

# Darfur and the failure of the responsibility to protect

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## War in Darfur and international responses

Darfur is a typical north-east African civil war,<sup>1</sup> consisting of multiple overlapping conflicts interspersed with large-scale offensives by the government army and its proxies and rebels. During 2001–2003, local disputes were exacerbated by the breakdown of local governance and combined with the ambitions of a frustrated provincial elite to fuel an insurgency, which escalated more quickly and bloodily than either side anticipated. The government response was both ham-fisted and ruthless—characteristics of Khartoum’s counter-insurgencies since the 1980s. The result was massacre, displacement and famine, an overall death toll probably exceeding 200,000, the deepening of distrust between Darfurians and the political leaders in Khartoum to the point of bitter hatred, and the fragmentation of Darfurian society into a state approaching anarchy, characterized by multiple local conflicts.

Darfur is a complex Sudanic society that straddles the desert and savanna.<sup>2</sup> An independent Muslim sultanate until 1916, Darfur became a neglected appendage to Sudan for a brief 40-year colonial interlude. The following 40 years of independent rule saw few developments in Darfurians’ way of life, which remained desperately poor and underserved. Worse, the civil war in neighbouring Chad spilled over into Darfur in the 1980s,<sup>3</sup> and the government in Khartoum turned a blind eye as militia drawn from Darfur’s Arab tribes armed themselves with the support of their Chadian brethren and tried to seize land from their Fur and Masalit neighbours.<sup>4</sup> Throughout the 1990s, parts of Darfur intermittently erupted into conflict owing to a combination of the depredations of land-hungry Chadian Arab groups and Khartoum’s penchant for addressing local conflicts by distributing arms to one side to suppress the other—a policy that almost always came down in favour of the Arabs.

While Darfur’s conflicts smouldered, Sudan was engaged in a large and protracted civil war between the central government and the Sudan People’s Liberation

<sup>1</sup> Julie Flint and Alex de Waal, *Darfur: a short history of a long war* (London: Zed, 2005); Alex de Waal, ed., *War in Darfur and the search for peace* (Cambridge, MA: Harvard University Press, 2007).

<sup>2</sup> R. S. O’Fahey, *State and society in Darfur* (London: Hurst, 1980), and *The Dar Fur sultanate* (London: Hurst, 2007).

<sup>3</sup> Millard Burr and Robert O. Collins, *Darfur: the long road to disaster* (Princeton, NJ: Markus Wiener, 2006).

<sup>4</sup> Ali Haggag, ‘The origins and organization of the Janjaweed in Darfur’, in de Waal, ed., *War in Darfur and the search for peace*, pp. 113–39.

Army (SPLA). Commonly characterized as a war between north and south, this is better described as a connected set of wars between a dominant central elite claiming Islamic and Arab identity, and the peoples most marginalized by that elite, including southerners, the Nuba people of southern Kordofan, and a number of groups in eastern and south-eastern Sudan, all of them non-Arab, many of them non-Muslim. The basic pattern of grievances is shared by all the marginalized peoples: they were denied their share in political power and national wealth, and the government used divide-and-rule tactics to allow local militias to run amok and destroy their modest livelihoods.<sup>5</sup> In retrospect, the mystery is not why the war in Darfur broke out, but why it took so long to do so.

The Darfur rebels included the Sudan Liberation Movement/Army (SLM/SLA), with a broad base of support across Sudan's major ethnic groups (principally non-Arab but including some Arabs) and the Justice and Equality Movement (JEM), whose leaders have links with Sudan's Islamist movement. From the outset, the armed resistance was an amalgam of village defence groups and aspirant elites, divided on ethnic and political lines.<sup>6</sup> The main infrastructure for armed resistance was tribal, and the largest segments—Fur, Zaghawa and Masalit—rarely coordinated. Rivalry between the two SLA leaders, Abdel Wahid al Nur (Fur, with a following among diverse ethnic groups) and Minni Minawi (Zaghawa) became intense and bitter, and differences between these two and the leader of JEM, Khalil Ibrahim, were also significant. These divergences prevented the Darfur resistance from forming a united political front.

The main government proxies were the Janjaweed, from a segment of Darfur's camel-herding Arab tribes, and more recent Arab immigrants from Chad, who had their own territorial ambitions in Darfur. The Sudan government made a deal with these Arab groups whereby they were allowed to pursue their own agenda with impunity, in return for suppressing the rebellion. Other Darfurian Arabs initially remained outside the conflict, though some joined the counter-insurgency in 2003 and others were drawn in the following year as the rebels took the war to the east and south of Darfur.

