

Monitoring fragile ceasefires

The challenges and dilemmas of the role of AMIS

Commander S. Appiah-Mensah



Introduction

The Darfur crisis has caused massive displacement, with its attendant hardship and suffering for the people of Sudan's western region. It is estimated that, of the more than 3.4 million people affected by the conflict, 2 million have fled their homes to seek refuge in camps within Darfur, while an estimated 200,000 have fled across the border into Chad. The scale of the resultant humanitarian catastrophe is such that the conflict, which began early in 2003, has been aptly described by experts as the world's worst humanitarian situation and a scar on the conscience of the international community in the wake of the Rwandan genocide. In addition, collective efforts at resolving the conflict have been fraught with difficulties arising from the intransigence of the Government of Sudan (GoS), which has reneged on its primary responsibility of providing protection for its people.¹

More than two years after the deployment of the African Union (AU) Mission in Sudan-Darfur (AMIS), the expectations of the people of Darfur and, to a large extent, the international community, are yet to be realised. This is amply underscored by the acknowledgement by the UN Secretary-General in his May 2005 monthly report, which noted that, although AMIS has stabilised the situation, particularly in their areas of deployment, the humanitarian and security situation in Darfur remains critical. In response to the international community's concerns about the ineffectiveness of the mission, however, the AU undertook a systematic assessment of the mission, revised its first mandate and enhanced its troop levels, with the assistance of the UN and AU partners. Despite this, the mission continues to face daunting operational challenges and critical dilemmas that continue to militate against its effectiveness and efficiency. AMIS consequently faces criticism, as well as accusations of ineffectiveness and tardiness in reacting to emergencies within the operational area.

Against the backdrop of the Rwandan genocide in 1994, the humanitarian crisis in Darfur is of tremendous significance insofar as it serves to test the willingness of the UN and the international community to expeditiously and effectively deal with gross human rights abuses, war crimes and crimes against humanity. This is even more significant in the aftermath of the report by the International Commission on Intervention and State Sovereignty (ICISS), which called in 2001 for appropriate measures, including military action, to protect civilians when governments either fail or are unable to exercise their primary responsibility in this regard.

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This paper focuses on the operational level, and seeks to examine the efforts of AMIS to stabilise the security situation in Darfur in order to improve the humanitarian conditions on the ground. It also looks at the non-commitment of the parties to the Humanitarian Ceasefire Agreement (HCFA) of 2004, and its related protocols. This examination also includes the activities of the non-parties to the HCFA, namely the Janjaweed, armed militia and bandits, as well as Chadian rebels and mutineers. The paper also examines the role and efforts of the international community in complementing those of the AU. With the imminent UN take-over of the mission, the paper makes proposals for the way forward to facilitate a smooth transition.

Prognosis For Ceasefire Agreements

When the conflict in Darfur escalated, in February/March 2003, the Government of Chad intervened to broker a ceasefire agreement in the eastern town of Abeche in September of that year. Following the collapse of this ceasefire, the Chadian authority, with the support of the AU and the international community, succeeded in establishing a Humanitarian Ceasefire Agreement (HCFA) in N'djamena, on 8 April 2004.³ The HCFA (2004) was signed by the GoS



and the two main Darfur rebel groups, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM).

This landmark HCFA not only provided the necessary respite and hope for the suffering people of Darfur but also served as a useful framework for the automatic renewal of the cessation of hostilities between the parties in the conflict. Considering the territorial expanse of Darfur, the ceasefire had to be effective both on land and in the air, if swift, unrestricted access for the delivery of aid to populations in need was to be facilitated. To further ensure effectiveness and transparency, the HCFA provided for the monitoring, verification and reporting of violations, as well as the crucial matter of protection for civilians.⁴

Subsequently, in the wake of acts of violence and violations of human rights and international humanitarian law, the AU negotiated with the parties for two additional protocols on 9 November 2004. These were the Protocol on the Enhancement of Security in Darfur and the Protocol on the Improvement of the Humanitarian Situation in Darfur. Both protocols expressed the determination of the AU to contain the unfolding humanitarian crisis and to give effect to the HCFA.

