

# **DARFUR: THE FAILURE TO PROTECT**

Africa Report N°89 – 8 March 2005

## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY AND RECOMMENDATIONS.....</b>	<b>i</b>
<b>I. INTRODUCTION .....</b>	<b>1</b>
<b>II. THE IMPACT OF THE IGAD AGREEMENT .....</b>	<b>4</b>
<b>III. THE SECURITY SITUATION.....</b>	<b>5</b>
A. THE UN PLAN OF ACTION -- FLAWED FROM THE BEGINNING.....	6
B. KHARTOUM'S CHAOS THEORY .....	7
C. THE SLA AND JEM -- INCREASED DIVISIONS, INCREASED FIGHTING.....	9
D. THE EMERGENCE OF NEW ARMED GROUPS .....	12
<b>IV. NEW NEGOTIATIONS AND AGREEMENTS .....</b>	<b>14</b>
A. THE ABUJA NEGOTIATIONS.....	14
B. THE LIBYAN INITIATIVE.....	16
<b>V. THE EXPANDED AFRICAN UNION FORCE.....</b>	<b>17</b>
A. BUILDING CAPACITY.....	17
B. IMPLEMENTING THE CEASEFIRE .....	19
<b>VI. CONCLUSION .....</b>	<b>21</b>
<b>APPENDICES</b>	
A. MAP OF SUDAN.....	23
B. ABOUT THE INTERNATIONAL CRISIS GROUP .....	24
C. CRISIS GROUP REPORTS AND BRIEFINGS ON AFRICA.....	25
D. CRISIS GROUP BOARD MEMBERS.....	27

## DARFUR: THE FAILURE TO PROTECT

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

Two years into the crisis in Darfur, the humanitarian, security and political situation is deteriorating. Atrocity crimes are continuing, people are still dying in large numbers from malnutrition and disease and a new famine is feared. The international community is failing to protect civilians itself or influence the Sudanese government to do so. The UN Security Council is currently negotiating a draft resolution that could begin to resolve the crisis if it is strong enough on civilian protection and accountability for atrocity crimes. But if Council divisions and veto threats again water down the final product as has happened several times already, the situation in Darfur will worsen. And it is likely to be only a matter of time until its poison affects the peace deal that was signed on 9 January 2005 to end the long war between the government and the Sudan People's Liberation Army/Movement (SPLM).

The comprehensive peace agreement (CPA) signed by the government and the SPLM contains provisions and models that could form the basis of a political solution -- not only for the conflict in Darfur, but also for the east of Sudan where conditions are ripe for increased violence. But neither its elements nor the prospect it offers of new players, and eventually new policies, in the central government can have a quick impact in Darfur. That requires a much more robust international policy to reverse a deteriorating situation.

Khartoum made peace with the SPLM in part to head off mounting pressure over Darfur. So far the gambit is working. The international community is deeply divided -- perhaps paralysed -- over what to do next in Darfur. The situation on the ground shows a number of negative trends, which have been developing since the last quarter of 2004: deteriorating security; a credible threat of famine; mounting civilian casualties; the ceasefire in shambles; the negotiation process at a standstill; the rebel movements beginning to splinter, and new armed movements appearing in Darfur and neighbouring states. Chaos and a culture of impunity are taking root in the region.

The UN Commission of Inquiry on Darfur described the massive scope of atrocities carried out in the territory,

primarily by the government and its allied Janjaweed militias. The "protection by presence" strategy pursued by the UN and the African Union (AU), based on an AU force whose primary mission is to monitor the failing ceasefire, is not working. Hampered by slow arrival of donated African troops and Western logistical support, the AU has less than 2,000 of its authorised 3,320 personnel on the ground. A much larger force, such as the four to five fold increase recently called for by Jan Egeland, and a much stronger mandate to protect civilians, are required.

The key to stabilising the security situation, however, is to persuade the government to begin to fulfil its numerous commitments to disarm and neutralise the Janjaweed militia. The record of at least the past year shows it will not do this as long as it believes the cost of inaction is minimal. Altering this calculus requires the immediate imposition of targeted punitive measures, such as a freeze of overseas assets of companies controlled by the ruling party, a travel ban on senior officials, an expanded arms embargo -- and a realistic prospect that the atrocity crimes that have been documented by the UN Commission of Inquiry will be investigated, prosecuted and adjudicated by the one tribunal that can do this expeditiously, the International Criminal Court (ICC). The U.S. government's general objections to that institution should not stand in the way, not least because the Court in this instance would be exercising jurisdiction in the manner Washington has always said would be appropriate, via a political decision taken by the Security Council.

Increased pressure must also be placed on the Darfur rebels to abide by their commitments and to cease all attacks in violation of the ceasefire. The rebels must regain control over their scattered forces, punish human rights violations, and resolve their internal differences. The last can be accomplished through a series of grassroots and leadership level conferences, which should be supported by the international community. If their leaders continue to undermine security, they should also be subject to targeted sanctions.

The international community needs also to move rapidly to invigorate the AU-led peace process. It may be losing its senior mediator, and it lacks serious commitment by the warring parties and the kind of high level partnership between the AU and the broader international community that would provide real leverage.

Finally, implementation of the CPA must not be allowed to become an excuse for not pressing toward a settlement in Darfur. On the contrary, failure to resolve the Darfur crisis is all too likely eventually to undermine the CPA. It would be a grave mistake not to apply real pressure on Khartoum now.

## **RECOMMENDATIONS**

### **To the UN Security Council:**

1. Pass a resolution on the situation in Darfur that:
  - (a) finds the Government of Sudan in breach of its obligations under Resolutions 1556 of 30 July 2004 and 1664 of 18 September 2004;
  - (b) imposes asset freezes on ruling party businesses and travel bans on regime officials responsible for atrocities;
  - (c) extends the arms embargo created under Resolution 1556 to include the Government of Sudan and creates a mechanism to monitor that embargo and penalise violations;
  - (d) authorises the International Criminal Court to exercise jurisdiction over atrocity crimes;
  - (e) urges the AU force explicitly to protect civilians and relief deliveries;
  - (f) calls for close cooperation between the AU and UN missions in Sudan and encourages the use of UN assets to support a strengthened AU mission;
  - (g) recognises that a force with fewer than 10,000 troops is likely to be inadequate given Darfur's size, the ongoing violence, and the largely non-cooperative attitude of the Government of Sudan;
  - (h) calls on member states (African and non-African) to contribute troops and other support to such a strengthened AU mission, and on NATO to begin planning to assist the mission;
  - (i) calls on the EU, UN, and AU to work together to augment the civilian police capacity in Darfur;
  - (j) authorises the Office of the High Commissioner for Human Rights (OHCHR)

to deploy an additional 100 Human Rights monitors; and

- (k) endorses a no-fly zone over Darfur monitored by the AU, calling on member states to provide such technical and other assistance as may be required by the AU for this purpose, and identifying specific penal consequences to be applied by the Security Council in the event the AU reports there has been serious non-compliance by a party to the conflict.

2. Instruct the Secretary General to develop urgently a comprehensive plan for the return of civilian populations to their homes over the next year, including security arrangements and compensation.

### **To the Government of Sudan:**

3. Take immediate steps with respect to the Janjaweed militias, including:
  - (a) ending all support;
  - (b) arresting the leaders identified as having perpetrated atrocity crimes; and
  - (c) beginning to disarm them, including members incorporated into the Popular Defence Forces (PDF), Border Intelligence Guard, Popular Police and Nomadic Police.
4. Identify immediately those militias it controls or which are under its influence to the AU Ceasefire Commission (CFC), as required by the Abuja agreements on the ceasefire.
5. Engage more seriously in the AU-led peace effort.
6. Cease immediately all offensive military activities, as required by the N'djamena ceasefire and subsequent Abuja agreements.
7. Cease efforts to forcibly return and relocate displaced persons inside Darfur.

### **To the Sudan Liberation Movement/Army (SLA) and the Justice and Equality Movement (JEM):**

8. Cease immediately all offensive military activities, as required by the N'djamena ceasefire and subsequent Abuja agreements.
9. Hold accountable those responsible for looting and kidnapping as well as those who attack humanitarian workers or impede humanitarian access.
10. Hold grassroots conferences as soon as possible in order to resolve differences within the movements and among the leaders, restore command and control structures, begin to create institutions, and

agree upon a political concept for resolution of the conflict.

11. Desist from blocking traditional grazing routes.
12. Identify immediately areas of control to the AU Ceasefire Commission (CFC), as required by the Abuja agreements on the ceasefire.

#### **To the Sudan People's Liberation Movement (SPLM):**

13. Encourage a negotiated solution to the conflict by:
  - (a) working with the government to change its Darfur strategy; and
  - (b) convincing the rebels that there are potential benefits and models applicable to Darfur in the comprehensive peace agreement (CPA) signed with the government on 9 January 2005.

#### **To the African Union (AU) Peace and Security Council (PSC):**

14. Expand significantly the size of the AU Mission in Sudan (AMIS), extend its mandate to include a specific focus on civilian protection, and work with the UN Security Council to facilitate inclusion and assistance of non-African forces to supplement the mission's force levels and capabilities.
15. Elaborate in conjunction with the UN Security Council and the Secretary General a strategy for neutralisation of the Janjaweed militias in the absence of Government of Sudan cooperation.
16. Get the Darfur Integrated Task Force (DITF) at Addis Ababa headquarters operating at full capacity.
17. Take immediate steps to hold the parties accountable to their commitments under the N'djamena ceasefire and the Abuja agreements, including by increasing cooperation with donor countries and the UN, and by publicising violations.

18. Map traditional grazing routes in Darfur, with the aim of opening them for grazing and avoiding flashpoints for future conflict.
19. Appoint a senior African diplomat familiar with Sudan and the region to serve as chief mediator in Abuja and forge a higher-level partnership with key external countries and institutions to advance the negotiations as was done in the IGAD process that produced the comprehensive peace agreement between the government and the SPLM.

#### **To Donor Countries and Institutions:**

20. Support the holding of general conferences in Darfur at which the SLA and JEM can seek to resolve leadership divisions and restore military command and control in order to counteract the fragmentation taking place in the field and thus be better able to negotiate responsibly for a political settlement.
21. Provide support for implementation of the CPA, withholding aid that primarily benefits the ruling National Congress Party (NCP) so long as the Darfur situation remains inflamed while ensuring that the Government of Southern Sudan (GoSS) receives what is needed to become a principal tool for the prevention of future conflict in the South.
22. Appoint high level Special Envoys to support the Darfur negotiation process, as was done with the IGAD process.
23. Work through non-governmental peace-building organisations to create a forum for traditional leaders in Darfur to discuss the divisions and tensions that have been exacerbated by the conflict.

**Nairobi/Brussels, 8 March 2005**

## DARFUR: THE FAILURE TO PROTECT

### I. INTRODUCTION

The 9 January 2005 signing of the comprehensive peace agreement (CPA) by the government of Sudan and the rebel Sudan People's Liberation Army/Movement (SPLM) ended the 21-year civil war that ravaged the country. Negotiated under the regional Intergovernmental Authority on Development (IGAD), the agreement is a step forward for Sudan as a whole and a monumental development for the South in particular.<sup>1</sup> Yet the situation in the western region of Darfur continues to deteriorate dangerously, and violence and repression is increasing in the east.

After nearly two years of fighting, the Darfur crisis has captured the world's attention as a humanitarian catastrophe but the international community has been unable to halt the violence and mounting death toll. The security situation is worsening, despite two agreements signed on 9 November 2004 on security and humanitarian issues, in talks led by the African Union (AU) in Nigeria's capital, Abuja.<sup>2</sup>

The CPA is essential for peace in Sudan and contains a number of provisions and models that could provide the basis for a political solution in Darfur. The SPLM's entry into government should help temper Khartoum's policy and offer the Darfur rebels a partner with which they can deal. But these benefits cannot be realised immediately.

---

<sup>1</sup> For prior analysis of the IGAD process, see Crisis Group Africa Report N°51, *Sudan's Best Chance for Peace: How Not to Lose It*, 17 September 2002; Crisis Group Africa Report N°55, *Power and Wealth Sharing: Make or Break in Sudan's Peace Process*, 18 December 2002; Crisis Group Briefing N°14, *Sudan's Other Wars*, 23 June 2003; Crisis Group Africa Report N°65, *Sudan Endgame*, 7 July 2003; Crisis Group Africa Report N°73, *Towards an Incomplete Peace*, 11 December 2003, and Crisis Group Briefing N°19, *Sudan's Duel Crisis: Refocusing on IGAD*, 5 October 2004

<sup>2</sup> For more on the situation in Darfur and the Abuja process, see Crisis Group Africa Report N°83, *Darfur Deadline: A New International Action Plan*, 23 August 2004; Crisis Group Africa Report N°80, *Sudan: Now or Never in Darfur*, 23 May 2004; Crisis Group Africa Report N°76, *Darfur Rising: Sudan's New Crisis*, 25 March 2004; Crisis Group Report, *Sudan: Towards an Incomplete Peace*, op. cit; and Crisis Group Briefing, *Sudan's Other Wars*, op. cit.

In the meantime, the government continues to ignore agreements it has signed and commitments it has made with respect to Darfur.<sup>3</sup> If the security situation there is not stabilised soon and the government held accountable, implementation of the CPA -- a challenge under the best of circumstances -- may be rendered impossible.

Khartoum's failures and the continuing attacks on civilians by the Janjaweed militia it has encouraged are not the only problems in Darfur. Rebel violations of the ceasefire agreement are increasing, new armed groups are emerging both there and in the neighbouring state of Western Kordofan, and banditry is growing. As ever more people require food and other basic humanitarian assistance, aid workers are increasingly being targeted, and a drought is anticipated.

As need far outstrips the ability of agencies to deliver aid, it is not too soon to sound a famine alert.<sup>4</sup> Relief workers on the ground are convinced that few if any of

---

<sup>3</sup> The government of Sudan has agreed to neutralise or disarm the militias it has armed and controls or influences in five separate agreements: The N'djamena ceasefire agreement of 8 April 2004, the N'djamena agreement of 25 April 2004, the 3 July Communiqué signed with the UN, the 5 August Plan of Action signed with the UN, and the 9 November Protocol on Security Arrangements signed at the AU-led Abuja talks. The government has also agreed to identify those militias under its control or influence in the 5 August Plan of Action and the 9 November Protocol on Security Arrangements. It reiterated its promise to disarm the armed militias in the 19 December Ceasefire Agreement signed with the National Movement for Reform and Development (NMRD). Thus far, it has not fulfilled any of these commitments.

<sup>4</sup> "Food Needs Assessment: Darfur", International Committee of the Red Cross (ICRC), October 2004. A more recent report concludes that while increased food aid can alleviate some of the food gap from production failures, the added impact of the conflict on the livelihoods of Darfurians will inevitably lead to a regionwide famine. Helen Young, Abdul Monim Osman, Yacob Aklilu, Rebecca Dale, Babiker Badri, "Darfur: Livelihoods Under Siege. Executive Summary and Recommendations, Final Report", Feinstein International Famine Center, Tufts University, and Ahfad University for Women, Omdurman, Sudan, 17 February 2005. A case study that provides further evidence of the systematic destruction of livelihoods is "Destroyed Livelihoods: A Case Study of Furawiya Village, Darfur, Preliminary Briefing", Physicians for Human Rights, February 2005.

the nearly 2 million internally displaced civilians (IDPs) will return to their homes in time for the next planting season, thus ensuring at least longer term food insecurity. The onset of the rainy season in late May will further restrict access.<sup>5</sup>

For months the government has been pleading innocent, arguing that Darfur is a complex local conflict primarily between nomadic and pastoralist tribes and denying its primary responsibility for having promoted the tribal and ethnic divisions for its own purposes. That plea is daily becoming a self-fulfilling prophecy as inter-communal fighting also increases.

