

## **Status quo not an option**

### **Parliamentary briefing on Darfur**

**13 October 2005**

#### **Purpose**

To update Members of Parliament on the situation in Darfur, particularly in light of the “Responsibility to Protect” decision made by the UN at the World Summit in September 2005. This paper provides an update to the briefing sent by Aegis Trust ahead of the Africa debate, 3 July 2005.

#### **Summary Forecast**

The current policies adopted by international bystanders appear to rely on there being a status quo of completed ‘ethnic cleansing’. The status quo in itself is unacceptable to maintain, given the 2 million people displaced from their villages into camps where rape and disease are rife. But further, relying on such status quo is placing the future of Sudan in jeopardy.

If the current policies of allowing inadequate security and deadlocked mediation are maintained we will, in all likelihood, observe deterioration. Darfur, and the whole of Sudan, is in danger of slipping into a deeper, prolonged crisis. The forecast includes:

- Increased attacks by Janjaweed on IDP camps and villages backed by the Government of Sudan (GoS) as happened on 28 September at Aro Sharow IDP camp.
- Increased attacks by rebels on GoS and AU protection forces.
- Withdrawal of humanitarian agencies leading to greater instability, even more attacks on IDP camps and risk of violence and starvation of around 2-3 million people.
- Deterioration of the situation in Eastern Sudan, opening up a further crisis and massive atrocities.
- Unravelling of the poorly named Comprehensive Peace Agreement between the North and South, which is at greater risk following the untimely death of the Southern SPLM leader John Garang.
- The current UN Mission in Sudan (UNMIS) and AU Mission in Sudan (AMIS) will be unable to cope if this deteriorates.

#### **Key Developments**

- Declaration at the UN World Summit in September 2005 that each individual State has the Responsibility to Protect its populations from genocide, war crimes, ethnic cleansing and

crimes against humanity. That the international community, through the United Nations, has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and where necessary Chapter VII action can be invoked.

- On 26 September 2005, Juan Mendez, Special Advisor on Genocide Prevention to the UN Secretary General reported from Darfur that violence was increasing and criticised the Sudanese courts for doing little to ensure justice. The Sudanese Minister of Justice denied that genocide or ethnic cleansing had taken place in Sudan.
- Between 180-250,000 civilians have been killed and 2 million are displaced. They do not return to their villages because security is inadequate. 'Ethnic cleansing' is being consolidated with Arab tribes establishing residence in old African villages. The Secretary General's latest report on the Darfur situation noted that on some occasions, internally displaced persons who have returned to their villages have been attacked.
- The UN Secretary General, Kofi Annan, has warned that the security situation is so severe that humanitarian agencies may pull out. The presence of international actors provides a degree of physical and food security. If there is a withdrawal of humanitarian agencies, around 2-3 million lives will again be at risk of direct violence and death by starvation and disease.
- The Foreign Secretary pledged at the Labour Party conference to put the Responsibility to Protect at the heart of British foreign policy. He said "My pledge to you is to ensure that the fine words on the Responsibility to Protect are translated into collective action".

## **Detail**

### **Responsibility to Protect (R2P)**

1. The text in the Outcome Document of the World Summit on the Responsibility to Protect reads:

*Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity... The international community, through the United Nations, also has the responsibility to use 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. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity...*

2. The Responsibility to Protect doctrine applies to situations where people are at risk of destruction. Its endorsement at the World Summit infers a moral obligation on UN member states to protect people against atrocities, not wait until they are over. It avoids arguments about whether a crisis is genocide or not by including not only genocide, but crimes against humanity and war crimes.

Strictly speaking the UN Genocide Convention (UNGC) allows for prevention of all these as if people are under threat of destruction because of their race, ethnicity or religion. The intent to commit genocide does not need to be proven to prevent it occurring as that will always be too late, but lawyers and politicians undermine the UNGC by debating proof of intent to commit genocide while people are slaughtered. R2P circumvents this argument.

The key problem now that the principle has been endorsed, is still how to enforce it. It still relies on the political will of nations with power to protect.

Throughout the Darfur crisis, it is acknowledged that the GoS has either supported a genocidal operation or they are failing to stop it. Yet primary responsibility for protection of Darfuris has remained with the GoS. The Responsibility to Protect obliges states to take action under such circumstances as the doctrine over-rides the principle of non-intervention in State Sovereignty.

3. In Darfur the international community has provided humanitarian aid and supported political talks. Under the Responsibility to Protect, states have agreed that when peaceful means are an inadequate response to genocide, war crimes, ethnic cleansing and crimes against humanity, they are prepared to take enforcement measures under a Chapter VII mandate.

4. The African Union are in Sudan at the behest of the Sudanese Government and cannot extend their mandate without the approval of the Sudanese Government. Hence such a mandate must be provided by the UN. The necessity to work through the Security Council with regional organisations in such situations is recognised in the agreed Responsibility to Protect principle.

### **Visit by Special Advisor to the UN Secretary General on Genocide Prevention**

5. The Special Advisor to the UN Secretary General on Genocide Prevention, Juan Mendez, visited Darfur again during the third week of September 2005. He has painted a picture of deep concern in his subsequent report, attached with this briefing.

Following his visit Juan Mendez was blocked from speaking to the UN Security Council by the US Ambassador to the UN, John Bolton, on grounds that the UN Security Council should act, not speak about Darfur. Bolton was supported by China, Russia and Algeria. The Security Council subsequently neither talked or acted.

