

Displaced in Darfur:

An Analysis of Humanitarian and Protection Operations for the Internally Displaced in Darfur



By Trish Chang¹

KAIPTC Paper No. 18, June 2007

¹ Trish Chang is a Research Associate at the Kofi Annan International Peacekeeping Training Centre in Accra, Ghana.

Table Of Contents

List of Acronyms Used.....	3
Introduction	4
Aim & Scope.....	4
Who are IDPs?.....	5
<i>Involuntary</i>	5
<i>Internal</i>	6
II. The Internally Displaced: The Quest For Protection	8
History of Protection	8
The Guiding Principles.....	8
The Guiding Principles Today: A Lukewarm success	10
III. Darfur.....	12
From Past to Present: The Shield of Sovereignty and the Government of Sudan	12
International Response.....	13
The Challenges of the African Union Mission in Sudan (AMIS).....	15
<i>Weak Mandate</i>	15
<i>Maintaining Impartiality</i>	16
The Challenges of Humanitarian Actors.....	18
V. Conclusions: A Way Forward?	23
A Call For A Centralized Organization.....	24

List of Acronyms Used

AMIS	African Union Mission in Sudan
AP	Additional Protocols of 1977 (Geneva Conventions)
AU	African Union
DPA	Darfur Peace Agreement
DRC	Democratic Republic of Congo
GC	Geneva Conventions
GoS	Government of Sudan
GP	Guiding Principles on Internal Displacement
IASC	Inter-Agency Standing Committee
IDD	Internal Displacement Division
IDP	Internally Displaced Person
IHL	International Humanitarian Law
IHRL	International Human Rights Law
IOM	International Organization for Migration
JEM	Justice and Equality Movement
JEM	Justice and Equality Movement
KA IPTC	Kofi Annan International Peacekeeping Training Centre
MSF	Médecins Sans Frontières
NGO	Non-Governmental Organization
OCHA	Office for the Co-ordination of Humanitarian Affairs
OHCHR	Office of the United Nations High Commissioner for Human Rights
PoC	Protection of Civilians
R2P	Responsibility to Protect
RSG	Representative of the Secretary General on Internally Displaced Persons
SC	United Nations Security Council
SG	United Nations Secretary General
SLM	Sudan Liberation Movement
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commission on Refugees
UNICEF	United Nations Children's Fund
WFP	World Food Programme
WHO	World Health Organization

Introduction

In 1951, the international community made a significant step with the introduction of United Nations Convention Relating to the Status of Refugees, which was an international law that aimed to protect those who had become stateless and therefore faced a unique set of vulnerabilities and difficulties. As the nature of conflict has changed over the years, so have the types of humanitarian and human rights challenges that the international community face. The number of refugees has decreased to roughly 9.2 million people, the lowest figure in 25 years;² while a new category, internally displaced persons (IDPs) has arisen. An IDP often flees his/her home for the same reasons as a refugee – natural disaster, terrorism, persecution and violence. Yet they do not enjoy the same legal protection as refugees because they remain within their country of origin and do not cross the borders of their country. Currently, there is an estimated 25 million IDPs in over 52 countries.³

The East African state of Sudan hosts more than a quarter of the IDPs population in the world. The protracted conflicts that have engulfed the state since its independence in 1956 are a major cause of the increase in the IDP population in Sudan. There are about 6 million IDPs in the country and this is incomparable with situations in other countries. Importantly, a sizeable number of these IDPs are located in the province of Darfur. Darfur currently constitutes one of the greatest challenges to peacekeeping operations today, as it has been ravaged by violence since 2003.⁴ The specific conflict in Darfur is rooted deeply in historical and economic tensions between the Darfurians and the elites in Khartoum, the capital of Sudan. In 2006 the situation in Darfur became so bad that it was characterized as the worst human rights abuses in recent history.⁵ The conflict in Darfur and the case of Sudan demonstrate the need to critically analyze and assess how IDPs can be supported and protected in situation of violent armed conflicts.

As will be discussed later in this paper, the Darfur case offers an opportunity to examine and analyze the situation of IDPs who have been displaced because of violent armed conflict on a massive scale and in a situation where the host government is unwilling either to provide assistance or provide the enabling environment for such support from outside. In the specific case of Darfur, the focus of this study, IDPs have been displaced because of a violent conflict in which they are systematically targeted by militias armed by the host government. Under such circumstances, it is apparent that the host government is unwilling to protect them because it is a strong party to the conflict.

Against the backdrop of the above, this paper provides a nuanced understanding of the plight of IDPs within the contexts of armed violent conflicts with Darfur as the case study. In this light, it conceptualizes who constitutes an IDP and examines the difficulties and challenges of protecting and providing support to them. The role of sovereignty in this process is also examined. Further, the paper discusses the role of the AU Mission in Sudan (AMIS) as well as those of humanitarian actors. Moreover, it points out the way in

² "UNHCR Says Number of Refugees At 25-Year Low But New Challenges Loom." UNHCR. 19 April. 2006. United Nations. 22 Jan. 2007 <<http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=44463fed4>>.

³ Weiss, Thomas G., and David A. Korn. Internal Displacement: Conceptualization and Its Consequences. Oxon: Routledge, 2006, p 13.

⁴ *Ibid*, p 147.

⁵ "Darfur 'Was Worst Abuse of 2006'" BBC News. 6 Mar. 2007. 6 Mar. 2007 <http://news.bbc.co.uk/2/hi/in_depth/6424613.stm>.

which the government of Sudan has used sovereignty as a shield to violate the basic rights of its own citizens. Finally, it identifies the gaps in the provision of support and protection to the IDPs in Darfur.

Who are IDPs?

There is no universally agreed definition of what constitutes IDPs but the working definition of IDPs, as used in this study, refers to persons who are forced to abandon their homes, livelihoods, out of fear for their personal security and well being. The main difference between IDPs and refugees is that the former remain in their country and so are the responsibility of their own states.⁶ The *Guiding Principles on Internal Displacement (1998)*,⁷ defines IDPs as,

*“...persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border”.*⁸

Therefore, two of the basic things that are crucial to the definition of IDPs are the concepts of *involuntary* and *internal*.

‘Involuntary’

Unlike those who are simply migrants, IDPs have involuntarily or coercively had to vacate their homes. This often occurs very rapidly, suddenly and unexpectedly, with little opportunity to bring any of their personal belongings or state documentation⁹ with them. Involuntary movement often occurs for the reasons of natural disasters, armed conflict, and development projects.¹⁰ The involuntary movement of IDPs often makes this population particularly vulnerable to continued violence and terror, the looting of personal belongings, and the destruction of livelihoods. They are forced to witness the cruel torture of family members and often become the victims of sexual violence, and large scale massacres.

⁶ This issue of sovereignty also means that there are more difficulties in providing humanitarian assistance, especially with unreceptive governments, as it is up to the governments themselves to decide the fate of IDPs. Thus, this issue of sovereignty, is a major issue, and often a major impediment when dealing with IDPs. This will be discussed later in the paper.

⁷ Deng, Francis M. United Nations. *Guiding Principles on Internal Displacement*. 11 Feb. 1998. 1 Oct. 2006 <http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html>.

⁸ This definition was created not without hardship, as much care and consideration was made into not limiting the scope of what an IDP would be, but also not making them indistinguishable from other vulnerable citizens of the state. For more information on this debate, see Weiss, Thomas G., and David A. Korn. *Internal Displacement: Conceptualization and Its Consequences*. Oxon: Routledge, 2006, p 63-65. A full text of the *Guiding Principles on Internal Displacement* can be found online: Deng, Francis M. United Nations. *Guiding Principles on Internal Displacement*. 11 Feb. 1998. 1 Oct. 2006 <http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html>.

⁹ Documentation is becoming a huge issue with IDPs, and in the recent ECOWAS Emergency Trainers Course, the OCHA Representative attempted to cement the importance of national authorities providing relevant documentation as quickly as possible to ensure that orderly aid is given.

