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Darfur: In Search of Peace Exploring Viable Solutions to the Darfur Crisis

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DARFUR: IN SEARCH OF PEACE

Exploring Viable Solutions to the Darfur Crisis

**REPORT OF A CONSULTATION HELD IN
NAIROBI, KENYA, EAST AFRICA
JUNE 9-11, 2008**

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Preface

The following is a report for the *Consultation on Darfur* carried out in Nairobi, Kenya by Africa Today Associates, Inc. The event took place June 9-11, 2008 and was made possible with support from Ford Foundation, Kenya (in collaboration with the Institute of International Education). This report aims to build upon, not replace, the findings of our Consultation in Abuja, Nigeria. It is for this purpose that the findings and points addressed in this report are solely those discussed in Nairobi. Although it is inevitable that the two consultations reflected some overlap on the core issues and discussion points, especially in context of the presentations, this report attempts to synthesize and present the findings of the Consultation in Nairobi, Kenya. As part of ATA's continued work and mandate to our four-part consultations, the outcomes of our proceedings in Denver, Abuja, and Nairobi will be the foundation for our final consultation in Washington D.C. in fall 2008.

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ABOUT ATA

Africa Today Associates, Inc. (ATA) is a 501 (C) (3) non-profit organization registered in the United States of America. The organization was created in 1967 to publish the journal *Africa Today* and to address significant human rights issues involving the African continent. The journal had been launched in 1954 by Professor George Shepherd, the first Director of the American Committee on Africa (ACOA), to educate the public on Africa's struggle against colonialism. When ACOA could no longer publish the journal, ATA was moved to the University of Denver's Graduate School of International Studies (recently renamed the Josef Korbel School of International Studies). Since 2000, the journal has been owned and published by the University of Indiana Press.

ATA remains headquartered in Denver, Colorado, USA. It continues its original purpose by maintaining the fundamental philosophy of *Africa Today* through activities that connect academics and activists by working with nongovernmental organizations on projects that address the social, political, and economic needs of the people of Africa, in the context of human rights.

MISSION OF THE CONSULTATION

From the perspective of Africa Today Associates, Inc., the current discourse in the United States on the Darfur crisis suffers from a lack of African perspectives. The purpose of the Darfur Consultations is to understand the historical background, lay out the contemporary issues, and suggest viable solutions to the crisis in Darfur.

While the US has begun to recognize and accept some responsibility, the conflict is still poorly understood by the American public. Ultimately, we aim to help properly educate the American public about the conflict in Darfur, and utilize the consultation outcomes to influence policy of the United States government and other international bodies.

Humanitarian intervention in Sudan needs to be informed by the experience and understanding of African NGOs and governments who have long accepted their international responsibility for the needs of displaced people and victims of crimes against humanity. Therefore, it is important to hold an exchange of views between African and American specialists.

To fulfill this objective, ATA has launched a four-part endeavor with our first Consultation on the Darfur crisis held in Denver in September of 2007 and a consultation in Abuja, Nigeria in December of 2007. This consultation in Nairobi on June 9-11 will be followed by a final gathering in Washington, D.C. in the fall of 2008.

The Abuja and Nairobi consultations are the first steps in securing the voice and experience of African academics, leaders, organizations and politicians who are involved in, or knowledgeable about, the ongoing crisis in Darfur. In both Abuja and Nairobi, our focus was on engaging in dialogue with African academics, government representatives, and members of the NGO community. Specifically, we are interested in learning the views of Africans and African governments regarding

anticipated roles for the international community, including the US, in bringing peace to Darfur. We hope to achieve a broader perspective on ongoing work by various African-based NGOs (such as those from the Darfur Consortium) that will help us identify gaps in understanding, service, and policy. Strategies for humanitarian intervention also will be considered.

ORGANIZATION OF THE CONSULTATION

The consultation took place June 9-11, 2008 at the Fairview Hotel in Nairobi, Kenya and was organized into several sessions. Open forums preceded and followed a series of presentations and debates. Discussions were structured around research carried out by several ATA members as well as academics from the University of Denver.¹ Research findings² were also presented during our consultations in Denver and Abuja.

Topics explored included a review of current and historical political and economic aspects of the Darfur crisis, interpretations of ethnicity and identity in Darfur and how these contribute to the difficulties of attaining a viable peace, legal perspectives on the international obligation to protect, the role of African states and the African Union in peace negotiations, and the militarization of foreign policy in Africa. Discussions and debates were organized around these presentations. A total of five presentations were given with three on June 9 and one on June 10.

SUMMARY OF PRESENTATIONS MADE BY REPRESENTATIVES FROM AFRICA TODAY ASSOCIATES

Darfur is located in the Western part of Sudan and borders Libya to the north, and Chad and Central African Republic to the West. It had an estimated population of seven million (prior to refugee and IDP displacements), representing more than 70 tribes, and is potentially rich in natural resources including oil, copper, and uranium, as well as reservoirs of subsurface "Pleistocene water."

The current crisis in Darfur can be traced back to traditional conflicts between nomadic tribes and sedentary farmers. The nomads, who are mostly camel and cattle herders, claim to be of Arab origin while the sedentary farmers claim African origins. During dry seasons, the nomads venture into agriculturalist areas in search of food, water, and grazing lands for their animals. Such encroachments historically fermented tribal conflicts. The severe drought which periodically strikes the Sudano-Sahelian belt adversely affects the Darfur region of Sudan, contributing to attacks by nomadic tribes on sedentary agriculturalists. Tribal councils used to mediate these conflicts through arbitration and compensation.

This system of conflict mediation and resolution was, however, weakened following a coup by the government of Gen. Numiery in 1969. The Numiery government abolished local tribal leadership in the 1970s and weakened the influence of traditional leaders and their role in conflict mediation. Unfortunately, however, while measures were taken by the government to weaken tribal leaders, no attempt was made by the government of Sudan to protect the rights of people and their property.

¹ See appendix A for a complete list of presenters and participants

² See appendix D for complete research findings

Furthermore, various tribes in Darfur were encouraged to protect themselves through their own means. This led to the establishment of militias by various tribes. Consequently, and in concert with other coercive pressures, the government of Sudan created the *janjaweed* to contain rebels from tribal militias.³

In addition to tribal conflicts, the crisis in Darfur is affected by various civil wars along Sudan's borders. Chad, Central African Republic, Congo, Uganda, Eritrea, and Ethiopia, all neighbors of Sudan, have suffered from civil wars in recent decades. These conflicts have led to an influx of cheap, sophisticated weapons, especially machine guns, into Sudan. Furthermore, the absence of power sharing in Sudan contributes to the crisis in Darfur. There is strong political and military opposition from groups such as the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM). These and other groups have been calling for power and wealth sharing and for agreements similar to those concluded in the Mashakos protocol for Southern Sudan.⁴ The absence of power and wealth sharing has further exacerbated the conflict between the central (Khartoum) government and marginalized areas of Darfur.

Furthermore, conflicts over the acquisition of land between nomads and sedentary farmers are critical in the ongoing crisis in Darfur and must be addressed in any negotiated settlement. Likewise, the impact of foreign entities such as China, the United States, France, Germany, and the Arab countries must be considered in the pursuit of peace in Darfur.

Although others have referred to the crisis in Darfur as genocide⁵, what is happening can better be characterized as ethnocide. This is based on the fact that the primary impetus for the conflict appears to be the destruction or extirpation of ethnic Africans, as evidenced in the Government of Sudan's 'invitation' to Arabs in Chad to occupy areas occupied by African Darfurians. But whether the conflict is classified as a genocide or ethnocide, what matters most from a human rights perspective is that it is a crime against humanity. Attempts to bring about peace must be informed by this understanding.

The crisis in Darfur has produced several negative outcomes, including an increased number of refugees along the Sudan-Chad border, an increased number of internally displaced persons (IDPs) within Sudan, increased hunger and potential famine, environmental degradation, the production of various obstacles to development, and the deaths of hundreds of thousands of people. These consequences must be addressed in any and all approaches to the pursuit of a peace settlement.

³ The role of the *janjaweed* in the current crisis in Darfur is well documented. The "devils on horseback" were utilized by the Government of Sudan during the 21 year conflict between North and South Sudan. There is strong consensus that the *janjaweed* is responsible for much of the casualties of the Darfur crisis.

⁴ The Mashakos protocol formed the basis of the Comprehensive Peace Agreement (CPA), which ended the North/South civil war. Among provisions of the CPA were wealth and resource sharing as well as the ability of the South, through a referendum, to opt either for secession and autonomy or be part of a unity government. However, recent developments such as the failure of the Government of Sudan to abide by several provisions of the CPA have exposed the fragility of the agreement.

⁵ The United States government, through former Secretary of State Colin Powell, was the first to classify the crisis in Darfur as genocide, in 2006.

The complexity of the crisis in Darfur is rooted in a host of social, political, economic, and environmental problems. Failure of the Abuja and Libya talks means that efforts to achieve peace and reach a settlement must be intensified.

It is crucial to consider the impact of the North/South Comprehensive Peace Agreement on the Darfur crisis. Notably, it would be difficult to resolve the conflict in Darfur if provisions similar to those addressed in the CPA are not offered in any negotiated settlement, especially in terms of wealth and power sharing. In addition, the emergence of a true democratic and federal system as well as the institutionalization of multi-ethnic and multi-religious social institutions in Sudan is vital to the attainment and sustenance of a negotiated peace. Further, because recent developments have exposed the fragility of the CPA and the threat of another North/South conflict appears imminent, any negotiated peace settlement must consider the potential impact of any such conflict on the crisis in Darfur. Mechanisms to address such negative impacts must be considered in all negotiated peace settlements.

While ethnicity does not cause genocide or ethnocide, its politicized role in the perpetuation of such atrocities must be considered, particularly in Darfur. To fully understand what is going on in Darfur, we must first understand its ethnic and ecological landscape and how this contributes to the crisis. This requires us to look at ethnicity not as a “characteristic,” but as a process that is negotiable.

It is also important to look at Darfurians as citizens of a particular area as opposed to simply “tribesmen.” In this regard, the Fur (for example) reflects the fluidity of ethnicity and the ways in which they pursue their livelihoods become more important means of categorization. In attempting to understand the ethnic aspect of the Darfur conflict, we must appreciate the flexibility of the people of Darfur, as nomads and semi-nomads are able to move across borders into Libya, Chad, and other countries. On this basis, it is necessary but not sufficient to place Darfurians into broad categories such as nomads, for there are varieties of nomadic life.

Likewise, it is not enough (nor appropriate) to categorize Darfurians by their skin color. There are multiple and layered meanings, some pejorative, in such classification schemes. These distinctions must be identified and debated in any systematic attempt to understand what is going on in Darfur. Further, it must be acknowledged that economic necessities override cultural imperatives in addressing the political economy of Darfur; we must be aware of the fact that people are more concerned with sustainable livelihoods than ethnic categorizations. How do people adapt socio-economically during the toughest of times? Ethnicity shades but does not dictate how people live their lives and sustain their livelihoods. As such, any approach to a negotiated peace settlement that is informed by this understanding is likely to be more viable.

For effective collective action towards solving the crisis in Darfur, the above considerations must be taken into account. Groups like Africa Today Associates, the International Crisis Group, and the Darfur Consortium can serve as important advisors to the process. This does not preclude the role of Sudan’s central government, which must be considered critical to all negotiations. Despite their assertions, it is

not enough to simply pursue a settlement that addresses issues of wealth and power sharing. Issues of food security, water security, and grazing rights also must be interjected into the negotiations as these are fundamental to the tribal conflicts.

In this regard, negotiations must focus on process as well as product. That is, our focus should not be limited to negotiation outcomes. A consideration of how outcomes will be achieved is also important. This implies a critical look at the inherent polarities of the Darfur crisis, including Arab - African tensions, Fur - "other group" tensions, and nomadic - sedentary tensions. The process of understanding these tensions must be greatly informed by voices of the citizens of Darfur.

In attempting to resolve the crisis in Darfur, it must be understood that change in state behavior is a function of incentive structures, including domestic and external incentives. That is, because of the complicity of the Sudanese state in the ongoing crisis, it is important for there to be incentive structures that will compel the government of Sudan to act in a manner that is favorable to peace and a negotiated settlement.

Although the whole of Sudan is relatively underdeveloped, Darfur remains one of the most neglected regions in the country. In the case of South Sudan, it must be recognized that achievement of the CPA was the result of changed incentive structures for the Government of Sudan. For example, unification of members of the rebel movement increased their strength and ability to confront the central government, and this was crucial in their ability to negotiate.

African countries and African leaders, as well as the African Union, have a role to play in changing incentive structures for the Government of Sudan and to oblige the government to act in a way that will put an end to the crisis in Darfur. In short, the failure to protect Darfurians is a problem of the failure of African leaders to assume full responsibility for the protection of African people. Africans cannot 'wait to be rescued by outsiders.'

In the pursuit of a negotiated peace settlement, it must be recognized that there first has to be peace to keep before peacekeeping forces can be deployed into the region. The first step to peace, therefore, is force activation. That is, a force with the ability to respond to initiatives of the Government of Sudan must be considered since the Government of Sudan will not concede anything without the activation of force. A comparison of what was done using force in Kosovo and what is being done in the Democratic Republic of the Congo would be useful.

Recognizing that the Darfur crisis is an African problem with global implications, the African Union must be at the forefront of any peace talks. Also, following the activation of force, the African Union must take decisive steps to bring all necessary parties together to partake in negotiations. Methods through which African states and their leaders can affect incentive structures for the Government of Sudan include:

- Enforcement of travel restrictions on Sudanese leaders by the AU
- Freezing of bank accounts of all Sudanese companies

- Diplomatic recognition and withdrawal in order to exert pressure on the Government of Sudan.
- Divestment
- African states should cease doing business with corporations or countries whose actions contribute to the crisis in Darfur
- AU countries must withdraw diplomats from Khartoum, a step that will make the Darfur crisis an African crisis
- The role of religion in influencing the Government of Sudan must be emphasized

While external factors, such as the ability of the United States to mobilize interested parties for negotiations, are important to settling of the Darfur crisis, it must be acknowledged that African countries and African leaders have to set their own priorities regarding the situation. In addition, civil society advocates in Africa must be active in pressuring their governments. Civil society impact is illustrated in the fact that was it not for the role of civil society advocates, President al-Bashir would have ascended to the role of AU chairperson. Strategies to enhance the role of civil society in influencing African states to act in support of an end to the crisis in Darfur must thus be carefully considered.

Africans now sit at the table of world deliberations and have their own regional capabilities. While dependency relationships still exist, the independence of African states is a reality and African leaders must govern in the context of the international human rights regime. Outside powers also must recognize this. On issues such as the crisis in Darfur, the great powers will not act on behalf of a peace settlement unless civil societies, both African and international, make a powerful statement under initiatives of the United Nations Security Council. In this effort, Africans must take the lead but must not leave the world out because the world is beginning to accept the principle that there is a responsibility to protect. Africans can benefit from this consciousness in attempting to address issues such as the crisis in Darfur. If Africans take the lead on such issues, the rest of the world will respond.

In this regard, serious consideration must be given to the kind of support that can be made available to African NGOs, specifically in Sudan (for example, the Amir Center) in order to empower them to play a critical role in resolving the Darfur crisis. Work in this area has begun through the activities of bodies such as the Darfur Consortium. It is imperative to work with 'friendly' governments in order to exert the right kind of pressure on the Government of Sudan in the pursuit to an end to the crisis.

AFRICAN PERSPECTIVES: IDEAS ON HOW TO ACHIEVE PEACE AND A NEGOTIATED SETTLEMENT TO THE CRISIS IN DARFUR

As the participants in this consultation emphasized, the following points should be addressed in any viable attempt to pursue an end to the crisis in Darfur:

- Organizations need to address Darfur from a qualitative angle as well as a quantitative one. It is not merely the number of soldiers and arms present in Darfur, but how they are distributed and what outcomes will come from their presence.
- Privileging militarism over peacemaking is counterproductive. Need the AU to increase their peacemaking capacity and implore states and civil society actors to increase resources for peacemaking in Africa and not focus as much on militaristic intervention as the only remedy.
- There needs to be more work to 'level the playing field' at negotiations. While the Sudanese government hires professional lawyers, opposition groups often come without advisors. Both sides must have the capacity to properly inform each other and have access to the same necessary legal resources.
- The negotiation table needs to be inclusive of all relevant parties and involve the community. Peace building from the 'top' is not enough, or effective. Particularly, including representatives for the displaced and refugees, Darfuris, women, communities, religious leaders, elders, rebel leaders, and governmental actors. This requires either holding consultations inside Sudan or Darfur or making sure all necessary representatives are present at talks.
- There is a need to reignite the memory of a shared and common history. The traditional notion of 'abutu' (idea of mutual reciprocity and necessity for existence: 'I exist because you exist') allows for negotiation, reconciliation and compensation. Must explore and advance the memory of the fact that Arabs and Africans have lived together for centuries.
- Focus on justice and find a middle-ground between modern court justice and restorative justice. The focus must be on collective compensation with the involvement of communities and the interests of the victims must be central to the judicial process. Additionally, the African Court of Justice needs support and an adequate mandate to take all those whom the ICC indicts.
- Ethnicity has been continuously politicized and manipulated as tool to create or exacerbate conflicts. It will likely continue to be that unless we have more research and in-depth analysis on the root grievances of conflict (usually scarce resources) that manifests into forms of ethnicized violence.
- The fundamental issues of power and wealth sharing must be resolved. Many communities in Darfur are agriculturalist and pastoral in nature; as such, land issues are in desperate need of being addressed.

- Although the US has many vested interests generally reached through US foreign policy, there should be more input from states outside the realm of these interests. The voices of African NGOs should not be muffled by international interests.
- Internationally, there is a very apparent lack of political will. The African Union and United Nations must play more active roles. UN and UN Security Council's member states need to keep self interests out. If that is not possible, they should turn their attention to the AU and their push for a peacemaking strategy in the interest of the people of Darfur. Promises of assistance to AMIS and the hybrid force need to be honored and fulfilled. Political will is needed for the international responsibility of protection to be viable for outside states.
- African leaders and states are not taking the lead, but are being complacent. They have become morally handicapped against other leaders and states. This is where civil society and activists/grassroots can compel the leaders to make the right decisions.
- Need to mediate tension between a state's responsibility to protect their citizens and the international community's perceived right to protect them when the state fails to do so. Under the current mandate, the AU is unable to effectively protect Darfuris through their mission. Many believed that we must look at and urge the revision of the AU/UN mandate. Perhaps if the mandate is changed, more will be achieved.

RECOMMENDATIONS: SUGGESTED STRATEGIES TO END THE CRISIS IN DARFUR AND TO PREPARE THE STAGE FOR POSTCONFLICT RECONSTRUCTION

Although international and regional bodies have attempted, in various ways, to find a resolution to the crisis in Darfur, little progress has been made. In many regards, the crisis appears to worsen. Based on discussions that took place during our consultation in Nairobi, Kenya, Africa Today Associates proposes the following as measures that can greatly inform the pursuit of peace and a negotiated settlement. The recommendations include the perspectives presented by the African academics and NGO leaders who took part in the consultation, and reflect certain factors that generally have been marginalized in mainstream approaches to resolving the crisis:

1. **INCLUDE ALL AFFECTED PARTIES.** All sides involved in the conflict must be brought together, including elders, women, religious/tribal/rebel/militia/state leaders, youth, and so on for the possibility of lasting peace.
 - a. The defection of former Janjaweed members to the Darfuri cause is a good example of the individual voices that can help other parties recapture the shared memory and history of all Sudanese and Africans.
2. **FOCUS NEGOTIATIONS ON THE COMMON HERITAGE OF TRADITIONAL AND RESTORATIVE METHODS OF JUSTICE.** Those who commit heinous crimes should be held accountable in order to set precedence. Justice is required to sufficiently solve the problems of Darfur. Communities and victims must be the core of these processes with the AU and the African Court of Justice taking the lead for any legal proceedings.
3. **DEVOTE RESOURCES AND FULFILL PROMISES TO PEACEMAKING.** We must work with the peacekeeping and military forces to bring about a peace in order to address the issue of justice and increase the longevity of peace. The AU and UN (AMIS) mandate must be changed to give them true peacemaking capabilities.
4. **REIGNITE THE SHARED HISTORY.** Ethnicity and religion are instruments used to pursue other objectives. If what is salient is identified, we will be able to have a firm hold on what is the root cause of this conflict and work toward an effective solution.
 - a. There is a need to study forms of politicized ethnic violence and how the ethnic elite are manipulating genuine grievances like famine, drought, and economy within specific contexts.
 - b. If ethnicity can be manipulated negatively for conflict, how can we manage ethnicity positively to be a connector instead? Traditionally this has been achieved through intermarriage, economics, and other means throughout Darfur and Africa.
5. **INCLUDE REGIONAL POWERS.** It remains important to relate the Darfur crisis in Sudan to its neighboring countries. The inclusion of regional powers and forces is recommended because of their ability to provide valuable insight and issues in Sudan transcend national boundaries.

6. **CIVIL SOCIETY ACTION.** African civil society and NGOs are who can infuse the state with the needed political will to take action by getting grassroots mobilization. They must also keep the governments accountable to fulfill their obligations to protect their citizens
7. **ADDRESS THE ISSUES.** Without reaching a resolution on the core issues of resources and power/wealth sharing, any agreement is not likely to last or sustain a permanent peace.
8. **ACCOUNTABILITY AND IMPLEMENTATION.** Any agreement requires implementation by all signatories. This means Sudan and Darfuri groups must be held accountable to fulfill their obligations under any settlement; this begins with an immediate ceasefire by all parties. Regional and international bodies must mobilize efforts to support successful on-the-ground outcomes from any agreements.
9. **PREPARE FOR POST-CONFLICT CAPACITY BUILDING AND RECONSTRUCTION.** In long-protracted conflicts, there exist groups or generations whose livelihood, role models, and future is defined by and dependent on the conflict. In post-conflict and reconstruction alternatives must be considered and provided to those who have no other career than being a warrior. Groups like ATA can, and should, continue to play a role as liaisons in these processes.

POST-CONSULTATION ACTIVITIES

Consistent with our initial concept, Africa Today Associates will undertake various activities as a follow-up to the Nairobi consultation. These will include:

- I. *A follow-up consultation in Washington D.C.* – In Washington, D.C., our focus will be to involve the Woodrow Wilson International Center for Scholars and other interested agencies (such as Africa Action) in a similar consultation where academics and civil society members engage one on another on ways to assist colleagues in Africa in their work on Darfur. Our goal is to further identify current gaps in the peace process and clarify how American policy can facilitate and aid African leadership in a lasting peace settlement in Darfur. Findings from our meetings in Denver, Abuja, and Nairobi will serve as the foundation upon which discussions will be structured in D.C.
- II. *Presentation of findings to the public*⁶ – ATA will share findings from the Nairobi consultation with the American public through the following channels:
 - a. Presentation activities for the general public: ATA will offer a series of seminar-styled events at various higher education institutions, during which findings from our Nairobi consultation will be presented to the general public. Presentations will be undertaken with a vision to educating the public about 1) myths and realities of the Darfur crisis; 2) obstacles to peace in the region; 3) African positions regarding the role of the

⁶ Unless otherwise noted, these activities are intended for the American public. We believe this public's limited understanding of the crisis in Darfur negatively affects their willingness to mobilize and pressure political leaders to act in a manner that is conducive to the pursuit of peace in Darfur.

- international community and in particular the United States in resolving the crisis; and 4) recommended approaches to achieving a viable peace agreement.
- b. Dissemination of information at both local and national levels: ATA and its representatives will ensure that findings from the Nairobi consultation are shared with a broader audience through:
 - 1. Presentation of opinion articles to national and local media
 - 2. Posting of findings on ATA's website, which is accessible to the public
 - 3. Presentation of findings in ATA's newsletter
 - c. Dissemination of information at the international level: In collaboration with our international partners, ATA will share findings from our Nairobi consultation with various international organizations involved in the pursuit of peace and a negotiated settlement in Darfur. These include leaders and activists from the international civil society movement, foreign academics, and relevant political leaders.
- III. *Information sharing with relevant departments of the United States Government:* Based on acknowledgment that the United States government can and should play a critical role in addressing the crisis in Darfur, ATA (through its officers) will communicate with necessary departments within the US government regarding findings from our consultations. The objective is to provide information that will assist in the implementation of policies regarding Darfur that is well-informed by African perspectives.
- IV. *Collaborative partnerships with various non-governmental organizations:* ATA will share findings from our consultations with various local and national non-governmental organizations by undertaking a series of collaborative events. We believe that our findings will greatly enhance the work of NGOs that are currently working on issues related to the Darfur situation.

LESSONS LEARNED FROM THE NAIROBI CONSULTATION

Although the consultation proceeded well and all parties involved expressed gratitude for the initiative, we believe that certain aspects of the consultation could have been sharpened further. However, this did not adversely influence our ability to effectively pursue and achieve our goals. The lessons learned include:

1. *Better use of the media:* Unlike our consultation in Abuja, the local media was not utilized to disseminate information about the consultation. It is advisable for ATA and our partners to make advance considerations for media use in future events, and to ensure proper mobilization efforts prior to event implementation. We believe that the involvement of the media is critical as it ensures that the local population continues to be aware of the work that is being done in regards to the crisis in Darfur.
2. *Inclusion of relevant parties:* As stated by our participants, it is imperative to include representatives of the government of Sudan as well as the various Darfuri groups. Despite attempts to contact and send invitations, ATA has been unsuccessful in achieving the inclusion of these parties. We have been mandated and aim to resolve this in our consultation in Washington D.C.

APPENDICES

A: LIST OF PARTICIPANTS AND ATTENDEES

Presenting on behalf of Africa Today Associates are academics and advocates who have researched various issues surrounding the Darfur crisis. They are:

- Ambassador Babiker Khalifa, formerly with the Foreign Service of Sudan, providing an historical overview of Sudan's ethnic, religious, and political history and reviewing the current problems behind the conflict in Darfur.
- Dr. Kelechi Kalu, a professor at the University of Northern Colorado and the University of Denver, discussing the role of African states and the AU in peace negotiations.
- Dr. Peter Van Arsdale, a professor at the University of Denver, discussing interpretations of ethnicity and identity in Darfur and how these contribute to the difficulties of attaining a viable peace.
- Prof. Ved Nanda, Vice Provost for Internationalization at the University of Denver, developing a comprehensive legal perspective on the international obligation to protect.
- Mr. Gerald LeMelle, Executive Director of Africa Action, presenting his work on the militarization of foreign policy in Africa.

Dr. George Shepherd, President of Africa Today Associates, also prepared a paper for this Consultation which he was unable to present in person. A copy is included in the appendices.

Participants and Attendees

Ms. Anne Amadi—FIDA Kenya

Mr. F. Machira Apollos – Center for Conflict Resolution, Kenya

Dr. Usman Bugaje – National Development Project, Nigeria

Prof. Abdulla Bujra – Development Policy Management Fund, Kenya

Dr. Joe Gitari – Ford Foundation, Nigeria

Dr. Peter Kagwanja – Africa Policy Institute, South Africa

Dr. Kelechi Kalu – Africa Today Associates, USA

Amb. Babiker Khalifa— Africa Today Associates, USA

Ms. Susan Kihara – Ford Foundation, Kenya

Dr. Asfaw Kumssa – United Nations Centre for Regional Development, Kenya

Mr. Gerald LeMelle – Africa Action, USA

Mr. Harold Miller – Mennonite Central Committee, Kenya

Dr. Willy Mutunga – Ford Foundation, Kenya

Prof. Dani Nabudere – Marcus Garvey Pan Afrikan Institute, Uganda

Prof. Ved Nanda – Africa Today Associates, USA

Ms. Dorothy Ndun'gu – Nairobi Peace Initiative-Africa

Mr. Mike Ngunyi – Center for Research, Education, and Advocacy for Disabled People, Kenya

Mr. James Otto – Human Rights Focus, Uganda

Prof. Chris Maina Peter – University of Dar es Salaam, Tanzania

Ms. Jennifer Shamalla – PAN AFSTRAG, Kenya

Ms. Negin Sobhani— Africa Today Associates, USA

Dr. Ola Soyinka – National Association of Seadogs International, Nigeria

Dr. Peter Van Arsdale – Africa Today Associates, USA

Prof. Maloba Wekesa – University of Nairobi

Maj-Gen. Ishola Williams – PAN AFSTRAG, Kenya

B: ATA BIOGRAPHIES

1. Kelechi Kalu

Kelechi Kalu, Ph.D., is Professor of Political Science at the University of Northern Colorado and Adjunct Professor at the Josef Korbel School of International Studies at the University of Denver. He is the author of Economic Development and Nigerian Foreign Policy, as well as editor of Agenda Setting and Public Policy in Africa. His book chapters and journal articles have focused on African and Third World political economy, and have been published in the International Journal of Politics, Culture and Society, Journal of Asian and African Studies, Journal of Third World Studies, Journal of African Policy Studies, Journal of Nigerian Affairs, Africa Today, and The Nigerian Juridical Review. During 2001 and 2002 he traveled across the continent of Africa, visiting six nations and collecting data related to the political restructuring of post-conflict states.