The security protocol signed at Abuja by the government and the main Darfur insurgent groups -- the Sudan Liberation Movement/Army (SLA) and the Justice and Equality Movement (JEM) -- was essentially about modalities for better implementing the ceasefire agreement that has been repeatedly violated by all sides since it was concluded in N'djamena on 8 April. Nevertheless, it is the government that remains at the root of the security problem in Darfur, especially because of its refusal to withdraw support from and neutralise the Janjaweed.

Many of those militiamen have been incorporated directly into the government security services and are often given responsibility to "protect" the same IDPs they initially drove from homes. Now that its ethnic cleansing campaign has largely been completed, the regime's strategy is to sow chaos by maintaining Janjaweed impunity, promoting inter-communal divisions, and continuing to attack villages and IDP camps to undermine stability.

Adding to the insecurity is a sharp increase in attacks and ceasefire violations by the rebel SLA and JEM. The SLA in particular has been guilty of numerous strikes on government positions, clashes with the Janjaweed militias, and looting of livestock and banditry, the latter the result partly of the inability of many of its troops to sustain themselves during the ceasefire, partly of an increasing breakdown in command and control. Although the instigation of the fighting is disputed, the SLA capture of Tawilla and subsequent government bombing of the town in late November 2004 was a serious escalation less than two weeks after the signing of the security protocol.<sup>6</sup>

---

<sup>5</sup> Crisis Group interviews with relief officials, February 2005.

<sup>6</sup> The SLA captured and held Tawilla for two days on and around 22 November 2004. The government retaliation included aerial bombardment of the town. The government accuses the SLA of attacking first, while the SLA accuses government militia of assaulting their positions outside of Tawilla first. Fighting between the SLA and pro-government militias had also taken place in Tawilla earlier in the month, with three Arab militia killed in the market around 10

A government offensive throughout Darfur during much of December, on pretext of "clearing the roads", caused even greater harm to civilians and stalled the most recent round of Abuja negotiations.<sup>7</sup> Fighting continued in January and February 2005, including a resumption of the government's "road clearing" activities in North Darfur.<sup>8</sup>

Since many traditional grazing routes are now closed due to general insecurity and the systematic destruction of water holes by the government and Janjaweed over the past eighteen months, much of the livestock could eventually perish. By displacing its agricultural and trading partners and destroying their livelihoods in pursuit of short term advantage, the Janjaweed has set in motion the demise of the region's medium term economic potential and thus significantly worsened the humanitarian situation for all its residents, not just those targeted for ethnic cleansing.<sup>9</sup> The next phase of the conflict will likely be fought along those grazing routes. The UN, NGOs and the AU need to map and monitor those routes now and begin local discussions aimed at re-opening them.

Insecurity is hampering humanitarian agencies from consistently accessing areas in need. The December 2004 killings of two aid workers from the British branch of Save the Children (SCF-UK) and one from Médecins sans Frontières (MSF) led to withdrawal of the former

---

November. The AU has condemned the fighting in Tawilla without assigning blame, in addition to condemning the SLA attack on Um-Asal and the JEM occupation of Draidia. "Press Release: Statement of the Chairperson of the Commission of the African Union on the Escalating Violence in Darfur", 25 November 2004. Crisis Group interviews, November 2004.

<sup>7</sup> Crisis Group interview, 15 December 2004. The government offensive led the JEM and SLA delegations in Abuja to suspend their participation in the negotiations until the government observed the ceasefire. Under pressure from the AU, the government offered to stop its attacks if rebel attacks ceased as well. See "Sudan will stop attacks if Darfur rebels do -- Official", Reuters, 16 December 2004. However, the government is only now beginning to withdraw its troops to its positions before the December offensive, two and a half months after promising to do so. See "Sudan: Government to withdraw troops from Darfur - Taha", *IRIN*, 28 February 2005.

<sup>8</sup> The "road clearing" activities included the burning and looting of numerous villages, a return to prominence of the Janjaweed militias -- they fought alongside the government forces -- aerial bombardment by government planes and helicopters, and the "clearing" of areas as wide as twenty Kilometres on each side of the roads. See "Report of the Secretary General on the Sudan pursuant to paragraphs 6, 13 and 16 of Security Council Resolution 1556 (2004), paragraph 15 of Security Council Resolution 1564 (2004) and paragraph 17 of Security Council Resolution 1574 (2004), 4 February 2005.

<sup>9</sup> "Darfur: Livelihoods Under Siege" op. cit.

from Darfur. UN agencies have had to suspend their aid operations numerous times over the past several months.

Much more is needed from the international community than just humanitarian support, however. The political, social and economic root causes of the conflict must be addressed if there is to be a lasting solution. The CPA provides some momentum also for a Darfur solution but the security situation must first begin to improve through neutralisation of the government-armed militias so that IDPs can begin to consider returning to their villages. Khartoum currently incurs only minimal costs if it continues to avoid the difficult political decisions required to improve the situation by acting against the Janjaweed. Targeted actions need to be directed against the government if it is to implement its multiple security commitments, including identification and disarmament of the militias it arms and controls or influences.

The UN Security Council and the AU still speak regularly of the government's responsibility to protect its civilians, apparently in the hope that the regime that displaced nearly 2 million of its own citizens and caused the death of at least 200,000 people from violence, malnutrition and disease, and perhaps as many as 300,000 or even more, will adopt different policies.<sup>10</sup>

Indeed it may, but only under much more compulsion than it has yet faced. When Security Council Resolution 1574 of 19 November 2004 made no mention of the government's obligations under earlier resolutions (1556 and 1664) to disarm the Janjaweed and backtracked on prior threats of action, Khartoum's assumption that it could continue to avoid international repercussions appeared to be confirmed.<sup>11</sup>

The Security Council must adopt stronger measures towards those responsible for the atrocities committed in Darfur. The situation will otherwise continue to worsen, which in turn will undermine the CPA agreement when insecurity spreads beyond Darfur. Moreover, the lack of political will shown by the international community to back up its threats will leave it with little credibility with either the government or the SPLM during the implementation phase of that agreement.

---

<sup>10</sup> There is no generally agreed figure for the number of deaths since the conflict began, and one cannot be established until the government allows a credible mortality survey in all three Darfur states. The (conservative) estimates given here are derived from presently available sources and analysis as follows. So far as deaths from *malnutrition and disease* are concerned, a cautious extrapolation of 108,588 deaths in IDP camps to January 2005, and 25,000 among inaccessible populations to September 2004, has been calculated from WHO and USAID figures by Dr. Jan Coebergh ("Sudan: the genocide has killed more than the Tsunami", *Parliamentary Brief*, Vol. 7, No. 9, February 2005): see WHO Report, "Retrospective Mortality Survey among the IDP Population", 15 September 2004, updated in the statement "Sudan: Mortality projections for Darfur", 15 October 2004, and the USAID website at [http://www.usaid.gov/locations/sub-saharan\\_africa/sudan/cmr\\_darfur\\_text.html](http://www.usaid.gov/locations/sub-saharan_africa/sudan/cmr_darfur_text.html). So far as deaths from *violence* are concerned, Dr. Coebergh calculates the figure of 73,700 by extrapolating from a study by Médecins Sans Frontières (MSF) and the epidemiological research centre Epicentre between April and June 2004 ("Health Assessment in Emergencies", final report by MSF and Epicentre, June 2004); he himself prefers here the higher figure of 172,542 deaths extrapolated, from a study by the US Department of State and the Coalition for International Justice ("Documenting Atrocities in Darfur", U.S. Department of State, September 2004), but acknowledges that this study was based on an extremely small sample. Collating the above figures of 108,588, 25 000 and 73,700 gives a total for all deaths as at January 2005 of 207,288. But this is at the lower

---

end of the possible extrapolations, and a total of more than 300,000 is certainly credible.

<sup>11</sup> Resolution 1574 instead expressed support for the pledge made by the government and the SPLA to sign a comprehensive agreement by 31 December 2004. In October 2003, the parties pledged to U.S. Secretary of State Colin Powell that they would conclude by 31 December 2003.

## **II. THE IMPACT OF THE IGAD AGREEMENT**

The newly signed CPA has raised expectations that a lasting solution will now be forthcoming in Darfur as well. Yet the specific impact there is likely to be minimal in the short term. There are two types of relevant benefits, both of which will need time to take effect. The first are the models and provisions for state autonomy, precedents for the sharing of power and wealth between the central government and sub-national governments, and new national institutions designed to enhance state participation in the central government that the CPA lists. The second is the entrance of the SPLM into the government of national unity. It is a trusted partner of the Darfur rebels, and as partner in Khartoum with the presently ruling National Congress Party (NCP), it should eventually be in a position to temper the government's policy in Darfur and promote a peaceful solution.

The powers, rights and political arrangements laid out in the CPA taken together form a strong basis for a political solution for Darfur. The model of state autonomy worked out for Southern Kordofan/Southern Blue Nile has some relevant provisions. Specifically, it envisages a democratically elected governorship for the state, rotating for an equal period between the parties prior to elections. The governor will control the state security committee and have power to transfer the director of the National Security Branch from the state back to Khartoum, effectively giving him direction over issues of state security and the security services.

Additional points from the Southern Kordofan/Southern Blue Nile agreement relevant to Darfur are the specific lists of state powers and state revenue sources, which are greater than those of other northern states. Pursuant to the CPA, a State Land Commission would have power to review existing land leases and contracts and criteria for land allocations, and to make recommendations on necessary changes, including restitution of rights or compensation. As land issues are some of the most divisive in the Darfur conflict, a State Land Commission (which exists only in Southern Blue Nile and Southern Kordofan), would be a critical component of a solution.

Provisions from the other IGAD protocols can also help build the basis for a solution. For example, the creation of two new national bodies, the Council of States (an Upper House legislature with two representatives from each state) and the Fiscal and Financial Allocation and Monitoring Commission (all state Finance Ministers, three representatives of the Government of Southern Sudan (GoSS) and three of the national government, to determine disbursement

of national government resources to the states), should help improve state participation in central government decision making. This in turn should help rebuild state and local level institutions that have atrophied through years of regime neglect.

The various rights and principles agreed to in the other CPA protocols, such as confirmation of international human rights standards and reaffirmation that citizenship is the basis for equal rights in Sudan, should give the Darfur rebels a legal basis for addressing their claims of marginalisation and discrimination. The provision in the Power Sharing protocol that the national civil service will be fairly representative of all the people of the country and will use affirmative action and training programs to achieve this should also appeal to the rebels, who profess a desire for Darfur residents to be better represented in the national institutions. As well, the commitment to hold elections at all levels by the end of the fourth year of the six-year interim period includes Darfur in the national democratisation process.

Taken together, this is a solid foundation on which to construct a negotiated solution for Darfur. However, major gaps exist in power sharing and, to a lesser extent, wealth sharing. The power sharing arrangement for northern states (70 per cent NCP, 10 per cent SPLM, 20 per cent other political forces) ahead of elections is highly unlikely to satisfy the rebels. The Southern Kordofan/Southern Blue Nile model (the SPLM and NCP split the seats in the state legislature 45 per cent/55 per cent ahead of elections), offers an alternative, but as multiple groups are fighting in Darfur, division of power would be more complicated.

More problematic is the provision for power sharing at the national level, whereby only 14 per cent of the seats in the parliament are allocated for the various northern opposition political forces ahead of elections. With the membership of the opposition umbrella National Democratic Alliance (NDA) already claiming equitable representation of all political forces in the commission that is to draft the interim constitution and in other transitional bodies, contrary to the fixed percentages agreed to in the CPA, there could be precious little space for the Darfur rebels in the national parliament.<sup>12</sup> Should a separate agreement for the groups from eastern Sudan also be on the horizon, as it now appears, the seats available will shrink again. In short, the power sharing arrangements ahead of the elections, especially between the Northern political groups, are likely to prove an obstacle to any political solution for Darfur, and

---

<sup>12</sup> National Democratic Alliance, "Leadership Council Meeting, Asmara 7-10 February 2005: Resolutions and Recommendations", in Arabic, 10 February 2005.

potentially for eastern Sudan as well. The most sustainable solution to this problem would be for the NCP and SPLM to agree to reassess these arrangements and give greater representation to the myriad groups currently outside the process. If they are seen to be unfairly excluding other political groups from decision-making, the seeds will be sown for more conflict in Darfur, eastern Sudan, and elsewhere.

While the SPLM will not immediately be able to change Khartoum's policy in Darfur, it can begin by working with the rebels, the SLA in particular, to help sell the CPA as the basis for a solution. It can also work with the SLA to try to overcome its internal divisions -- a problem with which the SPLM has had much experience. The SPLM should try to send a delegation to all forthcoming rounds of Darfur negotiations. It would be in a unique position to act as an intermediary between the principal parties to the conflict.

The international community should welcome and encourage SPLM participation in the process, not least because the movement's leadership understands that the CPA cannot last if Darfur continues to burn. Indeed, there is need to make stabilising Darfur the top priority for implementation of the IGAD agreement. There should be greater engagement with the AU-led Abuja process and an attempt to build the kind of inside-outside partnership there that worked so well with the IGAD countries in Naivasha as the CPA was being negotiated. The AU should quickly appoint a senior diplomat familiar with Sudan and the region to serve as chief mediator in Abuja.<sup>13</sup> General Sumbeiywo, the chief mediator of the recently concluded IGAD process, and others from the IGAD team could be a tremendous resource for the AU mediation team to call upon. Donor countries, and notably the U.S., should appoint high-level special envoys to support the Darfur process, as was done in support of the IGAD process.

---

<sup>13</sup> Ambassador Sam Ibok, who took over for Dr. Hamid Algabid mid-way through the October-November 2004 round and shepherded the talks to a successful conclusion with the signing of the Humanitarian and Security Protocols on 9 November 2004, should be retained to provide vital continuity and expertise.

### III. THE SECURITY SITUATION

The security situation has been steadily deteriorating for the past six months, to the detriment of the humanitarian relief efforts, the plight of the IDPs, and the search for a sustainable political solution. Direct fighting between the government and the rebel SLA and JEM resumed in earnest in late November 2004, despite the security protocol signed on 9 r under AU auspices. The escalation began between the government and the SLA in and around Tawilla, followed by a rapid military build-up. Arms started flowing into the region on 5 December, and two days later government forces began a large offensive that lasted until mid-month and included open use of the Janjaweed and aerial bombardments.<sup>14</sup> December and January also saw a sharp rise in attacks on humanitarian workers.<sup>15</sup>

Fighting intensified again shortly after the signing of the CPA in January. The government bombardment of Rahad Kabolong on 26 January, in which more than 100 civilians were reportedly killed, was the most egregious recent violation of the ceasefire.<sup>16</sup> It came a day after the high profile signing of a country strategy paper by the EU and the Khartoum government that was expected to release €450 million in development funds frozen since 1990. At the signing ceremony, First Vice President Ali Osman Taha had reassured the EU the government was committed to implementing the Abuja protocols, which include a ban on military flights in Darfur.<sup>17</sup> Even before these events, there had been a steady stream of ceasefire violations by all sides, as well as an increase in inter-tribal fighting and banditry.