¹⁰ This fairly ambiguous term refers to situations when people or communities are displaced under the auspices of ‘development’. This can include the widening of roads, or the building of dams and thus governments displace people without adequate prior consultation or compensation. While the setting up of railways, mines or logging can indeed contribute to the overall development, those who are forced to sacrifice their homes are often left with nothing.

'Internal'

The notion of *internal* displacement is also crucial to understanding who IDPs are. Because IDPs do not leave the borders of their own country, their own state must first and foremost assume responsibility for this population. Former United Nations High Commissioner for Refugees Sadako Ogato, when asked about the problem in addressing IDPs replied: "The problem is sovereignty".¹¹ Sovereignty is each state's right to make decisions regarding its own internal affairs without interference from others states. It is seen as a concept which provides "*order, stability and predictability...since sovereign states are regarded as equal, regardless of comparative size or wealth*".¹² For many states, sovereignty is the only line of defense in the absence of any military or economic clout.

This evokes a plethora of debate over the issue of sovereignty, which serves as a hindrance to the international community's implementation of providing protection for and assistance to IDPs. Given the circumstance of armed conflict, the host government often becomes greatly destabilized, and in many cases cannot be relied on for actual protection. During armed conflicts either the government is not willing to protect the IDPs or the because of state collapse, the country is carved among rival armed factions who become law unto themselves. Under such conditions, it becomes difficult for IDPs to be supported or protected against violence. Hence, unlike refugees, they do not have legal status and therefore can only rely upon their rights as citizens of their country. The difficulty is that it is within the same territory that their rights already have been flagrantly abused and violated, which has resulted in displacement. As such, there has been much difficulty in addressing the issue of internal displacement, as it requires the reconciliation of sovereignty with a need to ensure respect for human rights, regardless of country of residence, a challenge with no clear solution.

Box 1.1: Sovereignty: Responsibility to Protect and Protection of Civilians

The notion of sovereignty and how it affects the human rights of people has come under much scrutiny in recent years. Many scholars and policy advisors have been encouraging a normative shift in the notion of sovereignty, and this is best displaced in the emerging support for the notions of *Responsibility to Protect* (R2P) and *Protection of Civilians* (PoC). R2P and PoC give further support to examine specifically the IDP population which have been *massively* displaced by *armed conflict*. R2P brings forth two important points when looking at strengthening protection: first it changes the way that traditional sovereignty is viewed, based on right to full responsibility. R2P makes the argument that sovereignty inherently implies responsibility, and when governments are failing to live up to their responsibilities, the international community has the responsibility to step in.¹³ The second point which is brought forth by R2P is the idea that massive suffering by population warrants attention by the international community, especially if the host government is unwilling or unable to do anything to alleviate this suffering.

Applying to the broader scope of IDPs is the notion of *Protection of Civilians* (PoC). While R2P is a specific kind of justification for using force to protect a mass amounts of civilians under threat, PoC is applicable to all types of IDPs, whether it be in small or large number, and regardless of the level of threat. PoC is a justification for protection which requires a lower threshold than R2P, arguing for the basic and primary requirement to protect

¹¹ Korn, David A. *Exodus Within Borders*. Washington, DC: Brookings Institution P, 1999, p 49.

¹² *The Responsibility to Protect*. International Commission on Intervention and State International Commission on Intervention and States Sovereignty. Ottawa: International Development Research Centre, 2001, para 2.7-2.13.

¹³ However, it must be noted that R2P is designed to justify force as a *last resort* for robust force. Because internal displacement often occurs at an earlier stage (versus the catastrophic stage that induces the justifications of R2P, such as a Rwanda-like situation) R2P does not necessarily apply in all cases of displacement. However, R2P still brings forth the mentality that sovereignty is responsibility, and the mentality that the suffering of massive populations requires attention and responsibility of either the host governments or the international community.

¹⁴ United Nations. S/2005/740. Security Council. *Report of the Secretary-General on the Protection of Civilians*. 28 Nov. 2005. 19 Nov. 2006

<<http://daccessdds.un.org/doc/UNDOC/GEN/N05/610/43/PDF/N0561043.pdf?OpenElement>>.

civilians first and foremost. Former SG Kofi Annan's series of reports specifically on PoC in Armed Conflict¹⁴ give a useful framework for addressing how civilians are vulnerable in times of armed conflict and the frameworks which apply to PoC, in terms of international law, peace support operations, issues relating specifically to women and children, and internally displaced populations.

The convergence of the concepts of R2P and PoC brings forth the urgency that when civilians are being displaced on a massive scale, the responsibility to react immediately lies both within the responsibility to the host country, and failing that, the international community. These two conceptual frameworks need to continue to be encouraged within the international community as both are ultimately beneficial in justifying why internal displacement is a problem that needs urgent addressing.

II. The Internally Displaced: The Quest For Protection

One of the challenges that faces the international community in the quest for the protection of IDPs is how best to ensure that sovereignty becomes responsibility. Nevertheless, in the absence of any legal regime for the protection of IDPs, the approaches have been adopted in order to address this problem in the interim: policy and operational approaches. On the policy level, the *Guiding Principles on Internal Displacement*, which was published in 1998, has served as a sort of tool through which the existing legal regimes, namely International Humanitarian Law and International Human Rights Law were used to identify the rights of IDPs and subsequently used for their protection. At the operational level, a Collaborative Approach,¹⁵ has been adopted, which entails the collaboration of existing UN Organizations such as the World Health Organization, World Food Programme and UNHCR in their operations. Such an approach creates the basis for the collaboration of their efforts in providing support for the increasing numbers of IDPs. The policy and operational approaches are similar in that they are an amalgamation of existing structures, both cautiously navigating around this issue of sovereignty, with decidedly mixed results.

History of Protection

Importantly, the history of the involvement of the international community with IDP issues dates back to July 1992 when the former United Nations Secretary General, Boutros Boutros-Gali, decided to investigate the issue of IDPs in order to assess the UN's role in best affording them protection. Dr. Francis Deng, a former Sudanese diplomat, was appointed as the Representative of the Secretary General on Internally Displaced Persons. He was tasked to investigate the problem facing this category of people and how best to protect within the existing international legal regimes. By March 1993, Deng's report to the Commission on Human Rights made a thorough assessment of internally displaced persons and strongly recommended that the UN immediately mobilize and coordinate its efforts in order to provide assistance, create early-warning systems and to create a code, declaration or convention specifically designed for IDPs. Although these were ambitious recommendations, it certainly marked a major milestone in the quest to provide protection for IDPs.

Unfortunately, ten years after these recommendations were made, nothing has been realized to this effect. By and large, the major hindrance has been the hesitancy of the international community to translate their vocal support into tangible resources – most importantly, financially. To begin with, Deng was already operating with *ad hoc* sources of funding and this undermined Deng's ambitions. Not surprisingly, by 1996, Deng concluded that there was simply no political will to create a designated organization that would be solely in charge of protecting and assisting IDPs.