2. Babiker Khalifa

Mr. Babiker Khalifa served as Ambassador for Sudan to South Korea for four years, during which time he headed a number of initiatives which improved trade relations and communications between the two countries. He previously served as Director of the African Affairs Department and Director of Information in Khartoum, and as an officer for UNOSOM in both Nairobi and Mogadishu. In December of 1988 he was promoted to the rank of Minister Plenipotentiary by the Government of Sudan. Focusing on refugee and human rights issues, during the 1980s he was active in many sessions of the U.N. General Assembly. With one M.A. in international politics and another in international relations, he currently is completing his Ph.D. at the University of Denver's Josef Korbel School of International Studies. He is Adjunct Professor at the Metropolitan State College of Denver.

3. Gerald LeMelle

Gerald LeMelle is the Executive Director of Africa Action, the oldest grassroots human rights organization in the United States whose predecessor was the American Committee on Africa (ACOA). Prior to joining Africa Action in the fall of 2007, Gerald was the Deputy Executive Director for Advocacy at Amnesty International USA from 1995 to 2007 and served as the Director of African Affairs with the Phelps-Stokes Fund from 1987 to 1995. Gerald holds a J.D. from Georgetown University. He is a member of the New York, District of Columbia, and Supreme Court Bar Associations, and, a member of the Council for Foreign Relations. He has appeared on radio and television numerous times and has been published in newspapers across the country. He lived in Africa for ten years, primarily in Kenya and Tunisia.

4. Ved Nanda

Ved Nanda has recently served as Vice Provost for Internationalization, continues to serve as Professor of Law, at the University of Denver's Sturm College of Law, and is an Evans University Professor, Marsh Law Professor and Director, International Law at the University of Denver. He is Honorary President World Jurist Association, Honorary Vice-President International Law Association–American Branch, former Honorary Vice President American Society of International Law and council member American Bar Association International Law Section. For the United Nations Association he served as United States Delegate to the World Federation and on the Board of Directors. Nanda holds honorary doctorates from Soka University (Japan) and Bundelkhand University (India). He has authored 23 books and over 180 chapters and major law review articles.

5. Negin Sobhani

Ms. Negin Sobhani holds an MA in International Studies from the University of Denver and did her undergraduate work in Political Science at the University of Colorado in Denver. Ms. Sobhani, whose research interests focus on the Middle East and Africa, has conducted research on the Arab-Israeli conflict, American foreign policy in the Middle East, Indian immigration to East Africa, the role of the African Union in peace negotiations, and a thesis work on nationalism and identity of the Kurds of Iran. She has served as guest editor and writer for Iran's International Studies Journal since 2005 and served as an intern for the United Nations Information Centre in Tehran. She is a Program Assistant and Treasurer with ATA.

6. Peter Van Arsdale

Peter Van Arsdale, Ph.D., is Senior Lecturer at the Josef Korbel School of International Studies at the University of Denver. In this role, he also has served as faculty advisor to the Center on Rights Development (CORD), and as director of the department's new Program in Humanitarian Assistance. Trained as an applied cultural and medical anthropologist, with a sub-specialty in refugee studies, Van Arsdale has conducted fieldwork in a number of locations, including Sudan, Ethiopia, Indonesia, Bosnia, Peru, and El Salvador, and has just helped initiate a program in East Timor with Nobel Peace Laureate José Ramos-Horta. The author or editor of six books, his most recent is Forced to Flee: Human Rights and Human Wrongs in Refugee Homelands. One chapter in this publication deals with the crisis in Darfur.

C: CONSULTATION SCHEDULE

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D: PRESENTATIONS AND FINDINGS OF RESEARCH SPONSORED BY AFRICA TODAY ASSOCIATES

Conflicts in Sudan: The Darfur Crisis, War, and Conflict in South Sudan

Future Prospects for Peace Settlements, Political Change, Restoration of Democracy, and Promotion and Protection of Human Rights

Babiker Khalifa

Former Ambassador to Korea, Government of Sudan

I: Introduction, Background & General Information

I will start my presentation by highlighting basic facts about Sudan. Sudan is located in Northeast Africa and is the largest country in Africa & the Middle East. In fact, Sudan is the tenth largest country in the entire world. It is as large as the whole of Western European countries combined. The area of Sudan is about 2.5 million square kilometers, or 1 million square miles. The Sudan is very rich with natural resources and has huge potential resources particularly oil. Oil exploration and exportation in Sudan started in 1999 and currently the country produces 650,000 barrels. By the end of 2008, the production of oil is expected to reach 1 million barrels per day. The country has other mineral resources such as gold, copper, etc. It also has large water resources from the Nile River, the rain and ground waters. Furthermore, the Sudan has extensive arable agricultural lands of 500 million square acres. The Sudan produces cotton in the Gezira Scheme which is the largest cotton production scheme in Africa. Sudan is the leading producer of Arabic gum and produces 92% of the world production of that product.

The population of Sudan is estimated as 35 million people and the population growth is 2.7% annually. Sudan is a multicultural and multiracial country of mixed ethnicity. The people are Hamatics, Nilotics, Negroids, Sudanic, Nubians, Arab Semitic, etc. The Sudan is also a multi-religious country, predominately Muslim as 75% of the population are Sunni Muslims. There are also Christians in the Northern part of the country mainly Orthodox Coptic's, and Christians in Southern Sudan, mainly Protestants, Catholics, Anglicans, etc. According to the World Council of Churches, the Christian population in Southern Sudan is estimated to be 18%; the Muslim 17% and the rest of the 65% population belong to African religions and beliefs. In Sudan there are 500 tribes and 200 languages. Arabic language has become now the Franco Lingua, the official language in the country and is the medium of communication between people of different tribes and ethnicities. In Southern Sudan Juba Arabic is the language of communication of people from different tribes.

The GNP of Sudan, the per capital income is 400 US dollars; however it is expected to increase after enhancement of oil production and exportation.

II: Location & Information on Darfur

Darfur is located in Western Sudan and is bordered by Libya to the North, Chad and Central African Republic to the West. Darfur's land area is as large as that of France and the population is estimated to be 7 million people. In Darfur there are more than 70 tribes, some of them claimed to be of African and the others of Arab origin and descendants. Darfur region is potentially very rich and there are huge oil resources, copper and uranium.

III: Conflict & War in Southern Sudan

The oldest conflict in Sudan was the Southern Sudan conflict. The civil war in South Sudan was the longest civil war in Africa, starting in 1955 one year prior to the independence of Sudan in 1956 from the British and Egyptian condominium colonial rule. The first civil war continued for 18 years. The successive governments of Sudan particularly the Military government of General Abboud which took power in November 1958 for 6 years tried to solve the South Sudan conflict by military means and consequently failed. After October 1964 popular uprisings, the democratic regime established peaceful solutions and a round table conference started negotiations between the government and the Southern Sudan rebels. The peaceful attempt was interrupted by General Numeiri military coup of May 1969 which was organized by the Sudanese Communist Party. However, General Numeiri's government for the first time recognized the South Sudan problem and differences between the North and the South contrary to previous governments which refused to admit to the presence of any problems and rejected any regional or international intervention to solve it and considered the whole issue as domestic affairs of Sudan.

In 1972 with the mediation of the World Council of Churches, the Pope of the Vatican and Emperor Haile Selassie of Ethiopia and some other leaders, the Addis Ababa Accord or Agreement was reached and it brought peace to Southern Sudan which last for ten years and the South obtained regional autonomy. However, after ten years and ironically Numeiri himself who brought peace to South Sudan, was the one who introduced the main causes for the collapse of peace in 1983 by imposing Islamic Sharia laws and by redistributing the South of Sudan from one autonomous entity into three regions to weaken the ultimate hegemony of the Dinka tribe which is the largest tribe in the South, over other Nilotics and Non-Nilotic tribes. It was true that the minority tribes, particularly those of Equatoria convinced General Numeiri to make such decisions in order to diminish the hegemony of the Dinka and he took that step without consulting the Regional Council or the Regional Assembly of South Sudan. These decisions of General Numeiri were the main reasons behind the second civil war in South Sudan and the rebellion of May 1983. The civil war was resumed in 1983 and in 1989 the Sudan Democratic Government was overthrown by General Omer Al Bashir military coup which was initiated by the Islamic National Front.

The military Islamic government at the beginning attempted to suppress the South Sudan rebellion and civil war by mere military means. In fact, the Islamic government introduced a new dimension of the jihad or holy war to the conflict in South Sudan by giving the conflict a religious dimension and by recruiting Mujahideen to fight in holy religious war against the non-Muslim in the South of Sudan.

However, they failed to solve the problem militarily or through the jihad war, and for the first time the government of Sudan accepted regional intervention. In 1993 the government of Sudan accepted IGAD (Inter-Governmental Authority for Development) a sub-regional organization whose membership include Sudan, Somalia, Ethiopia, Eritrea, Djibouti, Uganda, and Kenya to intervene and mediate to reach a resolution for the conflict of Southern Sudan. A breakthrough was reached through the efforts of IGAD member countries and IGAD partner countries which include the United States of America, the European Union, Canada, and Japan. The breakthrough started with the historic meeting between General Omer Bashir, the president of Sudan and the late John Garang, leader of the SPLM (Sudan Peoples Liberation Movement) in Kampala, Uganda in July 2002, which was followed by three years of intensive negotiations and consultations in Mashakos, Nivasha, and Nairobi.

Those consultations and negotiations were crowned by Mashakos Protocol for self-determination through a referendum in which the people of Southern Sudan decide either unity or secession. It was for the first time that the government of Sudan accepted and agreed to the idea of self-determination, because the African countries in 1963 in Addis Ababa agreed to accept and respect the boundaries inherited from the colonial rule and not to open a Pandora's box for similar claims of self-determination in other African countries.

I believe that because of the long civil war and the struggle of the Southern Sudan liberation movement the government of Sudan was forced to accept a referendum for self-determination which will take place in 2011 to decide either unity or secession of the South. A transitional period of six years started in January 2005 after signing the peace agreement in Nairobi, Kenya. In early 2009 a general election in Sudan is expected to take place to elect the president of the Sudan, the National Assembly, the Governors of the states and the Regional Assemblies, all in direct democratic and free general elections. Also other marginalized areas of the Nuba Mountains, the Southern Blue Nile and Abieye will be given special attention in the self-rule and democratic process. The Comprehensive Peace Agreement which was signed in Nairobi, Kenya in January 2005 was witnessed by Foreign Ministers of the United States of America, some European countries, the Secretary General of the United Nations and others. Today the Southern Sudan has its own government, a regional assembly and a president who is at the same time the first vice-president of the entire Sudan.

According to the Comprehensive Agreement there are certain security arrangements regarding the continuation of the militia of the South Sudan Liberation Movement and the presence of the governmental troops, as well as the sharing of power and wealth. If we compare the Nairobi Comprehensive Peace Agreement of 2005 with the Addis Ababa Agreement of 1972 which brought peace to the South of Sudan for ten years, the Nairobi agreement was witnessed and recognized by the United Nations and observed by the presence of 10,000 UN peacekeeping troops in the South of Sudan. The Nairobi agreement was also witnessed by the United States and other European countries, while Addis Ababa Accord of 1972 was only witnessed by Ethiopia, The World Council of Churches and was never deposited at the UN or the OAU (Organization of African Unity).

The Nairobi Comprehensive Peace Agreement of South Sudan today faces challenges and threats and might therefore collapse. The basic threats to the agreement are the problematic issues of Abeiye, the demarcation of the boundaries between the North and the South of Sudan as well as the presence of the militias and the government troops in the South. The lack of confidence, mistrust, and absence of wisdom as well as lack of political will might lead to the collapse of the peace agreement and resumption of hostilities and the civil war. There is a commission established by Nairobi Agreement to solve Abeiye dispute, but the government refused to accept the outcome of the said commission enquiries and decisions that Abeiye belongs to the South. Still there are problems of the demarcation of the boundaries, presence of the militias, and government forces in Southern Sudan.

The issues of disarmament, sharing of the oil revenues within the sharing of wealth are also threats to the peace agreement. Recently the conflicts had escalated between the ruling partners of the government of unity as the ruling party of the Islamic National Congress and its Southern partner, the Sudan Peoples Liberation Movement Party exchanged accusations and threats thus resulting in fighting and therefore the SPLM withdrew its participation from the government of unity. The tension reached its climax when the president of the South, who is also the first vice president of Sudan, General Silva Kiir mentioned their readiness to go back to fighting and resumption of the civil war. At the same time president Omer Bashir declared that his government is ready for any development that might happen including resumption of fighting or war in Southern Sudan. President Bashir also ordered the reopening of the popular defense camps and recruitment of Mujahideen.

In order to maintain and preserve the peace agreement the two partners should give priority to peaceful settlement of all differences and in accordance to the Comprehensive Peace Agreement. Furthermore, a census should be conducted this year 2008 for preparation to the general election and the self-determination referendum of 2011. I believe that respect to the peace agreement is not only important and crucial, but also vital and fundamental and it is the first responsibility of the two signing parties as well as those who witnessed the signing (USA, UN, EU, and others) to pressure each side to contain themselves.

No one wants the resumption of fighting or war to erupt, although it is true that some opposition political parties in North Sudan believe that the Islamic National Congress, the ruling party has neglected them and did not consult them on a crucial national matter, and some of the them also believe that self-determination of the Sudan had already been taken care of when the country got its independence in 1956 and consequently, the South should never be given the right to self-determination. I think it is better to grant self-determination to the people of South Sudan and to conduct a referendum in which the people freely decide unity or secession according to their will. And if they choose secession, perhaps it may be better to have two neighboring countries living in peace rather than one country that is in fact divided and would inevitably resume to civil war and further strife.

IV: The Darfur Crisis

In February 2003, two armed groups, the Sudan Liberation Army (SLA) and the Justice of Equality Movement (JEM), launched attacks on government administrative centers, police stations and civilians in El Fashir, capital of Northern Darfur. The government of Sudan responded vigorously and the conflict escalated causing a humanitarian crisis. Since the international community was alerted to the humanitarian crisis in Darfur from early 2004 onwards there has been an attempt by the United States government and certain sections of the Western media to portray the Government of the Sudan not only as being solely responsible for the crisis, but deliberately committed genocide towards the black African peasant farmer tribes by nomadic Arab tribes. In August 2004, for example, the United States Congress unanimously adopted a resolution labeling the situation in Darfur as genocide. Former American Secretary of State Colin Powell, responding to domestic pressure from conservative and anti-Islamic constituencies, alleged in front of the Senate Foreign Affairs Committee genocide has taken place and may still be continuing in Darfur and as a result, events in Darfur were compared to the atrocities in Rwanda in 1994. In addition to the claims of genocide there are other accusations that that government of Sudan is preventing humanitarian access to Darfur by UN aid organizations such as the World Food Program and other non-governmental relief groups and that the Sudanese government was carrying out genocide by famine or by other means they wished to hide from the international community.

V: Causes of Conflict in Darfur

Traditional tribal conflict between Nomadic tribes and Sedentary Agriculturalist:

Most of the nomadic tribes claimed to be Arabs or of an Arab origin. In the North part of Darfur the nomadic people are “abballa” or camel herders, while those in Southern parts of Darfur are called “baggara” or cattle herders. Most of the sedentary people claimed to be African or of an African origin and most of them were settled sedentary people and agriculturalist that practice agriculture and cultivate crops. It is true that most of the tribes in Darfur were mixed through intermarriages and migration. During dry seasons the nomadic herders who are seeking for water, grazing and fodder for their animals attack the sedentary agriculturalist. Tribal councils used to mediate for reconciliation and compensation to settle disputes and fighting between the different tribes. It is also true that the tribal fighting between the tribes occurred even between the Arab tribes among themselves such as the historical conflict between the Rizigat and the Maalia

The abolishment of local tribal leadership:

As I have mentioned above in *section A* the local traditional tribal councils used to settle disputes between different tribes through the process of mediation and compensation as the tribal people respect the decisions of their tribal councils. In 1970 during Numeiri rule, the government which was controlled by the communist party and socialist slogans decided to abolish the tribal traditional local authority and replaced them with university graduates, local inspectors as government administrators in an attempt to modernize the local governing system and because they considered the local traditional

tribal rule as a sign of feudalism and reactionary. The abolishment of the tribal traditional councils had weakened the role of the tribal traditional leaders and their influence to settle disputes through arbitration and compensation.

The Weak Presence of the Government:

The role of any effective government is the protection of the lives and properties of the people. The people in return should pay taxes and give respect and allegiance to the government. Since 1986 the Democratic government of Sadiq AlMahadi failed to provide the people of Darfur with protection for their lives and properties as the armed robberies spread in all direction over the Darfur region. In fact, the government encouraged the tribes in Darfur to protect themselves through their own means and by the establishment of different tribes to their own militias including the establishment of the current Islamic government of the Sudan to the jajaweed militia from Arab tribes, first fight in the Jihad war in the South and second to combat the Darfur rebels.

Severe Droughts:

Severe droughts struck the belt of the Sudano-Sahillian periodically. These droughts adversely affected the Darfur region and forced Nomadic tribes seeking water and pastures for their animals for more attacks against the sedentary agriculturalist people and their villages.

Influx of Weapons:

Civil wars in Sudan's neighboring countries (Chad, Central African Republic, Congo, Uganda, Eritrea, and Ethiopia) caused influxes of cheap and sophisticated weapons from those neighboring countries, particularly machine guns and most of the militias found it easy to arm their members. Now one of the difficulties which face the United Nations peacekeepers is the disarmament of those militias including the janjaweed.

Desire for Sharing of Power and Sharing of Wealth:

The political and military opposition in Darfur (Sudan Liberation Army, SLA) and the (Justice and Equality Movement, JEM) are fighting the government to reach a similar peace agreement like that of the Southern Sudan for sharing of power and sharing of wealth.

Conflict between the center and the periphery:

The center in Khartoum the capital of Sudan and the government is completely controlled by the National Congress Party, the ruling party. Darfur, which is a periphery, feels marginalized and neglected. Lack of even development, services, education, etc, lead to the calls for justice and equality between the center and the marginalized periphery and for equal distribution of wealth and sharing of power. It might reach its climax by calling for self-determination similar to South Sudan within a Comprehensive Peace Agreement.

Acquisition of Land:

Darfur region which is as large as France has a vast amount of natural resources. The whole region is floating on a lake of oil and uranium, beside extensive reservoirs of ground water. The conflict on acquisition of land was traditionally on the pastures and grazing areas, however now it includes every area, particularly those potentially rich areas. Currently there are accusations that the government is bringing Arab nomadic tribes as migrants from Niger and give them lands in Darfur within its attempt to change the nature of the population balance in favor of the Arab tribes.

Foreign Involvement:

The United States of America is the only country which described the war in Darfur as genocide, however President Bush decided not to intervene unilaterally nor did he convince NATO to intervene in Darfur so as to avoid any accusations that it is a new crusade or new form of colonialism. In addition, some believe that the U.S. considered the government of Sudan as an effective partner in collaborating to combat terrorism, particularly the fight against Al Qaeda and Osama Bin Laden. Ironically the government of Sudan is still on the list of those countries considered by the U.S. as supporting terrorism. Germany is obviously still very sensitive to its own recent record as a country that actually did carry out genocide. Germany's position is also somewhat questionable as several leaders of the two Darfur rebel movements especially the Justice and Equality Movement, live in Germany and run their activities from that country.

There is no doubt that the British have by far the best understanding of Sudan and Sudanese affairs, but their close association with the U.S. in both good and bad situations and because of their relationship can sometimes drastically restrict their room for maneuver. China's presence in Darfur and the Sudan as a whole is mainly as an oil explorer, extractor and producer. Its economic interest in Sudan's oil and other minerals is at the top of its priorities. That is why China is always in support of the government of Sudan to serve its own economic interest.

France historically has interest in the Francophone ex-colonies particularly Chad which neighbor Darfur. Other African neighboring countries such as Egypt, Libya, Chad, Central African Republic, Eritrea, etc, have their own hidden and proxy interests and agenda in Darfur.

VI: Consequences of Conflict in Darfur

What is happening in Darfur is it genocide or ethnocide?

Genocide is distinguishable from all other crimes by the motivation behind it. Genocide is crime on a different scale to all other crimes against humanity and it implies as intention to completely exterminate the chosen group. Genocide is therefore both the gravest and greatest of the crime against humanity. I do not want to indulge in a debate whether what is happening in Darfur is genocide or not, however what is a significant fact to reiterate is that the United States is the only country which refers to the crisis in Darfur as genocide. It might be more appropriate and has more weight if such a definition or

labeling is given by a multilateral institution such as the UN and not only by a single country. However, whether it is genocide or ethnocide, what is happening remains to be a crime against humanity.

The consequences of the war in Darfur could be summarized in the killings and deaths of many thousands of innocent people, rapes against women, creation of hundred thousands of refugees, increase of internally displaced persons, famines and hunger, destruction of the environment and last but certainly not least the hindrance of development which means the lack of socio-economic, political and human development.

VII: Suggested Solutions for Darfur Crisis

The current conflict in Darfur is complex, caused by a host of political, social, economic, and environmental problems. The result is a humanitarian crisis affecting millions of people and their basic needs, including food, shelter, water, and sanitation facilities. Darfur conflict which erupted in early 2003 has resulted in hundreds of thousands of people who were killed among the various fighting factions and displaced more than 2 million, most of them escaping to larger towns where they stay in camps as internally displaced persons or crossed the border into Chad where they lived in refugee camps straining local resources. Attacks on civilian during the conflict have been brutal and including burning of homes, killing and beatings as well as rape.

Attempts to reach solutions to the conflict starting with the partial Abuja, Nigeria Agreement and ending with CERTE, Libya peace talks, failed to reach a comprehensive peace agreement to the Darfur conflict. However, the following are some steps and suggestions towards reaching the ultimate goal of achieving peace and comprehensive settlement to Darfur crisis.

Adoption of peaceful means to end crisis:

Failure of military solutions to end Darfur crisis should emphasize the importance of peaceful settlements of the conflict as the two sides of the government and the rebels failed to achieve absolute victory. All the warring and conflicting parties should adopt peaceful means to achieve a comprehensive settlement through negotiations and respect and adherence of the ceasefire agreement.

Unity among All Darfur Factions:

Within the spirit of Abuja Agreement and Arusha Consultation, all Darfur rebel factions and political movements should unite their efforts in future negotiations with the government of Sudan to reach a comprehensive, just and lasting peace agreement.

Power & Wealth:

Sharing of power and wealth by reaching a comprehensive peace agreement is most crucial to the establishment of peace in Darfur. The peace agreement should also include the adoption of a genuine Federal System, regional autonomy or even self-determination if it is the wish of the people of Darfur.

Furthermore, natural resources and wealth of Darfur should be used to achieve the overall development of the region.

Strengthening Roles of Civil Societies:

National, regional, and international civil organizations and societies have to be strengthened to exert more pressure on all parties to promote and protect human rights of the peoples of Darfur and to end the crisis.

Conduction of more consultation inside Darfur on basic issues:

There are important issues which need more consultation among the Darfur factions themselves in order to strengthen their skills of negotiations with the government. These basic issues include: ownership of land, rights of grazing, traditional tribal administration, cessation of hostilities, appointment of right representatives who protect interests of different groups to participate in peace talks and negotiation with special attention to the participation of women.

VIII: Common Basis, Strategies, and Participation:

The United Nations and other mediators should encourage the different Darfur rebel factions in fulfillment of Arusha Conference recommendations and Juba conference to unite and have common basis, strategies and participation in all future negotiations.

A New Ceasefire Agreement:

Priority should be given for a New Ceasefire Agreement at the beginning of the comprehensive negotiations and to be followed by the establishment of a common committee which includes all signatory parties, and the ceasefire to be guaranteed by the involving regional and international organizations (AU/UN) which will take decisions and responsibilities to supervise the implementation and other arrangements on signed parties including violations and investigations of ceasefire agreement. The new ceasefire agreement should consider all the shortcomings of N'Djamena ceasefire agreement.

Active participation of Regional and International Organizations:

The active participation of the United Nations Organization and the African Union representatives is very crucial to enhance consultation and negotiation as well as the roles of regional and international partners to mobilize efforts to support successful outcome and a comprehensive, lasting and just peace agreement

IX. Peacekeeping, Peacemaking and Post-Conflict Resolutions:

The international community particularly the African Union and the United Nations should fulfill their commitment for peacekeeping and peacemaking and post-conflict resolutions in Darfur in accordance with the UN Security Council resolutions, including the rehabilitation, resettlement, stability and

development of Darfur. This also includes the importance of the role of the International Justice Institutions and trials and convictions of perpetrators who commit crimes against humanity.

Impact of Comprehensive Peace Agreement in Southern Sudan to Darfur Crisis

The rebel factions of Darfur adopted the same approach of the rebels of South Sudan in fighting the Sudan government. Darfur similar to the South of Sudan has been marginalized and neglected for a long time. The Darfur rebels call for a similar comprehensive peace agreement for sharing of power and sharing of wealth in Darfur. A similar comprehensive agreement should reflect the importance of the establishment of a true federal and democratic system in the multiracial, multicultural and multi-religious Sudan. By true Federalism, I mean a system in which the governors of the 25 states of Sudan have to be elected directly by a referendum. Also, the president of the country should be elected only for two terms. General elections should be conducted freely and democratically for the national Assembly as well as the regional assemblies. With such political changes human rights can be respected, promoted and protected.

X: Concluding Remarks

Darfur conflict has many dimensions, national, regional, international, as well as environmental factors such as the severe drought and the encroachment of desertification which motivated the conflict between the nomadic tribes and the sedentary established farming communities. Darfur is the home of more than 70 tribes and ethnic groups divided between the Arab Nomads and African Sedentary communities. The rebels appear to have been divided within two or three communities such as the Fur and Zaghawa tribes which are living in between the borders of Sudan and Chad. The activities of Nomadic Arab tribesmen known as the Janjaweed has come into sharp focus and it is claimed that they were sponsored and armed by the government of Sudan. However, the government of Sudan has denied the allegation. It is unclear how much control anyone has over the Janjaweed and whether they are lawless bandits or groups organized by the government of Sudan to fight the rebels. However, the scarcity of reliable and accurate information on Darfur has been noted and recognized by the international community and consequently makes it difficult to reach a genuine analysis to the conflict in Darfur thereby hindering its solutions.

Ethnicity as a Basis of Rebellion and Division in Darfur

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I. Introduction

“The *janjaweed*’s acts aren’t human. They’re committing genocide in Darfur, absolutely.” This statement was made to me by a Masalit tribesman from Darfur. Having escaped several years ago and made his way to Denver as a refugee, he has become an eloquent spokesman for those still struggling in western Sudan and Chad. A friend of this man, also a refugee from Darfur, told me what had happened to his college classmate. A bright student, she had excelled at college in the town of Nyala. When he fled, he lost track of her. Through a colleague, he later learned that she had become pregnant and a few months later had been captured by the horseback-mounted raiders known as *janjaweed*. As an apparent “rite of passage,” one *janjaweed* youth – earlier chastised for his lack of aggression – had chosen her as his victim. He killed her, slit open her belly, and removed her fetus. He then impaled it on a spear, to the acclaim of his fellows. In another report, relayed to me by the same person, another woman whom he had known also had been killed in western Darfur. She was hastily buried by members of her family. The next day, in an attempt to further terrorize the village, several members of the *janjaweed* dug up her body and decapitated it.