---

<sup>14</sup> "Report of the Ceasefire Commission on the situation in Darfur at the Joint Committee Emergency Meeting in Abuja, Nigeria", December 2004. Available at <http://www.africa-union.org/DARFUR/homedar.htm>. In the same report, the Chairman of the CFC described the quantity of arms and ammunition that had been brought into the region as astronomical.

<sup>15</sup> Ibid. The two Save the Children workers were killed by SLA elements on 12 December, the MSF worker five days later during a government attack. In addition to that MSF employee, 29 MSF employees were displaced, but have since returned safely to Tawilla. The kidnapping of three Adventist Development and Relief Agency International (ADRA) workers on 16 November 2004 in rebel held areas was another example of the increasing pattern of targeted attacks on humanitarian workers.

<sup>16</sup> "Sudan: International community condemns aerial bombardment in Darfur", IRIN, 31 January 2005.

<sup>17</sup> Ibid. The signing ceremony was attended by First Vice President Ali Osman Taha and the SPLA Commissioner for External Relations, Nhial Deng Nhial. See also: "EU restores ties with Sudan, offers quick aid", Reuters, 26 January 2005.

In the face of this, the UN and the AU have been following a "protection by presence" strategy<sup>18</sup> that is flawed for several reasons. First, the assumption that Khartoum might suddenly be willing, more or less voluntarily, to protect the same civilians that it displaced months earlier from the militias that it armed for that purpose, is at best naive. The government has broken nearly every security-related commitment it has made on Darfur, from the N'djamena ceasefire agreement of 8 April 2004, through the N'djamena agreement of 25 April, the 3 July Communiqué signed with the UN and the subsequent Plan of Action of 5 August, to the recent Abuja security protocol. It has also repeatedly broken its commitments relating to the right of voluntary and safe return for the IDPs.<sup>19</sup> Despite promises and repeated international threats, it does not appear more prepared to protect its citizens in Darfur than it was a year ago.

Secondly, the strategy leaves the international community helpless when there are attacks. This was clearly displayed following the kidnapping of eighteen Arab hostages by an SLA commander in Jebel Marrah, on 27 October 2004. Fearing military escalation following calls for retribution by armed local Arab tribes, the UN and humanitarian agencies -- the only international presence in the area -- withdrew. UN humanitarian officials have repeatedly stated that the presence of expatriate relief workers should not be considered a solution to insecurity in Darfur. There is an increasing trend in conflict zones throughout the world for governments to substitute humanitarian assistance and "protection by presence" for a more robust and realistic approach to atrocity prevention. "Protection by presence" is hollow if that presence is withdrawn when a situation deteriorates so that civilians must fend for themselves. But the UN rightly points out that humanitarian workers cannot stand between two fighting forces. The strategy becomes even less tenable when armed AU elements, too few as they are, are not willing or able to step in to contain the situation.

## A. THE UN PLAN OF ACTION -- FLAWED FROM THE BEGINNING

The downward spiral of violence began in late August 2004, triggered by identification of areas in Darfur to

be made "safe and secure" for IDPs and others by the government in accordance with the Plan of Action signed with the UN.<sup>20</sup> Unfortunately that document, which was intended as a follow-up to the UN-government 3 July Communiqué, was negotiated bilaterally between the Secretary General's Special Representative to Sudan, Jan Pronk, and the Sudanese Foreign Minister, Mustafa Ismael, without the input of the JEM, SLA or AU. Seven sites<sup>21</sup> were agreed, around each of which the government was to secure a twenty-kilometre radius. Government armed forces in those areas were to be redeployed to military headquarters and garrisons and more police brought in.

This agreement's multiple inconsistencies with the 8 April N'djamena ceasefire sparked new clashes between the government and SLA. The first problem was that the twenty-kilometre radius overlapped with SLA-held areas in some cases, thus arguably entitling the government to break the ceasefire and attack the SLA in order to fulfil its commitments under the Plan of Action. Secondly, the relocation of armed forces contradicted the N'djamena text,<sup>22</sup> which states that the each party should "disengage and refrain from any deployment, movement or action which could extend the territory under its control or which could lead to a resumption of hostilities".<sup>23</sup> The fighting that flared on 26 August led to increased suspicion and tension between the UN and the AU, which monitored and verified daily violations.<sup>24</sup> The government offensive to reclaim areas from the rebels under cover of expanding the perimeters of the "safe areas" led to an intensification of ceasefire violations by both sides and was a major cause of the failure of the first round of the Abuja peace talks.

---

<sup>20</sup> "Darfur Plan of Action", signed by the government of Sudan and the UN, 5 August 2004. For further analysis, see Crisis Group Report, *Darfur Deadline*, op. cit.

<sup>21</sup> The seven sites were, in North Darfur: 1) El Fashir city and surrounding villages and camps; 2) Tawilah area; in South Darfur: 3) Nyala city and surrounding villages and camps; 4) Sani-Deleiba area; 5) Abu Ajourah area; in West Darfur: 6) Al-Geneina city and surrounding villages and camps; and 7) Mornei area.

<sup>22</sup> See, for example, the AU CFC report "Commission Ceasefire violation report on alleged movement of Government of Sudan forces to Abgaragil -- South East of Nyala". Complaint received 28 August, 2004; distributed 30 September 2004. Available at [http://www.africa-union.org/DARFUR/home\\_dar.htm](http://www.africa-union.org/DARFUR/home_dar.htm). The report concludes that the establishment of a new police station as Abgaragil, while in compliance with the Plan of Action, was in violation of the N'djamena Ceasefire agreement.

<sup>23</sup> Article 2, Humanitarian Ceasefire Agreement on the conflict in Darfur, signed in N'djamena on 8 April 2004.

<sup>24</sup> Crisis Group interviews, August-October 2004.

---

<sup>18</sup> Jan Egeland, Under Secretary General of the United Nations for Humanitarian Affairs and Emergency Relief Coordinator, "Protection of Civilians: A Strategy for Darfur", a copy of this aide-memoire was received by Crisis Group on 2 November 2004.

<sup>19</sup> Destruction of the Al-Geer camp in Nyala in early November 2004 was the most glaring example. "Sudanese forces raid refugee camp", BBC, 10 November 2004. Available at <http://news.bbc.co.uk/1/hi/world/africa/3998243.stm>.

Realising its mistake, the UN sought to establish a mechanism to deal with clashes around the safe areas. At a meeting of the Joint Implementation Mechanism (JIM - the body created to monitor implementation of the 3 July 2004 Communiqué) on 17 September 2004, the government, UN, AU and the AU Ceasefire Commissions (CFC - which includes the SLA and JEM) concurred on steps to harmonise the various agreements. Specifically, the government promised not to move forces into known SLA/JEM territory within the twenty kilometre radius of the safe areas. If control of territory was unknown, it would seek clarification from the AU CFC, which would advise whether it could proceed.<sup>25</sup>

Nevertheless, the safe areas concept was quickly abandoned, and is no longer referred to by the UN or the government. The destruction of the Al-Geer camp by the government in November and threats against the Otash camp in Nyala dispelled any notion of safety for IDPs in those areas. A recent Médecins sans Frontières - Holland report summarised:

The situation in Darfur perverts the very idea of refuge. People escape the attackers once, yet they cannot find real safety. Constant insecurity and harassment, as well as lack of basic essentials for survival, mean that many displaced people are continuously on the move, abandoning one place and trying desperately to establish a place of safety in another.<sup>26</sup>

The parties learned different lessons from the safe areas experience. The UN team, which inadvertently negotiated a bilateral agreement that contradicted the existing ceasefire and was then used as a trigger for new fighting, has since been working much more closely with the AU team in the field. The AU had the unenviable task of dealing on the ground with the consequences of the earlier miscalculation. The SLA and JEM became more distrustful of any initiative associated with the government and sceptical of the UN's role. Failure of the safe areas had two important consequences for the government. The first was strategic -- the opportunity to reposition its troops and reinforce its police and other security forces throughout Darfur with the UN's blessing. The second was political in that it strengthened the hand of those in Khartoum who argue that the international community is prejudiced against the government, since

in this case it was vilified despite first reaching and then attempting to carry out the agreement with the UN.

## B. KHARTOUM'S CHAOS THEORY

For months, the government has been arguing that the war in Darfur is primarily tribal and any solution must first involve a tribal reconciliation process. Despite repeatedly committing itself to identify, neutralise, and take weapons from the militias it has armed and controls or influences, the government has not acted. Instead it has argued that this can only be done in conjunction with disarmament of the rebel groups and that it does not really control the militias. At Abuja in October-November 2004, its negotiators suggested that because the JEM and SLA were not sufficiently representative of the entire Darfur region, they could not reach a comprehensive political settlement with them.<sup>27</sup> The government's objective is not to resolve the conflict, but rather to weaken the negotiating position of the rebels, bog them down in local conflict to prevent them from possibly expanding beyond Darfur, and portray itself as an innocent bystander of a complex, decades-old local conflict. It has made no serious attempt to find a solution other than by the gun.

Khartoum's denial that there is a problem in Darfur for which it has any responsibility is one of the most worrying elements of the crisis. The international community has rightly held a very different view of responsibility, one buttressed on such objective findings as those of the UN Commission of Inquiry on Darfur.<sup>28</sup> However, this has begun to change due to an increase in rebel attacks from September 2004 through February 2005, which provide a tinge of plausibility for the government's propaganda campaign.

Khartoum's strategy in Darfur is one of organised chaos. It has played a game of cat and mouse with the UN and the international community at large, promising much but delivering little, while attempting to conceal that it was its own counter-insurgency strategy that exacerbated the tribal elements and polarised the ethnic divide in the region.

---

<sup>25</sup> Report of the Secretary General on Sudan pursuant to paragraph 15 of Security Council Resolution 1564 of 18 September 2004, and paragraphs 6, 13 and 16 of Security Council Resolution 1556 of 30 July 2004, September 2004.

<sup>26</sup> "I left home with nothing but my clothes and my children: Persecution, Intimidation and Failure of Assistance in Darfur", MSF-Holland, October 2004, p. 10.

---

<sup>27</sup> Crisis Group interviews with government delegates in Abuja, October 2004. The line pushed by government delegates and repeated by Foreign Minister Mustafa Osman Ismail was that individual responsibility does not exist in Darfur, where responsibility for actions always rest with a person's tribe. Press conference of Mustafa Osman Ismail, Sudanese Embassy, Abuja, 28 October 2004.

<sup>28</sup> See the "Report of the International Commission of Inquiry on Darfur to the United Nations Secretary General", 25 January 2005.

Instead of taking strong action against the Janjaweed, the government has incorporated many into its formal security structures, principally the Popular Defence Forces (PDF) and Border Intelligence Guard, but also the Popular Police (*Shorta Shabiya*) and Nomadic Police (*Shorta Zana*). In addition to these "formal" groups, there are other tribal militias armed by the government, such as Musa Hilal's infamous *El-Khafif*, *El-Sariya*, *El-Muriya* (The light, the fast, the fearful), based in the Kebkabiya area of North Darfur.

The Border Intelligence Guard (*Istikhbarat Al-Hudud*), headed by General Al-Hadi el-Tayeed, appears increasingly to be the body of choice for the integration of Janjaweed. It was created in early 2003 in a public ceremony during which the government granted amnesty to a large number of prisoners, enlisting them to fight the rebels. It is annexed to the army, which funds it, but controlled by Military Intelligence.<sup>29</sup> It is given both arms and logistical help by the army and can call for air and armed support as needed.<sup>30</sup> "This is now the core of the Janjaweed", explained a Sudanese observer.<sup>31</sup>

The government clearly believes it can avoid penalties, making for an easy choice between inaction and the admittedly difficult process of now neutralising the militia groups it created. Unfortunately, the international community has not yet acted to influence this calculation. A government official explained candidly:

There are many in the government who are pleased with the work of Musa Hilal and other Janjaweed leaders, because they've protected the government interests in Darfur. Those who committed war crimes should be brought to justice but we are afraid of the backlash. Musa Hilal, for example, has 3,000 to 4,000 soldiers under him. If we arrest him, they will turn on us. The government has to weigh that against the outside pressure to take action, and possible repercussions from inaction.<sup>32</sup>

In early November, Musa Hilal was promoted from a colonel in the PDF to a brigadier general in the General Security Services.<sup>33</sup>

The government's chaos policy is also evident in its treatment of the IDPs. As part of the Plan of Action, Khartoum agreed with the UN that the International Organization for Migration (IOM) would be responsible for vetting potential voluntary returns to villages.<sup>34</sup> However, the entire process was beset with UN turf wars over mandate and modalities for return. IOM's mandate was reduced to North and South Darfur, after the UN High Commissioner for Refugees (UNHCR) was granted permission by the office of the Secretary General to handle all refugee and return related issues in West Darfur.<sup>35</sup> However, the government appears to have little interest in working through either channel.<sup>36</sup> Instead it has acted aggressively against IDP camps, especially the large settlements in and around Nyala, South Darfur. A consistent pattern has emerged of government attacks on IDPs, intimidation of tribal leaders aiming to get them to return to their destroyed villages, and the forcible relocation of IDPs. The most blatant example was the relocation to the Al-Sareef camp after the Al-Geer camp was destroyed. The first attack at Al-Geer on 2 November 2004 was justified by Khartoum as a step by a "responsible government" to move the IDPs to a better location.<sup>37</sup> A week later, security forces returned and using tear gas, rubber bullets and beatings -- in the presence of international representatives including the UN and a BBC film crew -- forcibly relocated those IDPs who had remained or returned.<sup>38</sup>

The official explanation for the Al-Geer action was that the camp was on private property, and the owner demanded it be moved.<sup>39</sup> Unofficially, there is speculation that the government feared that camp and the Otash camp -- which was threatened, but not destroyed -- both of which are close to a government garrison, could be infiltrated by the SLA.<sup>40</sup> There have been additional incidents of coercion and forced relocation throughout Darfur, although none as well documented as Al-Geer.

---

<sup>34</sup> According to the Management and Coordination Mechanism (MCM) established between the government, IOM and OCHA, the government is to inform IOM of any IDP groups intending to return to their areas of origin. IOM is supposed to verify these intentions and ensure that the areas are safe and suitable for return.

<sup>35</sup> Crisis Group interviews, November 2004.

<sup>36</sup> Crisis Group interview 10 November 2004.

<sup>37</sup> "Sudan defends forced relocations", BBC, 3 November 2004. Available at <http://news.bbc.co.uk/1/hi/world/africa/3998243.stm>.

<sup>38</sup> "Sudanese forces raid refugee camp", BBC, 10 November 2004. Available at <http://news.bbc.co.uk/1/hi/world/africa/3998243.stm>.

<sup>39</sup> Crisis Group interview, 10 November 2004.

<sup>40</sup> Crisis Group interview, 10 November 2004.

---

<sup>29</sup> Ibid, p. 29.

<sup>30</sup> Crisis Group interview, 31 October, 2004.

<sup>31</sup> Crisis Group interview, 10 November 2004.

<sup>32</sup> Crisis Group interview, 13 November 2004.

<sup>33</sup> Crisis Group interview, 14 November 2004. Musa Hilal told Human Rights Watch researchers in a recently released videotaped interview that the Khartoum government backed and directed the activities of his militia. "Darfur: Militia Leader Implicates Khartoum", Human Rights Watch press release, at <http://www.hrw.org/video/2005/musa/>.