The Guiding Principles

Despite his conclusion about the lack of political will on the part of the international community to address this issue, Deng and his team made a laudable achievement by producing the *Guiding Principles on Internal Displacement* (GP). As a tool that explained the

¹⁵ Although the second generation approach has been termed the 'Sectoral Approach', and the third generation is called the 'Cluster Approach'. However all of these three approaches are essentially slight evolutionary changes made, based on the Collaborative Approach.

existing international humanitarian laws, it has served as a non-binding piece of soft law; developed in co-operation with many state and non-state actors.¹⁶

The GP has therefore been used as a legal lens to interpret how IHL¹⁷ and IHRL,¹⁸ and implicitly, refugee law,¹⁹ would be applicable to IDPs. The GPs were developed as a document to interpret the law in a manner that would address the ambiguities in how the law should be applied to IDPs, as well as ‘fill in’ the existing gaps in protection. It comprises 30 principles which are divided into the following sections, summarized below:

- I. *General Principles* – This section states that IDPs should enjoy the same rights as any other citizen, and that these rights should be observed by all, including national authorities.²⁰ Crucially, it states in Principle 3 that, “*National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction*”.²¹
- II. *Principles Relating to Protection From Displacement* – This section notes that persons have the right not to be *arbitrarily* displaced,²² and again, points out that it is incumbent on authorities to ensure this happens.
- III. *Principles Relating to Protection During Displacement* – This set of principles asserts that during displacement, persons have the right to be protected against vulnerabilities they may be exposed to, such as murder, arbitrary executions or indiscriminate attacks.²³ Furthermore, it notes that IDPs have the right to seek safety wherever they chose, and access to all means of survival.
- IV. *Principles Relating to Humanitarian Assistance* – This section is of particular importance, as it makes provisions that humanitarian assistance shall not be diverted or arbitrarily denied for any reason whatsoever.²⁴ It says that the primary responsibility of such assistance must be carried by national authorities.²⁵ However it also stresses that humanitarian assistance by outside partners shall be considered acts of good faith, not as an intrusion into the internal affairs of states, and such assistance shall be appropriately facilitated by the government.
- V. *Principles Relating to return, Resettlement and Reintegration* – This final set of principles note that IDPs have the right to be fully resettled when

¹⁶ While drafts of the GP were endorsed by government officials, the final drafts were done by a majority of non-state actors, which created some unrest, as governments were unhappy that this document would have been born what appeared to be ‘outside’ of the state system. This concern eventually subsided, as the GP now have been widely disseminated among states. However it is an important point to note that the GP were seen to have been conceived in an initially unorthodox manner.

¹⁷ International Humanitarian Law (IHL), encompasses the Hague Conventions, the Geneva Conventions (GC) and the Additional Protocols (AP) of 1977, and deals specifically with how people, both combatants and non-combatants, are treated in times of armed conflict.

¹⁸ International Human Right Law (IHRL) looks at human rights in *all* other cases, and is not limited to armed conflict. This set of laws, which outlines the rights of human beings, and is mostly comprised of customary international law and made up of various declarations and treaties which are used as instruments to enact this law.

¹⁹ Refugee law is also indirectly drawn upon in trying to identify the areas of vulnerabilities which aid and assistance for IDPs would need to be clarified.

²⁰ Deng, Francis M. United Nations. Guiding Principles on Internal Displacement. 11 Feb. 1998. 1 Oct. 2006, Principles 1 & 2.

²¹ *Ibid*, Principle 3.

²² *Ibid*, Principle 6.

²³ *Ibid*, Principle 10.

²⁴ *Ibid*, Principle 24.

²⁵ *Ibid*, Principle 25.1.

displacement ends, and that authorities should help facilitate this process with assistance of humanitarian organizations.

The principles are designed to provide a framework in identifying the rights that need to be invoked during times of displacement in order to ensure the protection needs for IDPs.

Walter Kalin, one of the key legal experts that drafted the GP, and now current RSG, explains the reasons why a softer approach was taken, rather than a hard-line treaty which would bind states to protection. Firstly, at the time, it was felt that treaty-making in the area of human rights was simply too tedious a process. States, especially those with poor human rights records, would delay the process of ratifying it and something was quickly needed to address the issue of IDPs. Secondly, it was also felt that drafting a treaty combining IHL and IHRL would undermine what existing international law was supposed to already provide for. Kalin argues: "*In the case of the GP, all these difficulties would have increased the risk of not having an effective normative framework in place for IDPs for a long time*".²⁶ Based on the circumstances of the time, Deng, Kalin and their colleagues formulated the best response that they felt would be most likely to be accepted by the international community. However, the circumstances surrounding IDPs continue to get worse, and the international community is slowly becoming more willing to invest in the issue of internal displacement.

The Guiding Principles Today: A Lukewarm success

Despite the slow pace at which the international community has used these principles, the GPs have been used as a framework in countries such as Angola and Columbia – to form the basis for national legislation on IDPs, which is ideally what the GP is supposed to accomplish.²⁷ Additionally, the GP has gained significance in the international system, with resolutions in both the Commission on Human Rights and the General Assembly referring to them as an ‘important tool’ in assessing the needs of the internally displaced. Regional organizations have been encouraged to utilize the GP as a framework for monitoring situations of internal displacement. Furthermore, NGOs that have been involved with assisting IDPs use the GP as a way to guide their efforts and as an advocacy tool on behalf of IDPs.²⁸

However, despite the relative successes of the GP, it must be kept in mind that they are a piece of *soft* law, and therefore do not have legal status or weight. States are not obliged to adopt the GP into their national legislation, and are only bounded by the actual IHL and IHRL. The GP is merely a lens upon which to interpret the law, taking into account what refugee law provides and looking at what IHL and IHRL generally is meant to provide for, whether displaced or not. Looking to the case of Darfur, it is evident that there is much work needed to be done in persuading countries to accept and adopt the GP into their own national legislation. Darfur also demonstrates that advocates are at a loss when countries are entirely unwilling to provide protection and assistance. As such,

²⁶ Kalin, Walter. "How Hard is Soft Law? the Guiding Principles on Internal Displacement and the Need for a Normative Framework." Ralph Bunche Institute for International Studies. Roundtable Meeting. CUNY Graduate Center, New York. 19 Dec. 2001. 29 Nov. 2006 <<http://www.brookings.edu/fp/projects/idp/articles/Kaelin12-19-01.pdf>>.

²⁷ Kalin, Walter. "The Role of the Guiding Principles on Internal Displacement." *Forced Migration Review* (2005): 8-9. 25 Oct. 2006 <<http://www.fmreview.org/FMRpdfs/FMR24/IDP%20Supplement/full.pdf>>.

²⁸ Cohen, Roberta. "Strengthening Protection of IDPs: the UN'S Role." *Georgetown Journal of International Affairs* (2006): 101-109.

the GP has quite a long way to go in terms of affording protection to the most troubled and vulnerable section of IDPs, such as those found in Darfur. The implications of the above experiences for the Darfur case constitute the focus of the next section of this paper.

III. Darfur

Darfur represents one of the most complex humanitarian challenges today. The roots of the conflict can be traced to marginalization of the province since 1916 when the Ottoman Empire dissolved and it became part of Sudan. This struggle resulted in the cathartic explosion of tensions in 2003 when rebel groups began staging attacks on the Government of Sudan (GoS). In response, the GoS collaborated with and armed the Arab-dominated Janjaweed militia, with whom they begun to terrorize the Darfurian civilian population. The insurgency has resulted in the deaths of over 200,000 people, and over 2 million displaced. However, these are conservative and unreliable estimates as they remain unchanged since 2003. The number is likely to be much higher as many reports throughout 2006 illustrated that roughly four million people were requiring humanitarian aid,²⁹ while by 2007 reports state that camps are reaching their capacity.³⁰ What is evident, is that this crisis is reaching that of catastrophic proportions, and Darfurians are quickly running out of time.

The major challenge facing the international community of states is how to subdue sovereignty in order to address the issues of conflict and security that face the people of Darfur. This is important because the GoS continues to use sovereignty as a shield to deny the people of Darfur much needed humanitarian assistance and robust protection.

From Past to Present: The Shield of Sovereignty and the Government of Sudan

As is widely known and consistently reiterated in the GP, the protection of civilians lies first and foremost in the hands of the host government. However it appears that the international community has been at a loss when national authorities are uninterested, or worse, responsible for the displacement of their own citizens. This rings especially true in the case of Sudan. The GoS has displayed neglect not just throughout this recent crisis, but rather it has a long history of neglect for Darfurians. The culture of marginalization of Darfurians arises out of the belief or notion by the GoS that these people are not part of Sudan. Thus, throughout its history, the people of Darfur have simply been ignored by the government. One manifestation of this is that the area is far more underdeveloped than the rest of the country³¹ For instance, in 1952, out of the 23 intermediate schools in all of Sudan, only 1 was in Darfur³² – an area which is roughly the size of France. Unrest in Darfur is no surprise, as it has been quietly growing for a number of decades, since Sudan assumed – or rather neglected – responsibility for Darfur.