6. Juan Mendez reported that Sudan's special court to try war criminals has not addressed major atrocities committed. He warned that violence was increasing, that the Sudanese national courts were doing little and the displaced had little faith in the Sudanese police and justice system because of their inaction. He said that Khartoum had done little to disarm militias or end the culture of impunity there. In a meeting with Sudanese Minister of Justice, Mohamed Ali al-Mardi, he was told that trials re Darfur would continue but that there had been no genocide or ethnic cleansing. Mendez statements confirmed reports from Jan Egeland, UN Chief Aid Coordinator that violence in Darfur had become so bad that the UN operation could end. He reported that international and aid workers were being targeted and that gunmen were crossing the border from Darfur to Chad on one occasion killing 36 people. The Chadian government confirmed the report saying they had killed 8 and captured 7 of the rebels. There remain up to 200,000 displaced persons in refugee camps near the Chad / Darfur border.

### **Current Situation in Darfur**

7. Between 180-250,000 civilians have been killed. 2 million are displaced in semi-permanent camps. They do not return to their villages because security is still far from adequate. Ethnic cleansing is being consolidated. The land has been left empty and Arab tribes are establishing residence in old African villages. The extraction of oil from the region looks an increasingly likely prospect. The scene is being set for a long drawn out conflict.

8. Attacks targeting civilians have continued sporadically, highlighting the insecurity that remains. On 28 September 300 Janjaweed attacked the Aro Sharow IDP camp killing 34 men as Government helicopters flew overhead. The UN Secretary General's latest report on the Darfur situation noted that 'on some occasions, internally displaced persons who have returned to their villages of origin to cultivate their fields have been attacked, resulting in their re-displacement back to the refugee camps.' The latest report on sexual violence was produced in early September by the UN Population Fund and UNICEF and found sexual violence to be continuing in the region.

9. The African Union force is protecting IDPs from Janjaweed attack in camps scattered across the region but cannot provide security so that people can return to their homes. Responsibility for

protection of civilians in Darfur is left primarily with the GoS but it is clear the GoS does not intend to provide protection.

10. Apportioning of blame by the African Union in Darfur has been rare. However on 1 October the Chief African Union Envoy to Sudan, Baba Gana Kingibe accused the Sudanese Government of “calculated and wanton destruction”. He cited four incidents in a recent two week period where Sudanese troops had conducted “coordinated offensive operations” with the Janjaweed. He also noted the “unethical practise” of Sudanese government forces of painting their vehicles in African Union colours.

11. As Aegis’ June briefing warned, simply maintaining the status quo (since the direct violence on villages had reduced by June this year) would lead to increased rebel activity. On 8 October 2005 the SLA killed 3 AU soldiers. 38 were detained by a JEM splinter faction. Indeed, the rebels are their own worst enemies.

Recalling briefs of four months ago:

*Reduction of direct violence during May 2005 is misleading the international community into believing there is improvement in security. [...]*

*The harder the international community make it for refugees to return and the more marginalised we allow the African population to become, the greater the risk that rebel groups will convert this largely one-sided genocidal crisis into another protracted African civil war.*

*Without increased protection then, the less likely it will be to find a political solution to the crisis.*

***Aegis brief for adjournment debate on Darfur  
June 15 2005***

*The frustration of keeping the status quo in Darfur would be likely to lead to greater attacks from the rebel groups, who have a rich source of young recruits from the IDP camps. There is a high probability that the genocidal conflict organised by the Arab militia and the GOS in the past three years may convert into a prolonged civil war that the small AU force would not be able to contain.*

*The current constrained intervention, then, is at risk of allowing a change in the dynamic, which will again be a serious deterioration in security that the local population would suffer and the international community would then have to pay for.*

***Aegis brief ahead of G8 Africa debate  
June 30 2005***

The situation still stands, but the longer it is left before the protection force of the AU is ramped up, the harder it will be to contain.

12. To indicate how the AU struggle constrained by the powers that could assist them more, in August AU officials warned that the AU is running out of cash to pay its soldiers and buy medicines. In September fuel shortages prevented the deployment of troops. Now Sudanese red tape is preventing the delivery of 70 of the 105 armoured personnel carriers that the Canadians have offered for the African Union force in Darfur.

**UK Government Position – Statement by Foreign Secretary**

13. In an address to the Labour Party conference on 28 September, the Foreign Secretary, Jack Straw, pledged to put the Responsibility to Protect at the heart of British Foreign policy. He referred to the thousands murdered in Rwanda and Srebrenica that would have been saved had Responsibility to Protect been the policy at that time. He stated, "Sovereign states and the nations of the world...have a collective Responsibility to Protect all citizens from genocide, ethnic cleansing and crimes against humanity" and "My pledge to you is to ensure that the fine words on the Responsibility to Protect are translated into collective action". The Foreign Secretary did not refer to Darfur; however, his statements could be directly applied not only to what has happened in Darfur, but also to what is continuing to happen.

14. The Secretary of State for International Development, Hilary Benn, has stated that the GoS has an international obligation to act to prevent ongoing atrocities in Darfur and that the ICC investigation will result in those responsible being brought to justice.

### **Recommended Actions**

15. The following actions are recommended:

- That the dynamic be changed to stop this disastrous slippage into unstoppable crisis.
- That the "Responsibility to Protect" be applied to enable the return of displaced persons to their villages in order to prevent the consolidation of ethnic cleansing.
- That the AU-led protection force be bolstered. If AU nations are too stretched, non-African nations should support the AU mission e.g. India and the middle powers.
- That the Security Council support this by providing a peace enforcement mandate that includes a plan to disarm the Janjaweed.
- That a conference be held for the rebels to foster some unity as the rebels have requested and as the International Crisis Group advised.
- That the Foreign Secretary be formally asked how his address to the Labour Party conference about R2P applies to the current situation in Darfur.
- That the House of Commons hold a debate on Darfur and in particular the response and action required in light of the "Responsibility to Protect" doctrine.
- That the Foreign Office provide support (practical and financial) to organisations engaged in bringing those responsible for the genocidal acts in Darfur to justice.