RtP, it is about building a coalition of actors with the resources and willingness to tackle the operational challenges presented by the crisis in question. We need to look at the incentives and disincentives for action among states that have the capacity to intervene, at those states that are blocking action and why, and at the role of civil society and the media in galvanising action.

Fifth, senior individuals in key governments and international institutions should be held more accountable for the way they act or do not act when faced with grave human rights abuses or war crimes. To date, no one in key governments or at the UN has been held accountable for mistakes made in relation to Rwanda or Darfur. The independent reports commissioned by the UN into the disasters of Rwanda and Srebrenica in the 1990s were a useful step in advancing international accountability. However, Mukesh Kapila's chapter suggests that much more needs to be done. Faced with clear evidence of massive human rights abuses or war crimes, there should be a requirement on selected governments (perhaps initially the members of the UN Security Council) to explain and justify their response. Greater transparency and accountability of this kind holds out the prospect for better policy for dealing with these types of crisis and for implementing a responsibility to protect, in Africa and elsewhere.

Finally, it is vital that RtP responses to African crises are linked to a wider political process, geared to the achievement of durable peace and the sustainable protection of human rights. There can be no lasting security for civilians in the absence of this. In the case of Darfur, Alex de Waal argues persuasively in this volume that there needs to be a renewed commitment to help secure a political settlement and that without such an agreement many of Darfur's people will remain vulnerable to extreme violence and abuse. This point has wider relevance beyond Darfur.

The dual goals of protecting civilians from violence and resolving armed conflict will not always be easy to reconcile. The immediate imperative of trying to guarantee the security of highly vulnerable civilians does not always sit comfortably with the painstaking and protracted negotiations that often characterise efforts to settle entrenched disputes. But international policymakers do need to pursue a twin-track approach that ensures effective civilian protection in the short term, while helping to create political conditions that can guarantee their security in the medium and longer term. Within the framework of the responsibility to protect, this is about transferring that responsibility back from international to local actors as soon as it is safe and practicable to do so.

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Appendix: the Darfur crisis – chronology of recent events

2003	
March	Rebel forces of the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM) attack Sudanese government forces in Darfur.
July	The government initiates retaliatory aerial bombardments in support of ground attacks by Janjaweed militia.
2004	
8 April	The government and SLA/JEM conclude the Humanitarian Ceasefire Agreement (HCA), including a ceasefire and disarming the Janjaweed.
July	The AU dispatches observers to Darfur (the AU Mission in Sudan - AMIS).
30 July	UN Security Council (UNSC) resolution 1556 imposes an arms embargo on all non-governmental entities in Darfur.
2005	
January	The government and SPLM/A sign the Comprehensive Peace Agreement (CPA, or North-South peace agreement).
29 March	UNSC resolution 1591 (29 March) extends the arms embargo to all HCA signatories and imposes an assets freeze and a travel ban on individuals to be designated by a UNSC Sanctions Committee.
31 March	UNSC resolution 1593 refers the situation in Darfur to the Prosecutor of the International Criminal Court (ICC).
April	Following an initial expansion of AMIS in October 2004, on 28 April the AU agrees to a further increase to over 7,000 personnel.
	Kofi Annan transfers the names of 51 people, identified by the UN Independent Committee in Darfur, for investigation by the ICC.
November	The seventh round of Inter-Sudanese peace talks began in Abuja, Nigeria.
2006	
5 May	The Darfur Peace Agreement (DPA) is signed by the government and Minni Minawi's faction of the SLA (SLA/MM). The JEM and Abdel Wahid al Nur's SLA faction refuse to sign.
16 May	The AU Peace and Security Council (AUPSC) supports 'in principle' the transition of AMIS to a UN mission.
31 August	UNSC resolution 1706 authorises the deployment to Darfur of a 20,000-strong UN mission, but Khartoum rejects it.
20 September	The AUPSC extends the AMIS mandate to 31 December 2006.
16 November	Kofi Annan convenes a high-level consultation in Addis Ababa, which includes the AU Chair, the five UNSC permanent members and key African states, including Sudan. The UN announces that Sudan has agreed to re-energise the peace process and to accept the deployment of UN peacekeepers in Darfur, as part of an AU/UN hybrid mission. Khartoum later rejects this interpretation.