In early October 2004, the government rounded up roughly 800 Gimr IDPs in the Kalma camp, after arresting three Gimr sheikhs, and moved them to a nearby IDP camp where they were promised more food and other aid.<sup>41</sup> Extensive intimidation of tribal leaders to get them to convince their people to return to their villages is still going on.<sup>42</sup> Cases have been reported of killings by IDPs or rebels of tribal leaders believed to be cooperating with the government, such as the killing (suspected SLA work) of a Zaghawa Omda (tribal leader) in North Darfur in early November, who was accused of taking cash payments on a per head basis to encourage his people to go home.<sup>43</sup> Another government tactic was recently displayed in North Darfur when officials with a ministry of education edict rounded up teachers from IDP camps and informed them they risked losing their jobs if they did not return to their places of origin. This appeared an attempt to use education services as a magnet to draw IDPs to areas where these services would be available and to disrupt teaching in camps the government wants to dismantle.<sup>44</sup>

When an environment conducive to IDP returns is finally created, donors should insist that the government assume the largest share of reconstruction costs, since it caused the destruction. International partners should also be vigilant lest they be drawn into supporting plans that aim at changing demographic or land ownership patterns. The situation in Darfur will only continue to worsen without a shift in government policy, which in turn first requires change in Khartoum's calculations regarding international will and penalties.

First Vice President Taha, named to take the government's lead on Darfur following signature of the CPA, may bring a new unity of purpose to resolving the conflict. He proved in the IGAD process that he carries the necessary weight to negotiate a deal. He also has support of the security services and a personal stake in making the CPA work, which requires a Darfur settlement. However, his appointment angered his predecessor, Dr. Magzoub al-Khalifa, who led the government delegation at the three previous rounds of Abuja talks.<sup>45</sup> It has long been rumoured that they have a personal rivalry and that al-Khalifa was upset in 2003 when Taha was chosen to negotiate the IGAD agreement. The new appointment reportedly caused a rift within the ruling party and led

some observers to speculate that al-Khalifa might explore new political allegiances.<sup>46</sup>

Moreover, continued attacks in Darfur, notably the bombing of Rahad Kabolong on 26 January 2005, raise a question about Taha's ability to control government actions. He had pledged on at least two occasions to ensure that the government honoured the ceasefire and its commitments in Darfur -- to intellectuals from the region in Khartoum on 20 January and to EU High Representative Javier Solana on 25 January.<sup>47</sup> Initial reports from Khartoum suggest that Taha was sincere but was undermined by elements within the government intent on either continuing the war or discrediting him.<sup>48</sup>

### **C. THE SLA AND JEM -- INCREASED DIVISIONS, INCREASED FIGHTING**

The sharp rise in recent months of attacks by the rebels, particularly the SLA, have taken two forms: directly against government forces and Janjaweed, or looting and theft from government, NGOs or private citizens.

There is near total distrust among the rebels, and at this point most Darfurians, towards all things government related. This is understandable given Khartoum's policies, yet both JEM and the SLA have drawn some of the wrong conclusions from international interest in the crisis and such pressure as it has implied on the government. The rebels have equated condemnation of Khartoum with support for their cause, and this, observers believe, has hardened their negotiating positions in Abuja.<sup>49</sup>

Unlike the government and its militias, the insurgents have largely refrained from targeting civilians, although there have been exceptions,<sup>50</sup> and several incidents since late October 2004 indicate this may be changing for the worse. The highest profile attack of this nature was the

---

<sup>41</sup> Crisis Group interview, 10 November 2004.

<sup>42</sup> Crisis Group interviews, July 2004-January 2005.

<sup>43</sup> Crisis Group interview, 14 November 2004.

<sup>44</sup> Crisis Group interview, 10 November 2004.

<sup>45</sup> Crisis Group interview, 31 January 2005.

---

<sup>46</sup> Crisis Group interview, 31 January 2005. Magzoub al-Khalifa's appointment to lead the government delegation to Port Sudan to meet with the Beja following the killing of over twenty Beja protesters by government security forces on 29 January 2005 appears to be designed, at least in part, to pacify al-Khalifa.

<sup>47</sup> Crisis Group interview, 27 January 2005. The intellectuals had returned from a meeting of Darfur representatives in Libya (see below). The pledge to Solana was made at the strategy paper signing in Brussels described above.

<sup>48</sup> Crisis Group interviews, January and February 2005.

<sup>49</sup> Crisis Group interviews with AU officials and international observers, September-October 2004.

<sup>50</sup> See "If We Return, We Will Be Killed: Consolidation of Ethnic Cleansing in Darfur, Sudan", Human Rights Watch, November 2004.

kidnapping of eighteen Arab men from the Mahariya tribe off of a passenger bus in Tur, Jebel Marrah, on 27 October.

Much confusion still surrounds that affair. Some SLA members claim the commander who led the operation was a rogue, who has been expelled from the movement,<sup>51</sup> and the hostages were local Janjaweed leaders.<sup>52</sup> The government insisted they were students from Nyala returning home to celebrate Eid. Some SLA believe the government staged the affair to worsen tribal relations in the area.<sup>53</sup> While the truth may remain hidden, the racial targeting enflamed local Arab tribes, and on 29 October a group of armed Arab tribesmen threatened to attack Zalingei, leading to the UN and international NGOs pulling out of that town as well as Golo.

The anticipated attack never took place but the affair stoked tribal tensions. These were well handled by the AU CFC, which met with a group of Arab leaders and subsequently negotiated the release of at least six of the hostages.<sup>54</sup> However, the incident marks an emerging trend that is disturbing. "SLA attacks [often the looting of livestock and blocking of grazing routes] are increasingly aimed at specific tribes", said an international observer. "Frankly, I don't understand their game plan. They seem to be shooting themselves in the foot".<sup>55</sup>

Disagreement over the hostage taking was symptomatic of a larger division within the SLA. In late December, a press release sent to Crisis Group by its "Field Command" alleged that certain attacks attributed to the group were being carried out by the "United National Front", a movement said to have been created by government security services to cost the SLA international credibility.<sup>56</sup> In interviews, Zaghawa members of the SLA repeated this and alleged that the government had bought the SLA commander responsible for the October kidnapping, Abulgasim Eiman.<sup>57</sup> However, in a subsequent interview a leading Fur member of the SLA denied that the government had created the "United People's Front" -- he apparently considered it the same organisation as the "United National Front" -- and asserted that it was simply a Darfurian university student movement, and Eiman

remained an SLA member in good standing, in fact a field "Commissioner".<sup>58</sup>

The increase in looting and banditry by SLA cadres, mostly in North and South Darfur, can be partially explained by difficult economic conditions, which are producing more banditry across the board. An AU official explained:

With the ceasefire in place and many civilians displaced from their areas, they aren't able to sustain themselves. They're hungry, and often the soldiers will search for food by any means necessary, without the knowledge or approval of their commanders. We're seeing the beginning of a breakdown in the command and control of the movement.<sup>59</sup>

The SLA attack on Tawilla on 22 November 2004 was also carried out by an allegedly independent commander, without the knowledge or consent of the military or political leadership.<sup>60</sup> Attacks on police stations near the Kalma camp on 13 and 22 November<sup>61</sup> were similarly said to have been undertaken by independent elements without the knowledge of superiors.<sup>62</sup>

There is another, more ominous explanation as well. Looting of livestock and blocking of grazing routes could be part of a broader SLA strategy. Much livestock looted during the ethnic cleansing phase has already been taken to Chad, the Central African Republic or Libya. Much of what is left is in strongholds of the Janjaweed and Arab tribes that fought with the government, but many historical grazing routes are restricted by the fighting or otherwise cut off by the SLA.<sup>63</sup> The herds that remain could easily perish due to the smaller grazing areas available as well as the loss of many water holes because

<sup>51</sup> Crisis Group interviews, November 2004.

<sup>52</sup> Crisis Group interview, 10 November 2004.

<sup>53</sup> Crisis Group interview, 26 November 2004.

<sup>54</sup> Crisis Group interview, 13 November 2004.

<sup>55</sup> Crisis Group interview, 16 November 2004.

<sup>56</sup> Statement from the Sudan Liberation Movement/Army Field Command, 18 December 2004.

<sup>57</sup> Crisis Group interview, 14 January 2005. These SLA members stated, however, that the name of the government-created organisation was the United People's Front (*Jebha al-Shabiyya a-Mutahida*).

<sup>58</sup> Crisis Group interview, 31 January 2005.

<sup>59</sup> Crisis Group interview, 26 October 2004.

<sup>60</sup> See "Independence of Darfur rebel commanders threatens peace efforts", by Sudarsan Raghavan, *Knight Ridder Newspapers*, 3 December 2004. Available at [http://www.sudantribune.com/article.php3?id\\_article=6838](http://www.sudantribune.com/article.php3?id_article=6838).

<sup>61</sup> Point 3, Report of the Secretary General on the Sudan pursuant to paragraphs 6, 13 and 16 of Security Council Resolution 1556 (2004), paragraph 15 of Security Council Resolution 1564 (2004), and paragraph 17 of Security Council Resolution 1574 (2004). 4 December 2004.

<sup>62</sup> Crisis Group correspondence, 26 November 2004.

<sup>63</sup> Crisis Group has received reports of efforts by Janjaweed to sell looted livestock to government officials, as well as back to IDPs at prices far below market value, in order to recoup some profit before the herds perish. Crisis Group interviews, 13 November 2004. See also: "If We Return, We Will Be Killed", op. cit., and "Darfur: Livelihoods under Siege", op. cit.

the government and Janjaweed destroyed them earlier in the conflict. This would have serious implications for food security throughout Darfur.<sup>64</sup>

Indeed, it appears the SLA has begun to use access to historical grazing routes (*Massarat*) and guarantees of safe passage as bargaining chips in grassroots negotiations with the nomadic Arab tribes. "Everyone knows the routes, and the times that different tribes are supposed to be in different areas", explained one SLA leader. "We are negotiating with some of the Arab tribes, and many of them are interested in joining us. We are offering to grant them safe passage through these routes, if they join us".<sup>65</sup> The implication is that the SLA will block those groups who choose not to side with it. The next phase of the conflict is likely to focus increasingly around the grazing routes and involve greater ethnic polarisation.

Awareness of the stakes has triggered several local communal peacemaking efforts between major so-called Arab and non-Arab groups. Typical is a recent offer from several tribal leaders of the Awalat Zeid of West Darfur, (who have taken most of their livestock to Chad, including presumably what they looted from the Massaleit), to the Sultan of the Massaleit, offering to withdraw their people from Massaleit land on which they have resettled in exchange for guarantees they can graze through Dar Massaleit.<sup>66</sup> Tribal reconciliation conferences have also taken place between the southern Rizeigat and the Mahariyya and are underway between the southern Rizeigat and the neighbouring Birgit and Fur tribes.<sup>67</sup> On 1 January 2005, a peace and reconciliation conference concluded in Nyala between the Tarjam and the Rizeigat.

These developments are being countered by greater government efforts to control and manipulate tribal leadership. The recent replacement of the Fur Magdum of Nyala, the creation of a new Nazirate for the Ma'aliya, and the creation of a tribal administration for the Birgit, via a 4 January government decree, are the latest examples of this manipulation. The aim is to split the Fur and provoke a war between the Ma'aliya and the southern (Baggara) Rizeigat -- two tribes that have not joined the government war efforts

The increase in looting attributed to the SLA, the tribally targeted attacks, and the emergence of rogue commanders in Jebel Marrah, and around Nyala and El Fashir do suggest the beginning of a partial breakdown in SLA command and control. This would not be surprising, given that most of its political leadership has been out of Darfur since March 2004. The SLA is also hampered by the feud between its chairman, Abdel Wahid Mohammed Nur, and Secretary General, Minni Arkoi Minawi, which re-emerged during the October-November Abuja round and paralysed the SLA delegation for several days.<sup>68</sup> And it still lacks a well articulated political vision and clear mandate from constituencies on the ground. All these problems will make future negotiations very difficult.

Many of the divisions appear to have come to a head at a political leadership meeting in Asmara in early February 2005 that included select field commanders and overseas offices. The intention was to focus on building institutions and preparing a constitution for the movement but a press statement signed by Guma Mohammed Hagar, on behalf of the "Field Command", deposed the chairman, citing improprieties, and called for new structures to be established ahead of a broader convention.<sup>69</sup> Nur rejected the demotion, but for now the leaders seem to have reconciled, with him remaining chairman.<sup>70</sup> While many Zaghawa members are reportedly still unhappy with him, they do not want to risk a split along ethnic lines, and recognise the need for a Fur to remain head of the movement.<sup>71</sup> Nevertheless, major tensions are likely to reappear unless an early convention can take definitive decisions.<sup>72</sup>

The SLA, by far the largest of the rebel movements, needs to get its house in order and begin to create institutions before there can be a real chance of a diplomatic settlement. This probably requires a broad conference or series of conferences inside Darfur so political demands can be agreed and a leadership mandated to pursue them. The international community should consider sponsoring this process, since it would increase prospects for a negotiated end to the conflict.<sup>73</sup> Pressure on the rebels to observe their commitments and negotiate constructively is unlikely to succeed until and

---

<sup>64</sup> A recent International Committee of the Red Cross (ICRC) food needs assessment found that all but two villages visited in Darfur had had between 70 to 100 per cent of their livestock looted. The productivity of herds that remained in Darfur was jeopardised due to insecurity and the disruption of traditional grazing routes. "Food Needs Assessment: Darfur", International Committee of the Red Cross (ICRC), October 2004.

<sup>65</sup> Crisis Group interview, 26 November 2004.

<sup>66</sup> Crisis Group interview, 15 November 2004.

<sup>67</sup> Crisis Group interview, 16 November 2004.

---

<sup>68</sup> Crisis Group interviews in Abuja, October 2004.

<sup>69</sup> The charges included the chairman's lack of commitment to institutional work and his individualistic decision making, financial improprieties and gathering of money for his private interest, manipulation by the Sudanese security agency through the United Popular Front, lack of recognition of the frontline command and its sacrifices, and stoking of racial conflict within the army and the military command.

<sup>70</sup> Crisis Group interview, 11 February 2005.

<sup>71</sup> Crisis Group interviews, 11 February 2005.

<sup>72</sup> Crisis Group interview, February 2005.

<sup>73</sup> The much smaller JEM movement has similar needs.

unless the movements are sufficiently institutionalised so that their leaders can firmly control and safely represent their field commanders. The government's chaos strategy is a direct threat to the SLA and JEM. If they are cannot maintain order, discipline and vision, they will slowly descend into anarchy and warlordism.

#### **D. THE EMERGENCE OF NEW ARMED GROUPS**

At least three new movements have emerged in Darfur and neighbouring Western Kordofan over the past year. The first, the National Movement for Reform and Development (NMRD), broke away from JEM before the ceasefire negotiations in N'djamena. Led by Commander Gibril Abdel-Karim Bari, it is based in the Jebel Moon area in West Darfur. The split with JEM was reportedly over a difference in political vision. Gibril pushed a Darfur-first agenda, the rest of the leadership a more national agenda.<sup>74</sup> The NMRD also claims to be fighting for separation of religion and state, like the SLA, and were put off by the Jem leadership's Islamist tendency.<sup>75</sup> The split occurred at a JEM conference on 23 March 2004 in Jebel Karo. Gibril attended the ceasefire negotiations in N'djamena as an SLA representative,<sup>76</sup> after which NMRD was formed. The Chad government immediately gave it political backing and reportedly also arms and vehicles.<sup>77</sup>

Chad's logic in supporting the NMRD, which is reportedly mostly made up of Zaghawa (as is JEM), appears to be that its Zaghawa sub-clans are less challenging to the Chadian establishment, and closer to President Deby, than JEM's leaders.<sup>78</sup> The Chad delegation brought NMRD representatives to the first round of the AU-sponsored Abuja talks in August. Although the NMRD representatives met with Nigerian President Obasanjo, they were not invited to the negotiations, in part because the JEM delegates threatened to walk out.