Drought, famine, and civil war represent the interactive array of ecological, socio-economic, and political factors at play in western Sudan. Hundreds of thousands of refugees and IDPs have been created from 2003 through 2007 – not a new phenomenon in the region when viewed historically. During the same short period, perhaps 300,000 people have become casualties as a result of predations, social upheaval, and resource scarcities. During the past 20 years, as many as two million Sudanese throughout the country have died under duress or been killed.

This paper develops the theme that, in Sudan as elsewhere, state-wide systemic dysfunction can lead to rebellion and genocide. A consideration of ethnicity, as well as long-term resource exploitation strategies, is essential. What roles do ethnic groups play? How are these groups defined? How are factions created? How are alliances maintained? While ethnicity certainly does not *cause* genocide, its role must be considered.

II. The “Ethnic Landscape”

“The landscapes of Darfur are drawn on a vast scale” (de Waal 2005: 33). Darfur is approximately the size of Texas. Before the genocidal depopulating crisis associated with the current east – west civil war, its population was estimated to be about six million. The population had grown fairly rapidly during the 1980s and 1990s. Virtually all are Muslims, nominally if not in daily religious practice. Virtually all Muslims in Darfur represent either Sufi or Mahdi affiliations, or both.

To comprehend the genocide in Darfur is to comprehend this landscape, the diverse peoples who inhabit it, and the limited resources they share. As ethnicity is considered, what emerges of particular importance is the interplay of transhumant (semi-nomadic) and sedentary peoples, an at-times collaborative but also tension-filled dynamic which has proven to be the crux of the recent genocidal crisis.

Among analysts who have considered the topic broadly, Michael Moorman emphasizes that ethnicity is *negotiated*. Susan Padilla stresses that ethnicity is *fluid*. Samantha Power suggests that ethnicity is not something you have, but rather something you get and *something you manipulate*. While tying ethnicity to identity, Ruth Krulfeld notes that the link is *dynamic*, not static. A Darfur villager stated it as well as anyone: *Conflict defines origins*.

“Open your heart. Awaken your mind.
You are in flux, your dull husk blind
to the light of your self.”
The poet al-Sadiq al-Raddi

Citizens, not Tribesmen

Darfur means “land of the Fur.” Diverse yet amorphous ethnic groups inhabit this region. Old-school anthropologists and ethnographers referred to them as “tribes” as they attempted to sort, categorize, and describe their cultures and customs. However, as Alex de Waal (2005) emphasizes, the peoples of this region cannot be categorized readily into “tribes” or even “peasantries.” He believes it is better to refer to them as ethnic groups (while noting their permeable cultural nature) or even by a simple, all-encompassing term: “citizens.”

The fluid nature of ethnicity also is emphasized by Gérard Prunier (2005), who has authored the single most comprehensive historical analysis yet of the situation leading to the atrocities in Darfur. Since the founding of the Sultanate of Darfur in the 14th century, a swirl of independent political operations combined with assimilationist practices, forced displacement, and slave-raiding created a region both rife with problems and rich in prospects. Processes of Islamization were penetrating, stabilizing, and nominally all-encompassing. Mahdist revitalization movements reaffirmed the importance of indigenous religious leaders. Colonial benign neglect under Anglo-Egyptian condominium rule contributed to the marginalization of the region; neo-colonial marginalizing practices since independence was gained in 1956 have continued to the present.

Field research in which I participated during 1979 and 1980 allowed us to derive a partial ethno-demographic profile of Darfur. In addition to Nyala (then the largest city in southern Darfur) and El Fasher (then the largest city in northern Darfur), we visited smaller places with names like Habeila, Kutum, Mellit, Tawesha, and Rahad El Berdi (this last settlement being discussed below). Like most of the other villages and towns in the region, at the time of our visits these latter five ranged in size from about 3000 to 12,000 persons. Many grew in subsequent years, several of these in turn laying claim to the unofficial title of “growth center.” Where water resources allowed, gradually expanding populations

of sedentary and transhumant peoples alike continued to take advantage of surprisingly large expanses of unused arable land. Residents of many settlements we studied called themselves Fur. Others classified themselves as Masalit, Zaghawa, Hawazma, Habannia, and by other ethnic labels. Ancient ancestries suggest ties to such diverse locations as Nigeria, Tunisia, and the Red Sea coast. Recent migrants come from Chad, Mauritania, Mali, and Niger.

Using the Fur as the prime example, they illustrate both ethnic fluidity and cultural complexity. Since neither their language nor religious practice can be used to readily categorize them, their pattern of livelihood becomes the *de facto* key to distinguishing them. Yet this is complicated. Many are farmers. Some are livestock herders. Some are both. Of those who maintain herds of cattle, some have been labeled as “Fur el Baggara” owing to their connections – putative and real – with “traditional” Baggara cattle Arabs, who themselves are not easy to categorize ethnically. To use a different example, it is possible to meet a member of the Berti “tribe” who also is “Fur” and “Baggara.” Adoption of a migrant into a group also occurs with relative ease. One’s current community membership usually is deemed more important than one’s ancestry. Indeed, the original Fur state was founded by its indigenous residents on the principle of ethnic assimilation (de Waal 2005: 48).

Scattered amidst these peoples are others who are immigrants or itinerant traders. I met truck drivers from Libya and livestock herders from Chad. Some cross the international border on a regular basis with papers; some cross on a regular basis without papers. The so-called “annual orbits” of herders can span hundreds of miles; several of the most well-established cross the borders between Sudan, Chad, and Libya.

While there are extraordinarily poor people, there is not a class of landless laborers. While there are farmers who struggle to meet the minimal subsistence requirements of their families, there are not large numbers being dispossessed of their lands through established legal channels. Indeed, a system of usufruct theoretically assures that those who continue to till their lands can keep them. Even those without formal records noting established patterns of use can pass their lands to their descendents legally.

It is not a simple matter to categorize these citizens as either “villagers” or “nomads.” However, this dichotomization is frequently used (Khalifa 2006). In a now-classic study within Sudan, Ahmed (1976) effectively categorized herding into pastoral nomadism (involving herders who regularly move with their families in search of pasture and water), semi-nomadism (involving those who leave part of their family in the *dar* while the remainder move in search of pasture and water), and transhumance (involving the pastoralism practiced by sedentary people whose primary economic activity is agriculture). Many people who regularly dwell in villages, such as the Berti, maintain herds of livestock which require occasional movement as new pasturage is sought. Many people who regularly move with their livestock, such as Baggara “cattle Arabs,” maintain residences in villages. Some even split their families into two units, one which is “more mobile” and one which is “more sedentary.”

It also is not a simple matter to categorize these citizens by their skin color, although this system is frequently used. Numerous classification schemes – some benign, some racist – have been attempted over the past several centuries (Prunier 2005). So-called Hamitic Arabs are said to be lighter skinned, and so-called Black Africans are said to be darker skinned. The blackness of some Fur is said to be “blue” because it is so intense. The term *zurga* for “blacks” is used in a derogatory manner (Power 2004: 61). As Chehade (2005) correctly emphasizes, in Sudan “being Arab” refers less to one’s physical appearance and more to one’s “state of mind.” Further, the recent conflict has not been about religion *per se*. Virtually all of those involved are Muslims. It is, in part, about the beliefs and practices of those who are Arabized Muslims and those who are non-Arabized Muslims.

Therefore, what is important is not so much one’s ethnic label as one’s means of livelihood. To paraphrase Alex de Waal (2005: 51), economic necessities override cultural imperatives. As it plays out within Darfur in sedentary but especially transhumant situations, this amalgam of socio-economic activity clearly illustrates what I elsewhere have referred to as adaptive flux (Van Arsdale 1989: 72). It can be defined as that set of short-term tactics and long-term strategies that enable a group’s survival under fluctuating, harsh and erratic conditions in an area that is socio-economically peripheral in relation to the state’s core. Adaptive flux reflects a group’s own self-help capabilities and motivations; externally-derived strategies (and thus dependencies) are not central. The concept is particularly applicable to those who are able to “cope successfully with deprivation – in its interactive ecological, economic and political manifestations” (Hailu et al. 1994: 23).

III. Promises and Problems of Development

“Since 1985 Darfur had been a time-bomb waiting for a fuse” (Prunier 2005: 86). Darfur’s basic problem is one of resources, compounded by an ineffectual and oppressive state political system, itself more reactive than proactive in dealing with resource constraints. As I witnessed 25 years ago, and as is still seen today, there is tremendous tension between the centralizing tendencies of the Khartoum government and the decentralizing tendencies of the remote regions. A type of core – periphery relationship exists. Political forces are extremely imbalanced; the marginalization of peoples not linked to the Khartoum elite is significant. Power is exerted centrifugally from the core, while those in the periphery react centripetally. A swirl of ethnic identity plays out on this landscape, but it is only of secondary importance to the political economy. In Sudan’s ethnically diverse society, diverse viewpoints are unwelcome. In Sudan’s periphery, economic survival is paramount.

PetroChina Company, Ltd., has expanded its petroleum holdings in the country. Natural gas resources in the western regions still are being investigated. Mineral resources in Darfur are thought to be modest; some copper deposits have been discovered. China’s role in Sudan is seen as dominant, in no small part because it is the world’s second largest consumer of crude oil. On average, 14,000 new cars hit the road in China each day. An additional 52,700 miles of highways will be laid in that nation in the immediate future (O’Grady 2007).

Ecological Transitions and the Impacts of Famine

From an historical perspective, it is very difficult to pinpoint a specific time period or series of events which led to the contemporary crisis in Darfur. Nor is this necessary. A systems perspective affords a comprehensive, interactive, and more appropriate analytic framework. Stated differently, it is not “a series of events” that are to blame, but rather, a dysfunctional system. Yet extreme events like genocide are tied to human motivations and decisions, intimately linked to the system, and cannot be minimized or explained away. Human culpability must be emphasized.

Consistently low rainfall and drought-like conditions during the 1970-1985 period set the stage for ecological transitions – and political tensions – that have persisted to the present day. Our earlier field research indicated that the major land use problem in Darfur has been tied to overcrowding in some areas. This is a seemingly paradoxical situation given the scarcity of available resources and low population density overall. Deterioration of both crop and grazing lands has been occurring for decades in these areas (PRC Engineering Consultants 1979). The relative paucity of potable water, in concert with polluted *hafir* (mini-reservoir) supplies, has been exacerbated by livestock herd growth which puts increasing pressure on water and grazing resources. Increased herd size is promoted by citizens as a buffer against the vagaries of drought and famine.

Favorable climatic conditions during the 1950s allowed the expansion of agricultural activities through much of the Sahel. As mechanized farming techniques were introduced, these lands were converted in ways not readily amenable to “adaptive retreat” when climatic conditions worsened (Hutchinson 1989). Gradual incursions by pastoralists such as the Kababish into previously “untapped” lands were less problematic when drought was not present, but extremely problematic when drought returned.

Further exacerbating the pressures on the socio-economic structure were the influx of refugees from Chad during the 1980s (Van Arsdale 1989: 66), which followed influxes of the early 1970s. Although the flow dramatically decreased as strife between Libya and Chad was brought under control, it can be inferred that the secondary impacts associated with the refugees’ initially disruptive influence on Darfur’s socio-economic structure never fully subsided. Wage labor demands were especially severe. In a real sense, the last Chadian refugee exodus from west to east was replaced years later by the recent exodus of Darfurian refugees from east to west.

Famine is a political – and politicizing – process. While in one extremely important way it refers to the systematic lack of food and nourishment for a population (Cuny 1999: 1), such that suffering and death might ensue, in another way it refers to a complex of political, ecological, and economic factors that impair a society. Impairment in Darfur indeed has taken place.

Rahad El Berdi

In 1979 I visited the Darfur town of Rahad El Berdi. At that time it had a population of about 12,000. Our field reconnaissance, focusing on water resources, was conducted in concert with local Sudanese. Our preliminary assessment indicated that the town had the potential to be a primary “growth center” (PRC Engineering Consultants 1979: Table I-4). Complemented by a contingent of merchants, most of the residents were Fur farmers. Their primary crops were millet and sorghum. Garden produce also was important, and relatively abundant.

The average annual rainfall during the late 1970s and early 1980s was about 25 inches in this area (de Waal 2005: 83). While some 15 percent less than the longer-term average, it was deemed adequate by those we spoke to. A relatively lush environment and good soils afforded better growing opportunities, and thus, better opportunities for employment. Migrants from other parts of Darfur came to Rahad El Berdi to obtain work as laborers. Camel herders also arrived seasonally, further complicating the pattern of resource use and decision-making among locals (cf. Reeves and Frankenberger 1981).

When we arrived we found that tensions were high. Baggara cattle herders (many identified as Salamat) had recently been altering their “orbits” so that their herds could access better grazing land. Albeit temporary, new herding paths were being created near the gardens of Rahad El Berdi’s residents; some cattle were straying and trampling crops. Others were contaminating the water in shallow ponds with excrement and urine.

One resident told me that problems among herders and farmers were escalating. Negotiations among the aggrieved parties were needed. However, little had been achieved. “I now am negotiating at the point of a gun,” he said, showing me his shotgun and the bag of shells he was carrying. “I hope I don’t have to use it, but I will if I have to.” His comments were harbingers of things to come.

IV. A Question of Genocide

Genocide entails a purposeful and systematic campaign against a population or ethnic group, with the intent being its partial or total eradication. “Never again” became “once again” as the situation in Darfur unfolded (Genocide Intervention Fund 2005; Cheadle and Prendergast 2007). Still another brutal cleansing was underway in the world. As in other nations and at other times, thousands again were being killed under conditions which violate human rights and commonly accepted standards of human decency. Beheadings, dismemberments, and excruciating torture of the living again became commonplace (Power 2004). Former U.S. Secretary of State Colin Powell used the term “genocide” in his testimony to the Senate Foreign Affairs Committee, based on his on-site assessment of the Darfur situation in 2004. His successor, Condoleezza Rice, also used the term based on her on-site inspection in 2005. That United Nations emissary Antonio Cassese, acting at the behest of U.N. Secretary General Kofi Annan, did not deem the term “genocide” appropriate in his site report of January, 2005 (Moorehead 2005: 56), does not diminish the devastation and suffering that have occurred.

Harkening back to the devastation in Bosnia, Kosovo, and Rwanda during the 1990s, politicians, military personnel, service providers and academicians began debating the nature of the crisis emerging in western Sudan in early 2004. Reports of killings increased; they were mixed with reports of death owing to other causes associated with famine and disease. By early 2005 an aggregate death and casualty toll of 280,000 to 310,000 was being circulated by careful observers (Prunier 2005: 152). Alex de Waal (2005: xviii-xix) captured the situation adroitly, when he stated that “genocidal intent” was evident. It was not *Genocide* (capital added) in the sense that absolute extermination of a people was occurring, but *genocide* in the sense specified by the 1948 Genocide Convention.

G rard Prunier holds a similar, but not identical, view. Four key criteria are met in Darfur: (1) Massive casualties are present; (2) state involvement is present; (3) ethnic conflict is present; and (4) sustained violence is present. But a systematic state-based “intent to eradicate” is not present (2005: 152-8). He believes that violence reached “genocidal proportions” (2005: 109), but cannot be characterized in precisely the same way as that of Rwanda in the mid-1990s. Events in Darfur constitute an “ambiguous genocide.”

Systematic, long-term planning of what variously has been termed “ethnic cleansing” or “genocide” in Darfur does not seem to have taken place (cf. Dubinsky 2005). As noted by the editorial staff of the UNHCR’s flagship magazine, *Refugees* (Anon. 2004: 9-11), the New York Times was one of those publications which wrestled with how to make sense of the complex situation: “If this is a genocide, it doesn’t look very much like those we’ve known before. Instead, it is shadowy, informal; the killings take place offstage. It is the destruction of a people in a place where it is virtually impossible to distinguish incompetence from conspiracy. Is that by design ... or just more evidence of a government’s utter haplessness?”

The Sudanese Liberation Army

The Sudanese Liberation Army (SLA) arose in response to grievances being expressed by citizens of Darfur. It is comprised mainly of the members of Darfurian farm families. It crosses ethnic lines and is primarily secular in ideology. At one level the grievances the SLA responded to are traceable to the political neglect shown by the government toward its residents in the western regions as the civil war between north and south was being fought. At another level they are socio-economic, traceable to the increasing tensions over land and related resources occurring intermittently since the late 1970s (Van Arsdale 1989). Significant battles between farmers and herders took place in 1987 and 1989 (Power 2004: 61). An insurgency of radical secularists arose, only to be aborted in 1991 (de Waal 2005: xvii). On April 25, 2003, members of the then two-month-old SLA attacked the airport and a military compound in the northern Darfur town of El Fasher. In addition to killing a number of Sudanese soldiers, they captured the commander of the Sudanese Air Force. It is likely that this move was designed to attract the attention of the central government, much as the late John Garang had done years earlier for rebels in the south.

The SLA's founding manifesto included its vehement protests against the central government's "policies of marginalization, racial discrimination, exclusion, exploitation, and divisiveness." Its objective was "to create a united democratic Sudan on a new basis of equality, complete restructuring and devolution of power [aimed at] political pluralism and moral and material prosperity for all Sudanese" (Power 2004: 62). Another organization, JEM (the Justice and Equality Movement), subsequently arose and also claimed similar objectives on behalf of Darfur's residents. However, by 2007 infighting between these two groups, as well as problems arising among other factions, were straining citizens' abilities to combat the central government's abuses.

The Janjaweed

There have been raiders and bandits of various types in Sudan for centuries (Bascom 1998: 118-120; Prunier 2005: 13). Sultans, colonialists, local leaders and sheikhs all would use them. Some would operate quasi-independently, others would operate like mercenaries. In Darfur in recent decades so-called Arab cattle raiders occasionally would sweep into a non-Arab village and abscond with a few head. The now-infamous *janjaweed* of Darfur loosely trace their origins to such raiders, past and present. However, the tactics they employed beginning in 2003 also can be traced to the tactics used by the north in its battle with the south over a 20-year period. Many likely were trained in militia camps during the 1990s. Government-sponsored air attacks against Dinka and other ethnic groups in the south would be complemented by ground attacks utilizing Arab raiders. The same pattern began to play out in the new battle, between east and west, in Darfur. As Anita Sanborn (2005) told me, many of the government's troops are from Darfur and could not be expected to fight their own people. As she also noted, many now regret the roles they played in the earlier battles against those in the south.

Most of the *janjaweed* raiders are recruited from among the so-called "Arab nomads." Yet, as the above analysis indicates, this is by no means a clearly definable group. What is increasingly clear is that through 2005 many of their activities were being coordinated by Sheikh Musa Hilal, who was working directly for the central Sudanese government (Power 2005). The *janjaweed* under his command, albeit operating loosely, ransacked and burned villages, pillaged supplies, and raped large numbers of women.

As the SLA's militancy and resolve became more clear, the central government's militancy and resolve to oppose them also became more clear. It became manifest in the increasing activity and brutality of the *janjaweed*.

V. Effective Action: The Roles of Diplomats, Government Officials, and Advisors

International diplomats and local government officials theoretically can play important roles in resolving conflicts of the sort seen in western Sudan. Not surprisingly, one key is common recognition by multiple actors of the nature of the "foundational problem." While the central government might claim the problem is "suppression of the insurgency," this in fact is merely an objective (not shared by most "African" residents of Darfur). While the SLA might claim the problem is "equitable recognition and socio-economic integration into a wider Sudan," this in fact also is merely an objective (not shared by members of the Khartoum elite).

The case of Darfur is a prime example of sub-system dysfunction mirroring system dysfunction. What is happening in Darfur, as exemplified by the recent SLA insurgency and government-backed genocidal attacks, mirrors what is happening in Sudan as a whole, as exemplified by the recent north – south civil war. Viewed systemically, the peace process has been similarly intertwined regionally and nationally.

Negotiations toward sustainable peace in Darfur must take broader developments in Sudan carefully into account. Groups like Africa Today Associates and the International Crisis Group can serve in important advisory capacities. Negotiations must center on the foundational problem of the political marginalization of much of Darfur’s citizenry by the central Sudanese government, this exacerbated by land use disputes among “Arab” and “African” ethnic groups. Structural inequalities between core and periphery are significant and demonstrable, yet with substantial effort, negotiations could reduce certain of the economic gaps. Food security could be improved.

Paradoxically, the central government was identified with “the north” during the 1983 - 2004 war, but with “the east” during the recent war involving Darfur. These dichotomies further accentuate the marginalization of southern and western populations, while re-affirming structural inequalities within the country. They should serve to remind negotiators of the gaps to be bridged.

Negotiations of this type should focus on both process and product, i.e., on “what to do” and “what the outcomes should be.” Without getting bogged down in semantics, they nonetheless should consider:

- African – Arab tensions
- Arab – Black tensions
- Herder – farmer tensions
- Fur – *janjaweed* tensions
- Central government – rural governed tensions

A better understanding of each set of tensions affords a better opportunity for resolution. While the use of the term “tribes” is not that helpful as ethnicity is considered, a consideration of “tribalism,” in the context of factionalization and conflict, is. These tensions also must be considered in the context of corruption (not dealt with in this paper) and resource scarcity.

Long-Term Strategies

Clearly, then, ethnicity does not *cause* genocide. In Sudan, the diverse types of ethnic relations are exacerbated by, and interactive with, an ideology of Muslim religious and Arab racial superiority (Ryle 2004). A supremacist mandate, centered in Khartoum, therefore has emerged. While resources are limited, they nonetheless are manipulated and socio-economic strategies are conceived that negatively impact those most in need.

Long-term socio-economic development and humanitarianism go hand-in-hand. Sustained agricultural growth, complemented by “integrated” livestock programs (with some reduction in herd

sizes), is essential to the re-stabilization of Darfur's socio-economic structure. Careful attention must be paid to the voices – and thus ideas – of everyday farmers and herders. Perceptions of “being Arab” or “being African” ultimately are not nearly as important as (e.g.) “being a millet farmer.” Citizens' abilities to calculate annual risk – yield ratios, hedge against drought, restructure their planting and migration cycles, and engage in mid-range planning must be affirmed (Van Arsdale 1989; Hutchinson 1989; de Waal 2005). The idea of circumscribed and fenced “nomad ranches,” as proposed to me by Darfur's governor in 1979, fortunately was abandoned; I was one of several researchers and agency officials who told him how economically dysfunctional and sociologically problematic these would be.

In most regards, an ecological/political economy paradigm is more helpful in understanding the problem than a purely political paradigm. It is not the elimination of an “ambiguous genocide” that holds the key to Darfur's future, although atrocities must cease. It is not the elimination of famine, drought, and desertification. It is not ancestry which holds the key. Rather, it is these citizen's own efforts at enhancing security, effecting a rights-oriented civil society which embraces decentralized governance and community-based development, and the de-politicizing of socio-economic relations. As Michael Ignatieff repeatedly stresses, rights evolve through deliberative process (Gutmann 2001). Land rights and creative land use strategies are essential. A focus on self-defined livelihoods is critical. Diplomats, local government officials, and academic advisors can, and must, focus on these points.

Note: Parts of this paper are excerpted from my book, *Forced to Flee: Human Rights and Human Wrongs in Refugee Homelands* (Lanham, MD: Lexington Books, 2006). Thanks are extended to Nicole Tanner of Africa Today Associates for research assistance.

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The Role of African States and the African Union in Peace Negotiations in Sudanese Darfur

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Introduction

The organization of the international political system as currently exists, privileges the right of the state over those of individuals. The state and its government with the capacity to protect while simultaneously constraining citizens' rights to unapproved actions have reigned supreme over its territory—sometimes with coercion and other times through peaceful institutionalized procedures. That relationship between the state and the citizens has made it possible for different governments to claim sovereign authority over their territory – including the sovereign right to relate to their citizens peacefully or with coercive force. The latter has frequently resulted in gross violations of individual human rights across the globe. In the case of the African states, (in the DRC, Sierra Leone, Liberia, Nigeria, Apartheid South Africa, Sudan, Ethiopia, Rwanda, to name just a few) these violations were intensified following political independence and the norm of *non-interference in the internal affairs of member states* under the moribund Organization of African Unity.

Intrastate conflicts in several states, but especially the Rwandan genocide seemingly awakened Africans and their leaders to a central cultural norm across the continent—the inviolable essence of human life. Many of the states that are experiencing this awakening are currently ravaged by violence, disease, bad public policies and, in many instances, an incapacity of the state to carry out its basic function of maintaining law and order to protect the citizens. Consequently, Africans and members of the international community continue to advocate for the human rights of individuals trapped within the boundaries of wicked and sometimes incapable states to carry out their basic security functions. However, both groups have largely failed to implement viable and sustainable resolution to the intractable crises in many African states.

The problem is not whether or not some Africans and their external supporters see human rights protections, stable political systems with free market economy and constitutional liberalism as positive variables for ending endemic crises like those in southern Sudan in general, and specifically in Darfur, but the lack of sustainable and institutionalized strategies for effective governance. This paper offers a strategic vision for reducing and hopefully ending gross human rights violations within the context of intrastate crises that have ravaged much of sub-Saharan African states. The expected peace-dividend from the end of the Cold War never fully made it to sub-Saharan Africa as western governments' preference for stability continue to privilege autocratic leaders who ascend to power through fraudulent electoral results and/or violence over the rights and safety of the citizens. This is the case from the Democratic Republic of the Congo to Nigeria and the Sudan. Although, the international community

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stood by in 1994 while over 800,000 Rwandans were slaughtered with the full knowledge and support of their government, it has decided to do something different in the case of Darfur. But that something remains practically irrelevant as women, children and men are raped, dehumanized and killed in Darfur on a daily basis while the major powers debate the semantics of genocide. A brief background is in order.

The Context of the Darfur Crises

In Sudan like most other multi-ethnic states in Africa, the struggle for political independence rendered ethnicity quite fluid as the goal for the nationalists was the attainment of political independence from Britain and Egypt. Sudan became independent in 1956. However, “seeking [...] first the political kingdom” as Kwame Nkrumah asked Africans to do in the 1950s did not result in the attainment of everything else because political independence revealed the dark side of man’s greed. In Sudan and consistent with colonial practices, the result was sustained development in the Northern part of the country. Given the scarcity of resources and uneven development policies and strategies, western Sudan, especially Darfur became the worst neglected region.

As M. W. Daly notes, Sudan’s first scientific and only nation-wide census was conducted in 1955-56. Empirically, data yields information that should give policy makers knowledge about the enormity of the problems of development in their state and therefore serve as a basis for policy planning and action. But the data, as revealed from the 1955-56 census in Sudan, was wickedly interpreted and used to privilege the Muslim North by exaggerating their representation in the national population/institutions. This was done by playing down ethnic differences and therefore under-reporting the proportion of other groups in the state for purposes of power and resource allocation.

The resulting tension was not resolved through the politics process, and led to the type of intractable civil war in contemporary Sudan. “The census reported the Sudan’s population as 10,263,000. Darfur’s 1.35 million ranked third only to Blue Nile (2.7 million) and Kordofan (1.76 million); the six northern provinces comprised about 7.5 million, or 72 percent of the total, and Darfur therefore almost 18 percent of the north’s and 13 percent of the Sudan’s population. Of females over puberty but of childbearing age, Darfur had the highest percentage of any province – 24.6 percent – and between the ages of five and puberty also the highest – 11.4 percent.... The census found that a bare majority of Sudanese (51 percent) spoke Arabic at home, followed by Dinka (11 percent). Arabic was also the majority language in Darfur (55 percent); Fur (classified for census purposes as three dialects of one language, North, South and West Darfurian), was spoken at home by 42 percent (5.6 percent of the Sudan’s population), and the rest spoke other languages, none of which accounted for more than 1 percent of the province’s total.⁷

Furthermore, in terms of tribe or “nationality,” the census found that 375,000 of Darfur’s people were Arabs (of whom 269,000 were Baqqara) and 758,000 “Westerners” (Fur, Masalit). Among many things, these figures indicate that Arabic had become the first language of roughly a third of those considered

⁷ M. W. Daly, *Darfur’s Sorrow: A History of Destruction and Genocide* (New York: Cambridge University Press, 2007): 179-180. Also, see Republic of Sudan, Ministry of Social Affairs, Population Census Office, *First Population Census of Sudan 1955/56, Last (9th) interim report*, Khartoum 1958, 4, 5, 7, 10.

ethnic Fur. These and other figures relating to ethnicity, tribe, and language would later assume much more importance⁸ in contemporary Sudanese politics.