The Humanitarian Protocol provided for agreement on free movement and access, the protection of civilians, the role of the international community and implementation mechanisms. Regarding the protection of civilians, the parties committed themselves to the following:

- taking the necessary steps to preventing all attacks, threats and violent intimidation of civilians by any party or group, including the Janjaweed and other militia;
- respecting the livelihoods and property of individuals and communities;
- ensuring that the principle of voluntary return is fully respected and never tampered with in any respect whatsoever, as consistent with the general principles of the UN;
- maintaining the civilian character of the Internally Displaced Persons (IDPs) and refugee camps;
- protecting the rights of IDPs and refugees to return to their respective area of origin;
- protecting the rights of IDPs and refugees in their area of origin, and enabling them to return should they choose to do so;
- cooperating fully with the CFC and swiftly implementing its recommendations;
- ensuring that all forces involved or reported to be involved with violations of the rights of IDPs, vulnerable groups, and other civilians will be transparently investigated and that the forces concerned will be held accountable by the appropriate authorities;

- implementing all commitments relating to the protection of civilians, as consistent with the N'Djamena and Addis Ababa Agreements.⁵ Concerning the Security Protocol, the parties agreed to enhance and facilitate the HCFA by:
- submitting to the chairman of the CFC/AMIS, or his designated representative, all information required for carrying out its mandate and tasks as agreed upon in the N'djamena and Addis Ababa Agreements;
- cooperating with CFC/AMIS to develop a plan for ensuring that no exchange of fire takes place, and to facilitate the effective monitoring of the ceasefire;
- providing CFC/AMIS with the information required for determining clearly the sites occupied by the forces on the ground;
- extending unreserved cooperation to CFC/AMIS, enabling it to fulfil its mandate and carry out the operational tasks set out in the communiqué adopted at the 18th meeting of the PSC on 20 October 2004;
- refraining from carrying out hostile military flights in and over the Darfur region.⁶

In addition, various decisions of the AU PSC and the UN Security Council Resolutions offer substantial support for these Agreements. The UN Security Council Resolution 1591 (2005), for example, prohibits flying offensive aircraft and declares the conflict area a 'no-flying' zone.

The following constitute ceasefire violations:

- recruitment operations;
- military action, and any reconnaissance operations;
- deployment, movement, or any action that may extend the territory or lead to the resumption of hostilities;
- laying mines; any danger areas and minefields must be marked and signposted;
- supplying or acquiring arms and ammunition;
- any act of violence or abuse directed at the civilian population;
- any act of sabotage;
- restrictions on the movement of goods and people;
- hostile acts of any kind, including hostile propaganda;
- failure to ensure humanitarian access;
- any military activity that, in the opinion of the CFC or JC, could endanger the ceasefire.⁷

Mandate (AMIS I)

- defining the routes for the movement of forces to reduce the risk of incidents; the CFC will be notified of administrative movements;
- assisting in de-mining operations;

- receiving, verifying, analysing and judging complaints related to possible violations of the ceasefire;
- developing adequate measures for guarding against such incidents in the future;
- providing, immediately upon request, the head of the CFC, or his designated representative, with information necessary for implementing this Agreement, on the understanding that the information will remain confidential;
- allowing the Ceasefire Commission and its personnel unrestricted access throughout Darfur;
- determining clearly the sites occupied by the combatants of the armed opposition and verifying the neutralisation of the armed militias.⁸

The Protocol on the establishment of humanitarian assistance in Darfur (8 April 2004) was guided by the international principles of humanity, impartiality, neutrality, dignity, transparency and accountability enshrined in Articles 1-6. Articles 7-10 cover specific provisions on unrestricted access, security and the protection and return of the displaced refugees.

While it may appear from the above that adequate provisions subsist in the HCFA and related Protocols to cover almost every conceivable violation, the same cannot be said of appropriate mechanisms for enforcing compliance with these provisions on the ground. Future agreements should therefore develop enforceable mechanisms for both AMIS and future peacekeeping missions. Details of mechanisms lie beyond the scope of this paper, so suffice it to state that every effort must be made to hold parties accountable for their actions or omissions and to ensure that they conduct their activities with a greater sense of responsibility.

In spite of these measures and the presence of AMIS, the people of Darfur remain highly traumatised because of incessant violations of the HCFA and lack of commitment to it by all parties. It is estimated that more than 500 villages, belonging mainly to the non-Arab, predominantly sedentary farmers, have been burnt down.

Who is responsible for protection?

In his March 2005 report, the UN Secretary-General urged world leaders to “embrace the ‘responsibility to protect’ as a collective action against genocide, ethnic cleansing and crimes against humanity”. This call was made against the backdrop of years of dilemmas accompanied by questioning on the part of

the international community as to when and where it is appropriate to intervene.

Following the failure of the World Summit (September 2005) to move forward on the UN reform, the international community sought consolation in adopting the principles in the document on the responsibility to protect, which states that “each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity”. The same report also notes that the international community should be prepared to take collective action to help protect civilians in such circumstances. Arguably, this will ensure that states do not hide behind the principle of non-interference while committing human rights abuses of their own citizens. It is obvious that recourse to the twin principles of non-interference and state sovereignty has served rogue states in one of two ways: first, the states themselves demand that others mind their own business, and, secondly, external actors have used the two principles as a good excuse for their indifference and inaction.