Although the NMRD claim to have the same political agenda as the SLA, it wants its own seat at the negotiating table and, according to government media, issued a threat against the AU and NGOs in Darfur until it gets this.<sup>79</sup> Until late October 2004, it was based primarily in the Tine area of North Darfur, along the Chad border. On 29 October it attacked, capturing territory in the Jebel Moon area of West Darfur. JEM representatives claim Khartoum backs the NMRD so as to weaken the JEM and SLA. They assert the Jebel Moon offensive originated in el-Geneina, where the government provided cars and weapons.<sup>80</sup>

On 18 December, the NMRD signed a separate ceasefire with the government, mediated by Chad. It reaffirms the accords signed with the SLA and JEM<sup>81</sup> and calls for creation of a parallel international monitoring mechanism for its implementation.<sup>82</sup> The government also reiterated its pledge to disarm militias.<sup>83</sup>

While the details remain murky, two conclusions can be drawn. First, the NMRD has received significant support, presumably from either the Chad or Sudan government. Some well-placed sources suggest the seed money for Deby's help originated in Khartoum. Reports from eyewitnesses who have encountered the NMRD in Jebel Moon are that it has new cars and uniforms, rockets, and heavy guns, which suggest an outside backer.<sup>84</sup> Secondly, it does not appear to be receiving Khartoum's support now. It has clashed with government forces on multiple occasions since early September 2004, and at least once with JEM, in late October.<sup>85</sup> Reports of up to three NMRD camps in Chad suggest that if support is still flowing, it originates there.<sup>86</sup>

The second new group, Khorbaj, is predominantly Arab and said to be based in South Darfur. Little is known of it, although anonymous statements have been distributed that claim to represent its views. It has not yet done anything in the field but two versions of its purported intentions are emerging. The first is that it is a government creation, designed to organise the Arabs

<sup>74</sup> Crisis Group interview, 26 October 2004.

<sup>75</sup> Crisis Group interview, 26 October 2004.

<sup>76</sup> A major obstacles at the N'djamena talks was deciding who would sign for JEM. Chad's President Idriss Deby originally requested that Gibril do so but after the JEM delegation threatened to walk out, this was changed, and the JEM field commander, Abu Bakr Hamid, signed. Crisis Group interviews, April 2004.

<sup>77</sup> Crisis Group interviews, April 2004, October 2004.

<sup>78</sup> Crisis Group interviews, October-November 2004. The NMRD claim to include representatives from the Zaghawa, Mahaliyya, Massaleit, Fur, Jebela and Daro tribes. The role of internal ethnic politics in the JEM-NMRD divisions will be examined in greater detail in future Crisis Group reporting.

<sup>79</sup> See "NMDR Announced NGOs, AU are legitimate targets", Sudanese Media Centre, 22 October 2004. Available at [www.smcsudan.net/english/news.html](http://www.smcsudan.net/english/news.html).

<sup>80</sup> Crisis Group interview, 30 October 2004.

<sup>81</sup> The N'djamena ceasefire of 8 April 2004, the Addis Ababa agreement of 28 May 2004 on ceasefire modalities, and the Abuja protocols of 9 November 2004.

<sup>82</sup> "Agreement between the Government of the Republic of the Sudan and the National Movement for Reform and Development", received by Crisis Group on 19 December 2004.

<sup>83</sup> Ibid.

<sup>84</sup> Crisis Group interview, 13 November 2004.

<sup>85</sup> Ibid.

<sup>86</sup> Crisis Group interview, 14 November 2004.

into a "legitimate" political movement, thus further complicating the situation and undermining rebel claims to represent Darfur in any negotiations.<sup>87</sup> The second posits that it is part of a much larger, still evolving, movement within the Arab tribes to assert their independence from and opposition to the government. There is said to be a growing realisation among many in those tribes that have joined Khartoum's counter-insurgency strategy that they have been badly used and will not benefit from continuing the conflict. Contacts between Arab leaders, in some cases Janjaweed, and the SLA have been increasing since mid-2004, when international pressure to disarm the Janjaweed was at a peak. Fearing they would become scapegoats, some Janjaweed opened channels to explore an alliance.<sup>88</sup>

Some contacts go back even further. A meeting was scheduled in December 2003 between some Arab leaders fighting for the government and then SLA Secretary General Abdallah Abaker, who was killed the following month in a government attack. The government learned of the meeting and bombed the site before it could take place, thus increasing mistrust among the Arab tribes involved and the SLA.<sup>89</sup> The elements within Arab tribes which have concluded the conflict does not serve their interests are now reportedly trying to establish a stand-alone Arab movement in Darfur, to fight against the government and establish ties on equal footing with the SLA and JEM.<sup>90</sup> Khorbaj may be a manifestation of this but too little is known to be certain.

The third new group, al-Shahamah, is made up of Misseriya in neighbouring Western Kordofan. It emerged in October 2004 and was reportedly led by Musa Ali Muhamadein, a former follower of Popular Congress Chairman Hassan el-Turabi and a former leader of the Popular Defence Forces in Western Kordofan.<sup>91</sup> He is said to have died on 30 November of natural causes in the SPLM-held town of Warawar, in northern Bahr el-Ghazal.<sup>92</sup> The group has distributed anti-government pamphlets in parts of Western Kordofan, vowing to fight against dissolution of that state, which has been agreed to in the Nuba Mountains/Southern Kordofan agreement reached between the government and SPLM. There were

attacks on government posts in the Western Kordofan towns of Gubeish and Magror in late September and early October, and though blame was originally given to the JEM and SLA, it may be that those operating as al-Shahamah were also involved.

A fourth group, the Sudanese Movement for the Eradication of Marginalisation, apparently debuted in mid-December with a high profile attack on government oil installations at Sharef, near the border of South Darfur and Western Kordofan. It has since emerged that this was an SLA action.<sup>93</sup> Interviews with numerous SLA supporters indicate that it undertook the attack as a response to the government offensive then underway but sought to conceal its identity to avoid international condemnation.<sup>94</sup>

---

<sup>87</sup> Crisis Group interviews, November 2004.

<sup>88</sup> Crisis Group interviews, August-November 2004. These relations were further consolidated at the recent Tripoli meeting, as discussed below.

<sup>89</sup> Crisis Group interview, 10 November 2004.

<sup>90</sup> Crisis Group interview, 10 November 2004.

<sup>91</sup> "Khartoum says new Islamist rebellion emerges in central Sudan", Agence France-Presse, 21 October 2004.

<sup>92</sup> See "Shahama Movement Announces the Death of Commander Musa Mohamedein", a statement from Shahama in Arabic, dated 3 December 2004, posted at: <http://www.sudaneseonline.com/anews/dec3-04559.html>.

---

<sup>93</sup> Crisis Group interviews, December 2004 and January 2005.

<sup>94</sup> Ibid.

## IV. NEW NEGOTIATIONS AND AGREEMENTS

There have been two important developments in the ongoing search for a comprehensive solution in Darfur. The first was the AU-sponsored negotiation that took place in three rounds between August and December 2004. The second was the meeting organised by Libya in mid-October for Darfuri tribal and political leaders, which produced a general statement of principles for a solution. An expanded group met again in Tripoli in December-January. Although no consensus was reached, the process of achieving a united position on resolution of the conflict appears to have inched forward.

### A. THE ABUJA NEGOTIATIONS

The two rounds at Abuja that culminated on 9 November 2004 with signature of paired protocols on humanitarian and security issues essentially stated modalities for better implementation of the humanitarian ceasefire concluded seven months earlier in N'djamena. The opening of the negotiations was attended by several heads of state,<sup>95</sup> the Arab League Chairman, Amr Mousa, and the Chairman of the AU Commission, Alpha Oumar Konare.

The agenda, decided by the AU mediation team in consultation with the attending heads of state, focused on four issues, to be addressed sequentially: 1) humanitarian; 2) security; 3) political; and 4) socio-economic. Although agreement was reached on the humanitarian issues in the initial round, the JEM and SLA refused to sign before completion of the security protocol, on which the parties were far apart. Observers accused the rebels of hardening their positions towards the end of the round and making unrealistic demands in anticipation that Khartoum would be condemned when the Security Council issued its second resolution on Darfur on 18 September.<sup>96</sup>

When the second round began in late October, the main sticking points from the government side were: 1) demand for cantonment of the rebels, in accordance with a controversial article added late and in contentious circumstances to the N'djamena ceasefire agreement;<sup>97</sup>

2) proposed expansion of government forces in Darfur to better protect civilians; and 3) an exchange of information on troop locations with the rebels after an agreed period. The key points for the rebel delegations were: 1) withdrawal of all government forces to pre-conflict garrisons in the major cities, to be replaced by AU troops with a civilian protection mandate; 2) A no-fly zone in Darfur; 3) an international commission of inquiry and an international tribunal for those accused of war crimes; and 4) an international mechanism for disarming the Janjaweed.<sup>98</sup>

The round started with a two-day seminar for the parties on the IGAD peace process. Several key rebel representatives arrived late from Tripoli, Nairobi and Asmara, further delaying the talks. But when they opened, they went smoothly, despite great mistrust on both sides. The international community, including the UN Special Representative, Jan Pronk, preached a specific message to the rebels: not to press maximum demands on security because those issues were being dealt with in the Security Council resolutions and the AU Peace and Security Council (PSC) decision to expand the AU force.

The message had an effect. The SLA and JEM withdrew some of their demands and weakened others, and a security agreement was reached. However, the rebels have reason to feel concerned that the international community has not lived up to its side of the implicit arrangement. As noted, Security Council Resolution 1574, passed nine days later at a special session in Nairobi, did not repeat the government obligation to disarm the Janjaweed that had been explicit in Resolutions 1556 and 1664. Nor has the AU yet expanded its force in Darfur and strengthened its mandate sufficiently to make a significant improvement in security.

Although observers, including those from the AU, felt that Khartoum's delegation badly wanted almost any agreement in order to relieve international pressure,<sup>99</sup> it put up the final obstacle, expressing strong opposition to a watered-down version of a no-fly zone, which called for "refraining from conducting hostile military flights in and over the Darfur region".<sup>100</sup> It finally accepted the provision out of concern, later shown to be unwarranted, that the Security Council was about to impose a stricter

<sup>95</sup> Present at the opening were the presidents of Nigerian, Olusegun Obasanjo, Chad, Idriss Deby, and Congo (Brazzaville), Denis Sassou Nguesso.

<sup>96</sup> Crisis Group interviews, September 2004.

<sup>97</sup> A handwritten point calling for the cantonment of the rebel forces was added to the N'djamena ceasefire agreement after the regular agreement was signed, at the insistence of the

Government of Sudan delegation. For more, see Crisis Group Report, *Darfur Deadline*, op. cit.

<sup>98</sup> Crisis Group interview, 13 September 2004.

<sup>99</sup> Crisis Group interviews in Abuja, October 2004.

<sup>100</sup> Article 2, "Protocol between the Government of the Sudan (GoS), the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) on the enhancement of the security situation in Darfur in accordance with the N'djamena Agreement", 9 November 2004.

ban. The security protocol did meaningfully strengthen the role of the AU CFC and the AU Mission in Sudan (AMIS) in monitoring the implementation of the ceasefire. The key points of the agreement included:

- ❑ recommitment to refrain from hostilities; all parties have repeatedly violated this;
- ❑ submission to the AU CFC of any required information, including on sites occupied by the various forces on the ground: this was insisted upon by the AU CFC, which had been hampered by reluctance of the rebels to reveal their positions -- they still have not done so;
- ❑ the no-fly zone, which applies only to the government, the sole party with air capability: its air force bombed Tawilla less than two weeks later and continued aerial bombardments through January 2005;
- ❑ immediate release of all prisoners of war and persons detained in relation to the conflict;
- ❑ government recommitment to neutralise and disarm the militias, with the process to be supervised by the AU CFC/AMIS: the government has not followed through;
- ❑ government agreement also to identify those militias over which it has influence, order them to cease hostilities, and provide all information to the AU CFC/AMIS: it has not provided such a list; and
- ❑ agreement on the need to enhance the Joint Commission established by the N'djamena ceasefire and currently based in that capital and a request to the AU CFC to report bi-weekly to it.<sup>101</sup>

The humanitarian protocol was also largely a restatement of earlier agreements but included several important new provisions for the delivery of assistance:

- ❑ government agreement to cross-border humanitarian activities, where deemed necessary by the UN;
- ❑ recommitment by all parties to remove all restrictions and procedures that could hinder humanitarian movement or access and the right of the UN and humanitarian NGOs to travel freely along routes identified by the UN and to manage their own operations without restrictions, interference or harassment. On 30 November, the government announced it was expelling the country directors of Oxfam-UK and Save the Children-UK for "sending signals of support to the outlaws and rebels for

continuation of the war in Darfur".<sup>102</sup> It reversed this under intense international pressures, only to force the departure of Oxfam's director a week later, citing visa irregularities.<sup>103</sup>

- ❑ recommitment to the civilian character of IDPs and refugee camps and to the principle of voluntary return. As noted, above, the government destroyed the Al-Geer camp the same day it signed the humanitarian protocol, forcibly relocating the IDPs to the Al-Sareef camp;
- ❑ welcome for the deployment of UN human rights monitors and a request for increase; and
- ❑ creation of a new implementation mechanism, the Joint Humanitarian Facilitation and Monitoring Unit, to be based in El Fashir and include current members of the Joint Commission,<sup>104</sup> the UN and other international representatives invited by the AU. Its exact function is not yet clear.<sup>105</sup>

The parties also submitted political declarations of principles to the AU mediation team, which tried to draft a mutually acceptable document to guide future talks. No agreement was reached except that the next round, which began on 10 December, was to concentrate on this. However, the two rebel movements suspended their participation in that round due to the government offensive that started on 7 December.

Among the principles included by the AU in its attempt to draft a mutually accepted declaration are:

- ❑ recognition of Sudan's diversity;
- ❑ democracy, political pluralism and rule of law;
- ❑ affirmation of citizenship as the basis for rights in Sudan;
- ❑ establishment of a federal system of government, with devolution of powers and clear distribution of responsibilities between the national and sub-national levels;

---

<sup>102</sup> "Sudan to expel senior aid workers", BBC, 30 November 2004. Available at <http://news.bbc.co.uk/go/pr/fr/-/2/hi/africa/4051339.stm>.

<sup>103</sup> "Sudan says Oxfam head must leave because of visa", Reuters, 7 December 2004.

<sup>104</sup> The Joint Commission includes the government, SLA, JEM, Chad, the AU, and observers from the U.S. and the EU.

<sup>105</sup> "Protocol between the Government of Sudan (GoS), the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) on the improvement of the humanitarian situation in Darfur". 9 November 2004.

---

<sup>101</sup> Ibid.