Also, the education statistics are highly relevant to contemporary events.

In terms of the highest school attended (by people over the age of puberty), no province of the Sudan, including even the South, had a lower percentage for intermediate school than Darfur: 0.2 percent; the figure for female was 0. Likewise for secondary school attendance, no province had a worse record: the Bahr al-Ghazal and Upper Nile matched Darfur at 0.1 percent. For the Sudan as a whole, 78 percent of males over the age of puberty had received no formal schooling, and 97.3 of females; for Darfur, the figures were 65 and 99 percent respectively.⁹

Thus, with these types of data in terms of education, an effective national policy that aims to enhance the well-being of all its citizens would have sought to use the data for development planning that included the building of an intellectual infrastructure that would sustain not just Darfur and the southern Sudan, but the entire country. In terms of employment, the foregoing data is revealing and helps understanding of the nature of development in the Darfur region and their (in)capacity for advocating for themselves in national policy.

Of Darfur's 350,000 males over the age of puberty, 232,000 were farmers, 38,000 nomadic animal owners, and 31,000 shepherds. There were 158 male and 37 female primary and intermediate school teachers in the entire province. Among medical practitioners, 2 were classified as "professional" and 281 as "semi-professional" (including 63 women). There appear to have been 783 policemen and prison wardens (4 of whom were women), 1 professional accountant, and 2 (males) in the field of "entertainment." Most women – 79 percent – were classified as "unproductive," and the only field in which they outnumbered men was "Unemployed, beggars."¹⁰

Thus, as no national census has been taken since 1955-56 and given that civil war has been the norm in southern Sudan for these decades, it is reasonable to assume that not much has changed in terms of development. This situation has not improved with the discovery of crude petroleum in southern Sudan. However, as with other African states' experience that industry is largely based on expatriate employment—in this case, Chinese. Consequently, overtime, and with lack of support from the outside and within, the historical neglect of Western Sudan by the central government ignited and intensified ethnic consciousness and marginal identity in the periphery. As such, the strong nationalistic consciousness that united the various regions toward political independence died because of poor development policies by the central authorities; especially their lack of vision for building a truly nationalistic Sudanese state.

The personalization of power by the Muslim Arabs in Khartoum and their efforts to create a homogenous Sudanese culture without requisite developmental infrastructure at the expense of other ethnic groups exacerbated the needs and desire for ethnic ties and consciousness. These expectations for ethnic unity were manifested in the formation of different groups, which hoped to achieve for themselves what the dominant group within the central government historically denied them—effective participation in making decisions that impact their well-being as Sudanese citizens.

⁸ Ibid., Daly, p. 180 and Republic of Sudan, p. 23-4.

⁹ Ibid., Daly, p. 180 and The Republic of Sudan, p. 19

¹⁰ M. W. Daly, *Darfur's Sorrow: A History of Destruction and Genocide* (New York: Cambridge University Press, 2007): 179-181, and also, see The Republic of Sudan, pp. 38-40, 54-5.

Following years of neglect, the 2003 formation of Sudan Liberation Army/Movement (SLA/SLM) in loose association with the Justice and Equality Movement (JEM) intensified the use of ethnic consciousness as a framework for demanding a seat at the national decision-making table. However, SLA/JEM strategy had changed from engaging the political process to violent attacks of government targets outside of Khartoum. Arguably, the changed strategy from negotiation to violence by peripheral groups like SLA/JEM is explained by their fear that Darfur and the Western region would be left out of the power-sharing agreements that the Government of Sudan was negotiating to end the civil war in Southern Sudan. Such fear was based on the fact that the central government had repeatedly ignored their requests for meetings on how best to include the development of the Darfur region on the national development agenda.

The intensified ethnic consciousness born of political struggle for scarce resources expanded to include charges of racism against the central government and violence targeting government facilities by the “rebels,” who defended their actions by accusing the government of oppressing *black Africans* in preference of *Arabs*. In response to the informal politics and strategies by the rebels, the Government of Sudan responded with crushing air raids targeted at villages believed to be the source of rebel power and protection. The government also enlisted the assistance of former criminals, bandits, members of tribes with land conflicts against *African* tribes in Darfur. In addition to providing arms; the government seemed not to have objected to other groups and individuals with different agendas who sought to exploit the crisis by joining the “Janjaweed,” in terrorizing the Darfurians. The Janjaweed, or “devils on horseback”, have been labeled “Arab” because majority of their ancestry is more Arab and nomadic than African—further intensifying the rigidity of the alliances in the conflict.

Originally created and supported by Libya in Western Sudan for attacking Chad, this group is responsible for the burning and looting of villages across Darfur as well as raping, murdering, and kidnapping civilians. There are reports of instances where air raids by Sudanese Government forces are strategically followed by mop-up operations by the Janjaweed—an indication of coordination between the government and the Janjaweed, contrary to government claims that the killings in Darfur is mostly by armed criminals. Due to the overall fear of the Janjaweed and its methods of violence against unarmed civilians, internal displacement has become a serious issue in Western Sudan.

Darfurians have been forced to leave their possessions and homes and relocate to camps for Internally Displaced Persons (IDPs), mostly in northern Darfur, and some in neighboring Chad. The rise in IDPs and refugees has created what numerous groups have labeled the worst humanitarian crisis in the world. Due to the racial and ethnic slogans, chants, and motivations of the Janjaweed as they taunt, capture, and kill the Darfurians, many, but especially the U.S. government have also gone so far as to label what is going on in Darfur as genocide. A United Nations Security Council (UNSC) report on Sudan highlights the awful results of the conflict:

“The humanitarian situation in Darfur has suffered from persistent violence and overall insecurity. Over two million people are now internally displaced, while 1.9 million conflict-affected residents remain largely dependent on external aid. Approximately 107,000 civilians were newly displaced by insecurity [in] fighting between 1 January and 1 April [2007].”¹¹

¹¹ United Nations Security Council, Report of the Secretary-General on the Sudan, (S/2007/213), (17 April 2007).

Thus, the Government of Sudan's policy in Darfur is to bring the conflict to an end on its own terms—largely homogenizing all the ethnic groups consistent with the cultural, language and ethnic consciousness of the ruling northern elites. But more significantly, given the government's willingness to negotiate a comprehensive peace treaty with the South to end the civil war, it seems clear that the strategy adopted by the Darfuris for a share of the national wealth and the government's heavy-handed response suggests the government might be more concerned about regime stability than in ethnic cleansing or genocide.

In this sense, the government's violent reaction to the Darfuris rebels might be a calculated strategy to discourage other potentially marginalized and neglected groups from taking up arms against the government. And, to ensure that the Darfuris are not protected from the government and the Janjaweed, the violence sponsored by the government is not limited to the Darfuris, but extends to the aid and humanitarian workers in the region whose work is directly aimed at assisting civilians and providing succor. Given the odious principle of *non-interference in the internal affairs of member states* by the now defunct Organization of the African States, the crises beset African states in the 1990s—DRC, Rwanda, Somalia, Sierra Leone, Liberia, Nigeria and Sudan—the emergence of the African Union to replace the OAU was greeted with a sigh of relief. The AU is seen as a new body with new philosophy and responsibility toward citizens whose governments have failed to protect in the midst of violent crises. This so-called humanitarian intervention thesis is addressed later.

Darfur and the African Union

The African Union was established in 2002 as the successor of the Organization of African Unity (OAU), which was established in 1963. Consistent with African leaders' general tendency to emulate Africa's former colonizers, the African Union (AU) was the natural successor to the OAU similar to the European Union succeeding the European Community; in a sense, the question has to be raised early whether or not the AU is truly African in spirit and form. The OAU was established in 1963 by 31 newly independent African states in a spirit of pan-Africanism that aimed to promote economic unity and collective security,¹² and eventually, political unity. Its main strategy for dealing with African problems was to stress the principle of "peaceful settlements of disputes."¹³ And without effective and viable institutional structures, strategic and visionary leadership, its poor record on conflict resolution and management was compounded by financial, logistical, and political problems that made the organization largely irrelevant in conflict management.

Much of this failure was due to its policy of non-interference in state's internal affairs which weakened its ability to prevent and manage conflicts, especially civil wars. Now with 53 African states as members of the AU, the added features of intervention, independence, checks and balances, and monitoring make the AU potentially a "more effective, democratic, and autonomous organization."¹⁴ According to the former OAU Secretary General (and current AU Special Envoy) Dr. Salim Ahmed Salim the promise of the AU is its objectives of "enhancing unity, strengthening co-operation and co-ordination as well as equipping the African continent with a legal and institutional framework, which would enable Africa to

¹² Thomas D. Zweifel, *International Organizations and Democracy: Accountability, Politics, and Power*, (Boulder: Lynne Rienner Publishers, Inc., 2006), p. 147.

¹³ Rachel Murray, *Human Rights in Africa: From the OAU to the African Union*, (Cambridge: Cambridge University Press, 2004), p. 118.

¹⁴ Zweifel, p. 148.

gain its rightful place in the community of nations.”¹⁵ These hopeful objectives are rooted in a desire and motivation to “enhance the cohesion, solidarity and integration of the countries and peoples of Africa.”¹⁶ The core instrument for achieving the above objectives is the Constitutive Act of the African Union.

The Constitutive Act empowers states to intervene in cases where a country has failed to protect their citizens from internal conflicts. Specifically, Article 4(h) of the Principles, which states that: “The right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity;” must not and cannot be impeded by excuses of sovereignty which has been used to avoid responsibility and action in past instances where such intervention would have saved millions of lives.¹⁷ Some argue that member states have essentially accepted external intervention in their internal affairs in times of serious or extreme crisis by signing this Act that runs against the standard practice of non-intervention as included in the UN Charter.¹⁸ This document, however, while continuing to reiterate the importance of promoting peace, security, and stability for individuals and the continent also contains clauses which affirm the sovereignty and territorial integrity and independence of states outside times of grave violations of human rights and goes so far as to prohibit the use of force or threat under the basis of non-interference.¹⁹

Despite these many improvements, the AU has inherited many of the same problems of its predecessor; precisely why skeptics warn against prematurely assuming this new organization will “significantly enhance the project of uniting Africa or strengthen the capacity of states to respond to peace and security issues on the continent.”²⁰ Perhaps this fear is why the AU established the Peace and Security Council (PSC or AUPSC) as the wing to prevent, manage, and resolve conflicts in the continent. As is profoundly evident in the case of ongoing massive slaughter and displacement of certain sections of Sudanese citizens or crimes against humanity in Darfur, the strategic question—how to mobilize and deploy collective resources in the continent for realizing the goal of conflict prevention and management—remains to be substantively resolved.

Comprised of 15 rotating members (for either two or three year terms), the PSC has “powers to anticipate events that may lead to genocide and crimes against humanity, recommend the intervention of the Union if there were war crimes, genocide and crimes against humanity, impose sanctions on unconstitutional changes in government and follow up in terms of conflict prevention issues of human rights, among other things.”²¹ Intuitively, given the hegemonic intent in establishing the Peace and Security Council of the African Union and its expressed powers, what significant and substantive instrument does the PSC have if it is to carry out its functions without constraints? That is, what functional or institutional power does the PSC have over the sovereign leaders of states who may not

¹⁵ David J. Francis, *Uniting Africa: Building Regional Peace and Security Systems*, (Burlington: Ashgate Publishing Company, 2005), pp. 29-30.

¹⁶ Ibid.

¹⁷ African Union, *Constitutive Act of the African Union*, (11 July 2000), Article 4 (h).

¹⁸ Timothy Murithi, *The African Union: Pan-Africanism, Peacebuilding and Development*, (Burlington: Ashgate Publishing Company, 2005), p. 97.

¹⁹ African Union, *Constitutive Act of the African Union, Articles 3 and 4*.

²⁰ Francis, p. 30.

²¹ Murray, p. 125.

wish such close scrutiny to occur within their “sovereign territory”? That Article 7 forces African leaders to realize that sovereignty does not forever remain a “shield from intervention”²² is not sufficient without compelling strategic military and political instruments of statecrafts at the disposal of the African Union to realize its stated goals of ensuring peace and security, promotion and ensuring individual human rights. And yes, through the PSC, the AU has also authorized the creation of the African Standby Force (ASF) made up of strictly African soldiers whose responsibility, among others, is to intervene in member states where crimes against humanity as outlined in Article 4(h) above occur.²³

Again, we must ask: based on what vertical decision structure and with what kind of logistical and human resource base will the ASF carry out its functions? Indeed, given their current role, which is limited to that of humanitarian assistance and “alleviating the suffering of civilians in conflict areas,”²⁴ it is most urgent that the AU with the full endorsement of African governments, clarify the strategic vision it hopes to deploy for its lofty goals before it becomes irrelevant from incapacity as the case of Darfur is already demonstrating. However, the establishment of the PSC shows the AU’s commitment to ending conflicts through the legal and political processes that protects civilians against government and government-sponsored violence. Thus, while political and financial enforcement mechanisms in the AU and PSC guidelines are clearly specified, the test of AU’s effectiveness will be the extent to which these important steps are implemented and with tangible results. More significant however, is the strategic process that moves key actors, from violence to political negotiation, for example in the case of Darfur.

Given that the current structure of the AU-PSC and Standby Force places state sovereignty above the obligation to protect individuals, it is doubtful that the PSC will be able to carry out its functions or that the AU can intervene in a state where genocide is occurring if the state government refuses such intervention. Consequently, to achieve the goals of protecting individuals against state violence, the African Union is more likely to succeed if it establishes an African Security Command (AU-SC) with a standing rapid reaction force for military intervention where the AU identifies genocide and/or other state-sponsored crimes against humanity in Africa as the first step toward engaging the political process. The AU-SC can stand alone or complement other activities by the AU-PSC and the ASF. Armed and under the command of a reputable and competent leader, the rapid reaction function of the AU-SC is more likely to result in the realization of the AU charter by elevating citizenship over state rights, thereby ensuring consistent protection of human rights in the continent. Substantively, while state sovereignty remains essential against non-AU threat, sovereignty and human rights are enhanced within the continent to the extent that a struggle between individual and collective rights, citizenship and human rights are not blocked by autocratic claim of state sovereignty over human rights issues.

Put differently, for a political process that privileges peace and robust resolution of issues of human rights, force has to be compelling in situations where government-sponsored violence remains a major obstacle for getting the actors to the negotiation table. The effective functioning of the African Union and its constitutive units is needed to curb the crisis in Darfur. Thus, while the AU has worked closely with the international community, primarily the UN, in attempting to alleviate some of the humanitarian

²² Jeremy Levitt, “The Peace and Security Council of the African Union, the Use of Force and the United Nations Security Council: The Case of Sudan,” in *The Security Council and the Use of Force: Theory and Reality-A Need for Change?* eds. Niels Blokker and Nico Schrijver, (Leiden: Martinus Nijhof Publishers, 2005), p. 226.

²³ African Union, “Protocol Relating to the Establishment of the Peace and Security Council of the African Union,” 1st Ordinary Session of the Assembly of the African Union, (9 July 2002), <http://www.africa-union.org/root/au/organs/psc/Protocol_peace%20and%20security.pdf>, Article 13.

²⁴ Ibid.

conditions and convince the al-Bashir Government to allow a peacekeeping force in Darfur, the AU has only served as monitor of ceasefire since 2004 because it lacks the robust logistical and personnel presence to be effective. The argument for a more robust AU through the AU-SC is in recognition of both the African governments' desire and the international community's professed preferences for collective action to end genocide and government-sponsored violence against innocent civilians.

While the capacity for collective action in the international community, especially the UN has always existed, they have not been deployed for the protection of individuals against their governments in Africa. It seems however, that the UN has been awakened from its slumber about the suffering of some Africans at the hands of their own governments, for "at the United Nations World Summit on 17 September 2005, world leaders agreed, for the first time, that states have a primary responsibility to protect their own populations and that the international community has a responsibility to act when governments fail to protect the most vulnerable." The Responsibility to Protect international doctrine pledges "to take collective action if national authorities manifestly fail to protect their population from genocide, war crimes, ethnic cleansing and crimes against humanity".

While the international responsibility to protect doctrine gives us hope and an enabling framework for collective action to hold those governments that claim sovereignty without responsibility accountable for the atrocities committed against unprotected citizens within their territories, the question is: How can this collective responsibility be achieved in situations where governments fail to protect their own citizens or are complicit in the atrocities committed against them? I argue that at the core of realizing the UN's and AU's desires to protect citizens against government-sponsored violence is the recognition that the self-empowerment of African States, regional African Organizations, nongovernmental organizations, citizens and the African Union is the first line of defense against government and government-sponsored atrocities against their own citizens. Internal initiation of an accountable process for the maintenance of sovereignty would make it possible for non African states, organizations and citizens to offer effective helping hands for bringing genocide and other human rights violations in places like Darfur to an end.

While the African Union has its peace security functions and the desire to form a union government, it seems conflicted on the nature of the relationship between African States and their citizens. And, although the AU appears quite desirous of ending crimes against humanity in Darfur, it currently lacks the logistical and political will to do so. Cognizant of the international reality that the UN Security Council is responsible for global security and stability, African States formed the African Union Mission in the Sudan (AMIS), the only external entity on the ground in Darfur with the responsibility to protect civilians. However, because of poor capacity and lack of resources, AMIS has failed to competently execute its mission as evidenced by the continuing atrocities against women, children, aid workers and men in the Darfur region and in the refugee camps in neighboring states. But the most important fact about AMIS is that for the first time since decolonization, African leaders appear cognizant of their responsibilities to Africans as evidenced by their decision (albeit poorly executed thus far) in Darfur.

While the issues in Darfur as illustrated below are mostly economic and political in nature, they lend themselves to verifiable efforts through negotiation in good faith followed by national policies aimed at their effective resolution, if the political will exists in Khartoum to do so. We will first identify the intersecting issues—national and international—in the conflict in Darfur and then offer robust strategies on how African States and the African Union can start the process of protecting the victims of human rights abuses and other atrocities in the continent.

Intersecting Issues in the Darfur Crisis and Recommendations

The crisis in Darfur is born of several intersecting, yet separate conflicts. As Scott Straus insightfully notes, the crisis is traced to the civil war between the Islamist, Khartoum-based national government and two rebel groups—the Sudan Liberation Army and the Justice and Equity Movement—based in Darfur.²⁵ As previously noted, the rebel groups are fighting because of economic and political marginalization by the national government. In a sense, if the government in Khartoum had engineered a national economic and political development plan that did not marginalize any section or group in the Sudan, the SPLA/JEM would not have had verifiable reason to attack government facilities in 2003 resulting in the national government's arming of irregular militias to quell the violence that escalated to the ongoing despicable slaughtering of human beings in Darfur.

Similarly, the crisis in Darfur is related to the civil war that has raged in Sudan following the political independence in 1956, in which the Arab-dominated national government and its policies of cultural and linguistic homogenization in Sudan created a dyadic civil conflict that has been simplistically explained as north-south and Arab-Christian conflict in contrast to the core issue of economic and political marginalization of the south by the northern-based government of Sudan. Under the auspices of the Intergovernmental Authority on Development (IGAD) the Sudanese government entered into negotiations with the southern rebel groups—which did not include representatives from Darfur. The peace negotiation resulted in the Comprehensive Peace Agreement that promised an end to the longest civil war in Africa. Consequently, the Darfur rebels attracted attention to their own cause of marginalization as a strategy to mobilize ethnic, regional, continental and global attention to the poor economic and political condition.

The other dimension of the crisis is the localized nature of the race/ethnic dimensions of the conflict. As Scott Straus notes:

Darfur is home to some six million people and several dozen tribes. But the region is split between two main groups: those who claim black "African" descent and primarily practice sedentary agriculture, and those who claim "Arab" descent and are mostly seminomadic livestock herders. As in many ethnic conflicts, the divisions between these two groups are not always neat; many farmers also raise animals, and the African-Arab divide is far from clear. All Sudanese are technically African. Darfurians are uniformly Muslim, and years of intermarriage have narrowed obvious physical differences between "Arabs" and black "Africans." Nonetheless, the cleavage is real, and recent conflicts over resources have only exacerbated it. In dry seasons, land disputes in Darfur between farmers and herders have historically been resolved peacefully. But an extended drought and the encroachment of the desert in the last two decades have made water and arable land much more scarce. Beginning in the mid-1980s, successive governments in Khartoum inflamed matters by supporting and arming the Arab tribes, in part to prevent the southern rebels from gaining a foothold in the region. The result was series of deadly clashes in the late 1980s and 1990s. Arabs formed militias, burned African villages, and killed thousands. Africans in turn formed self-defense groups, members of which eventually became the first Darfur insurgents to appear in 2003.²⁶

²⁵ Unless otherwise noted, the discussion in this section relies on Scott Straus, "Darfur and the Genocide Debate," *Foreign Affairs*, January/February 2005, pp. 123-133.

²⁶ Scott Straus, "Darfur and the Genocide Debate," *Foreign Affairs*, Volume 84, No. 1, January/February 2005: 126.

That “Khartoum instructed the militias to “eliminate the rebellion,” as Sudan’s President Omar al-Bashir acknowledged in a December 2003 speech.... [And that] Army forces and the militia often attacked together, as *janjaweed* leaders readily admit... and in some cases, government aircraft bomb areas before the militia attack, razing settlements and destroying villages,”²⁷ clearly establishes the connection between the government *decision* to eliminate a segment of its population by virtue of who they are perceived to be—black African farmers. That these Muslims or Christians are unable to protect themselves against such massive government violence qualify as either objects of ethnic cleansing, massive human rights violations and indeed, genocide that calls for international protection consistent with the expressed goals of the United Nations and those of the African Union. Indeed, documents in the possession of the African Union peacekeeping force in Darfur indicates the Sudanese Government is directly involved in organizing and supporting the violence against the Darfurians.

According to Nicholas Kristof, one document directed the regional commanders and security officials to ensure the “execution of all directives from the president of the republic Change the demography of Darfur and make it void of African Tribes ... [by] “killing, burning villages and farms, terrorizing people, confiscating property from members of African tribes and forcing them from Darfur.”²⁸ From all accounts, while Darfur like the rest of Sudan has been involved in various levels of conflicts since the 1950s, the intensity of the current conflict measured by the number of casualties estimated at over 300,000 deaths and over one million internally displaced persons with hundreds of thousands more in various refugee camps outside of Sudan, was ignited by the Sudanese Liberation Army’s “surprise attack on the airport at El Fasher, the capital of North Darfur State, destroyed seven military planes and killed about 100 soldiers in late April 2003.”²⁹

It is the swiftness and intensity with which the government of Sudan responded to the SLA attack in 2003 that have led to outcry of genocide in Darfur. As Gerard Prunier notes, several explanations have been advanced to explain the massive killing in Darfur—(1) ancient tribal conflicts reignited by droughts, (2) counterinsurgency campaign by the government of Sudan gone wrong, (3) deliberate policy of ethnic cleansing of African tribes to make room for Arab nomads and (4) “genocide ... supported by evidence of systematic racial killings.”³⁰

Substantively, while these explanations are important singularly, collectively the timing and intensification of the killings suggests deliberate policy, strategy and motive by the Government of Sudan to consolidate its power within the country by using the SLA/Darfuris rebellion to demonstrate its resolve against any effort by other marginalized groups’ future efforts to demand a peace negotiation and therefore a share of national wealth and power similar to the generous provisions in the Comprehensive Peace Agreement with the Christian south. And, as Kasfir succinctly summarizes, “One problem in isolating the government’s motives is that the Darfur crisis grows out of many conflicts at the local, regional, and national levels. These conflicts involve responses to diminished natural resources, to ethnic and cultural conflict, to negotiations and the peace agreement in southern Sudan, and to the

²⁷ Ibid., 126-127.

²⁸ Bruce W. Jentleson, *American Foreign Policy: The Dynamics of Choice in the 21st Century* Third Edition (New York: W. W. Norton & Company, 2007). Also, Nicholas Kristof, “The Secret Genocide Archive,” *The New York Times*, February 23, 2005, <http://www.nytimes.com/2005/02/23/opinion/23kristof.html> . Also, see Nelson Kasfir, “Sudan’s Darfur: Is it Genocide?” *Current History*, (May 2005): 197.

²⁹ Nelson Kasfir, “Sudan’s Darfur: Is it Genocide?” *Current History*, (May 2005): 196.

³⁰ Gerard Prunier, “The Politics of Death in Darfur,” *Current History* (May 2006): 200.

relationship of the national government with impoverished and marginalized groups throughout the country.”³¹

In light of the foregoing, it is clear that the government of Sudan organized and aided the janjaweed—drawn mostly from a marginalized Arab/Muslim communities in Darfur to attack, slaughter and displace the non-Arab Darfuris—mostly Africans but predominantly Muslims. Arguably, it is clear from the foregoing that the government adopted such high-handed approach to responding to the rebellion from western Sudan, because it was already engaged in a peace negotiation process in 2003 with mostly Christian southerners with whom it had fought against since 1956 and did not want to be drawn into a similar process by other marginalized groups and regions in the future.

Interestingly, the *political* dimension of both the Darfuris rebellion and the government’s response holds the key to effective efforts at finding solution to the crisis in Darfur if the regional and national groups and the international community have the political will to engage the core issues of economic and political marginalization of minorities in Sudan. And as articulated by intellectuals from southern Sudan, “the central problems that pose a threat to peace and unity in the Sudan are attributable to three basic causes: (1) the dominance of one nationality over the others; (2) the sectarian and religious bigotry that has dominated the Sudanese political scene since independence; and (3) the unequal development in the country.”³² The question is how to proceed toward realization of peace and stability throughout Sudan to enable individuals and communities to pursue their respective lives and interests. Given the intensity of the violence in Darfur, the Comprehensive Peace Agreement signed in January 2005 between the North and South, as well as the commitment of the Government of Sudan to preserving its hold on power, resolving the Darfur crisis and indeed, upholding the CPA to its full implementation would require robust international and regional mediation efforts between the various factions in Sudan.

Toward Resolution

The international dimension of the Darfuris rebellion and therefore its partial solution is evident in the fact that peace settlement between the Muslim government of Sudan and the Christian southern rebels were already in the minds of Washington (with the appointment of Andrew Natsios in May 2001 as Special Humanitarian Coordinator for Sudan and Senator John Danforth on September 6, 2001 as Special Envoy for Peace in Sudan—both part of President George W Bush’s conservative Christian constituency. Any hesitation on working together to resolve the age-old civil war on the part of both Washington and Khartoum was shelved following the terrorist attacks against the U.S. in 2001, which provided President Omar al-Bashir’s government—whose human rights record was largely seen as repugnant to civilized standards—with an unprecedented but grotesque opportunity to play the hero’s part in the fight against terrorism. Sudanese government’s enthusiastic offer of support for the anti-terrorist policy can only be read as al-Bashir’s government’s desire not to repeat its earlier strategic error of siding with Saddam Hussein in the first Gulf War, and therefore, avoiding the polarization of its civil war into Arab-Muslim government versus Christian-southern rebels that would have increased global support to the rebels, especially from Washington if it did not make the correct choice of denouncing terror and terrorists on the global stage. As Clement Adibe notes,

³¹ See Nelson Kasfir, p. 197.

³² Lam Akol “The Present War and its Solution,” in Francis Deng and Prosser Gifford, eds., *Search for Peace and Unity in the Sudan* (Washington, DC: The Woodrow Wilson Center Press, 1987): 15

When September 11 attacks occurred ... President Bashir firmly denounced Osama bin Laden and al Qaeda and pledged to cooperate with Washington in rooting out the terrorist menace. In Washington, Bashir's unsolicited support, like Ghaddafi's, was especially well received by Powell's State Department which was saddled with the task of putting together a 'coalition of the willing' on a very short notice. ... [And] "Since 9/11, Bashir has provided the US with a steady stream of much-vaunted intelligence" which has been used to track and target al Qaeda networks and funds.³³

Consequently, the administration rewarded the Sudanese government by supporting "... the lifting of UN sanctions against Sudan on September 28, 2001 ... and quietly quelled pending legislation for imposition of capital market sanctions ... [and for] the next two years, the Bush administration treated Khartoum as an ally in its war on terror while Bashir's security and the Janjaweed roamed Darfur with greater impunity."³⁴ What the foregoing indicates is that the United States has the moral and military force capability and credibility—when it chooses to use them in concert with others or unilaterally—to nudge others toward resolution of conflicts such as the Darfur crisis.