²⁹ "4 Million People in Darfur Now Need Humanitarian Aid, Top UN Relief Official Says." 20 Nov. 2006. United Nations News Centre. 21 Nov. 2006 <<http://www.un.org/news/>>.

³⁰ "Sudan Darfur Camps 'Almost Full'" *BBC News*. 20 Mar. 2007. 21 Mar. 2007 <<http://news.bbc.co.uk/2/hi/africa/6469857.stm>>.

³¹ The issue of identity continues to play a great divide in this crisis, and a constant and common issue with hostile governments and IDP protection. In many cases, including Sudan, when a government is purposely playing a part in displacement it is because the displaced population is not seen as part of the general population. Francis Deng recounts: "In an African country the Prime Minister complained to a UN official that they were not providing enough food for refugees who had become a burden on his country. The UN Official explained, "We have limited resources, and we are helping your own people who are affected by the war." Then the Prime Minister said, "Those are not my people. The food you give to those people actually is killing my soldiers" These were his citizens, nationals of his country and yet he said, "They are not my people". As such, the duty to care for one's own citizens is not perceived, and persuading governments to protect these displaced populations becomes much more difficult. This is particularly a problem in Africa, where arbitrary colonial lines created mixed feelings of identity. This type of mentality particularly rings true for Darfur, as it has never been wholly included in the goings-on of the country.

³² Prunier, Gérard. *Darfur: the Ambiguous Genocide*. Ithaca: Cornell UP, 2005, p 33.

This context provides a better understanding of the GoS' attitude towards not just IDPs, but Darfurians in general. For Darfurians, the struggle has always been for a "more equitable conceptualization of national citizenship with attendant rights to power and wealth sharing",³³ as opposed to the ethnic discrimination, upon which this crisis has been based. The government is not *now* simply neglecting to fulfill its duty to Darfurians, it is a *continuation* of the mentality of indifference, now grown into intolerance, that the GoS has always held for Darfurians.

Thus, when the Darfurian rebel groups, the Sudan Liberation Movement (SLM) and the Justice and Equality Movement (JEM)³⁴ began mounting attacks,³⁵ the GoS responded by arming its own military as well as the Janjaweed, an Arab-dominated tribal militia. The nature of these abuses extended far beyond narrowly attacking Darfur rebel groups – the civilian population soon became victims of the conflict:

First aircraft would come over a village, as if smelling the target, and then return to release their bombs... The result was primitive free-falling cluster bombs... they were terror weapons aimed solely at civilians... When the air attacks were over, the Janjaweed would arrive, either by themselves or in the company of regular Army units... They would surround the village and what followed would vary. In the 'hard' pattern they would cordon off the place, loot personal belonging, rape the girls and women, steal the cattle and kill the donkeys. Then they would burn the houses and shoot all those who could not run away. Small children, being light were often tossed back in the burning houses.³⁶

As a small militia, it is unlikely that the Janjaweed could have succeeded in securing such equipment and carry out such co-ordinated attacks without support of the GoS. In the early stages of the crisis, the GoS denied any kind of atrocities were taking place, whilst imposing a media blackout and refusing visas to all foreigners. As IDP numbers grew and refugees began spilling into Chad, the GoS could no longer deny the crisis and so was forced acknowledge it, but denied any part in the situation.

International Response

The international community, in return, failed to seriously question the GoS' denials of involvement in the atrocities, despite mounting evidence showing the GoS' involvement. Some member states made stern reminders to the GoS that they had an obligation to both "demonstrate their commitment to peace and to serving the needs of all the Sudanese people", and to "protect humanitarian aid workers and others providing life-saving assistance to Sudan's citizens".³⁷ The GoS made a series of emblematic gestures, all designed to quiet the growing concern of the international community, but still continue to extract their malicious will. This included:

³³ Iyob, Ruth, and Gilbert M. Khadiagala. Sudan: the Elusive Quest for Peace. Boulder: Lynne Rienner Inc., 2006. 133-166.

³⁴ Since this time, the rebels groups have split into numerous factions, which has made the process of trying to create a sustainable peace ever more difficult.

³⁵ United Nations. UN Document A/HRC/4/80. Human Rights Council. Report of the High-Level Mission on the Situation of Human Rights in Darfur Pursuant to Human Rights Council Decision S-4/101. 7 Mar. 2007. 12 Mar. 2007

<http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/12_03_07_un_sudan.pdf>, p 11.

³⁶ Prunier, Gérard. Darfur : the Ambiguous Genocide. Ithaca: Cornell UP, 2005, p100.

³⁷ SUDAN: Thousands flee Darfur attacks', IRIN News, 24 January 2007.

- Allowance of humanitarian access – although many trucks are subjected to lengthy checks at the border and most were even raided before they reached their intended populations;
- Granting visas – although they still take notoriously long to get, and still many high level officials were refused, or severely limited in their travels³⁸ and;
- The eventual entry of the African Union Mission in Sudan (AMIS) into the area – although this mission has suffered from a weak mandate, limited resources and a host of other problems which will be discussed later in the paper.

At the level of the UN, the permanent five members of the UN Security Council (SC) struggled with how to deal with Darfur. Despite reports that began piling into the UN in 2003, the issue of Darfur did not make it onto the UN SC Agenda until 2004.³⁹ The SC was cautious in dealing with the GoS because the North-South Sudanese conflict had set a precedent of problematic behavior by Sudanese officials. There was a strong consensus among the SC members that dealing swiftly and robustly with Darfur could undermine the North-South Comprehensive Peace Agreement (CPA), which sought to end the 20 year conflict. When Darfur did finally come to the forefront, in resolution 1556⁴⁰, predictably, Russia, India and China spoke strongly in favour of noninterference, noting that sovereignty must first and foremost be respected, even if it was at the cost of great human suffering. The UN Under-Secretary-General for Humanitarian Affairs Jan Egeland commented in December 2006:

“Earlier, each time I have traveled to Sudan, I have hoped to see a fundamental change in the attitude of the Government, an attitude that has been characterized by denial, neglect and the blaming of others. Yet again, I saw this time no such change, but rather a further entrenching of this attitude. Senior Government officials continue to deny the killings, the displacements and the rape of women.”⁴¹

Sovereignty has essentially been used as a shield for the GoS to do as it pleases, making gestures to the international community that amount to nothing significant for the people of Darfur. A prime and worrying example of the full strength of the GoS’ power was manifested when it was able to expel Jan Pronk from the country, who was at the time, the Special Representative of the Secretary General (SRSG) of the United Nations in Sudan. Pronk was the most vocal critic of the GoS. After publishing what was perceived as a hostile message, implicating the GoS in the atrocities, the GoS moved swiftly to declare him *persona non grata* in Darfur, and he was subsequently shut out of any policy making in Darfur. Pronk, very powerfully states:

“The [Sudanese] authorities could continue to disregard Security Council resolutions, to break international agreements, to violate human rights and to feed and allow attacks on their own citizens rather than protect them. They could do all this without having to fear the consequences...the Council and its Members and the rest of the international community have been taken for a ride.”⁴²

³⁸ "UN Aid Chief Cuts Darfur Visit Short After Being Denied Travel Permission Due to Insecurity." 18 Nov. 2006. UN News Centre. 9 Jan. 2007
<<http://www.un.org/News/dh/pdf/english/2006/17112006.pdf>>.

³⁹ Pronk, Jan. "Weblog Nr 41." 25 Feb. 2007. 10 Mar. 2007 <<http://www.janpronk.nl/index120.html>>.

⁴⁰ United Nations Security Council. Resolution 1556. 30 July 2004. 10 May 2007

<<http://daccessdds.un.org/doc/UNDOC/GEN/N04/446/02/PDF/N0444602.pdf?OpenElement>>.

⁴¹ "Annan Awaits Sudan Letter on Hybrid UN Force for Darfur; UN." 22 Nov. 2006. United Nations News Centre. 10 Mar. 2007 <<http://www.un.org/News/dh/pdf/english/2006/22112006.pdf>>.