The privilege of state sovereignty and non-interference entails also state responsibilities, among which is the responsibility to protect

The discourse on the new concept of human protection therefore envisages that the privilege of state sovereignty and non-interference entails also state responsibilities, paramount among which is the responsibility to protect. This revolutionary principle seeks to de-territorialise the enforcement and protection of human rights and to accord all people recourse to international community action when governments fail to protect their rights, in particular the right to life.

The essence of the responsibility to protect entails three layered elements, namely, to prevent, to react and to rebuild. The responsibility to react entails the obligation of responding by appropriate and necessary means to the existence of compelling human need, such as the situation in Darfur. Thus a state that fails to protect its citizens or actually targets these citizens, forfeits its claim to the rights of sovereignty and non-interference.

Accordingly, the international community, through the UN, has the responsibility for using appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The conflict in Darfur has brought to the fore the fact that new thinking is required on the dynamics of international politics before the UN Security Council, in accordance with the UN, can act in cooperation with relevant regional organisations, particularly in accordance with Chapter VII.

In a March 2005 press release, the UN Secretary-General noted that he was "...worried that we are not moving fast enough to deal with the appalling situation in Darfur...reports...show that the killings and raping and burning are still going on".⁹ But, in another vein, he acknowledged that "where the African Union troops are, things are better for the population. But there are far too few of them".¹⁰ However, more than a year later, the comments of the Secretary-General remain valid and the story is not much different.

AMIS and the Implementation of the HCFA/Peace agreement

The results of AMIS's implementation of the HCFA in Darfur have been mixed. While some critics commend the mission for stabilising the situation under very difficult conditions, others argue that AMIS has proved unable to fulfil expectations. Some of its most ardent critics come from within the rebel movements and their sympathisers, not least because they have the greatest need for protection.

Of particular concern for AMIS operations is the non-commitment of the parties to the Agreement and its related Protocols, which suggests that the conflict is not ready to be resolved. Also, given the fact that AMIS derived its first orders from a highly-diluted HCFA, it is not entirely wrong to suggest that the nature of the ceasefire agreement has had a direct bearing on the mission's weaknesses.

AMIS was launched in Darfur in June 2004 in response to the humanitarian catastrophe resulting from the civil war between the GoS in Khartoum and the Darfur rebels, namely the Sudan Liberation Army/Movement (SLA/M) and the Justice and Equality movement (JEM). At the inception of AMIS, it was known as the AU Ceasefire Commission (AUCFC), after the organ created by the HCFA to monitor, investigate and report violations of the agreement between the parties involved in the conflict. Beginning with just 60 Military Observers (MILOBs), to be joined later by a Protection Force of about 300 personnel from Nigeria and Rwanda, AMIS made some contribution to the stabilisation of the security and humanitarian situation in Darfur.

Given the diplomatic difficulties posed by the GoS in accepting international forces to intervene in what Khartoum has always insisted is an internal and inter-tribal conflict, this was not only a modest achievement but also a major diplomatic breakthrough. If nothing else, it did allow 'foreign forces', spearheaded by AU forces, to gain a foothold in Darfur at a time when Sudan was threatening jihad in the event of any international

intervention. On the other hand, however, given the sheer size of Darfur at approximately 256,000 square km, which equals approximately the size of Botswana or France, the force of fewer than 400 troops was negligible. It is therefore not surprising that this reality was to haunt the mission for a long time and, together with the escalating security and humanitarian situation, to give rise to criticism of the mission's performance.

On 20 October 2004, the PSC authorised the first expansion of AMIS from fewer than 400 personnel to 3,320, augmenting all ranks. Further, for the first time in the history of AU and its predecessor, the Organization of African Unity, they included 815 AU Police (AUPol). This new force was to be known as AMIS II. But, as this authorised force was nearing full deployment, it was observed that the troop-to-task ratio was still unfavourable, given the prevailing security and humanitarian conditions.

Consequently, in April 2005, the African Union's Peace and Security Council (PSC) authorised further augmentation of the mission to a force level of

7,731, including a corresponding AUPol component of 1,560, known as AMIS IIE. Another area highlighted by the first Joint Assessment Mission (JAM) report released in March 2005 was the need for providing an operational capability to match the threat levels. At a follow-up donors' conference on 26 May 2005, under the co-chairmanship of the UN Secretary-General, Kofi Annan, and AU Chairperson Professor Alpha Oumar Konare, partners pledged to support AMIS in cash and kind. However, despite these pledges, the mission experienced significant and extremely difficult shortfalls.¹¹ Most significantly, Canada provided 105 of the 140 armoured

personnel carriers (APCs) required by the mission. However, their deployment was delayed by the GoS. At that time it was understood that the Republic of South Africa (RSA) would augment its current force with personnel and provide the remaining 35 APCs, but this has not transpired.