I would argue that the United States fails to consistently use its capacity to enhance peace and security missions in Africa; or more specifically, fails to forcefully use the regional and international organizations such as the United Nations and the African Union in such projects because there are no consistent *national interest* imperatives for the foreign policy decision makers in the United States. And certainly, there is no consistent Africa Constituency with voting power at the congressional district levels to compel action on behalf of Africa.

Similarly, the United Nations and the former Organization of African Unity did not as collective action institutions intervene in the internal affairs of an African state in protection of the rights of individuals as individuals or as members of a group. Even when such intervention would profoundly have saved hundreds of thousands of lives as the case of Rwanda showed—the two institutions did nothing beyond engaging in rhetorical debates over state responsibilities to their citizens and whether the atrocities qualified as genocide because the interests of the elites in these institutions are largely devoid of compassion and commitment to the resolution of issues on behalf of the marginalized and disorganized victims of both structural and state-supported violence. It is against this background of previous collective inaction that we think the role of the AU can be more constructive than the conflict-avoidance strategies employed by much of the Western world in Africa; but especially that inaction is true of the veto-hobbled Security Council organ of the United Nations and the non-interference excuse for inaction by the defunct OAU.

Progressive Responsibility to Protect Argument

While sovereign states are notorious for protecting their rights to internal action, multilateral institutions such as the United Nations with collective security principles in its charter have been notorious for insisting on invitation from states before they could intervene in a nation's internal affairs to protect entrapped citizens facing extermination as was the case in Rwanda and the former

³³ Clement E. Adibe, "Once Bitten, Twice Shy: The Evolution of U.S. Policy on the Crisis in the Darfur Region of Sudan," presented at the annual meeting of the International Studies Association (ISA), Chicago, IL, (28 February-3 March, 2007): 26.

³⁴ Ibid.

Yugoslavia. But while powerful states such as the United States in collaboration with regional organization such as the North Atlantic Treaty Organization (NATO) will, if their interests are at stake, violate the UN principles as was the case in Kosovo in 1999, less powerful states and organizations such as those in sub-Saharan Africa are left to fend for themselves based on the inviolability of the principles of sovereignty at the expense of unprotected citizens as the case of Rwanda in 1994 demonstrates. It is illuminating that the U.S.-NATO action in Kosovo in 1999 resulted in "... an unusual distinction when an independent international commission called the U.S.-NATO intervention *illegal* in the sense of not having followed the letter of the UN Charter but *legitimate* in being consistent with the norms and principles that the Charter embodies (my italics)."³⁵

Perhaps the foregoing insight led to the formation of the *International Commission on Intervention and State Sovereignty* whose 2001 report provides a theoretical basis for the responsibility to protect argument. The responsibility to protect³⁶ argument is based on the core principles that "state sovereignty implies responsibility" and that the primary responsibility of a state is the protection of people within its territory. In situations "where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principles of non-intervention yields to the international responsibility to protect."³⁷ The responsibility to protect argument further provides for *prevention* of "large scale loss of life" as its priority with as little coercive measures as possible; and that whatever the motive for intervention, it should aim to avert human suffering.

Furthermore, the five permanent members of the UN Security Council should agree not to use their veto powers to obstruct the passage of resolutions authorizing the use of military force when their interests are not involved. Specifically, it says, "The Security Council should take into account in all its deliberations that, if it fails to discharge its responsibility to protect in conscience-shocking situations crying out for action, *concerned states may not rule out other means to meet the gravity and urgency of that situation*—and that the stature and credibility of the United Nations may suffer thereby (my italics)."³⁸ Given that the responsibility to protect argument was accepted by the United Nations after both genocide and ethnic cleansing occurred in Rwanda, Bosnia and Kosovo, the Darfur crisis is thus, the first test case for this important international norm and obligation to which it has failed either because Russia and China have material interests in Sudan and/or because the United States have verifiable national interest in working with the President Omar al-Bashir administration whose support for the United States' war on terrorism compels United States to be soft in its diplomatic engagement with the government of Sudan. An added dimension here is the negotiated peace between the Sudanese government and the southern rebels to which the United States, the United Nations and the African Union were party to. As a result, all three are cautious about forcing the hands of the Sudanese government, lest it reneges on the provisions in the Comprehensive Peace Agreement whose consequence will be a return to massively destabilizing war for the country and region. The problem is, the African Union whose presence and argument of "African solutions to African problems" in Darfur

³⁵ Bruce W. Jentleson, *American Foreign Policy: The Dynamics of Choice in the 21st Century* Third Edition (New York: W. W. Norton & Company, 2007)p. 439. Also, see Independent International Commission on Kosovo, *The Kosovo Report: Conflict, international Response, Lessons Learned* (Oxford: Oxford University Press, 2000).

³⁶ Unless noted, my responsibility to protect argument is based on ICISS, *The Responsibility to Protect: The Case for Humanitarian Intervention* (Ottawa, Canada: International Development Research Centre, 2001).

³⁷ Ibid.

³⁸ Ibid.

frees the United States, China, Russia and, by extension, other western powers from doing much beyond diplomatic talk. And, with its 7,000 troops and lacking logistical capability in Darfur the AU is not able to provide robust and credible protection for the Darfuris and for its troops, some of whom continue to be killed by government forces, rebels and the Janjaweed.

What to Do?

Clearly, the responsibility to protect argument is lacking teeth and the African Union lacks the necessary force and capability to be of significant help to the Darfuris before the arrival of the negotiated 20,000 additional troops (if they arrive) in January 2008. However, it is not cliché to say the failure to protect the Darfuris is the failure of African governments to assume full responsibility for the peoples of Africa. If we assume the African Union is serious about privileging African peoples over state and sovereignty claims, the right to protect does provide for an effective role for a regional organization such as the African Union in cases where the UN Security Council proves as ineffective as it has in the case of Darfur. The question becomes what does the AU need to do? First, there has to be a peace to keep before peace keeping forces can be brought into the region. Therefore, the constraint on reaching and keeping peace in the Sudan is directly related to the asymmetry of force between the government of Sudan and the Janjaweed on the one hand; and on the other hand, the fragmented and disorganized Darfuris and its various splinter groups.

Given the core issues—for the southern Sudanese, autonomy with the right to vote for independence in a couple of years from the larger Sudanese state, peace may eventually be settled in battle; for Darfuris, economic development and political justice constitute the core issues, which unarguably lend themselves to political negotiation. Therefore, creating the space for political negotiation requires a cease fire between the combatants. Strategically, then, deploying troops (Africans and non-Africans) with robust logistical support to force an end to the fighting is the first step to engaging in peace negotiation and implementation. In this sense, force activation in all its majestic presence and deployment is predicted to lead to acceptance of cease fire by both the Government of Sudan and its collaborators and the Sudanese Liberation Army and their collaborators as precondition for peace and therefore negotiation/resolution of issues about justice. For effective outcome, neither the government nor the rebels should have the power to veto the source of the troops and/or the type of logistical support available to the military intervention force.

Following the military intervention force, the AU must take decisive steps towards bringing the Government of Sudan and the Darfur representatives, the Sudanese Liberation Army and the Justice and Equity Movement groups together to negotiate and correct whatever identified problems exist within the framework of Sudanese law and public policy. This must include the option of comprehensively federalizing the provisions of the Comprehensive Peace Agreement with southern rebels to the rest of the country. Acting boldly in convening the groups in the Darfur crisis together in its headquarters or other viable and accessible location will establish the AU at the forefront of the responsibility to protect protocol provisions of the UN as well as the AU protocol. It will also ensure that the AU is at the forefront of any final peace talks as well as confirming to all, the dedication of African governments to the guidelines of the AU charter and its commitment to avoiding the failures of the OAU.

Given that the Sudanese government is reported to be "... inviting Arab tribesmen from Niger and Chad to occupy the lands vacated by the refugees"³⁹ in Darfur, indicates at least its intent to ethnically cleanse the region and at worst, commit genocide. And, because the Darfur crisis is an African problem with global implications, a basic responsibility for the AU would be to boldly and without equivocation label the crisis in Darfur as *ethnic cleansing/genocide*. This would include labeling the crisis a grave situation and a crime against humanity—a clear warning to the Khartoum-based Sudanese government and the Janjaweed leadership that failure to stop the large scale violence will bring them up for charges on crimes against humanity consistent with the International Criminal Court provisions. This has two immediate results; first, it activates Article 4(h) of the AU's Constitutive Act requiring the organization to take action; and second, it avoids the definitional conflict over the term *genocide* and compels African governments to clearly identify their support for the AU's Constitutive Act to which they are signatories.⁴⁰

With clear identification of the crisis as genocide/ethnic cleansing and with the presence of robust military intervention for purposes of establishing a cease fire in the region, the AU should place travel restrictions on the top leaders of the Government of Sudan and rebels responsible for atrocities except for travel related to negotiation and resolution of the conflict. The strategy should include freezing the bank accounts of all affected individuals and groups, as well as imposing sanctions on Sudanese companies deemed to be complicit in any atrocities that the AU is attempting to bring to an end; as well as compensate those whose actions help bring an end to large scale violence against people in Sudan and elsewhere in Africa.

In addition, recognition and recognition-withdrawal can be powerful and effective tools available to the African Union for carrying out its responsibility to protect obligations in situations where African governments have failed to protect the people within their territory. In this case and, beyond primordial identities, social and therefore group identities are constructed to create space for inclusion and exclusion. This approach ensures that the Fur or Arabs will remain who they are; however, the Sudanese state may or may not survive an identity reconstruction if war erupts across the country. Thus, while states in Africa as well as their membership in the African Union may eventually survive or die, it is individual primordial identities that are sustained over time as the basis for recognition of our individual existence. Furthermore, the artificially or socially constructed identities are political tools that can be used for purposes of ending conflicts like those in Sudan. In the formation of social or group identities,⁴¹ there is always an in-group such as the African Union or the United Nations which represents the desired group identity, and the non-group members such as states that have to adjust if admitted in order to remain members of the group. Thus, the African Union is the core group for African states who desire membership in the group. It occupies the center stage of the group identity; and states such as

³⁹ See The Economist, "Pity the people of Darfur, pity the peacemakers too," http://www.economist.com/world/africa/displaystory.cfm?story_id=10024636 (retrieved 11/5/2007).

⁴⁰ Clearly, an immediate implication of this bold action might be a threat to break up the organization by some members, which might actually lead to the disintegration of the African Union. But, it might also on grounds of public opprobrium force member states and with the support of civil society organizations to vote consistent with the provisions of the Constitutive Act to protect individuals/groups whose governments have chosen to ignore and/or violate their human and peoples' rights—a welcome relief for the emergence of truly politically independent African states!

⁴¹ This section relies on the excellent explication of Al-Baqir al-Afif Mukhtar "The Crisis of Identity in Northern Sudan: A Dilemma of a Black People with a White Culture," A paper presented at the CODESRIA African Humanities Institute (2007).

Sudan or Nigeria should be part of the core group or non-group depending on their behavior. The privileges of membership should draw the non-group states to seek inclusion. As such, the AU has the power to legitimize or de-legitimize the public behavior of states, especially with regard to their policies toward the people in their territories.

The power of recognition and its withdrawal then becomes a tool that enables the AU to monopolize the power to recognize or withdraw diplomatic recognition from members whose actions are judged repugnant to civilized standards—especially, when such actions include ethnic cleansing and/or genocide. Indeed, the power of recognition or its withdrawal seems to be the most powerful diplomatic tool available to the AU and members of the UN Security Council such as the U.K. and France who desire to do something to end large scale violence characteristic of ethnic cleansing/genocide without necessarily participating in joint military intervention with the AU forces. The power of recognition is not new as evidenced by the capacity of the United States' legislature to include or exclude states on its "list of terrorist supporting states" on which the Sudanese government was placed in the 1990s and thus, sought to be excluded from after it pledged support for the war against terrorism following the September 11th attacks on the United States. Such diplomatic tools should be used by the African Union to recognize and/or withdraw recognition of African states and others whose actions support large scale violence in the continent either through the supplies of arms, the threat of the use of veto to obstruct the passage of UN Security Council resolutions on military interventions and/or the use of state power in any form to undermine the responsibility to protect obligations of both the UN and the African Union within Africa.

Structurally, the current trials by the International Criminal Court (ICC) over the 1994 Rwandan Genocide offers a precedent setting and an avenue for the forthcoming AU Court of Justice to be the venue and structural platform for any future trials of Africans and their leaders who commit offenses against humanity as codified in the Geneva Conventions. Such sanctions and legal actions within the continent are likely to have a large positive impact, albeit symbolically; but they also signal Africans' strong disapproval of existing policy and behavior in Darfur.

Similar to the grassroots efforts at divestment during the struggle against the Apartheid regime in South Africa, the movement for divestment in Sudan, mostly by groups in western countries is also important but should be complemented by similar movements sponsored by civil society organizations with help from the AU headquarters where appropriate. Painfully, NGOs receiving funding from companies and/or organizations whose income are derived from investment in the Sudan should refuse such funding in solidarity with the Darfuris whose lives have been trampled upon by the government of Sudan, the Janjaweed and all countries and companies whose investments enrich the purchase of arms and equipments deployed in the business of ethnic cleansing and genocide. Collectively, African nations should not only cease doing business with companies identified as enhancing the capacity of the Sudanese government's unwillingness to negotiate in good faith, but divest from them, going so far as to freeze the accounts of Chinese, Malaysian, Indian, and other states' corporations that do not end their business with the government of Sudan. For major states, especially China and Russia that are involved in the sensitive business of oil explorations, providing arms, weapons, and other support indirectly to the Janjaweed through the government of Sudan, recalling African ambassadors from—a form of recognition withdrawal will signal the seriousness of AU's desire to end large scale conflicts in the continent. And, specifically a bold, and maybe unacceptable move against the Sudanese government, is the withdrawal of all AU member ambassadors and diplomats from Khartoum.

In a sense, African de-legitimization of the Sudanese state is predicted to intensify a crisis of identity for the ruling elites and might hasten an internal change of government for a more progressive one willing to work within the principles of the African Union to protect the rights of all citizens within its member states. The recent AU decision to deny Sudan its bid to serve as the chair of the Union is a positive example of what a unified strategy can achieve in sending a message of disapproval. Similar actions as suggested above would throw Sudan into a shock. The AU must look to approve and encourage any and all possible strategic moves within its power and charter to force the parties back to the re-negotiating table on the basis of the Darfur Peace Agreement (DPA) signed May 5, 2006.

Since both the Government of Sudan and Sudanese Liberation Army/Movement that signed the document have broken and violated its provisions several times and the fact that many of the Darfuris rebels have splintered into different factions, it is necessary for the AU to midwife a renegotiation of the agreement. This effort assumes that a cease-fire as previously argued is enforced. As several reports as well as the continuing violence indicate, the growing factional divide since the drafting of the DPA shows lack of political will and faith in its implementation.

Therefore, the AU must take the lead in negotiations and diplomatic efforts to consolidate the numerous existing efforts (by Chad, Libya, Eritrea, and the UN) into a single plan under the AU umbrella. A recent Human Rights Watch report reiterated the need for the UN, Arab League, Government of Sudan, EU, and others in supporting the efforts of the African Union to maintain and expand its efforts of achieving peace in Darfur as well as keeping the organization's effective existence afloat.⁴² Again, the importance of the AU's role in bringing a successful result to any agreement requires maintenance and expansion of their current monitoring role to one of cease-fire enforcement. The AU will succeed in its efforts at cease-fire enforcement and peaceful negotiation that ends the conflict and paves the way for political settlement of the Darfur crisis if practical strategies include confidence-building among members of the various factions and communities within a familiar framework of local traditions.

As Murithi notes, "For peace to be sustainable there needs to be a process of consultation and involvement of local grassroots populations as part of the process of re-emphasizing the inherent worth of traditions,"⁴³ as part confidence building and part establishing of trust and credibility for both the cease-fire enforcements and the eventual process of negotiating a lasting and sustainable peace in Sudan. Indeed, not paying attention to existing traditions and structures are the very problems that have plagued most of the approaches to development, economics, and politics in the continent. Ignoring existing structures and traditions that were put in place to deal with diverse situations as was the case in Darfur only intensifies conflicts whose origins and solutions are alien to the people whose lives are supposed to be transformed. By learning from and including traditional methods, the AU can capitalize on the rich history of enduring African cultures and methods of conflict resolution and management and revitalize them as part of a parallel track of African Union's formal approach to conflict management and enforcement, especially in less developed regions of the continent like Darfur.

Based on reports from the Christian Science Monitor, the African Union already has an ally on the ground from which it could effectively begin a robust counter-strategy to the Government of Sudanese's policies of renegeing on the responsibility to protect obligation. Reports indicate that former Janjaweed

⁴² Human Rights Watch, "Imperatives for Immediate Change: The African Union Mission in Sudan," *Human Rights Watch*, Volume 18, No. 1 (A), (January 2006), p. 9-10

⁴³ Murithi, p. 76.

and Arab rebels who fought on the side of the Government of Sudan have been deserting their ranks to join the Darfur cause. After promises of land, cattle, and money proved to be worthless, “dozens of Janjaweed commanders are joining the struggle against the Sudanese government.”⁴⁴ This is a clear indication that if salient issues for each party, as previously argued, are identified and dealt with, the crisis could be brought under control. These defectors have played a crucial role in helping protect the roads from attacks, allowing convoys of food and humanitarian aid through to rural and formerly dangerous areas. By tapping into this group of sympathetic Sudanese Arabs, particularly those who have disassociated themselves from the Janjaweed and are working to protect civilians or defending them by joining SLA or JEM, the AU can identify those who still have ties to the Janjaweed and central government and place pressure on them to prepare for meaningful talks. These defectors and many other Sudanese “Arab” tribes exist within the Darfur region and have continuously opposed the Government of Sudan policy and refused to take part in the Janjaweed.⁴⁵ Comprehensive talks would require these Arab groups to be involved and represented as a show of Darfurian unity and rejection of the entirely “ethnic” nature of the conflict; as Prunier aptly notes, ethnic tensions “were the raw materials, not the cause”⁴⁶ of the large scale violence in Darfur.

Clearly, there is a strategic religious dimension to the conflict in Darfur; but these need to be clarified to make sense of the recommendation below. The North-South conflict in Sudan since 1956 pitted the Arab Muslims (north) against Black Christians (south); but the case of Darfur is different because the National Islamic Front (NIF) that controls the government of Sudan is engaged in a large scale violence against Darfuris who are mostly Africans, but also Muslims. Therefore, considering the Islamist roots of the NIF and al-Bashir’s regime, the AU should counter its religious basis for power by strategically and diplomatically making the case that another Muslim-versus-Muslim conflict would shadow the sectarian violence in Iraq. Also, the looming civil war among Palestinians is an affront to Islam and the unity of the “ummah” or Muslim world. This is important since the NIF balks at claims of rape by Janjaweed members, or at least government support for it, as impossible and “un-Islamic.” This requires the inclusion of predominantly Muslim African nations such as Libya, Egypt, Tunisia, Algeria, and others who also hold a seat in the Arab League as well as in the African Union to use their influence in discussions with Sudan to compel the al-Bashir regime to ensure the protection of the Darfuris against rape, torture, murder and ethnic cleansing by other Muslims. The same can be said in situations like Rwanda where the perpetrators were mostly Christians against other Christians.

In the end, the various actors in the Darfur crisis, especially states are only likely to act when compelled by either positive or negative incentives to change their behavior; and in contemporary international politics, only the U.S. has the capability and credibility of action to effectively engage the various actors to resolve the Darfur crisis. But as was painfully pointed out by a guest on Wolf Blitzer’s *Situation Room*, in the realist world of politics, countries, including the U.S., never choose friends, but rather whatever is in their national interest at the time.⁴⁷ The question is: does the responsibility to protect factor into the national interest of the United States, Russia, China and other capable major powers who are directly or indirectly involved with the Government of Sudan? The answer for now seems, no!

⁴⁴Crilly, Rob. “In Darfur, Some Arabs Now Fight Alongside Rebels.” *The Christian Science Monitor*, 22 May 2007. Accessed via Yahoo! News. <http://news.yahoo.com/s/csm/20070522/wl_csm/oswitch_1>

⁴⁵ Ibid.

⁴⁶ Gerard Prunier, p.200.

⁴⁷ Blitzer, Wolf. “The Situation Room.” Cable News Network. 12 June 2007.

Therefore, the responsibility to protect, especially Africans, falls to the African Union and its potential for doing well is boundless. At the least, the AU can succeed in establishing optimism and “override the sense of inevitability of crisis which has framed the way Africans and non-Africans have viewed the continent for decades.”⁴⁸ Its premise of Pan-Africanism and unity can be a way for the AU to convince Sudan to take strong steps to ending the terror of the Janjaweed and prepare for a viable end to the conflict. In the meantime, focusing on stabilizing Darfur in time for the 2009 midterm elections, security, political, and humanitarian assistance efforts must be supported by adequate funding and logistical support⁴⁹ by African states, especially South Africa, Nigeria, Egypt and Libya that have professed a desire to see an end to the violence in Darfur. In the end the AU, has the tools it needs to become a solid entity in mediating African issues—strength in collective desire to uphold the responsibility to protect principle enshrined in both the UN and AU pronouncements. For the international community, especially members of the EU, NATO and the UN and for capable states such as the United States of America, the African Union has shown the desire to uphold the responsibility to protect. This is evidenced by their willingness to supply the troops for peace enforcements, but the AU lacks what those groups and nations have—robust and credible logistical equipments like helicopters, weapons and yes, money to pay an over-stretched, under paid, and unprepared African force—to succeed in an action that is clearly the collective responsibility of the international community if the UN Charter is to remain credible. For the AU, success can occur through logistic and financial support for the proposed hybrid UNMIS/AMIS force as well as the restart of peace talks as specified above.

However, for a sustained capacity to influence external entities to help with African problems, or at least to not block action, especially at the Security Council, the AU should not hesitate to look beyond Africa for pressure and influence on forcing parties back to the table ready to make real decisions, while maintaining its position of leadership. An international community which focuses on African issues should be strategically institutionalized by funding an Africa Advocacy group in various countries—especially in those countries whose citizens and corporations are likely to be spoilers for African issues and policies in the international system. In the end, the assertion that only when Africa is neglected will it look to solve its own problems,⁵⁰ may be true here as the large scale violence in Darfur did not become a major issue in much of the press in Africa until the international media picked up the cause in 2004. However the issue came to be a major event for Africa, its resolution requires the collective efforts of Africans, civil society organizations, governments, media, intellectuals and yes, external actors and organizations like the African Union to find a sustainable solution to crimes against humanity in the continent; so rather than *yet again* in Africa, we can say, NEVER AGAIN!

⁴⁸ Murithi, p. 106.

⁴⁹ United Nations Security Council, (S/2007/213), (17 April 2007). and Murray, p. 268.

⁵⁰ Francis, p. 123.

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History Repeating: Militarized Foreign Policy in Africa

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The militarization of U.S. foreign policy in Africa today is resulting in more tyranny and less freedom for the poor people of the continent. Despite its abundance of natural resources, 50 years after independence, Africa remains the poorest and least democratic continent in today's globalized world. In large part, this is due to the inability of Africa's people to chart their own path towards prosperity. Neither colonial liberation nor the end of the Cold War has led to true political and economic self-determination for the African people. Critical policy decisions are still dictated to African countries by the U.S., other Western powers, and increasingly China. The emerging paradigm that the U.S. military should act as the steward and ultimate guarantor of American development policy in Africa threatens to further entrench the prioritization of short-term perceived U.S. economic and security interests over the human development and just security concerns of the African people

The role of any military is to protect and defend at all cost. When the military is brought in to secure an area, this mandate is their priority – not issues like the history, culture, human and civil rights, economic imbalances and poverty of the communities where they are operating. For commissioned officers and the Defense Department, humanitarian work will never trump military objectives. This reality was clearly illustrated in Iraq when the State Department and humanitarian groups were simply cut out of planning discussions around the build up to the invasion and its aftermath. The new U.S. Joint Unified Command for Africa - AFRICOM - appears likely to follow a similar trajectory. AFRICOM threatens to subvert genuine U.S.-Africa partnerships and people-driven diplomatic and development policies to the military pursuit of access to natural resources and ideologically defined counterterrorism objectives.

The total amount of U.S. military sales, financing and training expenditures for African countries considered particularly strategic for the "war on terror" has increased from about \$40 million over the five years from 1997 through 2001 to over \$130 million between 2002 and 2006. That number will approach \$1.5 billion in 2009⁵¹. Just as U.S. military and intelligence meddling during the Cold War exacerbated African civil and regional conflicts, this introduction of arms and promotion of militaristic thinking among African leaders could lead to further volatility and insecurity throughout the continent.

The Bush administration's hasty public roll-out of the U.S.-Africa command raised concerns about the nature of AFRICOM's true intentions among African political leaders and civil society groups alike. During his so called 'victory tour' of Africa in February, President Bush failed to publicly mention this, his most significant African policy initiative, until pressed to by a testy President John Kufour of Ghana on the last day of Bush's trip. President Bush said AFRICOM was designed to 'enhance our efforts to bring peace and security to the people of Africa and to promote the ... development of health, education, democracy and economic growth⁵².' Many Africans and American analyst of the region have been justifiably skeptical of this rhetoric.

One such critic has been Rep. Donald M. Payne (D-NJ), chairman of the House Foreign Affairs Subcommittee on Africa and Global Health. Rep. Payne held a hearing on August 2, 2007 to explore the U.S. military's intentions on the continent. Afterward, he said to the press, "I was shocked and dismayed

when I learned from a newspaper of the administration's plans to establish AFRICOM. . . [This] makes me wonder how the government informed our African partners and allies⁵³." The fact is the U.S. didn't bother to consult any Africans on this initiative. As Carl LeVan, Co-Chair, Council on African Studies at American University explains "Planning for this command has been going on for the last 10 years or so. If it were intended to help Africa fight epidemics and poverty or assist peacekeeping missions, one would think that at least the countries involved would have been taken into confidence by U.S. government planners⁵⁴."

History has shown that whatever the benefits of a militarized approach to U.S. foreign policy for "homeland security," such a strategy usually results in death and destruction for poor people abroad. Al-Qaeda, the Taliban, Saddam Hussein, the Ton Ton Macoutes and the Contras are among the many destructive groups and leaders whose original rise to power was facilitated by ill-conceived U.S. security initiative. On the African continent, U.S. intelligence operatives have a long history of secret, often-coercive support for brutal dictators as long as they served narrowly defined U.S. national security interests.

It is no coincidence that by far the strongest movement towards democracy and civil rights in Africa occurred between the end of the Cold War and the emergence of the "war on terror" U.S. foreign policy framework after September 11, 2001. It was during this period that democracy was truly on the march in Africa and there was an explosion of civil society groups, as extensively documented in Akwe Awosu's *Democracy in Sub-Saharan Africa: Trends and Transitions* (2007). By the early 1990s, what has come to be seen as a "wave of democracy" was sweeping the continent, starting in Francophone West Africa with Benin's landmark 1991 election. Twenty-six countries held presidential elections within the next three years. The end of apartheid in South Africa removed the last and most entrenched official bastion of colonial-era repression.

U.S.-Africa relations during this period should not be romanticized (consider the Clinton administration's failure to lead an international response to the Rwandan genocide). However, the low-level of importance U.S. leaders placed on *any* engagement with Africa during this period led to less military meddling than during the Cold War era. This absence was a key factor facilitating the continent's democratic transitions.

The looming ascendance of the AFRICOM paradigm threatens to undo this progress. For some of today's policymakers, the anti-Soviet litmus test of the Cold War has been simply replaced by the deeply flawed "war on terror" framework. The neoconservative Africa strategy led by think tanks like the Heritage Foundation⁵⁵, the Center for Security Policy⁵⁶, and the American Enterprise Institute⁵⁷ advocates for more military bases throughout the continent, a larger troops presence in Africa, and the option to take direct military action on the continent. This aggression is justified by the strategic importance of unfettered access to African oil reserves and the role Africa plays as a thoroughfare for Islamic extremist militants in the global "war on terror."