⁴² *Ibid.*

What has become evident is that the international community is addressing this crisis at the mercy of the GoS. Darfur shows that there are difficulties in dealing with governments that have been unduly neglectful of sections of its population. While embracing the notions of Responsibility to Protect (R2P) and Protection of Civilians (PoC)⁴³ notions at a conceptual level, these states have failed to operationalize them for more robust action in Darfur. Instead, the international community sat back, and allowed AMIS to ‘blindly’ go into a crisis, without any suitable communications system, logistical equipment, manpower, or mandate.⁴⁴

The Challenges of the African Union Mission in Sudan (AMIS)

When a conflict breaks out, and the national authorities are, for whatever reason, not providing security for IDPs, it is the general expectation that outside assistance not only be allowed, but also act to improve the security situation, foster uninterrupted humanitarian operations and unimpeded access to aid.⁴⁵ The *Guiding Principles on Internal Displacement* make this clear: Principle 3 states that IDPs have the right to request humanitarian assistance in conditions of displacement.⁴⁶ Principles 24-27 also clearly states that national authorities have the right to allow such assistance without impediment.⁴⁷ As such, when GoS allowed the AU Mission to Sudan (AMIS) entry into Darfur, as well as a slew of other humanitarian organizations, the expectation that the security situation would improve was not unreasonable. The role of AMIS would be to provide security, while the role of humanitarian agencies would hopefully to restore basic living standards. This has unfortunately and frustratingly not been the situation in Darfur.

AMIS was the first outside international mission that the GoS allowed into Darfur. The mission, whilst well-intended, has been generally characterized by a lack of initial planning, clarity in mission structure and mandate, a reliance on support from external partners and donors to finance the mission⁴⁸ and general inability to provide protection for about 5 million people, caught in the barbed-wire of conflict.

Weak Mandate

One of the primary problems was the initial mandate given to AMIS which was seen as fundamentally weak in relation to protection of civilians.⁴⁹ The AMIS mandate had to be

⁴³ Refer to Box 1.1. of this paper for a brief explanation of the evolution of these concepts.

⁴⁴ This was the majority consensus during the *AU Multi-Dimensional Missions: Lessons Learnt From The African Mission In Sudan (AMIS) For The African Stand-By Force (ASF)* which brought together former AMIS peacekeepers, intelligence officers, military observers and donor stakeholders for a conference held at the Kofi Annan International Peacekeeping Training Centre in Accra, Ghana on Oct 10-12, 2006. The outcomes report can be found online: Guicherd, Catherine. [The AU in Sudan: Lessons for the African Stand-by Force](#). International Peace Academy and the Kofi Annan International Peacekeeping Training Centre. New York: IPA Publications, 2007. 10 May 2007 <http://www.ipacademy.org/asset/file/150/AU_IN_SUDAN-Eng_website.pdf>.

⁴⁵ [Session V Plenary: Report and Discussion of WG1 – Humanitarian-AMIS Relations](#). AU Multi-Dimensional Missions: Lessons From AMIS for the ASF, 11 Oct. 2006, Kofi Annan International Peacekeeping Training Centre and the International Peace Academy. 2006.

⁴⁶ Deng, Francis M. United Nations. [Guiding Principles on Internal Displacement](#). 11 Feb. 1998. 1 Oct. 2006 <http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html>.

⁴⁷ *Ibid.*

⁴⁸ Guicherd, Catherine. [The AU in Sudan: Lessons for the African Stand-by Force](#). International Peace Academy and the Kofi Annan International Peacekeeping Training Centre. New York: IPA Publications, 2007. 10 May 2007 <http://www.ipacademy.org/asset/file/150/AU_IN_SUDAN-Eng_website.pdf>.

⁴⁹ Holt, Victoria K., and Tobias C. Berkman. [The Impossible Mandate](#). Washington, DC: The Henry L. Stimson Center, 2006.

constructed to be officially approved by the GoS and indirectly also meet the satisfaction of an international community that was trying to avoid the experience of another Rwanda. Unsurprisingly, the GoS would only initially approve a very weak mandate for the AMIS force. The first mandate of AMIS (which, at the time was called a Ceasefire Commission) was simply to protect the monitors, and monitor the terms of the Humanitarian Ceasefire Commission (HCFA) agreement, which had been haphazardly brokered by Chad. Noticeably absent from this initial mandate was the requirement to protect civilians or IDPs at all.⁵⁰ It was not until October 2004 that the strength of AMIS increased to roughly 3000 personnel. The mandate of AMIS was also expanded to:

*“...protect civilians who it encounters under imminent threat and in the immediate vicinity, within resources and capability, it being understood that the protection of the civilian population is the responsibility of the Government of Sudan”.*⁵¹

While this mandate was a stark improvement on the previous one, which had no provision for civilian protection, this mandate could not easily be implemented because of the lack of resources, personnel and means to carry out protection. While the increase in the number of troops was certainly better than the 800 MILOBS initially sent out, it must be reminded, that the general requirement is 2-10 troops for every 1000 inhabitants. This meant that Darfur would require between 12,000-60,000 personnel.⁵² At the beginning of 2007, there were still only 7000 AMIS personnel in Darfur.⁵³

With regards to the protection of civilians,⁵⁴ there was disjuncture within the AU as to how flexibly the mandate was to be interpreted. Paul Williams notes,

*“While Nigeria’s government agreed with Khartoum’s position that AMIS troops were not to use force to protect civilians, Rwanda’s government said its soldiers were being authorized to use such force”.*⁵⁵

This then made it increasingly unclear to IDPs what they could come to expect from the AMIS soldier on the ground, and whom they could turn to for protection. Undoubtedly a major factor inhibiting the protection of IDPs in Darfur is that the mandate of the mission has never responded to the requirements of the actual situation in Darfur. That is to say, the mandate was created with the assumption that the HCFA would be honoured, and that the GoS would provide safety for its citizens – all assumptions which were never realized.

Maintaining Impartiality

The struggle to maintain impartiality has worsened the crisis in Darfur, rather than alleviate it. The mandate to which AMIS has been adhering has noticeably not identified the perpetrators of mass killings: that “for the AU Darfur remained a case of mass-

⁵⁰ *Ibid.*

⁵¹ *Ibid.*, p 25.

⁵² Williams, Paul. "Military Responses to Mass Killing: the African Union Mission in Sudan." *International Peacekeeping* 13 (2006): 176.

⁵³ "Violence in Darfur Rises as More Peacekeepers Attacked." *IRIN News*. 11 Apr. 2007. 11 Apr. 2007 <<http://www.irinnews.com>>.

⁵⁴ This is a relatively new inclusion into peacekeeping mandates, and a welcome one at that. This is well documented by Victoria Holt, and more information can be found in her recent publication: Holt, Victoria K., and Tobias C. Berkman. *The Impossible Mandate*. Washington, DC: The Henry L. Stimson Center, 2006.

⁵⁵ Williams, Paul. "Military Responses to Mass Killing: the African Union Mission in Sudan." *International Peacekeeping* 13 (2006): p 175.

murder without any known perpetrators”.⁵⁶ Commander Seth Appiah-Mensah has noted that the critical challenge with AMIS has been the consistent inclusion of all representatives – the GoS, the rebel groups in AMIS’ activities and investigations – and as such, he reports that in early stages of the mission, representatives had been,

*“...covertly taking geo-coordinates of ‘enemy’ positions during patrols/investigations, items of information that are rendered to their party commanders to give them a heads-up for impending investigation”.*⁵⁷

The international community’s willingness to allow the GoS to play both sides of the fence has resulted in an appalling formation of a peacekeeping mission in which the GoS was integrated right into AMIS from the beginning. GoS officials would accompany AMIS officers on their patrols, and effectively be able to forewarn of impending investigations, and the area would be cleared of any GoS participation. The GoS police and AU CIVPOL have been working hand in hand, which has also created frustration on the part of the IDPs.