There was a remarkable improvement in the process of force generation, strategic airlift and the deployment of AMIS IIE, in comparison with AMIS I and II. This was owing to a critical combination of various factors, such as the willingness and readiness of TCCs to contribute troops; the integration of lessons learnt from AMIS I and II; the invaluable assistance by NATO in providing the much-needed strategic airlift; and, of course, the cooperation of GoS in securing landing permits for the numerous flight schedules. Apart from the operational pause necessitated by the unfavourable weather conditions in Darfur and the acute shortage of Jet A-1 fuel for the air assets, the

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deployment was unhindered. However, the induction of the APCs donated by Canada proved a critical test of wills for the GoS on the one hand, and the AU and international community on the other, insofar as the diplomatic frustrations imposed by the GoS considerably delayed the induction, thereby denying the mission the much-needed operational muscle to stabilise the security situation. However, after persistent demarches by the AU and the international community, the GoS succumbed, and allowed the first batch of APCs to be inducted into the theatre on 18 November 2005. The table below shows the status of deployment of AMIS IIE as on 1 March 2006.

The lack of commitment on the part of the protagonists may very well have both reflected and affected the progress of the Abuja Peace Talks. At the end of the somewhat prolonged seventh round of the talks, the AU facilitation succeeded in brokering the Darfur Peace Agreement (DPA) on 5 May 2006.¹² Only the Government of National Unity (GoNU) and the Sudan Liberation Movement/Army (SLM/A) of Minni Minawi signed the DPA. Two other groups, the SLM/A, led by Abdulwahid Al Nour, and the Justice and Equality Movement (JEM) of Khalil Ibrahim, refused to sign the DPA on the grounds that its provisions did not fully address their concerns about the political arrangements and implementation of the security arrangements. Consequently, in spite of the DPA having been endorsed in addition by 23 tribal leaders and elders from Darfur, as well as receiving subsequent statements of full and unconditional support for the DPA and its scrupulous implementation, the situation on the ground in Darfur did not show any appreciable change for the better. Even though the facilitators have continued to engage the dissenting parties, the implementation of the DPA promises to be fraught with serious challenges and threatened by possible

failure. There is therefore all the more reason why the AU, in conjunction with the UN and the international community, needs to maintain pressure on the GoS/GoNU to accept unconditionally the deployment of a UN mission.

Challenges and Dilemmas

HCFA and violations

It can be argued that the HCFA and its related protocols, supplementary agreements, decisions of the AU PSC and relevant UN Security Council Resolutions on Darfur make adequate provision for a reasonably effective ceasefire. On the contrary, however, the situation is exacerbated by incessant violations by all parties to the Agreement. It is further complicated by dynamics on the ground; proliferation of arms and ammunition, emergence of new armed groups, the defections from Chad and leadership problems in the movements all contribute to the disorder. Violations like those listed above have occurred regularly since the signing of the Agreement, casting doubts on the commitment of the different parties. AMIS, in fact, conducts daily investigations of ceasefire violations. But there is increasing concern about the recent trend of targeting AMIS personnel and their property, which has already resulted in serious fatalities.

The HCFA and its modalities provide for the inclusion of representatives of the parties in the CFC. This arrangement also provides for their equal treatment with the international MILOBs, in terms of accommodation, salaries and logistical support.¹³ This arrangement has not only frustrated operations and plans, but has also become a point of ridicule for critics who argue that the effectiveness of AMIS operations has been severely compromised on the ground. Commanders

Status of deployment of AMIS IIE: 1 March 2006

	FHQ	S1	S2	S3	S4	S5	S6	S7	S8	MGS Abeche	Total
AU MILOBs	105	84	100	73	64	62	59	65	93	10	715
EU MILOBs		1	1	1	1	1	1	1			7
US MILOBs		1	2	1	1	2	1	1	1		10
Interpreter		2	4	2	2	2	2	4	3		21
GOS Reps		2	5	4			3	3	3		20
SLA Reps		3	5	4			3	3	4		22
JEM Reps		3	5	4			3	3	5		23
Chad Mediators		4	5	4			2	3	4		22
PF	251	678	673	680	537	504	230	538	631	38	4760
CIVPOL		180	227	173	108	110	149	128	147		1,222
PAE/ AMZAR			51	28	44	28	45	62	72		330
Total	356	956	1,078	974	757	709	498	811	963	48	7,150

Source: AMIS FHQ Daily SITREP No. 060/06 dated 1 Mar 06

have, since the inception of the mission, asked for a change in the HCFA. This would be to treat party representatives as liaison officers only, whose task would be to facilitate monitoring, investigation and reporting of violations by the international observers. This request notwithstanding, the AU has, during a series of mission reviews, missed several opportunities for amending the HCFA. This has undoubtedly resulted in the dilution of the HCFA.