Yet the terrorist networks such analysts focus on, particularly Al Qaida, have minimal demonstrated presence in Africa. There have been three major terror attacks below the Sahara in the last ten years — all in East Africa. With the exception of Somalia and Algeria, no one has spotted any serious Al Qaida activity or regrouping elsewhere on the continent since Sudan expelled Osama bin Laden in 1996.

Neoconservative Africa scholars' recommendations sharply diverge from the *2006 United Nations Global Counter Terrorism Strategy*⁵⁸ which underlines the mutually reinforced relationship between the promotion and protection of human rights and counterterrorism measures and highlights the need to address political, economic and social conditions conducive to the spread of terrorism. Instead, their approach, and that of the Bush administration, is grounded in the twin pillars of muscular military force and the flexibility brought by unilateral decision-making.

Has this militarized engagement with Africa benefited the people of the continent? Many African civil society leaders have responded with a resounding “no.” (See *African Voices on AFRICOM*, available at www.africaaction.org.⁵⁹)

Perhaps no U.S. effort crystallizes the disastrous nature of militarizing U.S.-Africa policy than the current approach to Sudan. Although the Bush administration publicly denounces the Sudanese government for its human rights abuses, the effectiveness of U.S.-led international diplomacy designed to pressure Khartoum to end its brutal abuse of its own people has been undercut by the deep U.S.-Sudan counterterrorism ties.

The Clinton administration's aggressive isolation of Sudan during the 1990s has been replaced with a publicly harsh, privately warm U.S.-Sudanese relationship driven not by concern for the people of Darfur or other marginalized Sudanese populations, but by the pursuit of Al Qaida in the Horn of Africa and elsewhere. U.S.-Sudan relations were virtually nil in the 1990s, yet in November 2001, CIA had reopened a station in the Sudanese capital of Khartoum, and both CIA and FBI officials began active collaboration with the Sudanese National Intelligence and Security Service (NISS) also known as the Mukhabarat⁶⁰. As the Los Angeles Times reported in April 2005, the CIA flew Salah Abdallah Gosh, then head of the Mukhabarat, via private jet to Washington for a series of secret meetings with the CIA and other U.S. security agencies⁶¹.

At the time, Gosh was under intense scrutiny by activists and Members of Congress as one of the key figures orchestrating the genocide in Darfur. In February 2006, UN expert investigators referred his name to the Security Council as one of 17 individuals recommended to be targeted for sanctions because of their documented roles in planning and carrying out crimes against humanity and obstructing the region's peace process⁶².

The latest State Department Country Report on Terrorism for Sudan (April 30, 2007) described the Sudanese government as “a strong partner in the war on terror.” Much of this collaboration has focused on monitoring the movements and activities of al-Qaeda and other groups through Sudanese territory and in the Horn of Africa, in support of U.S. counterinsurgent strategy in Iraq and other countries in the Middle East. Not only has Sudan shared information on Islamic extremists traveling from its territory to

Iraq, but direct NISS access to these transnational “pipelines” (as a result of having facilitated their creation in the 1990s) has helped the Sudanese intelligence service create a network of informants on insurgents in Iraq. CIA officials suggest that one other reason Sudan is so valuable is because its operatives are Arabs who can blend into Iraqi populations much more easily than white or other non-Arab American officers⁶³.

Sudanese intelligence has also been critical to the misguided U.S. military intervention in Somalia⁶⁴. According to Sudanese Foreign Minister Mustafa Osman Ismail, the NISS has served as the “eyes and ears” of the CIA in Somalia⁶⁵. In December 2006, backed by the U.S. government, Ethiopia invaded Somalia on the pretext of removing the threat of an Islamic fundamentalist regime that was supporting international terrorists. In June 2007, Khartoum hosted the Committee of Intelligence and Security Services of Africa (CISSA) fourth full conference, and just as in the 2005 meeting described above, senior CIA officials were present. There, the CIA’s Director of Operations for Africa described the Sudanese as “very much on top of the international situation,” and lauded their professionalism in sharing tips about new al-Qaeda-related activities on the continent⁶⁶.

In January 2007, U.S. cruise missile strikes targeting suspected terrorists in Somalia supplemented the Ethiopian assault. The strikes succeeded in killing none of their top targets, but killed an unconfirmed number of civilians, likely in the dozens, including children. In March 2008, the U.S. again launched air strikes on a suspected terrorist target in Somalia, reportedly killing three women, three children and seriously injuring dozens of other people⁶⁷. This heavy-handed military approach of conducting air strikes and employing naval warships to capture a handful of suspected Al Qaida elements in Somalia is akin to using a sledgehammer to crack a nut. It is difficult to argue that the continued destabilization of Somalia, the occupancy of Mogadishu by historic enemy Ethiopia and the creation of over a million internally displaced people has made the world, let alone the African people any safer from terrorism. If this is what Sudan “professional” intelligence has delivered, than I would argue that it is not worth it. Contrary to the stated objective of promoting security, U.S. collaboration with the Sudanese and Ethiopian dictatorships has fuels a climate of anti-Americanism, poverty and precisely the political and social injustice that encourages terrorists. A better U.S. counterterrorism policy would be to pursue a strategy of just security, promoting human development and working with African governments and civil society alike to support genuine people-driven democracy across the continent.

Last summer, concerned leaders in Congress challenged the administration’s hypocrisy on this issue. Senators Ron Wyden, Russell Feingold, Olympia Snow and Sheldon Whitehouse, all member of the Senate Select Committee on Intelligence, wrote a letter on May 4 to Michael McConnell, U.S. Director of National Intelligence⁶⁸. “How is it not a paradox for the State Department to describe the Sudanese Government as a ‘strong partner in the War on Terror’ while at the same time listing Sudan as a ‘State Sponsor of Terror’?” Senator Wyden said. “We need to understand the basis for this description, especially since some are suggesting that Sudan’s cooperation on counterterrorism is a good reason for the U.S. not to intervene to stop the genocide in Darfur.”

Director McConnell's February 2008 public testimony to the Senate Select Committee on Intelligence described the situation in Darfur in pessimistic terms, but failed to mention CIA or any other U.S. intelligence cooperation with Khartoum. Previous comments by administration officials, however, have been to bluntly deny that a coherent U.S.-Sudan policy is important, insisting that the issue of the "war on terror" and U.S. efforts to end the genocide are completely unrelated. Andrew Natsios, then U.S. Special Envoy for Sudan, said the following in December 2006: "We appreciate the cooperation between the Sudanese Government and us on counterterrorism. It is not driving U.S. policy, it is not the first principle, it is subordinated to the human rights issues and its humanitarian principle⁶⁹." The June 2005 comments of Charles Snyder, Natsios' predecessor at the State Department, sound remarkably similar. "We have not at all pulled back our punches based on what we're doing on the intelligence side. Certainly, Secretary Powell didn't pull his punches when he called it genocide⁷⁰." Yet that's exactly what Colin Powell did when, in flagrant disregard of the Geneva Convention, he declared "no new action is dictated" by the U.S. government determination that genocide was taking place in Darfur in 2005.

Though he was replaced as Special Envoy in January 2008, Natsios recently wrote an article in *Foreign Policy* defending U.S. engagement with Khartoum and criticizing international initiatives to penalize the regime for violating international human rights laws and UN Security Council resolutions⁷¹. *Beyond Darfur: Sudan's Slide Toward Civil War* suggests that engagement with Khartoum and the relaxation of diplomatic and economic pressure may be the only way to avert another North-South civil war in Sudan. Arguing that the NCP can resist outside pressure thanks to Sudan's growing oil wealth, Natsios suggests that an approach offering rewards for compliance and cooperation is more likely to work than one based on punishing recalcitrance. This strategy offers a conciliatory blueprint to U.S.-Sudan relations, revealing an underlying willingness of normalizing U.S. ties with Sudan for counterterrorism interests at the expense of the nation's people. Cooperation with U.S. counterterrorism policy, not its human rights record, drives U.S. engagement with Sudan. Would the Bush administration dream of considering such an approach to such foes as Iran or Venezuela?

In January, Richard Williamson, widely regarded as a capable career diplomat, replaced Andrew Natsios as the new U.S. Special Envoy for Sudan. President Bush framed this appointment as a step toward increased U.S. diplomatic pressure to end the genocide in Darfur and promote peace in Sudan. Williamson has been publicly vocal on the issue of UNAMID deployment and Comprehensive Peace Agreement (CPA) implementation in 2008, particularly in March, and has reflected a strong understanding of the need to link these two issues together in U.S. policy. While this is a definite improvement, much of Special Envoy Williamson's public lambasting has been directed not at Khartoum or its UN Security Council guardian, China, but at the UN as an institution for failing to expedite UNAMID's deployment.

Williamson has repeatedly expressed his "frustration" at the lack of urgency in getting "boots on the ground" in March press conferences, attempting to shift the blame for UNAMID's deployment from Khartoum, China, or Russia to the UN⁷². The U.S. is the most powerful member, so the failure of the institution to follow through on its commitments is the failure of U.S. foreign policy. Instead of

achieving success on the ground, this tactic is designed to take political pressure from activists off of Washington so that it can continue its intelligence-sharing relationship with Khartoum without being forced to expend the diplomatic capital within the UN Security Council and other venues necessary to actually get UNAMID in place.

The unwillingness of President Bush to publicly denounce the NCP's obstruction of UNAMID's full deployment in the strongest terms has emboldened Sudanese officials to make increasingly aggressive public statements that U.S.-Sudan ties are closer than ever to normalization. Various proclamations by government spokespeople in both the NCP and SPLM throughout the first quarter of 2008 have put the timeline at a matter of months. Abdalmahmoud Abdalhaleem, Sudan's ambassador to the UN, termed this a "strategic shift"⁷³

The administration's response to these troubling statements has been a chorus of denials, (though none by the President himself) and more misleading rhetoric. UNAMID, the joint U.N.-African Union force agreed to by Sudan, was supposed to be deployed in full months ago. But so far only about 9,000 of the authorized 26,000 peacekeepers are on the ground. Jane Holl Lute, a senior UN official who oversees the organization's field operations, briefed the Senate Foreign Relations Committee in April and said that the mission lacks still lacks five critical capabilities to become operational – attack helicopters, surveillance aircraft, transport helicopters, military engineers and logistical support, not to mention the properly trained soldiers and police required to fulfill the mission⁷⁴. Rather than simply blaming an institution in which it is a leading member for these shortfalls, the U.S. should work with its European allies to secure helicopter contributions, or with Russia, who in early March suggested in might be willing to loan helicopters to UNAMID if they were operated by another country's personnel⁷⁵. President Bush's announcement of \$100 million in new U.S. UNAMID funding during his visit to Rwanda in February received much media fanfare. Of course, he did not mention that the U.S. remains \$668 million in arrears to the UN this year for UNAMID and other peacekeeping operations worldwide.

President Bush should definitively state that the U.S. will never normalize relations with Sudan until UNAMID is fully deployed and freely operating in Darfur, and the NCP-dominated regime in Khartoum has followed through on all of its commitments to the CPA, putting the country on track for the 2009 elections mandated in that treaty. This reticence illustrates how the Bush administration prioritizes military cooperation over the human rights and security of the African people, a tendency that since 2001 has degraded U.S.-Africa relations across the board. As an analyst for Pretoria-based Institute for Security Studies Jakkie Cilliers says this is clearly not what the continent needs. "Our concerns are developmental concerns. They are poverty and they relate to the absence of functioning states on the continent and there is very little military forces can really do to deal with those major challenges."⁷⁶

The militarization of Africa raises more questions than the Bush administration is willing to answer publicly at this point. Who does the United States intend to stabilize by introducing more military equipment and approving more arms sales into the region? How does the United States decide when to use force in "stabilizing" a conflict? If people are protesting unfair corporate practices near the grounds of an oil company, will the United States use force, or encourage the use of force by African military units, to protect these corporate assets? Will U.S. soldiers be accountable in any way to African

governments or their citizens? To what degree will the United States employ mercenaries and other contractors in Africa? Will U.S. economic interests trump the rule of law, democracy and accountability in Africa? If America increases its military presence in Africa, will this spur a new wave of neocolonialism, with Russia, India and China vying for geopolitical and economic advantage⁷⁷?

Democratic governance, sustainable development and human rights are serious challenges in many countries in Africa, but considerable progress has been made by activists, advocates, and civil society organizations over the last few decades. The militarization of aid to Africa already has dramatically sharpened the slope of this already uphill battle for social, political and economic justice on the continent. The militarization of Africa comes at a time when the continent can least afford it. An Oxfam report on armed conflict in Africa released in October estimates that the cost of conflict at the expense of the continent's development over a 15-year period was nearly \$300 billion. According to this study, between 1990 and 2005, African nations were involved in conflict, and on average this cost African economies \$18 billion a year⁷⁸. The fundamental question for many who oppose military inspired solutions to Africa myriad problems is whether the U.S. will utilize this increased military presence to support freedom, self determination, growth, prosperity, and accountability on behalf of the majority of the nearly one billion people in Africa or if this new initiative will instead serve to oversee surrogate nations whose leadership is accountable first to U.S. security and economic interests. History and the evidence so far seem to suggest the latter.

Footnotes

1. Gerald LeMelle, *Africa Policy Outlook 2008*. For a breakdown of the actual numbers, I highly recommend reviewing the research and writing of Daniel Volman the Director of the African Security Research Project in Washington, DC, and the author of numerous articles on US security policy and African security issues. He can be contacted at the following email address: dvolman@igc.org.
 2. White House Press Release, Feb 6 2007.
 3. Congressional Donald Payne Press Release, August 3rd 2007.
 4. Carl LeVan, The Hill, April 28th 2008, „*Keeping the baloney out of Africa*”
 5. James Jay Carafano, Ph.D., and Nile Gardiner, Ph.D., October 15, 2003, „*U.S. Military Assistance for Africa: A Better Solution*,” www.heritage.org.
 6. Colin Crowley, „*AFRICOM proceeds apace*” www.centerforsecuritypolicy.org.
 7. Mauro De Lorenzo, Terence McNamee, Greg Mills, July 27,2007. „*U.S. Sweet Talk Fails to Seduce Africa*,” www.aei.org
 8. www.un.org/sc/ctc
 9. *African Voices on AFRICOM*, www.africaaction.org.
 10. Africa Action, April 2008. „*The Ties That Bind Bush and Bashir*,” www.africaaction.org.
 11. Ken Silverstein. Los Angeles Times, April 29, 2005. „Official pariah valuable to America’s war on terrorism.” This expose was the first public report of these intelligence ties, and much of this section draws from it.
 12. Mark Leon Goldberg. American Prospect, February 17, 2006. „The Test.” <http://www.prospect.org/cs/articles?articleId=11167>
 13. Gregg Miller/Josh Meyer. Los Angeles Times, June 11, 2007. „US relies on Sudan despite condemning it.”
 14. While the deposed Union of Islamic Courts was an extremely conservative Islamic government with extremist elements, its period of rule had provided the highest degree of stability and rule of law in parts of Somalia that the country had seen since its former government imploded in 1994. It provided a
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mechanism for Islamic politicians to be integrated into the government, where they were beginning to be held accountable for their behavior, rather than driven to violent warfare or terrorism. The U.S./Ethiopian proxy Transitional Federal Government that now nominally administers Somalia has minimal credibility with the Somali people. As governance and rule of law have collapsed in the past 18 months, the region around Mogadishu has erupted into the worst humanitarian and security conditions seen in years. Intelligence provided by the Sudanese government likely helped facilitate this U.S. intervention.

15. Silverstein. Los Angeles Times, 2005.
16. Vivienne Walt. Time/CNN, June 20, 2007. "A quiet American in Khartoum."
<http://205.188.238.181/time/world/article/0,8599,1635502,00.html>
17. Nicole Lee. Final Call News, March 27, 2008. "Is America terrorizing Somalia?"
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18. <http://feingold.senate.gov/~feingold/releases/07/05/20070504.html>
19. <http://www.state.gov/p/af/rls/spbr/2006/79561.html>
20. Democracy Now! June 1, 2005. "CIA secretly restores ties to Sudan despite ongoing human rights abuses in Darfur."
21. Andrew Natsios, *Foreign Affairs*, May/June 2008 "Beyond Darfur: Sudan's Slide Toward Civil War"
22. Wasil Ali. Sudan Tribune, March 21, 2008. "Sudan Racing against time to normalize ties with U.S."
23. Maggie Farley. Los Angeles Times, March 29, 2008. "U.S. offers to restore ties with Sudan."
24. <http://www.senate.gov/~foreign/hearings/2008/hrq080423a.html>
25. <http://www.securitycouncilreport.org/site/c.gKWLeMTIsG/b.3967539>
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27. Gerald LeMelle, Africa Policy Outlook 2008.
28. Oxfam Briefing Paper 107, October 2007, "Africa's missing billions: International arms flows and the cost of conflict"

Peace and Security in the Sudan: Perspectives for Viable Solutions for Darfur

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Introduction

The conflicts affecting Darfur cannot be understood in isolation of the situation in Sudan as a whole and even of the entire region. The history of the Sudan is shrouded in a myriad of events that have increasingly complicated relations between the different sections of its population. From the early Islamic slave-raids for the slave trade in the Nile Valley to the Turco-Egyptian conquest (the Turkiyya) in 1820, to the Mahdist state of internal colonialism (the Mahdiyya) of 1883-98), the Sudan and its people have been subjected to a series of impositions that has left their country in a state of permanent conflicts.

The Anglo-Egyptian reconquest of the Sudan beginning in the 1890s and the entry of the Condominium rule (1899-1947) did not improve the situation, on the contrary, it made matters worse for the African people, especially in the South. Whereas in the North of the country, the Condominium embarked on a swift transition from military occupation to a civilian colonial administration, in the South it found itself confronted with a sharp competition with the other imperialist powers such as France and Belgium since the Mahdist state did not have much of a hold outside its main garrisons at Fashoda.

In their typical colonial 'divide and rule' approach, the British administration tried to re-assert the old Egyptian claims to the territory occupied by the African people in the South and subjected them to a joint colonial rule by establishing 'effective occupation' along strategic points on the periphery of the region. They did this, despite the fact that the people of the South had resisted the Turco-Egyptian occupation in a series of uprisings in the early 1880s. The people in the South also saw the Mahdist state as a continuation of Turco-Egyptian rule, because the Mahdist state had just incorporated the Sudanese slave soldiers in both the Turco-Egyptian garrisons and the private armies of the ivory/slave merchants into its own army, which was also joined by some British military officers. Indeed, the British were classified as 'Turks' along with the Egyptians and Northern Arabs by most Southern Sudanese.

In the ensuing dualist colonial domination, the British did more to consolidate Arab domination in Sudan and the marginalisation of the African people in the South. The so-called 'Southern Policy' based on 'indirect rule' it pursued in this period (1920-1956), although purportedly aimed at ensuring that the South would be developed along 'African' rather than 'Arab' lines, was instead strengthened to increase the Arab hold so that by the time they departed in 1956, it left the South in the hands of Arab politicians who rapidly consolidated their rule against the African authorities in the South. It also created the root cause to the conflict between the North and the South in the years that followed British grant of Independence to the Arab political elite from the North. These politicians claimed that the whole of Sudan had been an Arab possession before the British came into the picture.

The roots of rebellion

Douglas H. Johnson⁷⁹ has argued that the conflict between northern and southern Sudan has usually been misunderstood, because the historical roots of the conflict have been misrepresented by two opposing view points. The first, he argues, is the view that the division between the North and the South was based on centuries-old exploitation and slave-raiding by the 'Arab' North against the 'African' South. The second viewpoint, he adds, is the view that Sudan was artificially split by imperialist meddling, "since Sudanese is Islam (and) is both 'African' and 'Arab' and that the existence of Sudan "imposed no natural or historical divisions between the two regions." However, Johnson continues to observe that despite second view point, there had been a process of 'Arabisation' and 'Islamisation' since the invasion of the Sudan by Arab tribes from Upper Egypt and across the Red Sea during the Middle Ages:

"The 'Arab invasion' of the Sudan has been accepted as an historical fact both by those who think that Arabisation is a natural and inevitable process- interrupted in its final stages by British intervention- and by those who see it as an external threat which should be stopped by the rallying of an indigenous African opposition. A corollary to the above is that the northern Sudan has been united by Islam, and therefore confronts the South with a political and cultural unity which the South itself lacks" [Johnson, 2003: 1].

⁷⁹ Johnson, D. H [2003]: *The Root Causes of Sudan's Civil Wars*, Fountain Publishers, Kampala and James Curry, London.

It is with this arrogant and repressive argument that polarised the politics of Sudan with the result that no single state inclusive of the people in the North and the South could be put in place. In that context, the struggles of the people of Sudan both in the North and the South for a democratic right to self-determination are to be recognised as positive development. It is also in the context of that struggle that the contribution of the late Dr. John Garang De Mabior and his compatriots in the SPLM/A has to be recognised in that they tried to find a way out of this polarised political situation bequeathed by British and Egyptian colonial rule in the Sudan.

Firstly, Sudan was a vast territory of some one million square miles with a population of over thirty million inhabitants, divided in some 100 districts of which half were in the South where one-third of the population lived occupying one-third of the territory of Sudan. Secondly, Sudan was basically divided between the 'Arab' North and 'Christian and Animist' South, which in themselves were complexities for the identification of the North as 'Arab' and the South as 'African,' a division which obscured the fact that the majority populations in the North were not Arabs culturally and ethnically and that the South was also not homogeneous but was inhabited by the Dinka and the Nuer as the main ethnic groups, but with some fourteen minor linguistic groupings. These complexities were later to determine how the wars in that country would be waged and at the same time also came to form the basis for a wider unity to confront a minority regime in the North dominated by some Arab lineages, demonstrating that Arabism and Islam in the North were also not homogenous.

The contribution of SPLM/A to this conflict lay in the fact that while focusing on the grievances of the people of Southern Sudan, it was able to highlight the general democratic grievances of the people in the North of the country as well. These grievances determined the SPLM/A political and armed struggle strategies beginning with the attacks on the canal and oil installations which brought these two economic installations to a halt by 1984 with the outbreak of the second war in 1983. This strategy also determined how the Khartoum and Egyptian regime were to respond. The Egyptian attitude towards the war was determined by its own interests and her perceived need for increased water flows and its unwavering commitment to the Jonglei Canal project. This also determined her opposition to an independent, or even a politically powerful southern Sudan under the SPLM/A.

On the other hand, as far as the regime in Khartoum was concerned, their determination to secure the oil fields for northern needs, including the purchase of weapons to fight the SPLM/A, ensured its strategy in dividing the population in the South so as to alienate them from the SPLM/A. This was

exemplified by the Islamist regime of Bashir and Turabi backing the Nuer factions within the SPLM/A in order to divide its ranks, which also determined its so-called “peace from within” of the 1990s.

This strategy enabled the government in Khartoum to increase its oil revenues and also to win the support of a number of countries interested in the oil exploitation such as the United States and later China and India. This also meant that in order for the SPLM/A to win the war, it had to direct its policies towards undermining this government strategy and win over the international community to its side and to do so required an approach which demonstrated its commitment to the unity of a democratic Sudan. The international community also increased its pressure on the government in Khartoum as the European Union began to enter the scene to insist on a settlement [Johnson, 2003: 142].

What the SPLM/A under John Garang was facing therefore, was what Johnson has called the “twentieth century dilemmas.” In the first place, the earlier guerrilla struggles under Anyanya had bred a situation of factional and tribal divisions in the political objectives and strategies. On the other hand, these divisions had strengthened the Northern determination to continue its domination over the southern peoples. In response to these ‘dilemmas’ the SPLM/A under Garang tried to draw some useful lessons of the first guerrilla struggles and made the suppression of internal factionalism its top priority. In so doing he tried to draw experiences from the other liberation movements from other parts of Africa, especially those from southern Africa and ‘Portuguese’ West Africa. He also tried to link up with the political parties and trade unions in the North to try to develop a common democratic front. The unity Garang achieved explains why the SPLM/A was successful in their operations up to 1991 [Johnson, 2003: 76].

Johnson surmised that by 2003, the SPLM/A having learnt the lessons of the previous war, did not fully raise the ‘learning curve’ to new levels to widen the alliances. From 1992 onwards, “their learning curve flattened out” with the consequence that it took them some time for them to meet the challenges that were thrown up by their early military successes. Johnson points out that this was partly to do with the objectives of the war. This is because by the end of 1991, there had developed what he calls ‘interlocking civil wars,’ which were now being fought at different levels. This complication arose out of the fact that the regime in Khartoum continuing to play a divisive role by factionalising and using so-called ‘tribal’ militias in the South to fight on its side and/or independently against the SPLM/A.

This strategy included giving support to the Uganda rebel group the Lord's Resistance Army-LRA and its Sudanese allies. These networks of internal civil wars, whether within the sub-regions or among specific communities in the South, were a long-standing dilemma for the SPLM/A. In these interlocking wars, the Khartoum government had succeeded once more to pit one southern ethnic based armies against the other, creating complications with their links to the SPLM/A.

But there was also an interesting development in this phase: fighting was no longer confined to the South. It had spread to areas originally regarded as being part of the 'Arab' North in such regions as Southern Kordofan, Blue Nile and Darfur and later Qallabat, Kassala and the Red Sea. In each region tensions had been exacerbated by the intervention of external interests. According to Johnson, the introduction of violent sectarian politics in these regions and at the national centre had "served to fracture, perhaps irreparably, the Northern Muslim consensus" [Ibid: 127].

Furthermore, since 1991 apart from the multiplication of internal conflicts, the war had been complicated even more by Sudan's involvement in conflicts with the neighbouring countries such as Uganda and Chad either in pursuit of the of the policy of Islamic expansionism or for reasons of military expediency. The longer the war went on, the more the conflict intensified for the northern government and the more the North-South cleavage also became entrenched, with the result that the fractures within the Muslim North also proliferating with "civil war within Islam" being waged with the war against the 'non-believers" [Ibid].

Thus it was to the greatness of the SPLM/A under Garang's leadership that a strategy encompassing the entire Sudan begun to emerge, but with a cost to internal cohesion amongst southern Sudan communities. From 1991, the SPLM/A intensified its policy of recruitment into its ranks based on the mobilisation of grievances against the Islamist regimes in the Khartoum as an institution rather than as an ethnic-religious group. John Garang was at the centre of this orientation in policy. These grievances were not restricted to the South; on the contrary, the policy orientation was meant to attract support beyond the geographical 'South' with the objective of creating a 'New Sudan' as a united country.

Nevertheless, the SPLM/A did not make this policy to be at the centre of their political analysis due to the fact that some elements within the SPLM/A still believed in the idea of the right to self-determination for the South, while the Northern political parties were sceptical about the real intentions

of the leadership of the SPLM/A. This tended to create a political directionless position within the SPLM/A, which was partly overcome by the peace process negotiated between the Khartoum regime and the liberation forces in the South. This orientation in policy that produced the Comprehensive Peace Agreement-CPA offers a way out in the on-going conflict in Darfur and Abyei regions.

Darfur: In search of viable solutions

Root Causes

The conflict in Darfur mirrors the situation we have described above in relation to the whole of Sudan. Darfur was an independent Sultanate until the Turco-Egyptian conquest of the area of the late 1870s. Although at first it rallied to the side of the Mahdiyya in the 1880s, it quickly fostered an anti-Mahdiyya opposition when the Mahdist rule became oppressive. It revived itself as an independent state after the overthrow of the Mahdiyya by Anglo-Egyptian forces until its final conquest and incorporation into the Sudanese State in 1916.

Like the approach adopted by the Condominium in the South of Sudan, the British adopted many of the institutions of the old Sultanate under the Native Administration. It is this use of earlier Sultanate institutions and 'customary laws,' that enabled the new rulers to mediate the conflicts that occurred between the sedentary and agricultural groups such as the Fur and the nomadic pastoralists such as the 'Arab' Baqqara and other semi-pastoralist groups. In addition, there were many non-Arab groups among the pastoralists both in the North and the South of Darfur of which the Zaghawa are the largest group. Another feature that marks Darfur unlike Southern Sudan was that although Darfur was overwhelmingly Muslim, it was not predominantly 'Arab' and this fact came to determine the conflicts that emerged in the region in the 1980s.