What further complicates the matter is that the AU CIVPOL is mandated to work closely and intricately with the GoS police, who are deeply mistrusted by Darfurians. There are evidences to support the assumption or claim that the Janjaweed have been integrated into the Sudanese police force.⁵⁸ For instance, in an *IRIN* report in March 2007, women fled the scene upon seeing an AU convoy. When AU troops, CIVPOL and the GoS police inquired as to why, the women admitted that they were scared of being attacked. The report states:

*“The presence of the young Sudanese officer only added to the confusion. ‘Some of the ones who attacked wore a uniform just like his,’ she said, pointing at him...The Sudanese government denied the findings, instead accusing aid agencies of exaggerating the scale of the problem. But last week, a UN team of investigators said the government had failed to protect civilians and had participated in orchestrating and committing atrocities against its own people...’ Despite the well-known patterns of rape of women around IDP camps, the authorities have done little to diminish the threat or investigate cases reported,’ the UN team said.”*⁵⁹

According to Médecins Sans Frontières (MSF), roughly 81% of rape victims report that they were attacked by armed militia or military men, occurring on the periphery of villages or camps when collecting firewood, water, or other means of survival. Women have been the most victimized in this crisis, as they currently make up the majority of the population in IDP camps. Furthermore, they are often the ones tasked to leave the camps to collect firewood and other basic necessities, because, while they risk threats of rape and sexual violence, their male counterparts surely would face immediate death upon leaving the camp. As such, it is tragically the women who bear the burden of the violence in this crisis.⁶⁰

⁵⁶ Prunier, Gérard. *Darfur: the Ambiguous Genocide*. Ithaca: Cornell UP, 2005, p 145.

⁵⁷ Appiah-Mensah, Seth. "AU's Critical Assignment in Darfur." *African Security Review* 14 (2005): p 14.

⁵⁸ O'Neill, William G., and Violette Cassis. *Protecting Two Million Internally Displaced: the Successes and Shortcomings of the African Union in Darfur*. Brookings-Bern Project on Internal Displacement.

Washington, DC: The Brookings Institution, 2006. 2 Oct. 2006

<http://www.brook.edu/fp/projects/idp/200511_audarfur.pdf>.

⁵⁹ "Living with the Threat of Rape in Darfur." *IRIN News*. 14 Mar. 2007. 14 Mar. 2007

<<http://www.irinnews.com>>.

⁶⁰ *Ibid.*

There was no effort on either side to abide by the ceasefire agreement signed in April 2004, and final peace agreements, including the ‘comatose’⁶¹ Darfur Peace Agreement, have continued to elude the parties. Thus, AMIS entered into a conflict where there was no peace to keep. Yet its initial mandate was clearly based on the assumption that the HCFA would hold. Suliman Baldo, of the International Crisis Group states:

*“AMIS was hamstrung by an inadequate mandate, and insufficient forces and capabilities. There was also a political failure to acknowledge that the Sudanese government had demonstrably failed to meet its own responsibilities to neutralize its militia and protect its citizens, and that it was the main perpetrator of civilian killings in Darfur.”*⁶²

The main flaw of the mandate was assuming that the GoS was going to take primary responsibility for the protection of its citizens.⁶³ Based on the assumption that GoS’ sovereignty entailed protecting its citizens, the AU began their mission with a limited observer force, with a polite request that GoS disarm the Janjaweed militia. Prunier calls this the first of “a number of empty demands on the subject”.⁶⁴ The GoS has continued this trend of manipulating its consent at key points in AMIS’ mission. The GoS, knowing that the international community would continually request its consent for future actions, used this as a tool to gain time in order to retool its strategy and militaries. Alex de Waal astutely states: *“The government’s negotiating strategy reflects an emphasis on short-term, tactical advantage, with no attention to how to reach a political solution”*.⁶⁵ All of these aspects not only hampered protection of IDPs, but more importantly hampered the mission as a whole. This emphasizes the importance of having a solid, well-trained and capable peacekeeping mission in place if it is to serve the protection needs of IDPs.

The Challenges of Humanitarian Actors

Humanitarian organizations⁶⁶ are the other set of external actors who arrived in Darfur, shortly after AMIS was allowed into the country. The expectation was that they would ‘fill-in’ the gaps left by the national authorities in restoring basic living standards to the conflict-affected population. These include but not limited to, activities to prevent displacement, support the current and newly displaced, supporting spontaneous and voluntary returnees and creating a sustainable livelihood.⁶⁷

⁶¹ "Pronk: Hidden Forces Undermining Sudanese President Authority." 13 Feb. 2007. Sudan Tribune. 28 Mar. 2007 <<http://www.janpronk.nl/index303.html>>.

⁶² Baldo, Suliman. "The African Response to Darfur." *Darfur: the Responsibility to Protect*. Ed. David Mepham and Alexander Ramsbotham. London: Institute for Policy Research, 2006. 14-21.

⁶³ Udomana, Nsongurua M. "When Neutrality is a Sin: the Darfur Crisis of Humanitarian." *Human Rights Quarterly* 27 (2005): p1187; Appiah-Mensah, Seth. "A.U.'S Critical Assignment in Darfur." *African Security Review* 14 (2005): 12.

⁶⁴ Prunier, Gérard. *Darfur: the Ambiguous Genocide*. Ithaca: Cornell UP, 2005, p 118.

⁶⁵ de Waal, "Briefing: Sudan: Prospects for Peace", *African Affairs* 104(2005):129.

⁶⁶ It is important here to differentiate between two types of humanitarian organizations: the first are UN Agencies and associates. These actors are usually coordinated by the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the Inter-Agency Standing Committee (IASC) and include UNHCR, UNICEF, WHO, WFP etc. The second type of humanitarian actor are either foreign, national or international NGOs, who have a mandate independent of the United Nations, and sometimes their own political agenda accompanying their humanitarian cause. The important differentiation between these two actors is that there are often clearer lines of communication and a better sense of familiarity between the UN Humanitarian Actors and the military, whereas NGOs do not often enjoy such a relationship.

⁶⁷ *Session V Plenary: Report and Discussion of WG1 – Humanitarian-AMIS Relations*. AU Multi-Dimensional Missions: Lessons From AMIS for the ASF, 11 Oct. 2006, Kofi Annan International Peacekeeping Training Centre and the International Peace Academy. 2006.

These actors too have faced many problems in providing assistance to IDPs. While the GoS indeed claimed that it has lifted restrictions on allowing humanitarian access, reports consistently reiterate the problems that humanitarian convoys encounter while on deliveries, and especially as air workers have become targets of the violence. In a statement in January 2007, a team of UN humanitarian agencies stated:

"In the face of growing insecurity and danger to communities and aid workers, the UN and its humanitarian partners have effectively been holding the line for the survival and protection of millions. That line cannot be held much longer..."⁶⁸

Increasingly duties of the aid workers are compromised as the violence in all regions continues to increase, rendering more and more areas insecure. The World Food Programme (WFP), which fed an estimated 2.6 million Darfurians in 2006, was effectively blocked from North Darfur, where over 355,000 were in dire need of help.⁶⁹ At the beginning of 2007, the UN Human Rights Council mandated a High-Level Mission, sent to assess the human rights situation in Darfur.⁷⁰ They concluded that:

"Access has deteriorated to a level worse than 2004, even as there has been a huge increase in the number of people relying on humanitarian aid. In the last six months of 2006, more relief workers were killed than in the previous two years combined. Just during the month of December 2006, 29 humanitarian vehicles were hijacked and 430 humanitarian workers relocated in all three Darfur states".⁷¹

Under such conditions in December 2006, UN was forced to evacuate all its non-essential workers from El-Fasher, the capital of Darfur due to the increasing clashes between the GoS, the Janjaweed and the rebel forces – with all three implicated in targeting humanitarian workers. This had a significant impact on humanitarian operations, as El-Fasher is where many of the humanitarian headquarters reside, and a key centre for Darfur's aid operations.⁷² In a hopeful move, an agreement was signed between the UN and Sudan in March 2007 to improve humanitarian operations, and committed the GoS to "rapid and full implementation of all measures relating to humanitarian access contained in a July 2004 communiqué that followed a visit to Darfur by the then UN Secretary-General".⁷³ However, just two weeks after this agreement was signed, UN Deputy Secretary of State John Negroponte declared:

"When it comes to humanitarian access, the government of Sudan's record is not encouraging...The denial of visas, the harassment of aid workers and other measures have created the impression that the government of Sudan is engaged in a deliberate campaign of intimidation".⁷⁴

⁶⁸ "Insecurity in Darfur Threatens Aid Delivery - UN Agencies." IRIN News. 18 Jan. 2007. 18 Jan. 2007 <<http://www.irinnews.com>>.