Mandate

The PSC communiqué of 20 October 2004 revised the mandate of AMIS to include:

- monitoring and observing compliance with the HCFA;
- assisting in the process of confidence building;
- contributing to a secure environment for the delivery of humanitarian relief, and supporting the return of IDPs to their homes;
- contributing to the general security situation in Darfur.

While there is a noticeable improvement in the “responsibility to protect” stated in the mandate above, it can be asked to what extent this has impacted on the situation on the ground. To give real meaning to the mandate and to enhance its credibility, the mission will have to be flexible in its interpretation of the mandate and pursue more robust Rules of Engagement (RoEs) for the purpose of civilian protection.

Concerned about the international outcry on the unsatisfactory protection of civilians, and recalling also that the GoS has failed to live up to its primary responsibility of protecting its citizens in Darfur, the AU PSC reviewed, on March 10 2006, the mandate to reflect the protection of civilians as a core task of AMIS. More pragmatically, however, the PSC signalled its intention to transfer the peace mission mandate to the UN in September 2006.¹⁴ This might satisfy such critics as the International Crisis Group (ICG), whose President, Gareth Evans, bluntly observed that “...AMIS’s own protection role is so highly qualified as to be almost meaningless”.¹⁵ While this is yet another commendable response by the AU, it has yet to be seen whether this effort will augment AMIS’s effect on and response to the protection of civilians.

Logistics and funding

From its inception, AMIS’s operations have been characterised by persistent shortfalls in logistics and funding. Depending entirely on its partners for resources, including funding, the mission has been

compromised by funding shortfalls and delayed disbursements.

The AU’s collaboration with the partners in the Darfur mission is an excellent example of partnership.¹⁶ However, the mission runs the risk of atrophying because of logistics and cash constraints. This situation will spell disaster not only for the operations in Darfur, but also for all future AU-led missions.

However, since the PSC decision of 10 March 2006 to extend AMIS’s mandate until September 2006, when the mission is expected to be transferred to the UN, the intervening period is critical to the credibility of both the out-going AMIS and the in-coming UN mission. Thus, given the sensitivities of the Khartoum regime to ‘foreign intervention’, it would be prudent for both the AU and the UN to collaborate more closely on the way forward.

In this regard, the conclusions of the March 2006 meeting of the Arab League in Khartoum concerning its role in Darfur are significant. In an apparent move to keep the UN out of Darfur, the League decided to support the mission with cash after the conclusion of the current mandate in September 2006. This decision, however, raises questions about how the League expects AMIS operations to be sustained from March to September 2006 and what its reasons are for not providing immediate support. The AU Special Representative of the AU Chairperson, Ambassador Baba Gana Kingibe, has likened the League’s offer to provision of medication after the patient is dead: too little too late.

Partnerships

The AU’s international partners have proved vitally important to the mission since its inception. They have contributed both human and material support, without which the mission would have simply ground to a halt. At the political level, the partners have assisted the Abuja Peace Talks in diverse ways, including attempting to unite some of the splintering parties and encouraging consensus on sensitive issues between the parties. On the international scene, they have helped to maintain pressure on GoS and the rebels to behave responsibly. At the operational level, the partners have also provided staff officers to serve at different levels of command in AMIS, as well as in the military and police components.

In particular, the EU has provided police advisers for AMIS’s leadership and all police commanders, while a French general also sits in the CFC as its vice-chairman. For its part, NATO has provided training in various aspects of peace support operations in

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the field and has also supported AMIS with strategic airlifts. Financially, the EU's African Peace Facility (APF) Fund has served as the main source of funding for AMIS's operation. Although originally set up for the EU's development agenda under the EU-ACP (African, Caribbean and Pacific) mechanism following the 2000 Cotonou Agreement, the Darfur crisis has subsumed the initial objective. At the moment it is reported that the 250 million APF Fund is already committed and is not due for regular review until 2007.¹⁷

For AMIS to succeed, therefore, the importance of continued international partner support cannot be overemphasised. At the same time, it is incumbent on both the AU and its partners to streamline the assistance package to ensure predictability and proper mission planning. The partners also have to ensure proper coordination among themselves to guarantee unity of purpose and avoid duplication of effort.