Darfur's war gained international attention just as the negotiations to conclude the long-running hostilities between the central government and the SPLA were approaching conclusion in the Kenyan town of Naivasha. During the first half of 2004, the policy of the US–British–Norwegian troika that supported the Naivasha talks vacillated. One approach was to deal with Darfur as part of those negotiations, or at least stabilize Darfur before concluding the talks. The other approach, which won the day, was to proceed with completing the Comprehensive Peace Agreement while the Darfur problem remained unresolved. The decision in favour of the latter option was ultimately one of timing and feasibility. During 2004 attempts to obtain a robust ceasefire for Darfur, let alone a peace agreement, made little progress, in part because of the disorganization of the rebels. Neither

<sup>5</sup> Alex de Waal, 'Darfur's deadline: the final days of the Abuja peace process', in de Waal, ed., *War in Darfur and the search for peace*, pp. 267–83.

<sup>6</sup> Julie Flint, 'Darfur's armed movements', in de Waal, ed., *War in Darfur and the search for peace*, pp. 140–72.

the SPLA nor the international representatives wanted a north–south peace to be hostage to an unpredictable conflict in Darfur, so by default it was decided to address the two wars in sequence.

The Ndjamenan Humanitarian Ceasefire Agreement, signed on 8 April 2004, was the basis for all subsequent diplomatic efforts on Darfur. It was a rushed agreement, which exists in two versions without an agreed text (the particular provision in dispute is the cantonment of the armed movements in assembly sites); although it allowed the African Union (AU) to dispatch ceasefire monitors, and subsequently a force to provide protection for those monitors and any civilians in the immediate vicinity of its operations, it contained no maps to enable the ceasefire monitors to do their job. On the basis of Ndjamenan, the African Mission in Sudan (AMIS) had an impossible task. By improvising, and exceeding its mandated authority, AMIS achieved much in its first twelve months. However, any progress needed to be consolidated by a stronger mandate, a more realistic concept of operations, larger numbers and better logistics, and better finance. All these were promised by the AU and international donors, but not delivered.

The responses of the UN Security Council and the AU Peace and Security Council (PSC) consisted chiefly of ad hoc steps rather than a systematic or strategic approach to the crisis. The Ndjamenan agreement became the foundation, not only for AMIS, but also for the UNSC's demands. While the Ndjamenan text refers to the government's responsibility to 'neutralise armed militia', UNSC Resolution 1556 of 30 July 2004 went further and demanded the disarmament of the Janjaweed within 30 days, without defining either 'disarmament' or 'Janjaweed'. The UNSC then failed to monitor the implementation of its demand, let alone take action against Khartoum for failing to act. (In reality, the Sudan government was incapable of disarming the militia.) In August the UN demanded a series of steps to ensure security around displaced persons' camps but also failed to take any follow-up actions when Sudan government actions stalled. Later the UNSC adopted a resolution enabling it to identify individuals obstructing the peace process and sanction them, but it has used this instrument only slowly, sparingly and ineffectively.

Another piece of ad hocery was the UNSC response to the US government decision that genocide had been committed in Darfur. In response to pressure from advocacy organizations and Congress, which believed that 'naming the situation in Darfur genocide would commit the US to action', specifically intervention,<sup>7</sup> in May 2004 the US State Department launched an investigation into whether the atrocities in Darfur qualified as genocide.<sup>8</sup> An investigative team sent to Chad concluded that the answer was yes. This was an important finding, not least because it broadens the usage of the term 'genocide' to include ethnically targeted killings, rapes and displacement perpetrated in the course of counter-insurgency,

<sup>7</sup> Rebecca Hamilton and Chad Hazlett, "Not on our watch": the emergence of the American movement for Darfur, in de Waal, ed., *War in Darfur and the search for peace*, pp. 337–66 at p. 342.

<sup>8</sup> Samuel Totten and Eric Markusen, eds, *Genocide in Darfur: investigating the atrocities in the Sudan* (London: Routledge, 2006).

a significant expansion on the customary usage of the term to refer to attempts to eliminate entire populations. The State Department response to this finding, stated on 9 September 2004, was to affirm that genocide had been committed, but then to say that this would have no impact upon US policy. When the United States passed the issue to the UNSC a few days later, the UNSC had no comparable luxury of continuing as before. Its initial response was to set up the International Commission of Inquiry into Darfur to examine the question. The ICID reported in February 2005 and the following month the UNSC referred the case to the International Criminal Court. There was no recent precedent for the UNSC deciding to pursue justice in advance of any workable peace process.<sup>9</sup>