- ❑ effective representation of all regions and communities in national government institutions;
- ❑ equitable distribution of national wealth;
- ❑ need to combat the culture of impunity and investigate human rights violations;
- ❑ right of return for IDPs and refugees;
- ❑ priority for rehabilitation and reconstruction of Darfur;
- ❑ need to address environmental degradation and land ownership and water disputes;
- ❑ need for broad security arrangements to consolidate the restoration of peace; and,
- ❑ full support for the people of Darfur to implement a comprehensive settlement.<sup>106</sup>

## B. THE LIBYAN INITIATIVE

Libyan President Muammar Khaddafi, Egyptian President Hosni Mubarrak, Sudanese President Omer al-Bashir, Chadian President Idriss Deby, Nigerian President Olesugun Obasanjo, and Chairman of the AU Commission Alpha Omer Konare met in Tripoli in mid-October 2004 to discuss the Darfur crisis and its impact on the region. The outcome was a general statement of support for the various mediation efforts in Sudan and rejection of any calls for foreign intervention in Darfur, other than by the AU force already on the ground.<sup>107</sup> President Khaddafi was authorised to "communicate with all concerned parties in Darfur and to continue that effort until [the] reaching of [an] enduring solution to the problem of Darfur..."<sup>108</sup>

The Libyan leader immediately invited Darfurian tribal leaders, intellectuals, and politicians both inside and outside Sudan to Tripoli. A relatively inclusive group arrived, including 41 representatives of the Tribal Administrations, 43 politicians and leaders from Darfur, and JEM representatives.<sup>109</sup> The SLA was not present. After a three-day meeting, the group signed the Tripoli Declaration, which stated general principles for resolving the conflict.

"Our goal is to unite the Darfurian people around a common vision for the resolution of the conflict", a participant explained. "We need to unify both the Arabs and non-Arabs alike, for we are all marginalised, and we have just cause".<sup>110</sup> Several key points came out of the meeting: first, the Libyan initiative should be in support of the Abuja process, not an alternative; secondly, there is both a need and a will to develop a common position among Darfurians on the way forward. What makes the initiative potentially powerful is that the first round was held beyond Khartoum's influence and, therefore, had some credibility for Darfurians, including the rebels.

The government and the rebels have a basic difference in how they envisage the sequencing of elements in a solution. After signing a declaration of political principles, the government would like to move to an all-Darfurian conference. The rebels reject this, arguing that such a conference can only come after a comprehensive political solution. "We want to help bridge that gap", explained a participant in Tripoli. "We will try to clarify our (Darfur's) demands for a political settlement based on the Naivasha agreements. The government can't deny what comes out of the next round of Tripoli meetings".<sup>111</sup> Another said, "We want to create a Darfurian Loya Jirga."<sup>112</sup> We want to mandate the JEM and SLA to negotiate on behalf of Darfur, the way that the Kauda conference mandated Garang to negotiate on behalf of the Nuba Mountains".<sup>113</sup>

A delegation was dispatched to Abuja to persuade the SLA. The movement's leadership was hesitant to sign a declaration it had not negotiated. "We are still concerned that Khartoum will be able to manipulate this group, and shift the forum for the Darfur talks away from the AU and the international community to Libya and the Arab world", an SLA delegate explained.<sup>114</sup> "We are worried that the government will use it to make us seem like one group out of many in Darfur, as they've been trying to do, instead of as the central movement in the negotiations", another said.<sup>115</sup> Although it did not sign the declaration, the SLA eventually gave tacit support and agreement in principle, promising the delegation from Tripoli it would attend the next round of the meeting.<sup>116</sup>

---

<sup>106</sup> See "Chairman's Conclusions, Third Round of the Inter-Sudanese Peace Talks on Darfur", Abuja, Nigeria, 21 October-9 November 2004. Available at <http://www.africa-union.org/DARFUR/homedar.htm>

<sup>107</sup> Final Communiqué, African Mini-Summit on Darfur, Tripoli, 17 October 2004.

<sup>108</sup> Ibid.

<sup>109</sup> Crisis Group interview, 28 October, 2004.

<sup>110</sup> Crisis Group interview, 28 October 2004.

<sup>111</sup> Crisis Group interview, 16 November 2004.

<sup>112</sup> The Loya Jirga is a traditional form of conference in Afghanistan that has been used several times in the course of reconstructing that country since the fall of the Taliban in 2001. See Crisis Group Asia Briefing N°17, *The Loya Jirga: One Small Step Forward?*, 16 May 2002; Crisis Group Asia Briefing N°29, *Afghanistan: The Constitutional Loya Jirga*, 12 December 2003.

<sup>113</sup> Crisis Group interview, 28 October 2004.

<sup>114</sup> Crisis Group interview, 29 October 2004.

<sup>115</sup> Crisis Group interview, 27 November 2004.

<sup>116</sup> Crisis Group interviews, November 2004.

The second round did take place, from late December 2004 through mid-January 2005, but only after the government made repeated efforts to block what it apparently feared would become further rapprochement between the rebels and a representative cross section of Darfurian leaders. On 9 December it prevented members of the steering committee of the initiative from boarding a plane for Tripoli.<sup>117</sup> It also thwarted several efforts of the Darfur Forum, a group of Darfurian intellectuals inside Sudan led by the head of the Steering Committee of the Tripoli meeting, General Ibrahim Suleiman, to reach the Libyan capital. It was not until the Libyan Foreign Minister personally intervened on behalf of this group of 100 that it was allowed to leave for Tripoli.<sup>118</sup>

While the second session did not reach an agreement, it made some progress. Five proposals were presented by the various delegations - JEM, SLA, government, the Darfur Forum, and a group of women. The JEM and SLA accepted two points raised by the Darfur Forum: that Darfur be reunited as a single region within the 1956 boundaries; and that those guilty of crimes and human rights abuses be brought to justice. More controversial were the Forum's two other proposals: that the position of Second Vice President go to a Darfurian, and that Darfur's share of national wealth include 20 per cent of national oil revenues. The government delegation numbered well over 200, mostly from the tribal administrations and the Arab tribes. As at previous meetings, most of those tribal delegates held separate meetings with the JEM and SLA, and many agreed with both the vision and aims of the rebel movements, reportedly saying they now realised the government had been lying to them.<sup>119</sup>

Although the government tried to control its delegation, including by forbidding visits to the hotel of the rebel delegations, contacts were made and strengthened. The second Tripoli session, like the first, was a step forward in the quest for a political solution, and a step back for the government's policy of manipulation, division and control.

## V. THE EXPANDED AFRICAN UNION FORCE

On 20 October 2004, the AU Peace and Security Council passed a resolution to expand the mission in Sudan (AMIS) force structure significantly, from 464 to 3,320 troops and civilian police. This involves a twofold process: expansion of the tactical and operational presence in Darfur, and of the core management capacity in Addis Ababa. The strengthened mission has been designated AMIS II.

Although a tremendous amount of work remains to be done, and the most difficult tasks lie ahead, the AU has much to be proud of in its response to the Darfur crisis. It advanced initiatives to establish both the ceasefire monitoring team out of the N'djamena ceasefire negotiations and the Abuja negotiating forum. It has slowly begun to move the ball forward with regard to re-establishing security.

Darfur is a test case for the AU as a new regional organisation, and for the Peace and Security Council in particular. Success or failure will have far reaching implications in terms of credibility in Africa, with donor countries and with member governments. The early indications are mixed. Thanks in large part to the vision and determination of its current Chairman, Konare, it has been the most proactive international institution in seeking an end to the conflict. However, while AU resolve is commendable, its weak strategic coordination capability is limiting its effectiveness.

### A. BUILDING CAPACITY

The force in Darfur -- expanding, but slowly, thanks in large part to the help of donors, notably the U.S., UK, Canada, the Netherlands, the EU and Australia -- will include 450 military observers, a protection element of 1,703 troops, and up to 815 civilian police and a civilian support staff. It is to grow out from its initial six sectors,<sup>120</sup> to an eventual eight sectors and seven "off-sites", each of which will have at least three teams of monitors plus protection troops.<sup>121</sup>

<sup>117</sup> The government pulled three members of the steering committee, General Ibrahim Suleiman, Ali Hussein Dosa, and Dr. Idriss Yusuf, off the plane to Tripoli. Crisis Group interview, 16 December 2004. See also: "Important statement from JEM: the regime prevents Darfur leaders from travel to prepare for Darfur conference in Tripoli", Justice and Equality Movement, in Arabic, 10 December 2004, posted at: [www.sudneseonline.com/anews/dec10-66613.html](http://www.sudneseonline.com/anews/dec10-66613.html).

<sup>118</sup> Crisis Group interview, 27 January 2005.

<sup>119</sup> Crisis Group interviews, 31 January 2005.

<sup>120</sup> El Fasher, Nyala, El Geneina, Kabkabiya, Tine, and Abeche (Chad).

<sup>121</sup> The eight sectors will be surrounding El Fashir, Nyala, El Geneina, Kabkabiya, Tine, Kutum, Zalingei and El Daein. The seven off sites will be located in and around Mellit, Kass, Mournei, Misteriha, Kulbus, Nertiti and Muhajeria. See: "Report of the Chairperson of the Commission on the Situation in Darfur, The Sudan", 17 October 2004. Available at <http://www.africa-union.org/DARFUR/homedar.htm>.

Tasked with "proactive monitoring" of the N'djamena ceasefire agreement and the Abuja protocols, these will be designed to patrol surrounding villages and help build confidence between the parties, as well as to react to allegations of violations. The mandate was also expanded by the PSC crucially but cautiously to "protect civilians whom it encounters under imminent threat and in the immediate vicinity, within resources and capacity, it being understood that the protection of the civilian population is the responsibility of the GoS [Government of Sudan]".<sup>122</sup>

Yet the AU still lacks the logistical and operational capacity to carry out effectively the bulk of its field tasks. Expansion has been hampered by the need first to construct accommodations<sup>123</sup> and the lack of a sufficient number of vehicles, helicopters, and communications equipment. Additionally, the mission suffers from an inability to coordinate proactively between the strategic, operational and tactical military realms due to shortfalls in personnel and expertise. Language barriers traceable to the mix of participating countries (Algeria, Congo, Egypt, Gambia, Gabon, Mali, Chad, Ghana, Kenya, Mozambique, Namibia, Nigeria, Rwanda, Senegal and South Africa) complicate day to day functioning.<sup>124</sup> More capacity in English in particular is needed, not least for reporting to the CFC and Joint Commission. Differences in standards of troop professionalism, of operating procedures and of mission interpretation have also hampered effectiveness.<sup>125</sup> "It's not just the number of troops, but the quality and leadership which is most important", noted an AU official. "To be effective, we need well-trained units, well-led at the small unit level with a clear mission".<sup>126</sup> The situation is further exacerbated by inadequate communications assets to coordinate operations between AMIS II Headquarters in El Fashir and each subordinate sector headquarters.

The difficulty is magnified by the fact that political will in Addis Ababa is far greater than current capacity to deliver on the ground. "We are having problems of

logistics dictating operations", stated an AU official.<sup>127</sup> The logistics will eventually arrive -- donors have pledged vehicles, helicopters, communications and other material or money to buy it.<sup>128</sup> For now, however, the AU is caught between the need to be seen as taking sufficient action and the logistical limitations facing the troops once they arrive. "The worst case scenario is for the force to be deployed in the field before the logistics are there for them to carry out their jobs", a regional military analyst worried. "If things continue to deteriorate on the ground, and the AU force is unable to do anything about it, or some individuals begin to act foolishly as often happens with peacekeeping troops, the credibility of the force will be shot. Donor support and confidence in the AU will begin to dry up, and the credibility of the AU as a regional peacekeeping organisation will take a step backwards".<sup>129</sup>

Beyond the logistical problems, the AU force needs a more robust mandate and far-reaching vision to deal with the insecurity, not just do ceasefire monitoring. The current language on civilian protection is ambiguous, and without clear orders on how to interpret it, commanders will be hesitant to use force:

We need Addis to tell us how we should interpret this mandate. Currently, everyone is making their decision independently, each time they go to the field. It's a recipe for disaster. Addis needs to tell us if we should be proactive in engaging with armed elements attacking civilians, or if we should back down. The mandate is sufficiently ambiguous that we can justify our actions, but they need to provide us with the vision for solving the problems.<sup>130</sup>

As argued above, the government will not (perhaps even to a degree cannot) change suddenly to provide adequate protection for those citizens whom it attacked and displaced a short time ago. Only the AU can protect clusters of IDPs in camps and if need be also proactively target those responsible for the continued assaults on civilians. The government is required to identify the militias it controls or influences. The AU CFC should be able to continue its mapping exercises to identify and isolate those that are either outside government control or attack civilians with continued government support. "These militias", an AU official rightly observed, "are the root causes of the current insecurity in Darfur, and they continue to attack civilians. To put soldiers in the

---

Kutum replaced Abeche as one of the eight sector sites; the sector five headquarters will likely be shifted from Tine to Kulbus do to a lack of sufficient water sources. Crisis Group interviews, November 2004.

<sup>122</sup> Communiqué of the seventeenth meeting of the AU Peace and Security Council, 20 October 2004.

<sup>123</sup> The construction of accommodations (housing, office equipment, transport and communications gear) is being funded by the U.S. government, and carried out by two American private contractors, Pacific Architects & Engineers (PAE) and Dyncorp.

<sup>124</sup> Crisis Group interview, 13 November 2004.

<sup>125</sup> Crisis Group interviews, November 2004.

<sup>126</sup> Crisis Group interview, 7 December 2004.

<sup>127</sup> Crisis Group interview, 13 November 2004.

<sup>128</sup> Crisis Group interviews, October-November 2004.

<sup>129</sup> Crisis Group interview, 15 October 2004.

<sup>130</sup> Crisis Group interview with an AU official, 13 November 2004.

camps without neutralising them [the militias] is like putting a band-aid on an open chest wound".<sup>131</sup>

This would require greater donor support as well as further AU efforts to upgrade its in-house capabilities. The recent appointment of Ambassador Baba Gana Kingibe as AU Special Representative for the Sudan, to be based in Khartoum and in charge of AMIS, is a positive development that provides much needed leadership and decision-making capacity on the ground. The present limited staff at Addis Ababa headquarters is over-stretched with the ongoing military and political tasks and is relying on help from the UN Department of Peacekeeping Operations (DPKO), and Canadian, U.S. and EU military planners.<sup>132</sup> The AU plans to create a 32-person Darfur Integrated Task Force (DITF) there to be responsible for planning and managing both the military mission and political negotiations. Creating this in-house expertise is an immediate and essential priority for mission sustainability. The AU should also begin discussions with the DPKO on the specific types of support the incoming UN mission (UNMIS) to monitor implementation of the government-SPLM peace agreement and which is expected to be 10,000 strong can offer the AU in Darfur.

However, the tragic fact remains that the scope of the Darfur crisis requires a much larger and more active international force on the ground than now exists or appears likely to exist anytime soon. An indication of a more appropriate size was suggested recently by UN Under Secretary General Jan Egeland, who called for a four to five-fold increase of the current AU in-country contingent, to 8,000 or 10,000.<sup>133</sup> Without such a sizeable expansion, the AU's ability to protect civilians and stabilise Darfur will continue to be limited. For it to happen, much more external support would be needed from non-African states, including, importantly, from the EU and NATO -- certainly in logistics, perhaps soldiers as well. Even then, many months would likely be required to implement the reinforcement.