The mandate and the use of force

The recent JAM Report observed that the current mandate is adequate, but recommended that it be interpreted flexibly and forcefully in order to maintain force credibility and should provide the necessary degree of protection for civilians within capabilities. But it is not at all clear whether this arrangement will prove effective. While the decision of the PSC (March 2006) to make civilian protection a core mandate issue is a laudable amendment, this will not itself ensure the compliance of the parties, nor will it strengthen the effectiveness of the force. Considering the fact that the timeline for the UN takeover of the mission concludes at the end of September 2006, the period between now and then is of critical importance to the mission's success. Apart from the success or failure of the mission to interpret its mandate and rules of engagement with determination, issues pertaining to size of force, lack of compliance by the parties, inadequate logistics and persistent financial shortfalls continue to impede the mission's success.

For this reason, the AU and its partners must give the mission the necessary assistance during the pre-transition period in order to enhance the mission's credibility and to meet urgent security and humanitarian needs. It is certainly in the interests of the international community to ensure the success of AMIS at every stage of the mission and, in particular, in its exit strategy. If AMIS leaves a humiliated Darfur bearing a legacy of sexual exploitation and abuse of its population, as is currently alleged, the peace and security agenda of the AU could be compromised. Such a failure, though qualified, will further undermine

the readiness of the UN to respond more promptly to African conflicts and the West to participate directly in peacekeeping operations in the continent.

Urgent mechanisms should therefore be sought to strengthen the mission. First, having recently reviewed the mandate, the AU could request international partners to support its efforts at civilian protection immediately. However, this option is fraught with difficulty, because the same partners have already issued a demarche to the AU Commission to hand over the mission to the UN. It is not at all clear how much tangible assistance they will be prepared to commit to a mission on the point of being transferred to the UN. Second, the question arises as to whether or not the AU could request the UN or partner countries to attach a well-equipped Rapid Reaction Force (RRF) to serve under the command of the AMIS Force Commander immediately. This must also be considered against the backdrop of fierce resistance by the GoS and its allies. Whatever the outcome, it is imperative that the renewed mandate be given enough support to make a real impact at ground level.

The period between now and the transfer of the mission is of critical importance to the mission's success

Another matter for consideration is the absolute silence of the mandate on the emerging conflict involving Chad. The revolt in Chad has exacerbated the already fragile security and humanitarian conditions in Darfur, and the mission must be given a mandate to deal with the situation there. The current situation, in which the counter measures to the Chadian threats are left in the hands of the GoS, constitutes a precursor to further violence and the perpetuation of the status quo. Thus, the focus and primary responsibility of AMIS must now be the protection of civilians.

To carry that out effectively, the AU Mission has to be sufficiently well prepared to cover all 'hotspots' and respond swiftly to any contrary behaviour of peace 'spoilers' like the Chadian rebels and breakaway groups within Darfur.

Transition to UN?

The issue of handing over the AU mission in Darfur to the UN is no longer mere speculation, but is a probable outcome of the decision of the AU PSC in January and its confirmation later in March 2006. The transition to a UN mission has, however, been fiercely opposed by the GoS and its allies, both locally and internationally. Nonetheless, in the wake of the PSC decisions, the UN has already established measures to ensure proper, effective planning for the transition. A Darfur Planning Team (DPT) has been established in New York, while, at ground level in Sudan, UNMIS has also been mandated to assist AMIS as required and to cooperate fully with the AU at this critical stage.



Even though it is too early to speculate on any plans the UN might bring to bear on the situation, it is essential to take note of the full spectrum of lessons learnt from AMIS's experiences, including the prevailing anti-West sentiments reinforced by the GoS, the frustration of the rebels with AMIS, the allegations of sexual misconduct and the emerging crisis with Chad. Through a careful analysis of a plethora of initiatives and measures adopted by AMIS during its more than two-year mission experience, the UN could avoid similar pitfalls and ensure a more effective transition to a UN mission that would be immediately capable of improving the situation at ground level.

A critical matter for the UN to handle with caution is achieving a balance between the pursuit of justice and effective peace implementation at ground level. Arguably, one of the main reasons for resistance to UN intervention has to do with the probability that the mission would arrest and hand over suspected war criminals to the International Criminal Court (ICC). However, it is this author's view that any attempt to force this effort in the early stages of the UN mission may undermine the chances for peace. The UN and the international community will have to bear in mind that the death of former Yugoslav leader Slobodan Milosevic under close custody, and the arrest and hand-over of the former President of Liberia, Charles Taylor, to the Special Court in Sierra Leone are still fresh in the minds of those at risk of arrest and arraignment under similar circumstances.