Apart from this fact, it has to be acknowledged that different factors have impacted on the way the conflict in Darfur has developed. Among these is the coincidence of the abolition by the Arab dominated regime in Khartoum of the Native Administration created by the British and its replacement by the governors appointed by Khartoum, coinciding with the extended drought that struck the region in the mid-1970s through the 1980s. This led to localised famine and large movements of the pastoralists from Northern Darfur and Chad to the central farming belt, at a time when the agricultural use of the land was expanding. This movement created conflict between the immigrants and the settled

agriculturalists as what had appeared to be a temporary movement of population now became permanent settlement by pastoralists who had lost their livestock.

What complicated the conflicts was that the earlier 'Native' Administrative, which used to mediate the conflicts between the different interest groups were no longer in place. Instead different interventions of a military nature and partisan politics emanating from Khartoum made the conflicts worse, creating room for intensification of armaments into the region and external involvements by Chad and Libya. This led to one-sided armament of different groups by the central government in Khartoum, Chad under Habre Hissene and Libya, resulting in the Libyan-Chadan war in 1986-87 that regionalised the conflict and complicated it further.

It is this development that worsened the relationships between the different 'racial' groups as Libya increased its political and military activities in Darfur by arming the and funding Arab para-military groups, which were organised around a Pan-Arab ideology. The Umma who had come to power in Khartoum in the 1980s also armed Southern Baqqara and Northern Arab para-military groups. This met the religious and political interests of the Umma since both these groups in Darfur were Ansar. It also helped the commercial interests of the Arab merchants involved in the livestock trade, many of whom were also Umma.

The NIF-Army take over from Nimeiri further enhanced the power of these para-military militias when the NIF government passed the Popular Defence Forces Act to officially recognise them as paramilitary groups at the end of 1989. So when the Janjaweed later committed crimes against innocent civilians, it was with the full approval and recognition of their actions by law. The cross-border military spill-over from Chad further sharpened the division between the 'Arab' groups and the 'blacks' (*Zuruq*), as the Sudanese Islamist parties began to equate Islam with Arabism [Johnson, p. 140]. So the issue of one being a Muslim and an Arab was turned into a political weapon of exclusion so that those 'black' groups such as the Fur and the Zaghawa (who straddle the border between Darfur and Chad and who gravitated towards Hissene Habre in Chad, begun to assert their African identity against the Arab groups, each claiming Islam to be on their side.

This kind of divisive politics that played on religion to exclude other Muslims was part of the very religious culture that had brought divisions and conflicts in the Sudan. According to the Arabic culture, *Umma* referred to the Muslim Moral Community, or more precisely, 'the Community of

Believers.’ Although in principle it applied to all Muslims, everywhere, in practice within the Muslim world there had often been conflicts over what constituted ‘belief’ and who were, therefore, the true ‘believers.’ In the context of the Sudan during the Mahdiyya, there was a contradicting definition of the *Umma* in northern Sudan: not only was there a sharper division between Muslims and non-Muslims, but there appeared divisions among Muslims themselves as to who was a ‘true believer,’ with the consequence that some Muslims were regarded as ‘non-believers’ by others. That is how it was established that the boundaries of the *Umma* contained *only* the Ansar – those who acknowledged the mission of the Madhi, which excluded other Sudanese who, nevertheless, also proclaimed that they were Muslims. There were further divisions and restrictions on members of the newly defined *Umma*: Muslim marriages between Ansar and non-Ansar were invalidated in a decree issued as early as 1883.

Jihad, which was an obligation for all Ansar, was initially aimed at the ‘unbelievers’ within the wider Muslim Community. In the South, however, there was little demonstration of zeal to convert the true unbelievers. The main concern was the removal of the Egyptian forces in the South (which was not completed until 1888), after which the question of the ‘discipline’ of the southern Sudanese would be taken in hand. Southerners were almost always referred to in official Madhist correspondence as *abid* meaning (slaves). Even within the Madhist forces there was an internal distinction between free Muslim volunteers – the *mujahadin* – and slave riflemen – the *jihadiyya*. In the South, as in many other parts of the country, the Madhist State therefore represented an internal colonialism, which was stratified according to contemporary ideas of race and religion.

This religious attitude has only reproduced conflict and has provided little room for reconciliation with an enemy, except through recurrent conquest attempts. The Southern Sudan African communities who preferred to hold to their religious ideas by upholding the principles of their own ‘moral community’ have rejected this Mahdist Jihadist Muslim religious approach and it is this African approach that has provided an answer to bringing about peace in Sudan by establishing dialogue between different political groups through which they begun to advance a broad democratic agenda as a basis for unity and citizenship in the ‘New Sudan’ through the CPA.

Before his death, John Garang had observed that what was going on in Darfur was part and parcel of the strategy of the government of Sudan to exterminate certain ethnic groups by using other ethnic groups to do the dirty job for them. Addressing the Congressional Black Caucus in Washington on 12th September 2004 Garang had, already by that time, characterised the Sudan regimes’ war in Darfur

as genocide, which according to him was 'embedded' in the government's war strategy. He had pointed out that:

"The seeds of genocide are embedded in the Khartoum government's counter-insurgency strategy. What is happening in Darfur is the same thing that has happened in southern Sudan for 21 years. ... Counter-insurgency is a legitimate weapon in war but it is unique. You recruit individuals from the constituency of the insurgents because they know the local languages, the terrain, and the local cultures. You then form counter-insurgency units who are deployed alongside regular troops. In Sudan, the government has taken counter-insurgency several steps further by recruiting not individuals from the constituency of the insurgents, but also recruiting whole tribes or whole ethnic groups to fight other ethnic groups that are against the government. ... And so you end up with people fighting people instead of the army fighting an army, and that indeed is the basis of genocide."

Despite this dangerous counter-insurgency strategy, and because of the historical complexity of the problem of Sudan, Garang still advised that this conflict should be handled politically using the Comprehensive Peace Agreement-CPA signed between the SPLM/A and the government of Sudan as a model to go by.

However, this is not the way the international community, especially the US, saw the matter. There are other countries that are party to the problem such as China and India because of their economic interests. This suggests that the problem of Darfur, just like that of Southern Sudan, where no genocide charges were laid, needs a comprehensive approach as well as the involvement of all the local communities in the conflict and their armed groups.

Peace Negotiations

Any viable peaceful solution to the conflict in Darfur must address the above root causes to the conflict in Darfur. One fundamental root cause to the conflict is the planned and well executed strategy of displacements of the black Muslim communities by the NIF regime and its allied para-military groups to spread Islam and 'Arabisation' of the African population by driving them South to create room for the resettlement of the 'Arab' groups, including those 'Arab' groups such as the Tuaregs displaced in other countries such as Mali and Niger. In short, what is happening is an ethnic cleansing intended to create demographic change that has genocidal proportions. Unless the government of Sudan and its para-

military groups are stopped from this strategy, the conflict in the Darfur region will continue unrelentlessly.

So far the negotiations that took place under the AU-sponsored negotiations in Abuja only produced a partial agreement signed by one faction of the Sudan Liberation Movement-SLM led by Minni Zinawi. The Abuja Darfur Peace Accord-DPA that resulted has now attracted the support of the other groups. On the other hand, the negotiations sponsored by the Libyan leader has only added confusion to the process because Gaddafi's efforts are aimed at advancing his idea of pan-Arabism by confusing African groups.

The recent attack on Khartoum by JEM forces has also demonstrated that the armed groups are acting as if they could win an outright victory and overthrow the Khartoum regime, yet such a victory would only help to unleash a new conflict by the other armed groups not involved in such a 'victory.' Quite obviously, JEM which appears to have been reinforced militarily feels they can 'take Khartoum' and establish a new government. But the attack has complicated the situation because the government in Khartoum has after the May 8, 2008 attack said that it is prepared to enter into negotiations but not with the participation of JEM. Presidential adviser Mustafa Osman Ismail is quoted by the Al Jazeera television as saying: "From this day we will never deal with this movement again other than in the way they have just dealt with us." The attack has also worsened the relations between Sudan and Chad, which Khartoum accused of having assisted the attack on Khartoum, a charge denied by Chad. Chad and Sudan signed a non-aggression pact in mid-March 2008, but this pact has not helped matters very much since both sides continue to accuse each other of renegeing on the deal soon afterwards. There are also signs that Egypt is openly giving support to Khartoum sending three Egyptian fighter planes and one Egyptian army cargo plane land at the airport, according to eyewitnesses. This means the conflict is becoming more and more a regional conflict, which need the involvement of the international community.

The Role of the International Community

It is clear that the political involvement of the international community to bring about a round table negotiation involving all the armed groups and the regional players neighbouring the Sudan and Chad is necessary if any meaningful solution to the Darfur crisis is to be found. There have been signs that since China changed its position to get involved in finding a peaceful solution, Peking has in that direction

recently after the JEM attack on Khartoum announced on the 5th June 2008 that it was making efforts to find a peaceful solution to the conflict. It was also announced at the same time that two senior U.S. officials had 'praised' China for increasing pressure on Sudan to change its behaviour in Darfur but said Beijing can do much more to stop Khartoum from harming civilians in the Sudanese region. Thomas Christensen and James Swan, deputy assistant secretaries of state for East Asia and Africa, respectively, also told lawmakers that the U.S. is pushing China to reconsider its close military ties with "repressive regimes on the continent."

At the same time, it was announced from Tripoli that two rebel factions had pledged in an agreement sponsored by the Libyan government to merge their movements in one group by the end of the next July. The Sudan Liberation Movement-Unity Command led by Abdelalla Yahya Ahmed and the United Front for the Resistance led by Bahar Idriss Abu Garda agreed on June 1, 2008 in the Libyan capital Tripoli to unite their two groups within one month.

In the meantime, the UN Security Council in early June, 2008 sent a delegation in three day visit to the Sudan to discuss the Sudan peace deal implementation and the deployment of the UNAMID hybrid peacekeeping force into Darfur.

In late May, 2008 the three US presidential candidates issued a joint statement condemning atrocities against civilians in Sudan and demanding an end to the violence. "After more than five years of genocide, the Sudanese government and its proxies continue to commit atrocities against civilians in Darfur," said the statement signed by Democratic presidential hopefuls Hillary Clinton and Barack Obama and Republican candidate John McCain. It was also announced that the Darfur Peace mediation team has failed to persuade two main rebel groups to participate in a meeting to discuss security arrangements in order to stop violence and fighting between the Sudanese government and the Darfur rebel. The UN-African Union mediation was planning to organise a meeting on security issues to commit the warring parties to observe a ceasefire in Darfur to create favourable conditions to resume peace talks. The meeting is scheduled to begin on May 29, 2008. But without JEM, any such mediation was bound to fail.

There were other complicating developments that might undermine such mediation and peace negotiations. This is to do with the UN Security Council referral of the Darfur crimes to the ICC in The Hague. Having attracted attention, especially after the US Congress referred to the killings in Darfur as 'genocide,' the United Nations Security Council, on its part, took up the matter and in the Resolution

1593 asked the Prosecutor to investigate and prosecute the perpetrators some of whom had been named. However, new problems emerged from the resolution, which are still being resolved.

Firstly, even though the resolution obliged the Government of Sudan to “cooperate fully with and provide any necessary assistance to the Court and Prosecutor”, it also recognised that States that are not party to the Rome Statute are under no legal obligation to do so. But having pointed this out, the Council went ahead and urged Sudan to co-operate fully with the Court. Furthermore, the resolution only invited the ICC and the African Union to discuss practical arrangements that would facilitate the work of the Prosecutor and of the Court. Because of the ambivalence on the part of some permanent members of the Council on the matter, the language used in the resolution was not strong enough.

Secondly, the resolution excluded nationals from a contributing State outside Sudan that would have been subjected to exclusive jurisdiction of that contributing State for all alleged acts or omissions arising out of or related to operations in Sudan established or authorized by the Council or the African Union, unless such exclusive jurisdiction had been expressly waived by the contributing State. This was perfectly legal under Article 12(2) combined with Article 13 (b) of the ICC Statute, which allows the Security Council to sidestep the requirement of personal and territorial jurisdiction. This, however, entailed that the Security Council could refer a situation of a State not party to the Rome Statute to the International Criminal Court, but with the exclusion of certain individuals. While legally correct, this mechanism was not morally defensible since it introduced two standards in international law in this particular case.

Thirdly, the Security Council usurped the powers of the General Assembly by declaring that none of the expenses incurred in connection with the Sudanese referral would be borne by the United Nations and that such costs had to be paid by the parties to the Rome Statute and those States that wished to contribute voluntarily. Article 115 (b) of the Statute, however, provides that the United Nations shall provide funds to the International Criminal Court especially in the case of referrals by the Security Council, subject to the approval of the General Assembly. This matter was subsequently dealt with in the Negotiated Relationship Agreement between the International Criminal Court and the United Nations but the matter was not resolved in accordance with Article 115(b) because Article 13 of this agreement provided that funding for the case had to be made by separate arrangements. In sum, the most positive result of Resolution 1593 was that, at least, there was a United Nations instrument that was directed at ending impunity in Darfur, although a lot of political obstacles still stood in the way.

A related problem that arose out of the referral was the question of who was to be prosecuted under the referral. The atrocities committed in Darfur were very widespread and involved a large number of perpetrators, including state officials and militia leaders. However, the International Criminal Court was not designed, and it was never intended, to prosecute all criminals. In this respect, the UN Secretary-General handed over a list of 51 names to the Prosecutor of a general nature. During the investigations other names came up.

To complicate matters further, the international criminal Court issued arrest warrants for the Sudanese State minister for humanitarian Affairs, Ahmed Haroun, and the Janjaweed militia leader Ali Mohammed Ali in relation to these atrocities in the region. Ahmed Haroun belongs to the Fur tribe, which is one of the non-Arab tribes of Darfur and was alleged to have incited attacks on specific ethnic groups in the region. The Janjaweed leader was an ex-soldier and a leader of the Popular Defence Forces who is also assumed to be one of the key leaders responsible for attacks on villages in Western Darfur.

After the international criminal court had issued the warrants of arrest of the Janjaweed leader and the government minister for humanitarian affairs, the government of Sudan on June 7 2005 suddenly announced that it had established its own special National Criminal Court for Darfur to begin proceedings immediately in collaboration with state prosecutors to carry out investigations and prosecutions of their own. The timing and the speed with which the tribunal was established suggested that Sudan wanted the ICC kept out of the Darfur situation. Some Sudanese officials even acknowledged that Ali Mohammed Osman Yassin then Sudanese minister of justice apparently told Sudanese press that the new tribunal was not “considered to be a substitute to the international criminal court,” which created even more confusion. This put the Court in a dilemma, like that created by Uganda, given the fact that the ICC was obliged by the principle of complementarity to recognise the role of the domestic courts and the fact that the Sudan government was ‘willing’ to prosecute.’ This suggests that the crisis in Darfur needs further consideration by the UN Security Council in view of its interlocking and complex relationship to the conflicts in the other regions of the country, including Southern Sudan.

Towards a Comprehensive Peace Deal

The Comprehensive Peace Agreement signed on the 9th January 2005 was a political achievement that arose out of the need to untangle the legacies of Turco-Egyptian and British domination of the people of Sudan. This legacy had created two contradictory and non-reconcilable

perspectives on Sudan. One was the perception that Sudan was an Islamic Arab country, which had been accepted as such until the British intervened to colonise it. The other was that the Arab invasion of the Sudan had violated the interests of the African people and was a threat to their existence, which had to be repulsed. The SPLM/A under Garang managed to bridge these two irreconcilable positions by developing an all inclusive paradigm for the country, which was to be based on wealth and power sharing in a “New Sudan” based on the right to self-determination, free choice and democratic governance for all the Sudanese. In this solution, African traditional systems of reconciliation were deployed to unite leaders.

The government in Khartoum has tried to undermine the implementation of the CPA and on October 10th 2007, the SPLM ordered its ministers in the government of national unity formed as part of the implementation of the CPA to withdraw until the National Congress Party of president Bashir agreed to implement those aspects of the CPA which had stalled such as the non-implementation of the Abyei Protocol, the non-demarcation of the North-South boundary and the withdrawal of northern troops from certain regions in the south. The SPLM also demanded a cabinet reshuffle to replace those SPLM ministers that had proved too friendly to the Bashir party. Although president Bashir later agreed to reshuffle the cabinet as demanded by the SPLM, there are still areas that need to be implemented.

In August, south Sudan's information minister Samson Kwaje had warned that the world's one-sided focus on ending the conflict in Darfur without sufficient pressures on the government of National Congress Party to implement the CPA could hamper the implementation of the north-south accord. Indeed vice-president Salva Kiir had warned that lack of implementation would mean a resumption of the war in the South, which would further complicate the situation in the Sudan as a whole.

These developments demonstrate how closely interlinked the conflicts in Sudan are. They prove that a single-minded pursuance of the ICC warrants without looking at the broader issues of the Sudan conflict as a whole is bound to fail. The solution must be a comprehensive one that uses the CPA as the framework to resolve the other conflicts, within which the pursuance of justice can become one of the objectives of the ending of the conflict and the introduction of democratic governance in the country, as without these achievements peace and justice can never be attained. The UN must support a comprehensive approach and the ICC and the Sudan Special Tribunal to try war crimes must be part of that solution.

This must take into account the intricate nature of the conflict. Any solution to the conflict must take into account the historical roots, which is connected with the process of Arab encroachment starting from the Mediterranean southwards. This encroachment has continued with the Arabisation and Islamisation of the Sahel in which Darfur found itself caught in. Having failed to Arabise by converting Africans into Arab culture as well as Islamising Southern Sudan, the strategy now is to try to create a *cordon sanitaire* an offensive line against the African communities who are resisting their offensive to push southwards.

The Darfurians are not the only marginalized people in Sudan. There are the Southern Sudanese; Easterners/Beja; the Nubians, people of the Nuba Mountains, the people of Abyei and the Southern Blue Nile, etc. The Khartoum regime has used the strategy of attracting the Africans on the periphery, in places such as Darfur, to the centre in Khartoum with the promise of achieving a better life. This led to the policy of Arabisation and Islamisation as the main political and cultural weapon. Such a complex historical tapestry requires a combination of strategies aimed at resolving the conflict politically, and the CPA signed between the government in Khartoum and the SPLM/A offers the only hope for resolving the long war in Sudan.

The CPA has already acted as a model for the Darfur Peace Agreement signed between the Government of Sudan and Minni Minawi's Sudan Liberation Movement/Army on 5th May 2006. This agreement puts an end to three years of fighting which resulted in the killing of tens of thousands of people and forcing two million to flee their homes. The peace agreement, which covers security, wealth sharing and power sharing, is the result of two years of painstaking negotiations mediated by the African Union (AU). But, as we have observed above, this agreement involved only one party of the rebel movement and there is need to call a wider meeting that involves not only all the rebel groups but also the regional players neighbouring the Sudan. These peace efforts should be pursued to find a lasting peace between the different sections of the Sudanese society and nothing should be done in the blind search for 'justice' by the ICC, which could jeopardise this process. It is only this comprehensive approach that addresses the root causes of the conflict that can bring about a long-term viable solution to the crisis.

Conflict in Post Colonial Africa

Understanding the Origins of Ethnocide and Genocide and What can be Done

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The Western powers carved up Africa in the 19th century and created, in large part, the new states of Africa from their empires. When, following World War II, they withdrew under the pressure of nationalist liberation movements in the 20th century, the colonizers claimed they had planted the seeds for liberal societies; but in fact they left a legacy leading to widespread conflict and even genocide.

The imperial nations left an economic system of neo-dependency upon diverse peoples leading inevitably to conflict. This neo-dependency relationship was based on ethnic rule over an inequitable trade and financial loan system.¹ This continuing imperialism benefited the former colonizers and those tribal groups they left in power at the expense of other tribal groups and parties.

In post-colonial Africa most conflicts are seen as primarily ethnic based by many observers.² However, in identifying the sources of conflict it should be recognized today that these are not simply tribal or racial differences. Economic rivalries for control over resources and livelihood motivate the mass killings. The rivalry was begun under colonialism. All empires have created structures based on an indigenous ruling class (the Matajiri)³. When the colonialists left, the Matajiri took over with the understanding they would maintain the system, keep order and maintain the dependency economy with its flow of cheap labor resources and profits to the mother country. In the post-colonial era these economies became dumping grounds for the subsidized goods of the former colonial powers presided over by the World Bank, International Monetary Fund and the World Trade Organization. This neo-dependency structure of power has led to much of the conflict, as the new rulers were inevitably challenged by rival groups and tribal people left out of the rewards of the institutionalized ethnic and racial system.

The new African state leadership is, for the most part, those who were used to make the transition to independence. They were given the “keys to the kingdom” of wealth and power by the departing imperialist powers.⁴ Other ethnic groups, who were merged into the new nations but left out of power, sought a redistribution of power and resources. They used ethnicity to unite their resistance against what frequently became repressive counter-insurgency tactics. Deeply frustrated, some turned to

¹ Neo-dependency is used here to describe the post-colonial system in which major changes were introduced into what Samir Amin and others have accurately described as the colonial system of control of empire that was not free or fair trade but exploitation of cheap labor by Western powers.

² Donald Rothchild, “Containing Fear: The Origins and Management of Ethnic Conflict,” in *Nationalism and Ethnic Conflict*, ed. Michael Brown, Cambridge: MIT Press, 2001

³ The Matajiri is a Swahili term applied to the wealthy collaborators with colonialism.

⁴ In Kenya these are called the Matajiri in Sudan they are the Northern Arabs or Janjaweed who repress the Abides (Blacks) in the South.

violent uprisings against those in power, who then resorted to repression in some cases leading to genocide.⁵

While there are overall similarities, each state and region differs. For example, in the Sudan, the Arab minority in the North has resorted to ethnic cleansing against Africans over oil, land and water. The Sudanese Government in Khartoum, with its tribal African and Arab allies, has even resorted to genocide to suppress the innocent villagers, who they maintain have supported the uprisings first in the Southern Sudan and then in Darfur.⁶ These tactics are similar to those used in Europe by the fascist powers during World War II of desecration, mass killing, raping and plundering, using ancient prejudices and hatred dividing group from group.

Just as the Nazis persecuted the Jews, in Africa a rebel group of Hutus seized power in Rwanda and proceeded to commit genocide in the extermination of the Tutsi who had been favored by the departed Belgian colonial power.

The ethnic based killings in Kenya have been less extensive and not entirely government instigated. The conflicts have been related to the land system of white settler plantations and ranches turned over to privileged Africans in power by the departing colonialists. In this case the Kikuyu under Kenyatta were awarded land and important positions in the government and economy.⁷

Robert Mugabe in Zimbabwe did not start out as a repressive dictator. He was regarded as a progressive leader until the late 90s by the former British rulers and colonizers. However, when faced with a possible loss of power to the growing opposition, based on the rival ethnic group, the Matabele, this Shona leader, with the help of a ruling cadre of former freedom fighters, became ruthless. Mass intimidation and killing began. White farmers were blamed and driven from their land without compensation. Mugabe blamed the former colonial power for failure to buy out these settlers. But this only complicated the growing ethnocide with a racial dimension. Having ruined the economy by 2008 he faced defeat in an election in which the opposition party Movement for Democratic Change (MDC) won

⁵ Genocide has become a term used in different ways. But for our purposes here is defined in terms of international law under the "International Convention on the Prevention and Punishment of the Crime of Genocide" adopted in 1948 following World War II.

Under Article 2 it is specified: ..." genocide means any of the following acts committed with the intent to destroy in whole or in part a national or ethnical, racial or religious group as such, This means;

- a. killing members of the group;
- b. Causing serious bodily or mental harm to members of the group
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole of in part..."

⁶ There are differences of opinion over whether the term genocide should be applied to these African conflicts. Gerard Prunier discusses the ambiguities and consequence of the use of the term in regard to the conflicts in Sudan for both the South and Darfur in, *Ambiguous Genocide*, Ethica: Cornell University Press, 2005. He published in 2008 a second edition.

Samantha Powers, who has written and traveled extensively in Darfur during the war there, applies the accusation of Genocide to the actions of the Sudanese Government and their agents. see *A Problem from Hell: America in the Age of Genocide*, New York: Harpers Collins Publication, 2003

⁷ Alex DeWaal, Op ed in *New York Times*, Feb. 2008. Also in my book published in 1987, I described this system of Matajuri rule in Kenya under President Jomo Kenyatta which followed the British departure, see *The Trampled Grass*, New York, Praeger Publishers, 1987, 99-102.

a clear majority. They were denied power by government rigging of the results. After considerable intimidation, through repressive attacks on the opposition a re-run of the Presidential election was decided upon. But the leader of the opposition Morgan Tsvangirai hesitated to return from refuge in South Africa because of threats against his life. It is difficult to see how a free and fair election could be held where massive killings are threatened. The failure of the outside world, especially South Africa, to intervene has led to what may be one of the greatest human rights tragedies in post-colonial Africa.⁸

Often the former colonial powers supported through arms and economic aid those they had left in power. This was a serious issue during the Cold War but continued after a settlement between the USSR and the US ended, for a time in Africa, superpower rivalry,

The US entered Africa through N. Africa during World War II but restored the colonial powers after the defeat of Germany and Italy. In the peace agreements, the United States opted for the status quo for security and resource reasons and opposed communist extension in Africa, while talking of promoting democracy. In several cases, such as the former Belgian Congo, the US directly aided opposition groups to overthrow an existing government. If an African government attempted to step outside of the Western neo-dependency relationship, especially during the Cold War, it was expelled from the neo-dependency system.

In the era of “the War against Terrorism.” the US policy is remarkably similar, withdrawing aid and promoting rival groups and arming neighboring states. Thus Ethiopia and Kenya received aid to establish military bases and train their air forces to oppose militant Islam and in turn to maintain the neo-dependency system. This has greatly disrupted Somalia as US backed forces from Ethiopia have fought with the Islamist factions attempting to take over. A victory by “Militant Islam,” the US maintains, would open the way for Al Qaeda in the Horn of Africa and threaten Western interests in maintaining the sea lanes of the Indian Ocean.

Thus a dilemma has arisen for US policy in East Africa. It is whether to support fully humanitarian intervention in Africa or settle conflicts arising from former colonialism by taking unilateral action against the threat of militant Islam. This dilemma, based on a Cold War mind set transferred to the “war against terrorism” by the neo-con advisers, explains much of the failure of the Bush Administration to fully oppose ethnocide and genocide in Africa.

Humanitarian Intervention

Humanitarian intervention was introduced, after the Cold War in the 1990s, when several of these conflicts became so bloody and destructive they aroused the conscience of the western powers. Rwanda with the mass killings, contributed directly to the evolving concept of peace keeping and humanitarian intervention.

⁸ Barry Bearak and Celia W. Duggan, “Zimbabwe sets Runoff Election for late June,” NY Times, 5/17/08. The opposition claims 34 people have been killed and hundreds beaten by the police and military since the April elections.

Failure of the great powers to come to the aid of UN peacekeeping forces in Rwanda contributed directly to this disaster. The UN forces were withdrawn rather than supported by the major powers. The Clinton Administration had a misconceived notion of what constituted the national interest after it withdrew its troops, from the peacekeeping operation in Somalia. Under republican attack for the use of force “where there was no clear national interest,” they became isolationist and Secretary of State Rogers opposed, in the Security Council, the reinforcement of UN peacekeeping forces in Rwanda.

The attempts to help Africans resolve these conflicts through humanitarian Intervention have become entangled with the continuing neo-dependency relationship with former colonial powers and the interests of other outside powers in what the Bush II Administration has called the “war against terrorism.” In both the Sudan and Somalia, the conflicts of the US security interest in the Indian Ocean in defeating the “Islamists” in Africa have come into conflict with the humanitarian objective of peacekeeping and peace settlement.

Outside intervention to mediate or inject peacekeeping operations have varied considerably in different situations such as the Congo, Kenya and Zimbabwe. As long as the issues of wealth and land remain unsettled, any attempt to inject outside intervention, whether African or Western based through the AU or the UN, will be fleeting at best. Humanitarian intervention will be demanded by NGOs and undertaken by the world community and the AU. But intervention cannot provide a long term settlement for conflicts without addressing directly the inequities creating ethnocide.