At the UN, there is universal agreement that international resources in Darfur are insufficient but little clarity on how this can be rectified. It is widely acknowledged that the AU is "the only game in town", and efforts should be concentrated on helping it become more capable. Thus far, no serious consideration is being given to incorporating its force, AMIS II, into UNMIS. The AU is well aware that AMIS II is inadequate and intends to

send an assessment mission to Darfur to recommend changes. Its inability to equip, transport, and sustain the 3,320 personnel already mandated for its operation shows that serious issues must be addressed even if there is political will to do more. DPKO is ready and willing to assist AMIS II but seems reluctant to engage in joint AU/UN operations in Darfur. The draft resolution now under negotiation at the Security Council would request the Security General to report "to the Council within 30 days on options for how UNMIS can reinforce the effort to foster peace in Darfur through appropriate capacity building assistance to AMIS, including logistical support and technical assistance, and to identify ways in liaison with the AU to utilize UNMIS's resources, particularly logistical and operations support elements, as well as reserve capacity towards this end". This would be a start but a very small one considering the urgency of the situation.

## B. IMPLEMENTING THE CEASEFIRE

Many of the weaknesses of the N'djamena agreement have been dealt with through the Abuja security protocol but the AU must be proactive if it is to hold the parties accountable to their commitments. "The AU should start afresh with the Abuja agreement", a Western diplomat noted. "It can't be business as usual. We need them to draw a line in the sand, and provide new benchmarks for all the parties based on the new agreement".<sup>134</sup>

Several key provisions in the Abuja document must be fulfilled if the ceasefire is to function. First, the parties must immediately give the CFC the positions of their forces and other information so it can monitor effectively.<sup>135</sup> This would allow the AU to facilitate a separation of forces and a buffer zone where necessary. Secondly, the government should immediately identify and declare the militias it controls or over which it has influence, and begin to implement its commitment to neutralise and disarm them.<sup>136</sup> The CFC, including SLA, JEM, U.S. and EU representation, should oversee this process and ensure its credibility. Thirdly, the government needs to refrain from all hostile military flights over Darfur.<sup>137</sup> Even if all this happens, new factions, such as the NMRD, that are not signatories to

---

<sup>131</sup> Crisis Group interview with an AU official, 13 November 2004.

<sup>132</sup> Crisis Group interviews in Addis Ababa, October 2004.

<sup>133</sup> "Sudan: World must act on Darfur situation, urges Egeland", IRIN, 21 February 2005.

---

<sup>134</sup> Crisis Group interview, 15 November 2004.

<sup>135</sup> Article 2, "Protocol between the Government of the Sudan (GoS), the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) on the enhancement of the security situation in Darfur in accordance with the N'djamena Agreement", 9 November 2004.

<sup>136</sup> *Ibid*, Article 3.

<sup>137</sup> *Ibid*, Article 2.

the agreements could destabilise the situation further but so far none of the three provisions are even in train.

Continued aerial bombing by the government air force in violation of the Abuja agreement is one of the most disruptive elements of the present situation, and the UN Security Council should establish a no-fly zone to deal with it. Two types of no-fly zone implementation are conceivable -- one military, the other political. The most effective would involve monitoring by an AU force that is capable of air interdiction, sufficient to forcefully penalise any violation as well as just gain knowledge of it. Unfortunately this does not appear to be feasible under present circumstances in Darfur. What should be feasible, however, is for the AU to monitor what is happening in the skies over Darfur by flying on government flights to the greatest extent possible, and otherwise utilising its presence on the ground to obtain information. The AU force should immediately report any serious violation of which it obtains knowledge to the Security Council, which, in accordance with prior understanding, should in turn apply appropriately strong penal consequences against the offender. Achievement of this essentially politically enforced no-fly zone could be greatly enhanced by UN member state or NATO readiness to provide the AU force with such technical or other assistance as it requests, for example help with radar coverage.

The right to fly on any government airplane, without prior notice, should extend beyond Darfur, as many bombing raids originate outside the region, from as far away as El Obeid. Recent government promises to withdraw all its Antonov planes from Darfur -- the most common platform for the raids -- should be closely monitored.<sup>138</sup>

Strong leadership is required for the AU to stand up to the parties and hold them accountable. For example, it should publicise in Khartoum a list of commitments that have been made along with a timeframe for their implementation, and publicly state which have been realised, which have been ignored. Because the sanction mechanism in the N'djamena agreement is so weak,<sup>139</sup> the AU should work much more closely in Khartoum with select embassies and the UN mission in order to form in effect an unofficial mechanism. Like the "Friends of Nuba" group that was used during the process that eventually led to the government-SPLM agreement, it

could feed the efforts and findings of the AU back into the political arena, including the UN Security Council, much more quickly than is currently the case, creating at least some risk of punishment for the offending party. The AU should also release the reports of CFC investigations of ceasefire violations much more quickly.

---

<sup>138</sup> "Sudan says to withdraw Antonov planes in Darfur", by Opheera McDoom, Reuters, 5 February 2005.

<sup>139</sup> After the CFC investigates an allegation of an attack, the report goes to the Joint Commission, which can only act if it reaches a consensus. Following referral to the Joint Commission, the report is published on the AU website.

## VI. CONCLUSION

Despite the signing of the CPA on 9 January and the conclusion of one civil war in Sudan, the situation in Darfur continues to worsen. The international response, while high profile and rhetorically tough, has been ineffective at containing the escalating conflict or confronting the atrocity crimes that continue to take place. The government in Khartoum has not implemented its key security related commitments, and an increase in both rebel violations (at least partly due to an apparent breakdown in command and control within the largest of the movements, the SLA), and tribal fighting are all producing ever greater insecurity in the region.

While attention to the CPA is welcome, that new peace agreement is unlikely to succeed unless the tragedy in Darfur is ended. And that will not happen as long as there is no challenge to the government's calculation that it can escape serious international repercussions for the atrocity crimes for which it is responsible and its failure to implement a series of solemn commitments. Increased chaos on the ground plays into its hands, making more plausible its self-portrayal as a secondary player in Darfur, uninvolved in the tribal conflicts which it describes as the root of the troubles.

The real losers in Darfur continue to be the civilians. With no improvement in the security situation, the displaced remain in the IDP and refugee camps, at constant risk of attack but too scared to return to their home villages. Famine looms for the most vulnerable, especially those who are beyond the reach of relief agencies. If the international community remains unwilling to hold Khartoum accountable for its actions, unwilling to force it to make the hard decisions to restore security on the ground, and unwilling to focus on the longer term political problems behind the conflict, it will be responsible for nearly two million persons in need of humanitarian assistance for a very long time.

If the security situation is to be improved in Darfur, two complementary approaches are needed: accountability and protection. The first requires holding the parties to their commitments and bringing those responsible for atrocity crimes to justice.<sup>140</sup> Pressure must be put on the

parties, but particularly the government. A freeze of the overseas assets of regime-owned businesses, a targeted travel ban against regime officials, and an expansion of the arms embargo to include the government, together with a viable enforcement mechanism, would help re-shape Khartoum's calculations.

Investigation with a view to prosecution of the atrocity crimes about which the UN Commission of Inquiry has reported should begin as soon as possible through the most readily available means. Too much time has already been consumed with the question of what the justice and accountability mechanism should be for suspected perpetrators of various atrocity crimes. The dispute -- primarily one between the U.S. and the EU and its member states -- over whether the International Criminal Court (ICC) should be used threatens to distract attention from and delay other decisions, notably in the Security Council, that are essential to achieving what must be the international community's immediate objective: stopping the violence.

The UN Commission of Inquiry supported the use of the ICC.<sup>141</sup> A large majority of the members of the Security Council agree, but not the U.S. The argument of the majority is that the ICC has been established explicitly in order to provide the international community with a ready-to-go institution; that it has personnel and procedures that can be brought to bear quickly, and that because it is already established and fully staffed, it could also carry out its tasks for less money.

The U.S. is not a party to the Rome Statute that created the ICC and opposes the institution because it believes there is a risk it might some day be used to attempt politically-motivated prosecution of U.S. citizens. The U.S. counter-proposal is that an ad hoc tribunal be established in Arusha, Tanzania. While it suggests that such a special court could share physical infrastructure with the existing International Criminal Tribunal for Rwanda (ICTR) and incorporate some ICTR staff into its operations, it is apparent this would entail a significant delay, duplication and additional cost. The U.S. has also argued that holding proceedings on Darfur crimes in

---

<sup>140</sup> Crisis Group uses the term "atrocity crimes" advisedly. The extensive debate over whether genocide has occurred or "only" crimes against humanity or war crimes is misplaced. Whether or not any party to the conflict acted with the intent "to destroy, in whole or in part, a national ethnic or religious group, as such" can only be properly determined through a credible investigative and judicial process. What matters now is that terrible crimes are continuing and will continue until the

---

international community acts forcefully. The perpetrators of atrocity crimes must be brought to justice as a matter of principle and as a step towards ending impunity in the region. The court can determine into which legal category the crimes fall. See, Gareth Evans, "Genocide or crime? Actions speak louder than words in Darfur", *European Voice*, 18 February 2005; also David Scheffer, "How to bring atrocity criminals to justice", *Financial Times*, 2 February 2005.

<sup>141</sup> Report of the International Commission of Inquiry on Darfur to the United Nations Secretary General, 25 January 2005. Available at [http://www.un.org/News/dh/sudan/com\\_inq\\_darfur.pdf](http://www.un.org/News/dh/sudan/com_inq_darfur.pdf).

Tanzania would lend the process more legitimacy in Africa. Supporters of the ICC counter that a process funded almost entirely by the U.S. (as an ad hoc tribunal would likely be) would lack wide international support and therefore legitimacy.<sup>142</sup>

Compromise is difficult on such a contentious issue but it should be easier for the U.S. to step back from the confrontation than the Europeans. The EU regards support for the ICC as a fundamental element of its "common foreign and security policy", which in turn is a basic component of its goal to become a more effective international political player. Failure to utilise the ICC in an instance like Darfur would call the viability of the institution into question.

The U.S. has no less strongly held views about what it regards as the political unreliability of a tribunal that normally would operate independently of political constraints or direction. In this instance at least, however, U.S. concern is misplaced. Washington argued during negotiation of the Rome Statute that exercise of jurisdiction by the ICC should be subject to authorisation by the Security Council. This is precisely what must happen if the Court is to acquire jurisdiction in Darfur because Sudan is not a party to the Rome Statute. The Darfur case, in other words, cannot prejudice the basic U.S. position with regard to the Court. By signalling willingness to yield on this issue, the U.S. would acquire more leverage with which to press other members of the Council to support a range of tough actions on which Washington's position appears more in line with the requirements of the situation, including an arms embargo, targeted sanctions and a strengthened AU mission mandate and operational capacity.<sup>143</sup>

The broader donor community should continue to refrain from disbursement of any peace dividends to Khartoum and normalisation of relations with it until the situation in Darfur begins to improve measurably. At the same time, donors need to begin immediate support of the nascent GoSS. This is the critical period for the GoSS, when financial help is most needed. The SPLM, which will form the GoSS, should not be punished for

what Khartoum has done in Darfur over the past two years. The international community must also work to create leverage with the rebel movements, SLA and JEM, to ensure better compliance with the ceasefire and humanitarian access pledges. A functioning arms embargo would help.

Secondly, civilian protection needs to become the central focus of the international forces being deployed to Darfur. The AU mission should be sufficiently expanded and empowered to alter the situation on the ground. The decision by the AU Peace and Security Council (PSC) on 20 October 2004 to expand it to 3,320 would have been sufficient in an improving environment where there was compliance on all sides, but in a deteriorating environment with a collapsing ceasefire, such a force is completely inadequate both to perform the core mandate of ceasefire observation and to undertake the much more pressing task of civilian protection.<sup>144</sup> The AU force must be substantially increased in both size and operational capacity and its mandate expanded to a full Chapter VII-type one that explicitly covers safeguarding civilians. The EU and NATO should take up the recent request by the UN Secretary General to expand their support in Darfur of the AU mission.<sup>145</sup>

If Khartoum continues to refuse to control the Janjaweed, the international community will need to develop a strategy for doing so, including expanded political, financial and logistical support as necessary for the AU force. In the short term, the AU must do more to hold the parties accountable to the Abuja protocols, and as the UN prepares to deploy its monitoring mission to support the CPA, it must begin immediate discussions with the AU on ways to support its efforts in Darfur.

**Nairobi/Brussels, 8 March 2005**

---

<sup>142</sup> For a detailed discussion of the U.S. position on justice and accountability mechanisms for Darfur, see "U.S. Proposal for a Darfur Tribunal: Not an Effective Option to Ensure Justice", Human Rights Watch, available at <http://hrw.org/english/docs/2005/02/16/sudan10182.htm>.

<sup>143</sup> Of course, there is no assurance that a U.S. concession on the ICC issue would win many reciprocal concessions from opponents on the Council of strong compulsory measures, notably China, which as a permanent member has a veto. It would go far, however, toward reestablishing transatlantic unity, which is vital if there is to be meaningful Western action, whether within the UN or outside it.

---

<sup>144</sup> Communiqué of the seventeenth meeting of the AU Peace and Security Council, 20 October 2004.

<sup>145</sup> "Annan tells EU, NATO more help needed in Sudan", Reuters, 13 February 2005.

**APPENDIX A**  
**MAP OF SUDAN**



## APPENDIX B

### ABOUT THE INTERNATIONAL CRISIS GROUP

---

The International Crisis Group (Crisis Group) is an independent, non-profit, multinational organisation, with over 100 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made available simultaneously on the website, [www.crisisgroup.org](http://www.crisisgroup.org). Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board -- which includes prominent figures from the fields of politics, diplomacy, business and the media -- is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by Leslie H. Gelb, former President of the Council on Foreign Relations, and Lord Patten of Barnes, former European Commissioner for External Relations. President and Chief Executive since January 2000 is former Australian Foreign Minister Gareth Evans.

Crisis Group's international headquarters are in Brussels, with advocacy offices in Washington DC, New York, London and Moscow. The organisation currently operates nineteen field offices (in Amman, Belgrade, Cairo, Dakar, Dushanbe, Islamabad, Jakarta, Kabul, Nairobi, Osh, Port-au-Prince, Pretoria, Pristina, Quito, Sarajevo, Seoul, Skopje and Tbilisi), with analysts working in over 50 crisis-affected countries and territories across four continents. In Africa, this includes Angola, Burundi, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Liberia, Rwanda,

Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Indonesia, Kashmir, Kazakhstan, North Korea, Kyrgyzstan, Myanmar/Burma, Nepal, Pakistan, Tajikistan, Turkmenistan and Uzbekistan; in Europe, Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Kosovo, Macedonia, Moldova, Montenegro and Serbia; in the Middle East, the whole region from North Africa to Iran; and in Latin America, Colombia, the Andean region and Haiti.

Crisis Group raises funds from governments, charitable foundations, companies and individual donors. The following governmental departments and agencies currently provide funding: Agence Intergouvernementale de la francophonie, Australian Agency for International Development, Austrian Federal Ministry of Foreign Affairs, Belgian Ministry of Foreign Affairs, Canadian Department of Foreign Affairs and International Trade, Canadian International Development Agency, Czech Ministry of Foreign Affairs, Dutch Ministry of Foreign Affairs, Finnish Ministry of Foreign Affairs, French Ministry of Foreign Affairs, German Foreign Office, Irish Department of Foreign Affairs, Japanese International Cooperation Agency, Luxembourg Ministry of Foreign Affairs, New Zealand Agency for International Development, Republic of China (Taiwan) Ministry of Foreign Affairs, Royal Danish Ministry of Foreign Affairs, Royal Norwegian Ministry of Foreign Affairs, Swedish Ministry for Foreign Affairs, Swiss Federal Department of Foreign Affairs, Turkish Ministry of Foreign Affairs, United Kingdom Foreign and Commonwealth Office, United Kingdom Department for International Development, U.S. Agency for International Development.