Another significant international intervention on Darfur was the decision, adopted as a priority by the US government in the early summer of 2005, that AMIS should be handed over to a UN peacekeeping force. The stated rationale for this was that the UN would do a better job and that 'blue-hatting' of AU missions had worked in the past (e.g. in Burundi). It was certainly the case that the AU had never handled a peace support operation of the size and complexity required for Darfur, but at least the Constitutive Act of the AU provides for intervention in the case of gross violations of human rights or humanitarian crisis, a more liberal provision than anything in the UN Charter. Had the AU, UN and government of Sudan agreed promptly to this proposal, it could have been timely and effective. However, the secretariats and security council members of both AU and UN were reluctant, and Khartoum was opposed. Over the following two years, the greater part of US diplomatic energy and political capital was spent in the attempt to persuade the AU, UN and Sudan government to accept this policy. International forces in Darfur, rather than being a prop to a political policy, became the centrepiece of that policy. In the face of Khartoum's continuing opposition, on 31 August 2006 the UN Security Council adopted Resolution 1706, which invited Sudan's consent to a UN force—implying that if consent was not forthcoming, such a force might be dispatched without it.

The following week, President Omar al Bashir called the bluff of the US and UN Security Council by rejecting Resolution 1706. Bashir decided to draw a red line, and further tied down international political efforts on the details of the international force. A compromise proposal for a 'hybrid' AU–UN force was floated by the United States and China and adopted at a high-level meeting chaired by the UN Secretary General on 16 November. After another eight months of wrangling, the Security Council finally obtained Sudan's consent to the hybrid AU–UN force, the UN–African Union Mission in Darfur (UNAMID), which was duly mandated in Resolution 1769 of 31 July 2007, with its mandate, structure, size and talks determined with reference to a joint UN–AU assessment.<sup>10</sup> At the same time, AU

<sup>9</sup> The case of violations committed during the war in the north of Uganda had already been referred to the ICC by the government of Uganda.

<sup>10</sup> United Nations, 'Report of the Secretary General and the Chairperson of the African Union Commission on the hybrid operation in Darfur', letter dated 5 June 2007 from the Secretary General of the United Nations to the President of the Security Council, S/2007/307/Rev.1, 6 June 2007.

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and UN special envoys (Salim Ahmed Salim and Jan Eliasson respectively) began preparing for a new round of peace talks intended to bring all the rebel movements into a peace agreement, in the hope that there would be a peace to keep by the time UNAMID became operational in early 2008.

Over the period 2004–2007, the international community pursued a range of objectives for Darfur that included improving security and humanitarian access, supporting the CPA, obtaining justice at The Hague, seeking a negotiated peace, dispatching a UN force and punishing those standing in the way of these goals. The multiplicity of these goals impeded a clear and coherent strategy. Some actions demanded the impossible while others set unrealistic deadlines. Few were followed up. On the occasions that Khartoum met one demand, another was placed on the table.<sup>11</sup> With an internally dysfunctional regime facing a confused and inconsistent international community, it is unsurprising that little progress was made.

### **The debate on protection**

It is exceptional for an international peacekeeping issue to seize and maintain the headlines in the way that UN troops did for Darfur. On 14 September 2006 the actor George Clooney addressed the UN Security Council and said that, should the Sudan government refuse to comply with Resolution 1706, ‘You will simply need men with shovels and bleached white linen and headstones. In many ways, it’s unfair, but it is, nevertheless, true that this genocide will be on your watch. How you deal with it will be your legacy, your Rwanda, your Cambodia, your Auschwitz.’<sup>12</sup> Two days later, tens of thousands of demonstrators donned blue hats to demand that Sudan allow in UN troops to stop genocide in Darfur. Many Darfurians, including those living in displaced persons’ camps in the region and members of the diaspora, vested their hopes in the UN coming to ‘save’ them. An International Crisis Group report entitled *To save Darfur* was concerned overwhelmingly with UN troops.<sup>13</sup> Expectations of what UN troops would do were wildly inflated, including disarming the Janjaweed and physically protecting both displaced people and those returning home to their villages. Precisely this problem had been identified by the Brahimi Report some years earlier: ‘Promising to extend such protection establishes a very high threshold of expectation. The potentially large mismatch between desired objective and resources available to meet it raises the prospect of continuing disappointment with United Nations follow-through in this area.’<sup>14</sup>

<sup>11</sup> For example, on 16 April 2007 President Bashir agreed to the ‘heavy support package’ for AMIS, one of the main US demands, and two days later President Bush announced that he would impose sanctions on Sudan after 30 days unless there was substantial progress on three issues, one of which was the deployment of the ‘heavy support package’.