⁶⁹ "Darfur'S Aid Operations in Jeopardy, Warns Annan in Latest Report on Troubled Region." UN News Centre. 6 Oct. 2006. 6 Oct. 2006 <<http://www.un.org/news>>.

⁷⁰ It is important to note that they too were blocked entry into Darfur, for unknown reasons from the GoS.

⁷¹ United Nations. UN Document A/HRC/4/80. Human Rights Council. Report of the High-Level Mission on the Situation of Human Rights in Darfur Pursuant to Human Rights Council Decision S-4/101. 7 Mar. 2007. 12 Mar. 2007

<http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/12_03_07_un_sudan.pdf>, para 45.

⁷² "UN Pulls Staff From Darfur Town." BBC News. 12 Dec. 2006. 13 Dec. 2006 <<http://news.bbc.co.uk/go/pr/fr/-/2/hi/africa/6212628.stm>>.

⁷³ "Darfur: Un and Sudan Sign Deal to Improve Humanitarian Operations." UN News Centre. 28 Mar. 2007. 29 Mar. 2007 <<http://www.un.org/news>>.

⁷⁴ "Sudan: End Restrictions on Aid Workers, Says Top US Official." IRIN News. 16 Apr. 2007. 16 Apr. 2007 <<http://www.irinnews.com>>.

This implicit allegation displays that humanitarian operations continue to be compromised in Darfur. Section IV of the *Guiding Principles on Internal Displacement* specifically prescribes the principles that relate to Humanitarian Assistance. In this section, it specifically states, that while the primary duty of providing assistance resides with national authorities, that international humanitarian organizations have the right to provide assistance, and this must be an act considered in good faith – not as an act to be “regarded as an unfriendly act or interference in a State's internal affairs”.⁷⁵ Yet the GoS continues to interfere with the delivery of humanitarian assistance at key points. Humanitarian access, which is essential to restoring basic means of survival to IDPs, continues to be manipulated. This adversely impacts on compromising the lives of many Darfurians already struggling to sustain themselves in what has become an unsustainable environment.

In sum, from the beginning of the crisis when aid was urgently needed, the GoS were instrumental in blocking humanitarian aid, and extremely reluctant to issue visas, even denying several high-level UN personnel from the area.⁷⁶ Visas to enter Sudan still take an unreasonable amount of time to approve, and even so, there is no guarantee that it will happen. This was none clearer than when UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Jan Egeland, was denied entry into the region in April 2006. Egeland, who had been very vocal about the atrocities occurring in Darfur, and intensely involved in trying to assist them accused the GoS of “systematic obstruction”, and noted that,

*“One of the biggest and most effective humanitarian operations on earth... is in Darfur... In 2006 [the conflict] is changing dramatically for the worse and I think that is the background for why I was blocked again this year from going... We are being attacked and our humanitarian services disrupted all the time...”*⁷⁷

The GoS has masterfully used several decoys to prevent entry into Darfur, whether it is accusing the UN force as being equivalent to ‘re-colonization’, or denying Egeland entry, they have always found ways to block assistance and entry into Darfur. The approaches taken to deal with internally displaced populations offer no solutions on how to operate in a non-benign environment.

Box 2.1 - Operationalizing Protection – The Collaborative and Sectoral Approaches

While the GP provide guidance for how to address IDPs from a policy level, Walter Kalin, current RSG admitted

⁷⁵ Deng, Francis M. United Nations. *Guiding Principles on Internal Displacement*. 11 Feb. 1998. 1 Oct. 2006 <http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html>, Principle 25.2.

⁷⁶ The high level mission to investigate human rights abuses were never permitted entry into Darfur, and Jan Egeland, the UN Humanitarian Affairs co-ordinator has been denied access to Darfur on several occasions.

⁷⁷ "Sudan Stops Darfur Refugee Visit." *BBC News*. 4 Apr. 2006. 2 Dec. 2006 <<http://news.bbc.co.uk/2/hi/africa/4876100.stm>>.

that it was unclear as to how these “rather abstract general principles of international law articulated by the GP should be translated into concrete action on the ground”.⁷⁸ Operationalizing protection for IDPs has not taken on the form of a central UN organization as Deng had originally recommended in 1993. Instead, much like the GP, the approach has been to take existing structures and piece them together to try and create a complete and cohesive response to IDPs. The initial incarnation was named the Collaborative Approach, which according to an Inter-Agency Standing Committee⁷⁹ (IASC) Guidance manual, is:

“a broad range of UN and non-UN governmental and non-governmental actors (including humanitarian, human rights, and development actors) work together in a transparent and cooperative manner to respond to the needs of IDPs on the basis of their individual mandates and expertise”.⁸⁰

In theory, this is a ‘team-effort’ approach, by each of the UN organizations taking on its strengths, and working together to provide an overall, effective assistance to IDPs. For instance, the World Food Programme (WFP) would take the lead with providing the delivery of food, United Nations Children’s Fund (UNICEF) for education and nutrition, and World Health Organization (WHO) would care for health issues. All agencies are to share the responsibility for responding to the needs of IDPs. This approach requires expert leadership on the part of all agencies, with the capacity to respond to the needs of each emergency, and intense consultation with the respective United Nations Country Team to then develop a Strategic Action Plan which would outline the roles of all of the agencies in providing assistance.⁸¹

Seemingly simple, this has often been difficult to implement in practice. Summing up the main criticism is the former US Ambassador to the UN, Richard Holbrooke, who upon visiting IDPs camps in Angola, criticized that ‘co-heads are no-heads’.

What is being currently used in Darfur is a second version of the Collaborative Response, called the Sectoral Approach. The general principle is the same – to have various organizations working in collaboration; however the roles of each organization changed slightly. In this approach, each of the different agencies were meant to carve out their areas of assistance in more specific terms – in essence they would choose their ‘sector’ and when an emergency arose, they would fulfill the specific duties they had outlined.

The diffusion of leadership simply seems to have led to even more cracks both within and in between organizations. The primary problem was that there was lack of accountability in this approach. UN agencies have their own primary mandates which are often difficult enough to undertake, much less take other *ad hoc* mandates, for which funding is already scarce. Furthermore, those who were usually charged with implementing aid to IDPs within these organizations (the primary Humanitarian Co-ordinator) often did not have the authority over human resources or budgets to have any hope of providing meaningful assistance to IDPs.⁸²

What becomes adamantly clear is that Darfur has been an utter disaster with regards to protection of IDPs. The GoS have been able to clearly twist every international response, in their favour, such as accusing a UN Peacekeeping Force of ‘being the equivalent to ‘re-colonisation’ – an accusation which would make even the most well-meaning

⁷⁸ Kalin, Walter. "The Role of the Guiding Principles on Internal Displacement." *Forced Migration Review* (2005): 8-9. 25 Oct. 2006 <<http://www.fmreview.org/FMRpdfs/FMR24/IDP%20Supplement/full.pdf>>.

⁷⁹ The IASC was established in 1992 in response to UN General Assembly Resolution 46/182 which highlighted the gaps in co-ordination of humanitarian assistance. The IASC was established to be a forum for co-ordination, policy development and decision making involving both UN and non-UN key humanitarian partners. The IASC works mainly under the leadership of the Emergency Relief Co-ordinator (ERC), and is set out to agree on a clear division of labour when responding to humanitarian crisis. For more info: [Inter-Agency Standing Committee](#). United Nations Office for the Coordination of Humanitarian Affairs. 2 Mar. 2007 <<http://ochaonline.un.org/webpage.asp?Page=661>>.