Foundation and private sector donors include Atlantic Philanthropies, Carnegie Corporation of New York, Ford Foundation, Bill & Melinda Gates Foundation, William & Flora Hewlett Foundation, Henry Luce Foundation Inc., John D. & Catherine T. MacArthur Foundation, John Merck Fund, Charles Stewart Mott Foundation, Open Society Institute, David and Lucile Packard Foundation, Ploughshares Fund, Sigrid Rausing Trust, Sasakawa Peace Foundation, Sarlo Foundation of the Jewish Community Endowment Fund, United States Institute of Peace and Fundação Oriente.

**March 2005**

## APPENDIX C

### CRISIS GROUP REPORTS AND BRIEFINGS ON AFRICA SINCE 2002

#### CENTRAL AFRICA

*Storm Clouds over Sun City: The Urgent Need to Recast the Congolese Peace Process*, Africa Report N°44, 14 May 2002 (also available in French)

*Burundi: After Six Months of Transition: Continuing the War or Winning the Peace*, Africa Report N°46, 24 May 2002 (also available in French)

*The International Criminal Tribunal for Rwanda: The Countdown*, Africa Report N°50, 1 August 2002 (only available in French)

*The Burundi Rebellion and the Ceasefire Negotiations*, Africa Briefing N°9, 6 August 2002

*Rwanda at the End of the Transition: A Necessary Political Liberalisation*, Africa Report N°53, 13 November 2002 (also available in French)

*The Kivus: The Forgotten Crucible of the Congo Conflict*, Africa Report N°56, 24 January 2003

*A Framework for Responsible Aid to Burundi*, Africa Report N°57, 21 February 2003

*Rwandan Hutu Rebels in the Congo: a New Approach to Disarmament and Reintegration*, Africa Report N°63, 23 May 2003 (also available in French)

*Congo Crisis: Military Intervention in Ituri*, Africa Report N°64, 13 June 2003

*The International Criminal Tribunal for Rwanda: Time for Pragmatism*, Africa Report N°69, 26 September 2003 (only available in French)

*Refugees and Displaced Persons in Burundi – Defusing the Land Time-Bomb*, Africa Report N°70, 7 October 2003 (only available in French)

*Refugees and Internally Displaced in Burundi: The Urgent Need for a Consensus on Their Repatriation and Reintegration*, Africa Briefing N°17, 2 December 2003 (only available in French)

*Northern Uganda: Understanding and Solving the Conflict*, Africa Report N°77, 14 April 2004

*HIV/AIDS as a Security Issue in Africa: Lessons from Uganda*, Issues Report N°3, 16 April 2004

*End of Transition in Burundi: The Home Stretch*, Africa Report N°81, 5 July 2004 (also available in French)

*Pulling Back from the Brink in the Congo*, Africa Briefing N°18, 7 July 2004 (also available in French)

*Maintaining Momentum in the Congo: The Ituri Problem*, Africa Report N°84, 26 August 2004

*Elections in Burundi: The Peace Wager*, Africa Briefing N°20, 9 December 2004 (also available in French)

*Back to the Brink in the Congo*, Africa Briefing N°21, 17 December 2004

*Peace in Northern Uganda: Decisive Weeks Ahead*, Africa Briefing N°22, 21 February 2005

#### HORN OF AFRICA

*God, Oil & Country: Changing the Logic of War in Sudan*, Africa Report N°39, 28 January 2002

*Capturing the Moment: Sudan's Peace Process in the Balance*, Africa Report N°42, 3 April 2002

*Somalia: Countering Terrorism in a Failed State*, Africa Report N°45, 23 May 2002

*Dialogue or Destruction? Organising for Peace as the War in Sudan Escalates*, Africa Report N°48, 27 June 2002

*Sudan's Best Chance for Peace: How Not to Lose It*, Africa Report N°51, 17 September 2002

*Ending Starvation as a Weapon of War in Sudan*, Africa Report N°54, 14 November 2002

*Salvaging Somalia's Chance for Peace*, Africa Briefing N°11, 9 December 2002

*Power and Wealth Sharing: Make or Break Time in Sudan's Peace Process*, Africa Report N°55, 18 December 2002

*Sudan's Oilfields Burn Again: Brinkmanship Endangers The Peace Process*, Africa Briefing N°13, 10 February 2003

*Negotiating a Blueprint for Peace in Somalia*, Africa Report N°59, 6 March 2003

*Sudan's Other Wars*, Africa Briefing N°14, 25 June 2003

*Sudan Endgame*, Africa Report N°65, 7 July 2003

*Somaliland: Democratisation and Its Discontents*, Africa Report N°66, 28 July 2003

*Ethiopia and Eritrea: War or Peace?*, Africa Report N°68, 24 September 2003

*Sudan: Towards an Incomplete Peace*, Africa Report N°73, 11 December 2003

*Darfur Rising: Sudan's New Crisis*, Africa Report N°76, 25 March 2004 (also available in Arabic)

*Biting the Somali Bullet*, Africa Report N°79, 4 May 2004

*Sudan: Now or Never in Darfur*, Africa Report N°80, 23 May 2004 (also available in Arabic)

*Darfur Deadline: A New International Action Plan*, Africa Report N°83, 23 August 2004 (also available in Arabic and in French)

*Sudan's Dual Crises: Refocusing on IGAD*, Africa Briefing N°19, 5 October 2004

*Somalia: Continuation of War by Other Means?*, Africa Report N°88, 21 December 2004

#### SOUTHERN AFRICA

*Zimbabwe's Election: The Stakes for Southern Africa*, Africa Briefing N°8, 11 January 2002

*All Bark and No Bite: The International Response to Zimbabwe's Crisis*, Africa Report N°40, 25 January 2002

*Zimbabwe at the Crossroads: Transition or Conflict?*, Africa Report N°41, 22 March 2002

*Zimbabwe: What Next?*, Africa Report N° 47, 14 June 2002

**Zimbabwe: The Politics of National Liberation and International Division**, Africa Report N°52, 17 October 2002

**Dealing with Savimbi's Ghost: The Security and Humanitarian Challenges in Angola**, Africa Report N°58, 26 February 2003

**Zimbabwe: Danger and Opportunity**, Africa Report N°60, 10 March 2003

**Angola's Choice: Reform Or Regress**, Africa Report N°61, 7 April 2003

**Decision Time in Zimbabwe**, Africa Briefing N°15, 8 July 2003

**Zimbabwe: In Search of a New Strategy**, Africa Report N°78, 19 April 2004

**Blood and Soil: Land, Politics and Conflict Prevention in Zimbabwe and South Africa**, Africa Report N°85, 17 September 2004

**Zimbabwe: Another Election Chance**, Africa Report N°86, 30 November 2004

## WEST AFRICA

**Liberia: The Key to Ending Regional Instability**, Africa Report N°43, 24 April 2002

**Sierra Leone after Elections: Politics as Usual?** Africa Report N°49, 12 July 2002

**Liberia: Unravelling**, Africa Briefing N°10, 19 August 2002

**Sierra Leone's Truth and Reconciliation Commission: A Fresh Start?**, Africa Briefing N°12, 20 December 2002

**Tackling Liberia: The Eye of the Regional Storm**, Africa Report N°62, 30 April 2003

**The Special Court for Sierra Leone: Promises and Pitfalls of a "New Model"**, Africa Briefing N°16, 4 August 2003

**Sierra Leone: The State of Security and Governance**, Africa Report N°67, 2 September 2003

**Liberia: Security Challenges**, Africa Report N°71, 3 November 2003

**Côte d'Ivoire: "The War Is Not Yet Over"**, Africa Report N°72, 28 November 2003

**Guinée: Incertitudes autour d'une fin de règne**, Africa Report N°74, 19 December 2003 (only available in French)

**Rebuilding Liberia: Prospects and Perils**, Africa Report N°75, 30 January 2004

**Côte d'Ivoire: No Peace in Sight**, Africa Report N°82, 12 July 2004 (also available in French)

**Liberia and Sierra Leone: Rebuilding Failed States**, Africa Report N°87, 8 December 2004

---

## OTHER REPORTS AND BRIEFINGS

---

For Crisis Group reports and briefing papers on:

- Asia
- Europe
- Latin America and Caribbean
- Middle East and North Africa
- Thematic Issues
- *CrisisWatch*

please visit our website [www.crisisgroup.org](http://www.crisisgroup.org)

## APPENDIX D

### CRISIS GROUP BOARD OF TRUSTEES

#### Co-Chairs

**Leslie H. Gelb**

*President Emeritus of Council on Foreign Relations, U.S.*

**Lord Patten of Barnes**

*Former European Commissioner for External Relations, UK*

#### President & CEO

**Gareth Evans**

*Former Foreign Minister of Australia*

#### Executive Committee

**Morton Abramowitz**

*Former U.S. Assistant Secretary of State and Ambassador to Turkey*

**Emma Bonino**

*Member of European Parliament; former European Commissioner*

**Cheryl Carolus**

*Former South African High Commissioner to the UK; former Secretary General of the ANC*

**Maria Livanos Cattai\***

*Secretary-General, International Chamber of Commerce*

**Yoichi Funabashi**

*Chief Diplomatic Correspondent & Columnist, The Asahi Shimbun, Japan*

**William Shawcross**

*Journalist and author, UK*

**Stephen Solarz\***

*Former U.S. Congressman*

**George Soros**

*Chairman, Open Society Institute*

**William O. Taylor**

*Chairman Emeritus, The Boston Globe, U.S.*

*\*Vice-Chair*

**Adnan Abu-Odeh**

*Former Political Adviser to King Abdullah II and to King Hussein; former Jordan Permanent Representative to UN*

**Kenneth Adelman**

*Former U.S. Ambassador and Director of the Arms Control and Disarmament Agency*

**Ersin Arioglu**

*Member of Parliament, Turkey; Chairman Emeritus, Yapi Merkezi Group*

**Diego Arria**

*Former Ambassador of Venezuela to the UN*

**Zbigniew Brzezinski**

*Former U.S. National Security Advisor to the President*

**Victor Chu**

*Chairman, First Eastern Investment Group, Hong Kong*

**Wesley Clark**

*Former NATO Supreme Allied Commander, Europe*

**Pat Cox**

*Former President of European Parliament*

**Ruth Dreifuss**

*Former President, Switzerland*

**Uffe Ellemann-Jensen**

*Former Minister of Foreign Affairs, Denmark*

**Mark Eyskens**

*Former Prime Minister of Belgium*

**Stanley Fischer**

*Vice Chairman, Citigroup Inc.; former First Deputy Managing Director of International Monetary Fund*

**Bronislaw Geremek**

*Former Minister of Foreign Affairs, Poland*

**I.K.Gujral**

*Former Prime Minister of India*

**Carla Hills**

*Former U.S. Secretary of Housing; former U.S. Trade Representative*

**Lena Hjelm-Wallén**

*Former Deputy Prime Minister and Foreign Affairs Minister, Sweden*

**James C.F. Huang**

*Deputy Secretary General to the President, Taiwan*

**Swanee Hunt**

*Chair of Inclusive Security: Women Waging Peace; former U.S. Ambassador to Austria*

**Asma Jahangir**

*UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions; former Chair Human Rights Commission of Pakistan*

**Ellen Johnson Sirleaf**

*Senior Advisor, Modern Africa Fund Managers; former Liberian Minister of Finance and Director of UNDP Regional Bureau for Africa*

**Shiv Vikram Khemka**

*Founder and Executive Director (Russia) of SUN Group, India*

**James V. Kimsey**

*Founder and Chairman Emeritus of America Online, Inc. (AOL)*

**Bethuel Kiplagat**

*Former Permanent Secretary, Ministry of Foreign Affairs, Kenya*

**Wim Kok**

*Former Prime Minister, Netherlands*

**Trifun Kostovski**

*Member of Parliament, Macedonia; founder of Kometal Trade Gmbh*

**Elliott F. Kulick**

*Chairman, Pegasus International, U.S.*

**Joanne Leedom-Ackerman**

*Novelist and journalist, U.S.*

**Todung Mulya Lubis**

*Human rights lawyer and author, Indonesia*

**Barbara McDougall**

*Former Secretary of State for External Affairs, Canada*

**Ayo Obe**

*Chair of Steering Committee of World Movement for Democracy, Nigeria*

**Christine Ockrent**

*Journalist and author, France*

**Friedbert Pflüger**

*Foreign Policy Spokesman of the CDU/CSU Parliamentary Group in the German Bundestag*

**Victor M Pinchuk**

*Member of Parliament, Ukraine; founder of Interpipe Scientific and Industrial Production Group*

**Surin Pitsuwan**

*Former Minister of Foreign Affairs, Thailand*

**Itamar Rabinovich**

*President of Tel Aviv University; former Israeli Ambassador to the U.S. and Chief Negotiator with Syria*

**Fidel V. Ramos**

*Former President of the Philippines*

**Lord Robertson of Port Ellen**

*Former Secretary General of NATO; former Defence Secretary, UK*

**Mohamed Sahnoun**

*Special Adviser to the United Nations Secretary-General on Africa*

**Ghassan Salamé**

*Former Minister Lebanon, Professor of International Relations, Paris*

**Salim A. Salim**

*Former Prime Minister of Tanzania; former Secretary General of the Organisation of African Unity*

**Douglas Schoen**

*Founding Partner of Penn, Schoen & Berland Associates, U.S.*

**Pär Stenbäck**

*Former Minister of Foreign Affairs, Finland*

**Thorvald Stoltenberg**

*Former Minister of Foreign Affairs, Norway*

**Grigory Yavlinsky**

*Chairman of Yabloko Party and its Duma faction, Russia*

**Uta Zapf**

*Chairperson of the German Bundestag Subcommittee on Disarmament, Arms Control and Non-proliferation*

**Ernesto Zedillo**

*Former President of Mexico; Director, Yale Center for the Study of Globalization*

---

**INTERNATIONAL ADVISORY BOARD**

*Crisis Group's International Advisory Board comprises major individual and corporate donors who contribute their advice and experience to Crisis Group on a regular basis.*

**Rita E. Hauser (Chair)**

**Marc Abramowitz**

**Anglo American PLC**

**John Chapman Chester**

**Peter Corcoran**

**Credit Suisse Group**

**John Ehara**

**Equinox Management Partners**

**JP Morgan Global Foreign**

**Exchange and Commodities**

**George Kellner**

**George Loening**

**Douglas Makepeace**

**Anna Luisa Ponti**

**Quantm**

**Michael L. Riordan**

**Sarlo Foundation of the Jewish**

**Community Endowment Fund**

**Tilleke & Gibbins  
International LTD**

**Baron Ullens**

**Stanley Weiss**

**Westfield Group**

**Yasuyo Yamazaki**

**Sunny Yoon**

---

**SENIOR ADVISERS**

*Crisis Group's Senior Advisers are former Board Members (not presently holding executive office) who maintain an association with Crisis Group, and whose advice and support are called on from time to time.*

Oscar Arias

Zainab Bangura

Christoph Bertram

Jorge Castañeda

Eugene Chien

Gianfranco Dell'Alba

Alain Destexhe

Marika Fahlen

Malcolm Fraser

Max Jakobson

Mong Joon Chung

Allan J. MacEachen

Matt McHugh

George J. Mitchell

Mo Mowlam

Cyril Ramaphosa

Michel Rocard

Volker Ruehe

Simone Veil

Michael Sohlman

Leo Tindemans

Ed van Thijn

Shirley Williams

**As at March 2005**