The Economics of Ethnocide

The Empires of the 19th and 20th centuries were created primarily for economic reasons despite the claims of the civilizing mission. The desire of Western powers to obtain resources for their new industrial economies underlay the visions of glory of nationalism.⁹ The civilizing mission and manifest destiny were the propaganda to justify the invasion of lands with weak or no defenses. Disraeli, Bismarck, Bonaparte, Catherine the Great, all had visions of the glories of empire. Henry Polk in the 19th century continued this process in North America by the invasion of Mexico and the acquisition of half of Mexican land for Texas, Colorado, Arizona and California. After ousting Spain from Cuba and Porto Rico, President McKinley thought he received divine guidance to take over the Philippines, the British and the French divided up Africa leaving only small sections for Imperial Germany; Tanganyika, and South West Africa. The victorious allies nullified German influence in the Middle East when they dismantled the Ottoman Empire. Oil had been discovered beneath the desert sands and was to replace coal as the major energy source for industrialized powers.

Winston Churchill as a young correspondent with General Kitchener marching down the Nile in 1900 to establish the Anglo-Egyptian Sudan saw the Nile River as the great highway to the riches of the African continent from Capetown to Cairo.¹⁰ After World Wars I and II Germany and Italy’s remaining territories

⁹ Jim Hanson in his work on empire places the US in the midst of this primarily economic system, underwritten by racist notions of “Manifest Destiny” beginning in the 19th century see *The Decline of the American Empire*, London: Praeger, 1993, 33-55.

¹⁰ Winston Churchill, *The River War*, London: Longmans Green, 1899

were snapped up by the allies first under the League of Nations Mandates and later United Nations Trusteeships.

The United States stood aside in this partition of the Middle East and Africa; but after World War II and the start of the Cold War, supported the return of its Western allies to the riches of these continents.¹¹ Colonial rule was reestablished in Iran, India, South Asia and Indo-China. In Africa, Ethiopia was rewarded with Eritrea and South Africa violated the Mandate to acquire South West Africa. Only when the Soviet Union sought to extend its presence and influence to these areas, was American policy and corporate power aroused to greater interest and imperial intervention.

As many observers have pointed out, these Western- based empires were created because their citizens had become highly nationalistic and wished to have assured supplies of raw material and cheap labor in what they called the “free trade” system of the market place. Invasions were often justified in the name of protecting minorities against the ravages of their rulers. But the underlying reality was the growing thirst for raw materials to feed the voracious new Western industries and military systems. The growing taste for modernism enjoyed by the masses of workers in new urban areas of Europe and America contributed to this growing sense of “Manifest Destiny.”¹²

The dependency economic system, described by many economists and Africanists, as a global capitalist system,¹³ became a national security system seeking assured sources of importation of raw materials and goods produced by cheap labor. The free trade system of the West originally justified as comparative advantage became an exchange based on cheap labor at both ends of the relationship. The price of labor in manufactured goods at home was held down by an attack on trade unions while cheap labor resources and consumer goods were imported from abroad. Increasing subsidies by the state of farm exports abroad invaded post-colonial states and undercut food production by third world countries.

This cheap labor profit system was institutionalized by the Structural Adjustment system of the World Bank and the IMF as well as treaties such as NAFTA and arrangements of the European Union for tariffs and subsidies. Because the new African states became heavily indebted to Western powers the structural adjustment system of the World Bank and the IMF made conditions for relief of debt extremely onerous. For example debt forgiveness was tied to the selling off of state run industries, ending government support for food production and the continued import of Western food and equipment.¹⁴ At the same time, African countries were denied relief from import tariffs on their products such as textiles. The UN system of UNCTAD which was supposed to create greater equity in

¹¹ Dean Acheson, *Present at the Creation :My Years in the State Department*, New York: Norton, 1969

¹² Chalmers Johnson, *Blowback: The Costs and Consequences of American Empire*, New York: Metropolitan Books, 2000, 231-239

¹³ Emanuel Wallerstein and Claude Ake were among the leading exponents of this theory, see, Claude Ake, *Democracy and Development in Africa*, Washington DC, The Bookings Institution, 1996

¹⁴ *Economic Justice in Africa: Adjustment and Sustainable Development*, editors, George W. Shepherd and Karamo N.M. Sonko, Westport Conn. Greenwood Press, 1994

trade has been weakened in favor of the global powers, as pointed out by Yash Tandon of the South Center in a statement to the UNCTAD meeting on Trade and Development in Accra.¹⁵

Dede Amnor-Wilks, Director of the Action Aid International for West and Central Africa in conjunction with the South Center has heavily criticized the commodity markets system and warned, "Africa faces a critical crisis if the marketing system is maintained in favor of Western powers." The rise in food prices, over 70% in Asia, is being driven by the quest of industrial powers for new sources of fuel. African coffee producers have faced the abolition of marketing boards which protected the producers. Countries like Senegal and Uganda have seen the disappearance of their markets for groundnuts and coffee. Africa's supply of the coffee market has fallen from 14% to 7% in the past ten years."¹⁶ Post- colonial Africa has become a net importer of subsidized food and now faces famine in several areas.

This neo-dependency system was begun under the colonial so called "free trade system" that exported cloth from the mills of Manchester to the Indian markets of Bombay while prohibiting the Indian production of cloth. Indian outrage resulted in Gandhi's village home-spinning industry and Gandhi himself wore only a simple home spun toga. The comparative advantage system was described first by Adam Smith and later Richard Ricardo (promoted by the Chicago School of Economists among whom Milton Friedman and Fredrick Hayack were primary members).

The South Center concluded, "What we are sensing today is a moral outrage that the game is not being played fairly. The rich industrial North has set the rules of the game. Instead of holding its producers accountable to that rule, it has distorted markets in their favor. Meanwhile, African producers whose governments have agreed to play by the rules are losing out."¹⁷

China, which started as a model of the communist USSR, soon turned to a national-capitalist system to improve its market system and compete with the major powers for raw materials and markets. Post-colonial Africa became an inviting source of raw materials, especially oil, and a market for their cheap labor goods. Thus China benefited from the cheap labor systems at both ends of the relationship, while trade unions were held under tight control by China and the new states of the post-colonial world.

The new industrial capitalists were not the only ones to benefit from this subjection of other peoples. The new middle class and the working class all gained from the growth of the Western economies. Jobs associated with manufacturing brought new prosperity to many people. The new public education system introduced the young to the glories of empire and war. Filled with the propaganda of the "superiority of the white race" the poor and unemployed marched off to help subdue these "lesser races." In the wars between the empires in the 20th century to preserve spoils and benefits of the new industries, millions of young men of all classes died under these illusions of greatness and divine will.

¹⁵ Africa Focus Bulletin May 11, 2008

¹⁶ Joint Action Aid- South Center study, Africa Focus Bulletin, op.cit

¹⁷ This study calls for UNCTAD to take the lead in strengthening institutions which help producers in the developing countries. This can only happen if some of the industrial countries recognize they must reverse this neo-dependency if conflict is to be lessened in Africa.

Only after more than a century of war crimes, when the cost of empire in blood and treasure became unbearable, did the young and old begin to realize they had been cuckolded. Labor and middle classes began to see that lost jobs from companies who had fled abroad to cheap labor sources and the cost of wars was not in their interest.¹⁸ The ranks of the peace movements in Western world swelled and opposition to imperialism began to turn these countries towards peaceful measures of mediation and humanitarian intervention.

The Continued Indirect Rule System

One of the keystones of the colonial societies became the system of rule through tribal chiefs and kings who were ready to govern in the name of the new authorities. The colonial governors retained power but delegated their authority to indigenous representatives. These were generally based on tribes and ethnic groups willing to co-operate in return for wealth and protection against rivals. In return for their services these groups were gradually placed in positions of importance within the new economic system. And when the colonial powers finally departed they were in a position to maintain their control of the economic system by trade and investment.

However, there was an important unwritten condition to this grant of self-determination. . In return for political independence the existing dependency economic system was to be left intact. Some minor modification would be allowed, such as the establishment of new industries and trading corporations under the control of the new groups to whom the keys to the new states were handed. When the new revolutionaries under the influence of new powers such as the USSR strayed from this unwritten agreement, like Nkrumah in Ghana and Nasser in Egypt, they became the enemies of the West and branded as collaborators with the Communists. They were not only cut off from trade and aid but undermined by intelligence services and military aid for their opponents within and without. At the height of the Cold War several important new states in Africa, Asia and Latin America were isolated and undermined.

In Africa, Prime Minister Patrice Lumumba was overthrown by a military coup and in Asia Indo-China was divided. The French and later the US fought against Ho Chi Minh in North Vietnam. When China, a Western dependency based on foreign concessions, fell to the Maoists (with Soviet aid) this important nation was cut off from Western powers. It took four decades of threats of war and support for Taiwan before the re-establishment of diplomatic and trading relations by the US with China.

The Legacy of the Cold War and Colonialism

After the Cold War ended in the 1990s, new powers such as India and China emerged. India has remained within the system but China has threatened the primacy of the Western powers and the continuance of their new national neo-dependency system. This in turn has aggravated the tensions and conflicts on the African continent.

¹⁸ Howard Zinn, *The People's History of the United States, 1492-present*, New York, Harpers Perennial, 1995

China is the outstanding example of a new power seeking to share in the resources of the Middle East and Africa increasingly in conflict with Western powers; Japan and South Korea, while new industrial technological powers, have remained co-operative within this system. It should be noted, too, that the more advanced former colonies of South Africa and Egypt have also remained within this system, at the cost of wide spread poverty and discontent for most of their populations

The sons and daughters of the liberation movement leaders were often educated in what was called “the mother country” and returned to become members of the new ruling class in the newly independent states. Some remained as opposition but in the main the new rulers were made up of the ethnic group to whom the keys to the kingdom were handed in the passing out ceremonies. Jomo Kenyatta was one of these heirs, as the organizer of the liberation movement. Robert Mugabe was favored over Joshua Nkomo because he was the leader of the largest tribe and organized the armed resistance against the white settlers. Jawaharlal Nehru in India succeeded Gandhi as the keeper of the national flame and joined the Commonwealth of Nations. Ho Chi Minh refused to surrender to the French or the Americans, finally winning a protracted destructive civil war. They have rejoined the international trading system on their own terms.

Nelson Mandela led a conciliatory wing of the ANC in South Africa, even though imprisoned for 23 years on Robben Island. While a leader of the non-aligned bloc he kept the essential economic and diplomatic relationships with the Western world. As freedom fighters, Mandela’ and Mbeki, owed a considerable debt to the Eastern Bloc of the Soviet Union which had supported them. But the ANC in opposition or in power was not led by communists as Mandela argued in his memoirs.¹⁹

In contrast, Fidel Castro and Ho Chi Minh threw in their lot with the USSR and rejected the Western dominated post-colonial system. Cuba remained irreconcilable even after the end of the Soviet Union, while Vietnam has followed the China example of state run capitalism. However, Raul Castro, after his brother’s resignation, seems more inclined to embrace aspects of the market system and is restoring trade and tourism. A new generation of Cuban exiles in Florida may eventually reverse American policy by accepting a more friendly economic system of former communist states. After Mugabe there is some hope this may happen in Zimbabwe.

For many, the end of the Cold War in the 1990s produced the hope that the rivalry of the great powers would inaugurate a new era for Africa in which greater independence would emerge and democracy would be able to take root. Unfortunately this was not the case. The legacy of the Cold War had intensified the hostilities of the post colonial era created by the dependency economies. Several of the liberation movements and political parties had been aided by the USSR in their anti-colonial struggles. Algeria, Guinea and Mozambique were not handed the keys by the departing colonial powers. But they received aid and military assistance in some cases from the communist world. This compounded the problem of rivalry for power between the Western favored groups and parties and their rivals. The entry of new powers such as China into this rivalry complicated further the growing conflicts, especially where

¹⁹ *Nelson Mandela, The Autobiography of Nelson Mandela*, Boston, Back Bay Books, 1995. Some of the white South Africans who supported the ANC, such as Joe Slovo and Ruth First, were active with the South African Communist Party.

arms were involved. Great powers, especially the US, have pursued a policy of providing military and economic assistance to African states ready to maintain the existing economic and security relationships. This has been especially true of the states bordering the Indian Ocean, Red Sea and the Persian Gulf.

With the end of the Cold War the Russians and their Eastern European allies have largely withdrawn from this rivalry, except for states bordering on their interests in Asia Minor like Iran. China has however, emerged as an economic rival primarily for oil and other resources supplying their fast growing industrialism and trade. This has put the US and to a lesser extent the European Union on a collision course with China that manifests itself in several African and Middle Eastern crises, particularly, Sudan and Zimbabwe.

Sudan

In the Sudan, the British had favored the more sectarian Nation Union Party (NUP) who formed the first independent Government in 1955. It was soon overthrown by the Military dictatorship of General Aboud, who was thought to be more anti-communist by Western powers who were worried by the presence of a large legal communist party. But the power and privileges of the economy remained in the hands of the Khatmiya sect who formed the NUP and were the professionals and businessmen. Other parties such as the Umma were under the leadership of the Ansar sect of Islam. Rivalries continued between these parties after the fall of the Aboud dictatorship. The Communist Party enjoyed a brief period in the sun under Lt. Gen. Niemery. But the major split leading to civil war was between the Arab North and the Southern parties with their liberation movements.

The representatives of the South in the moderate Southern African National Union SANU, which was African based, were incorporated into the new Sudan against the desire of most of the leadership, particularly the Dinka and Equatorial Africans. Later when oil was discovered in the South and the Communists had been defeated in the North, by the Islamist Front, the Generals again took over under Mohammed El- Bashir.

Outside powers including Western and African states helped negotiate a settlement of the Southern Sudan war with the North. Known as the Comprehensive Peace Agreement signed in Kenya (CPA). The CPA became a model for humanitarian intervention. This agreement is threatened if, in the referendum slated to be held in 2011, the South decides to secede. Already failure of the North to keep the agreement on redistribution of the proceeds from new oil discoveries in the South is undermining the peace agreement. The CPA is strongly supported by the outside powers that helped establish it in Nairobi in 2005. Within the North Saddick el Mahdi, leader of Umma, and the remnants of the NUP are committed to its terms. But the commitment of the Islamic Front and the Bashir Government is questionable. The Southern Peoples Liberation Movement is split. After the death of John Garang, President of the SPLA who favored unity, his successors are divided. The role of outside powers could be

decisive in assisting with elections and the referendum. If war breaks out again, the tragic cycle of ethnocide and genocide will repeat itself.²⁰

The problem of genocide in the Sudan has been extended into the Western province of Darfur. The basis of the conflict is again not simply ethnic but contains the desire of part of the Northern Arab populations for land to cultivate and graze livestock. Historic prejudice and even ancient enmity are a part of this tragic conflict.²¹ However, the conflict and even genocide in the Sudan can only be changed if the great powers, including China and the US, determine that the wars must end, an international supervised peace agreement is negotiated and the neo-dependency system of trade and resource exploitation of cheap labor sources is replaced with economic aid and development programs. The marginalized regions of the Sudan need to be given the opportunity to share in the central redistribution of political power and resources.

In the meantime the peoples of both the South and Darfur need to be protected by a strong United Nations and African Union peacekeeping force. If the Sudan continues to obstruct this international force it must be placed under severe international sanctions imposed by the UN, the AU and the Arab League. Sudanese leaders responsible for the genocide should be indicted as war criminals. Procedures have already begun under the International Criminal Court. If the US would rejoin this court it would greatly strengthen it as a force for ultimate justice and peace in the Sudan.

China has become a major obstacle to peace in the Sudan because of its continuing importation of oil and investment with arms aid to the northern government. UN resolutions for sanctions and an arms embargo have been ignored. China on the Security Council of the UN has not blocked UN resolutions or peacekeeping action but they have continued to support the Sudan and import oil through such companies as Syno oil despite the Western and UN official and NGO calls for boycotts.

This means for the US a turn from supporting ethnic groups, such as the Northern Arabs, in the struggle against terrorists. The Government of Sudan has not been a reliable ally for the US policy the Middle East and Africa. The US and other powers need to realize that a united Sudan of Africans and Arabs, as envisioned by John Garang, can provide the best hope for security and stability. The acceptance of joint rule by diverse ethnic and racial groups through autonomy of regions and a sharing of land and resources can end the insurgency, repression and suffering. The contending rebel organizations that rival each other for power are exploited by the Sudan to weaken their power. They need to unite on basic objectives to strengthen their bargaining power in the peace agreements.

The European powers, through the EU, should join in this shift of policy to end neo- economic ethnic dependency. Sudanese marketing opportunities with Europe can be expanded in the direction of greater equity to benefit all the people of Sudan. France and Britain would benefit from an easing of tensions

²⁰ Don Cheadle and John Prendergast, *Not on Our Watch: The Mission to End Genocide in Darfur and Beyond*, New York: Hyperion Books, 2007

²¹ Samuel Totten and Eric Markusen, *Genocide in Darfur: Investigating the Atrocities in the Sudan*, New York: Routledge, 2006 also see Daoud Hari, *The Translator: A Tribesman's Memoir of Darfur*, New York: Random House, 2008

and conflicts between Sudan and Chad. China also must accept that peace benefits all. Expanded trade and resources can be found through reconciliation along the lines of autonomy and resource sharing. Military and investment support must be ended until there are reliable peace agreements and policies in place.

This same shift of Great Power policy can greatly assist the turn to peace and stability for other African ethnocide conflicts. Uganda would benefit from the ending of Sudanese interference in the conflict it has with the Lords Resistance Army in the Northern provinces.

Somalia is a prime example of the exploitation of ethnic and religious conflicting groups by outside powers. Humanitarian intervention through the UN and the AU peacekeeping forces cannot succeed until the diversity of rule is recognized. This in turn implies a sharing of the limited resources. A US backed Ethiopian intervention primarily to prevent Islamist rule is a continuation of the failed neo dependency of the past. The US fear of Islamists as terrorist only fuels the hatred and resistance. Somalia may border the Indian Ocean but the notion that the African Central Command of the US can usefully intervene is a totally unrealistic. This policy should be replaced by support for the nationalist movement of Somalis which seeks a third way between the tribal councils and the rebellious Islamists of the Law Courts who have failed to impose their Sharia law. The UN Peacekeeping force needs to be strengthened to replace Ethiopian force which should be withdrawn. The AU and UN should enforce an arms supply ban and seek a reconciliation of religious and tribal leaders while continuing to aid the refugees and reconstruct the country.

A realistic approach to Zimbabwe would follow similar lines to the settlement in Kenya over the ethnocide of recent months. The former Secretary General of the United Nations Kofi Annan helped promote a power sharing agreement replacing the single ethnic rule of the Kikuyu and has moved the political system toward a greater sharing of resources such as land. Kenya remains a long way from settlement but the outside powers seem to have recognized that neo-dependency should be abandoned if "the goose that lays the golden egg" is not to be sacrificed to greed.

Zimbabwe is more complicated because of the intransigent attitude of Mugabe and his ethnic group, the Shona war veterans. Only a continued UN and AU sanctioned boycott of investment and arms can ultimately persuade this ruling group they must share power and land resources. An arms embargo might convince the military they should seriously consider compromise. But South Africa needs to be convinced that conflict on their border, which is land ownership related, can only threaten their long-term unresolved land policies.

If President Mbeki of South Africa and other African leaders through an international arms ban would come to the aid of their beleaguered brethren, the violence could be reduced. By helping those fleeing the violence through a generous refugee policy, many hundreds of thousands would benefit. The riots against foreigners in South Africa show this will not be easy. A free and fair election cannot be held in Zimbabwe without the presence of a very large peacekeeping force led by South Africa. If the killings and beatings continue, those who are responsible for the on-going ethnocide should be held

accountable. Mugabe should be branded as a war criminal and his primary henchmen brought to justice before an international tribunal such as the ICC.

Conflicts in post-colonial Africa can only be resolved by humanitarian intervention under the auspices of the AU and the UN. Attempts of the West to take military action are ill advised. Through the world community, diplomatic and peacekeeping methods can be employed to assist in their resolution and peaceful, just settlement.

The International Obligation to Protect*

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Sovereignty does not simply have entitlements – such as territorial integrity or political independence – but sovereignty also entails responsibility—and not merely control. In times of crises like this, there appears to be no other alternative than humanitarian intervention. However the world community cannot take action and the Security Council—initially formed within the United Nations with the purpose of ensuring the maintenance of international peace and security—becomes paralyzed. The five permanent members assumed such responsibilities by belonging to the Security Council, and while today the situation has obviously changed, some argue the Security Council is no longer truly representative.

While it is no time to dwell on that topic or discuss whether Britain, for example, ought to be there—an empire upon whom there was a time the sun never set, now the sun never rises; or France whose glory has faded from the time of liberty and de Gaulle. In any event, Security Council reform has been an issue that has dragged on for many decades and there seems to be no resolution, at the present time, of that controversy of who should belong, whether it should be expanded, whether permanent members should exist at all or be limited to certain numbers from certain regions under certain criteria.

The point that needs to be made, though, is that from the very beginning of these internal conflicts, particularly due to the formation of the United Nations for the purpose of international peace and security, the specific topics under several chapters of the charter including 7, 8, and 6 primarily relate to interstate conflicts and national military forces.

The advent of intrastate conflict, though, created great difficulties as governments continued suppressing people and by that time, a change had occurred from the traditional understanding of international law and that the actions and treatment of a nation state towards its own citizens was nobody else's concern. Article 2, paragraph 7 of the UN charter, had enshrined in it the idea of no intervention in internal affairs and governments simply said that what happens within their own territory and the people there is nobody else's business.

Even today we see China and Russia involved, but when the Apartheid regime collapsed, it was apparent times had changed. Initially France, Britain, and other colonial powers accepted new ideas and gradually, over a period of time, customary international law has taken hold and has seen the human rights movement which has been somewhat of a juggernaut. At this stage, no country can justifiably claim that they can treat its own citizens any way it pleases. So that is the setting of humanitarian intervention.

When the Cambodian tragedy initially happened, nobody took any action, and ever since then we have seen the repetition of internal conflict after internal conflict, ultimately leading to the genocide in Rwanda when, again, the United Nations did nothing.

* This is an earlier version of a paper being expanded for publication in the *Denver Journal of International Law and Policy* and in part is based on Professor Nanda's McDougall Lecture at the University of Denver.

Considering these many incidents, we all know that humanitarian intervention had its own detractors, and continues to be a debatable concept. Humanitarian intervention is the one topic where many developing countries, especially in Africa, Asia and Latin America continue to emphasize caution for fear of the abuse and challenge of sovereignty. This is an obviously valid concern since it is only major powers and powerful states that have the capability to intervene.

Some purists very clearly state that Article 2, Paragraph 4, unequivocally says “no” to the use of force in international relations. The only use of force permissible lies in Article 51, and that is for the purpose of self defense where individual and collective parameters are laid down. Also stated, is that if there is going to be intervention where force might be used, it is only the Security Council which has authorization; no other body may take such action, not even the General Assembly under a uniting resolution, or any regional organizations. All must surrender to the Security Council for that authorization. In the case the Security Council does not grant authorization, no use of force may be used. That is the purist position.

International lawyers have been writing about these issues for some time and after having looked at cases such as the Dominican Republic, Grenada, Panama, invocations by the Soviet Union, events in Afghanistan, Poland, Hungary, and Vietnam entering Cambodia, have written sometimes dull articles and pieces which set certain criteria.

When the Security Council is paralyzed, regional organizations do not work, and a coalition of the willing is only those countries with a vested interest, we must weigh the circumstances. Whether it is genocide, ethnic cleansing, war crimes, or crimes against humanity, even unilateral humanitarian intervention is permissible under international law. Some have called this group war mongers, and I can understand their position and respect it.

When “never again” has been the slogan reiterated since the Holocaust, a shameful blot on humanity, in times when we cannot do anything, a last resort must be attempted to protect innocent lives that are jeopardized. In any event that is a very brief overview of humanitarian intervention.

Here intervention is not understood as simply providing aid, nor at the level of the International Committee of the Red Cross, or in terms of the laws of war. I’m going to keep it at the level of a course of action taken in order to protect the lives of people who are in fact being threatened, with either their lives being in danger, or war crimes, crimes against humanity, genocide, and ethnic cleansing.

About ten years ago, groups who did not want to talk about humanitarian intervention as use of force or did not want humanitarian intervention to be widely accepted were looking at alternatives. The one person who did push and tried to create a dialogue around this was Kofi Annan.

He deserves special mention, because he is the one who, in the late 1990s, kept asking and pushing. He said if you don’t like humanitarian intervention, international peace and security becomes a magic term like “track to peace”, “breach of peace”, and “act of aggression” where once the threshold is reached, the Security Council can take action. Some might challenge this as arbitrary, but the Security Council, under the UN charter, has the authority to take action once this threshold is met.

Then there are options like diplomatic sanctions, ideological sanctions, economic sanctions, trade sanctions, and arms embargoes that exist as possibilities prior to the last resort where the Security

Council can use force. In any event, Kofi Annan asked that if states do not want to permit anyone outside the Security Council to act, and the Security Council is paralyzed, what do we do about Rwanda? What do we do about Srebrenica? What do we do about all these egregious violations of human rights? Find a way out.

He also challenged the international community regarding those states that insist on Article 2.4, and that further insist on preemption—being that preemptive use of force requires an imminent threat. In the case of countries such as the United States which say they cannot wait and will take preemptive action, that sort of preventive action is totally unauthorized under the Security Council and the United Nations charter. He questioned what to do about this use of force.

The UN charter is under a great deal of pressure, tension, and stress. When looking at the risks Kofi Annan was concerned with, such as the opposition to humanitarian intervention, he was concerned with what to do.

Recently, the Dutch and Canadian governments, as well as think-tanks such as Carnegie, publishers and international lawyers have tackled this issue through analytic papers. Among these, the Canadian initiative achieved success with the international commission.

The international commission came up with its own idea of the responsibility to protect, advocating sovereignty for that role. Large credit is due to Francis Deng, a Sudanese who worked very hard on this effort. As the United Nations Secretary-General's former representative on Internally Displaced Persons (IDPs), he is the one, who for the first time, talked about sovereignty including real responsibility; but it is the idea that the international commission took, put in simplistic terms, that the responsibility to protect is that of the nation state. It is the sovereign role not only to control, but to protect the lives of people. Also included was that if ethnic cleansing, genocide, war crimes, or crimes against humanity were to occur, under a government which does not protect its people, then that responsibility devolves onto the international community.

To refer to "just war" theory, there should be a proportional kind of action, including collective action, to insure an outcome better than the previous situation. These kinds of criteria set a standard which requires continuation; the next step can be a high-level panel to look into the matter. Upon review by the panel and others, such as the United States Institute of Peace, there can be hope for still further support.

In 2005, 170 heads of state and government met in September in New York at the annual UN summit. That year, the summit endorsed the idea of the responsibility to protect. The United States, through its Ambassador John Bolton, rejected the idea of criteria and standards, refusing to accept any obligation to protect; all this despite the endorsement by 170 members that there indeed is a responsibility to protect. In essence, opinion the language endorsed a "preparation to act."

Subsequent to the Sudan issue, the Security Council again accepted a resolution including the idea of the responsibility to protect. This is where the current situation stands; there are no standards or criteria yet and the Security Council and General Assembly have not acted. The political will that is needed at this stage has not been exhibited, particularly the state practice, *opinion juris*, that would bring it to the point of becoming customary international law.

At this stage, no matter how much we would like this responsibility to be customary international law, it cannot yet be confirmed. Is it an emerging norm? This is definitely possible since civil society has played a major role. Many groups have been asking their governments, the General Assembly, and the Security Council to act on it. There have been cynics who always said the responsibility to protect is “old wine in new bottles” and that it entails nothing. I will conclude by saying that in international law, this can serve as a soft law kind of instrument where guidelines and principles can create expectations. Those expectations can be translated into state practice which would then compel those countries to have the *opinion juris* which would then be considered a legal obligation to act in that particular fashion. That is where we are at the present time.

With the responsibility to protect as an emerging norm, those who do not want humanitarian intervention to be used at all, can be countered by those of us who can make the responsibility to protect an emerging norm to help it, in turn, become customary international law. Such law can be applied in Darfur and in other places.

Many of you know that the International Court of Justice, the “world court,” had a case before it regarding the Yugoslavian War, demonstrated in Bosnia bringing a case against Serbia under the charge of genocide. Just a few months ago, the ICJ decided that case, with a landmark decision that under the genocide convention there is a responsibility to prevent, and the responsibility to punish.

Applying this judgment, although conditionality, in Sudan is applicable. The argument can be made that Sudan is culpable and liable, because it has not made the effort to prevent nor has it made the effort to punish. Thank you.