Whatever the strategy adopted by the UN, it will have to be in the best interests of the suffering people of Darfur. It may be prudent, in the early stages of the UN mission, not to insist on justice for war crimes, particularly as there is no time limit for justice. On the contrary, it is possible that some of the accused, most of whom are leaders of their groups or communities, could be useful in facilitating peace implementation in the interim.¹⁸ At the same time, however, it is rumoured that certain supporters of militia leaders, such as Musa Hilal, will take up arms if threatened with ICC action.

SOME THOUGHTS ON THE WAY FORWARD

Although not intended as a blue print, the following could be a useful guide to the way forward:

Suggestions for the AU

- Further strengthen the current mandate by deploying a mission Rapid Reaction Force.
- Endeavour to bring AMIS IIE up to full strength and operational capability as soon as possible.
- Expeditiously establish and give meaning to the mission's ROEs, including making pocket-sized copies available to all personnel on the mission.

- Review the HCFA, amongst others, with a view to changing the status of party representatives from that of integral MILOBs to that of liaison officers only. In practice, the representatives as liaison officers should not live in and operate from the AU camps.
- Secure the provision of additional armed helicopters and night vision capability from the partners in order to transfer rapid reaction capability to the mission.
- After the deployment of a UN mission, maintain an AU office in the mission area to liaise with the UN, dispense advice and derive lessons from UN best practices, including the establishment of an AU logistics base for the African Standby Force (ASF). The AU should seek the approval of its partners for AMIS equipment to be transferred to the ASF.

Suggestions for the UN

- Sustain international pressure on Khartoum to unconditionally accept UN take-over of the peacekeeping mission and mandate.
- Deploy a UN force with a clear, unambiguous and strong Chapter VII mandate and requisite capacity on the ground.
- Re-hat the AMIS in order to maintain an African presence that will help to allay Arab sentiments on foreign forces and threats of a jihad in Darfur.
- Integrate the Darfur Integrated Task Force (DITF) with the UN's own Darfur Planning Team (DPT) for the initial planning and management of the transition from an AU to a UN mission.
- Facilitate negotiations for a mandate for the deployment of NATO support to AMIS during the transition period.
- Establish a UN resolution seeking to impose a security zone on the Chad-Sudan border to address cross-border instability and the proliferation of arms in the Darfur conflict area.
- Facilitate an all-inclusive peace process involving not only the parties to the conflict, but also Chad and other regional stakeholders, as well as the international community.
- Continue to engage with the question of impunity by facilitating the work of the ICC in order to hold peace 'spoilers' accountable in the long run.

CONCLUDING COMMENTS

Despite the best efforts of the UN Secretary General, the UN and the international community have not moved quickly enough to stop the killing, raping, pillaging and burning of villages in Darfur. Given the failure of the UN apropos the Rwandan genocide in 1994, coupled with the efforts of international community watchdogs like the ICG to draw attention to the fact that "Khartoum has utterly failed in its responsibility to protect its own people",¹⁹ the

international community failed to act quickly and decisively enough on Darfur. The GoS has therefore been allowed to play the sovereignty card in the face of its failure to protect its citizens, while the parties to the conflict have generally continued to perpetrate serious crimes against humanity, as well as war crimes, in violation of the HCFA and its related protocols.

Given the challenges facing the UN and the international community, the AU has been obliged to take the lead in regional peace efforts to stabilise the situation through the deployment of AMIS. With assistance from the international community, AMIS has been able to make some difference to the humanitarian situation in Darfur, but this has been inadequate on account of the weakness of its mandate and the inadequacy of its logistical and other capacities. This situation has tested AMIS beyond its limits, in terms of logistics, personnel and finance, in spite of the AU's noble intentions of retaining the African character of the mission. The combination of the weakness of the mandate and the dearth of resources constitutes the fundamental reasons for the AU's decision to hand over the mission to the UN at the end of September 2006. This accords with the AU's own security policy objectives of deploying stop-gap peace missions to create conditions for the eventual takeover by the UN.

Further, it comes as no surprise that the Khartoum regime has been consistently opposed to UN intervention and may "...be even more strongly opposed to any international force not confined to Africans than it will be to the strengthening of the force mandate",²⁰ even though, in the aftermath of the partial Abuja peace agreement (5 May 2006), the GoS appeared to have toned down such opposition. The UN and the international community should therefore continue to engage with the parties to the conflict to achieve a shift from a position of non-commitment to one of fidelity to the Abuja peace agreement.