⁸⁰ "The Actors - Collaborative Response." [Internal Displacement Monitoring Centre](#). 6 Apr. 2005. Norwegian Refugee Council. 29 Nov. 2006 <[http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/47BA2294D008BBF2C1257114003B80AB/\\$file/EN%20Actors%20module%20presentation.ppt](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/47BA2294D008BBF2C1257114003B80AB/$file/EN%20Actors%20module%20presentation.ppt)> , slide 9.

⁸¹ Davies, Anne, and Wolfe Murray. "Implementation of the Collaborative Response in Liberia." *Forced Migration Review* Oct (2005): 17-20. 2 Feb. 2007 <<http://www.fmreview.org/FMRpdfs/FMR24/IDP%20Supplement/07.pdf>>.

⁸² Forbes Lubers, Susan, and Ruud Martin. *Refugee Women*. 2nd ed. Lexington Books, 2004. 154-155.

governments cower away from action, especially in light of the 'humanitarian intervention' in Iraq. Furthermore, the GoS has failed from the very beginning to provide any kind of protection, and they have cleverly used sovereignty as a shield for their actions with impunity so far. That being said, the international community allowed the African Union to enter a crisis for which it was obviously unprepared, bypassing its responsibility to human rights onto a force which was a disaster to start with. AMIS continues to earnestly do its best, but it is not nearly enough for the over-2-million IDPs, and another 2 million conflict-affected citizens. Darfur clearly highlights the severe gaps which exist in protection of IDPs, and illustrates the urgent need for effective leadership that deals with both the operational and political problems which are plaguing the displaced population of Darfur.

V. Conclusions: A Way Forward?

Darfur represents major challenges to the international community on every level – peacekeeping missions, the changing notion of sovereignty, distribution of humanitarian assistance and the ability of peacekeeping missions to provide protection for IDPs. Dealing with all of these challenges will likely not happen with this mission, and many lives will be lost before effective strategies dealing with these challenges are found. Darfur is not necessarily a hopeless case, but four years into the conflict, that hope is fading fast as the robust response needed from the international community has been silent to the cries of dying Darfurians

The case of Darfur truly demonstrates the ‘softness’ of soft law. While the *Guiding Principles on Internal Displacement* have been an important tool for developing national policy for *willing* governments, there has been little development with strategies for governments who are unwilling to provide safety and security for IDPs. Furthermore, while the GP have had an impact on some national policy, only about a third of the countries actually affected by internal displacement have adopted legislation. Out of this group, the Internal Displacement Monitoring Centre reports that only eight seem to be making a genuine effort to implement them.⁸³ The GP do little more than summarize how to apply International Humanitarian Law (IHL) and International Human Rights Law (IHRL) to the situation of IDPs. The GP have helped, but not nearly enough. Figures from 2005 show that roughly 24 million are still displaced today, with Africa alone accounting for half of IDPs.

Darfur also shows the overarching problems with international law in general. Whilst not underplaying the importance of the rule of law in the international system, international law in general is notoriously difficult to enforce, on account of there being very little mechanisms for enforcement. Unlike federal, provincial or municipal law, there is no one governing body which states are consistently held accountable to, and no one system of enforcement. As such, international law has no predictability, which gives it very little force, especially when disaster is constantly unfolding. As helpful as the GP are in terms of positioning IDPs within IHL and IHRL, Denis McNamara, rightfully states,

*“...those targeted do not talk in terms of rule of law; they talk in terms of protection, which is of the utmost important to them on the ground. They need to be protected and to be able to report what abuses happen to them and who is doing it. Governments speak often about security but they do not translate security into rule of law”.*⁸⁴

This is to say that as important as having a legal framework protecting IDPs is, equally, if not more important, is having *actual protection* on the ground.

With Darfur in particular, the problems in adequately dealing with the IDPs lends itself to a greater problem with peace support operations in general. Effective humanitarian action and advocacy goes hand in hand with efficient political processes. The kind of hard-lined diplomacy used by the US and others was not well received and made the GoS

⁸³ Global Overview of Trends and Developments in 2005, *Internal Displacement Monitoring Centre* 2005, p 17.

⁸⁴ "Justice Unfettered? Internationalizing Justice in the Human Rights Era." [IRIN](http://www.irinnews.org/InDepthMain.aspx?InDepthId=7&ReportId=59464), July 2006. UN Office for the Coordination of Humanitarian Affairs. 2 Feb. 2007
<<http://www.irinnews.org/InDepthMain.aspx?InDepthId=7&ReportId=59464>>.

more resistant to any outside influence. The AU became manipulated in a number of these tactics, and lost its own footing in the process.

A Call For A Centralized Organization

There have been cautious steps in moving forward. UNHCR has committed itself to take on a greater role in assisting conflict-induced IDPs, which bodes well for Darfur, and for the wider cause of internal displacement. However, there is a serious danger in strengthening *ad hoc* structures, where the foundation is weak to begin with. It must be recalled that the GP and the Collaborative Approach were designed in an environment which was not necessarily open to carving out a space to focus on protection for IDPs. However, as numbers rise and advocacy continues, there has been a demonstrated interest on behalf of the international community to look more closely at this population. Additionally, while welcoming the commitment by UNHCR, it is however troubling because it excludes IDPs displaced for reasons *other* than conflict – natural disasters and development projects. Conflict-induced IDPs are going to continue to require the most urgent care, but at some point there will need to be a more inclusive approach to cover all categories of IDPs. This demonstrates the need for a more centralized organization which focuses on coordinating efforts on behalf of *all* populations of IDPs,

In theory, this already exists in OCHA's departmental agency, the Internal Displacement Division (IDD), which is a non-operational department which assists in the co-ordination of activities related to internal displacement. However, this work is slightly replicated in each specific situation, as UN Country Teams are brought in to formulate more specialized responses, and co-ordinate with the local cluster leads. To a large extent, much of the work has to be duplicated every time, making it difficult to build on experience and lessons learned, as there are so many agencies involved, with no specific umbrella organization overseeing the breath of internal displacement, from data gathering, operations, advocacy, legal issues, and policy making. The most primary argument for a centralized organization is, however, simply for the sake of visibility. Internal displacement needs the international recognition so people know their rights when internal displacement occurs, and more importantly who exactly they can turn to for assistance. Additionally, when warning signs of massive displacement begin to occur, there is an organization that can begin to respond, or call on the relevant partner organizations to help formulate a cohesive and operational response.

Perhaps what the next steps need to be is to continue on track with what former RSG Francis Deng, and now current RSG Walter Kalin had in mind when they wrote the document to strengthen support for IDP protection through the wide dissemination of the *Guiding Principles on Internal Displacement* and continuing to make the Collaborative Response work as best as it can. However, running in conjunction with this should be a parallel effort that seeks for a more robust organization to develop, even if this is perhaps formalizing the IDD to make it as visible as UNHCR. In essence, there would be the need for a twin-track approach. While the GP works to garner more and more enthusiasm for the international community to invest in IDPs, there is the need for a centralized organization that could co-ordinate all aspects of IDP humanitarian services, protection and advocacy.

What is clear is that, while the policy work towards IDPs has made great progress in the last 10 years, the case of Darfur demonstrates that there are some serious gaps in protection and assistance which leave much to be desired. People continue to become displaced for a variety of reasons, and the numbers are increasing rapidly. The situation

in Darfur illustrates that there are no strategies for dealing with unwilling or hostile governments, and this is where focused attention needs to be drawn. Without a centralized organization which concentrates, or at least, co-ordinates all aspects related to providing for IDPs, people will continue to become displaced, and the most poignant of cases will continue to suffer from poorly constructed, *ad hoc* responses, which ultimately do nothing to prevent, alleviate or resolve internal displacement. Creating a centralized organization will not be an easy task – the challenges are great, meaning that the process should begin now to address such issues. It will, however provide accountability to the international system and its partners. Most importantly and finally, it will not work to serve national authorities, but the IDPs themselves.