While the UN take-over may not guarantee the success of the peacekeeping mission in Darfur, it does bring with it the predictability of funding, resources, institutional experience and expertise, and stronger international resolve to deal conclusively with the Darfur crisis. Following the tentative Abuja peace deal, it is essential that the AU and UN collaborate closely on a common approach to achieving a smooth transition in Darfur and to enhancing the prospects of long-term peace.

Endnotes

- 1 See Warren Hoge's report in the *New York Times*, 11 May 2005. In May 2005, with Darfur in mind, Jan Egeland, UN Humanitarian Relief Coordinator, was quoted as saying that "...the world's biggest challenges and dramas are in Africa".
- 2 Article 1 of the Agreement on the Humanitarian Ceasefire on the conflict in Darfur, concluded on

8 April 2004, N'djamena.

- 3 Articles 3 and 4 of the Agreement on the Humanitarian Ceasefire on the conflict in Darfur, concluded on 8 April 2004, N'djamena. In the main, its key provisions included: 1) creating conditions allowing for delivery of emergency relief, including the facilitation of humanitarian assistance; 2) establishing a Ceasefire Commission to monitor the Agreement; and 3) establishing a Joint Commission.
- 4 See Articles 1 and 2 of the Protocol between the Government of the Sudan, the Sudan Liberation Movement/Army and the Justice and Equality Movement, on the improvement of the Humanitarian situation in Darfur (Abuja, 9 November 2004).
- 5 Op cit, Article 2.
- 6 Article 2 of HCFA.
- 7 Article 4 of HCFA.
- 8 See Press Release No. SG/SM/9751 AFR/1120 dated 7 March 2005.
- 9 Ibid.
- 10 See AU Peace and Security Council, Report of the Chairperson of the Commission on the security situation in Darfur (the Sudan), 12 January 2006, p 16. For example, as on 31 October 2005, only a quarter of the cash requirement had been received.
- 11 The Darfur Peace Agreement, 5 May 2006, provided for: 1) Security Arrangements; 2) Power Sharing, and 3) Wealth Sharing.
- 12 See Section II Composition (4) of the Agreement with the Sudanese Parties on the modalities for the establishment of the Ceasefire Commission and the deployment of Observers in Darfur (Addis Ababa, 28 May 2004). This section defines the operational arm of the CFC as the African Union Monitoring Mission, which will be comprised of observers from the Parties, the Chadian Mediation, the African Union Member States and the representatives of the international community.
- 13 See Decision (PSC/MIN/Comm.(XLVI)) of the 46th Meeting of the Peace and Security Council, AU, Addis Ababa, 10 March 2006.
- 14 International Crisis Group, New Media Release, Darfur needs bolder international intervention, Brussels, 25 May 2005.
- 15 The principal donors to the AU's efforts in Darfur have been Canada (APCs, helicopters, and fixed-winged aircraft), the UK (vehicles), the USA (camp construction and maintenance), the Netherlands (rotary and fixed-winged aircraft), Norway (police posts) and the EU (cash through the Africa Peace Facility).
- 16 See International Crisis Group, The EU/AU Partnership in Darfur: Not yet a winning combination, Africa Report No. 99, 25 October 2005, p10.
- 17 For example, in May 2005, Musa Hilal, who has consistently denied coordinating the Janjaweed widespread campaign of rape, looting and burning of villages in Darfur, was widely reported as urging mixed marriages between tribes to help promote peace in the troubled region.
- 18 International Crisis Group, New Media Release, *ibid.*
- 19 *Ibid.*





About this paper

Since the late 1990s, the international community has engaged in a discourse on the responsibility of governments to protect their citizens and, when they fail, the right of the international and regional organisations to intervene. Africa has become a test case for this emerging international norm. The violent conflict in the Darfur region of western Sudan is but one example that has highlighted ineffective international responses to African conflicts.

As part of the international discourse, the Institute for Public Policy Research (ippr, UK) and the Institute for Security Studies (ISS, South Africa), initiated a 15-month joint project to examine existing mechanisms for preventing and responding to large-scale violent conflicts and gross human rights abuses in Africa; and to make policy proposals for strengthening national, regional and international responses to these conflicts and abuses. The Canadian-based North-South Institute (NSI) and Burundi's Centre d'Alerte et de Prévention des Conflits (CENAP) have similarly initiated a two-year policy research project on reforming the security sector to protect vulnerable populations in Burundi.

It is in the above contexts that this paper was delivered at a high-level symposium co-hosted by ISS, ippr, NSI and CENAP, in Addis Ababa, on 16 March 2006. The symposium provided an opportunity to discuss how the concept of the responsibility to protect can be promoted in Africa. The paper represents a contribution to the debate and is not a statement of policy of the partners.

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