<sup>12</sup> <http://www.americanrhetoric.com/speeches/georgeclooneyunitednations.htm>, accessed 14 Aug. 2007.

<sup>13</sup> International Crisis Group, *To save Darfur*, report 105, 17 March 2006. The report devotes approximately seven times as much space to international forces than to the peace process. The ICG insists that it has treated peace and protection as equal priorities, but the balance of its reports and advocacy was skewed very heavily towards troops, especially when the peace process was in its critical stages.

<sup>14</sup> UN General Assembly and Security Council, *Report of the Panel on United Nations Peace Operations* (the ‘Brahimi Report’), A/55/305-S/2000/809, 2 Aug. 2000, para. 62.

Throughout 2004–2006, the debate on the international military presence in Darfur focused on four major issues. The dominant question was whether the troops should be under AU or UN command. The labels used for the force identity obscured an agreement among all involved that a UN force would have a predominantly African character, and that a handover to the UN would involve the existing AMIS troops changing from green to blue helmets. If any troops from NATO countries were to be sent, they would be in small numbers only.

A second issue was the numbers of troops and their capabilities. It was generally agreed that the AMIS force was too small and poorly equipped. If AMIS or any UN successor organization was to take on the task of protecting displaced persons' camps and humanitarian supply routes, mounting monitoring patrols over large areas of Darfur, or even systematically supervising a ceasefire, it would have to be larger and be provided with more logistics and communications. If the force were to have the capability of deterring attack and, if necessary, calling upon reserves to fight its way out of a confrontation with a militia, then it would need additional armaments. More important than any of these issues, though rarely discussed, was the point that AMIS or its successor would also need larger numbers of civil and political affairs officers, to augment the modest contingent of two already stationed in Darfur.<sup>15</sup>

The third issue was the mandate. All agreed that the mandate of ceasefire monitoring arising from the Ndjama agreement was insufficient, and that the additional mandate that enabled AMIS to protect civilians who were at risk when it encountered them during the course of its duties was also inadequate.<sup>16</sup> The principal question was whether the force should operate under Chapter VI or VII of the UN Charter.

A final issue was the financing of the force. The AU had no mechanism for obtaining sufficient financial contributions from its member states to support AMIS, because African countries did not have the ability to pay. Hence AMIS was funded by discretionary contributions from European and north American governments. A UN force authorized by the UNSC would be financed through mandatory assessed contributions by UN member states. Although more expensive than AMIS, this system was more reliable.

The question of the force's strategic purpose and concept of operations was not among the issues discussed, despite the efforts of professional staff within the UN Department of Peacekeeping Operations (DPKO). Many activists and some political leaders simply assumed that an international force could succeed in the Herculean task of providing physical protection to Darfurians in the middle of continuing hostilities. The inflated expectations caused much dismay in the DPKO.

<sup>15</sup> The UN–AU assessment identified the need for both civil affairs officers and military liaison officers (UN, 'Report of the Secretary General and the Chairperson of the African Union Commission on the hybrid operation in Darfur', paras 66–8, 76).

<sup>16</sup> AMIS's mandate was contained in the Addis Ababa Agreement on the Modalities for the Establishment of the Ceasefire Commission and the Deployment of Observers of 28 May 2004, and was expanded by the AU PSC to include a limited protection element in October 2004.

This public debate was matched by the internal debate in Addis Ababa, New York and Washington DC. The standard formula for describing AMIS was that it was overstretched, ill-equipped and undermandated. While these descriptions were accurate, they overlooked the question of what a larger and better-equipped force with a stronger mandate would actually be able to achieve.

In contrast to these intense debates, very little attention was paid to the concept of operations and strategic goal. This emphasis reflects the focus and content of the continuing debate on the responsibility to protect, which has concentrated on when and whether to intervene, not how to do so and with what aim in mind.<sup>17</sup> The International Crisis Group, one of the most vocal and influential participants in the debate on Darfur, simply assumed that the implementation of the responsibility to protect was achievable. For example, it criticized the provisions in the Darfur peace agreement providing for staged reciprocal disarmament by the parties under AMIS supervision, saying that the task of disarmament is 'usually left for peacekeepers', and that the lack of international security guarantees was the weakest element of the agreement.<sup>18</sup> In reality, disarmament is only very occasionally entrusted to a peace support operation (as in Sierra Leone) and is almost always voluntary. Coercive disarmament by UN forces is exceptional; and of the two notable instances when it has been attempted, by the UN operation in Somalia in 1993 and the United Nations Mission in the Democratic Republic of Congo (MONUC) French-led Operation Artemis in the DRC in 2005, the first was a complete failure and the second problematic.<sup>19</sup> The military capabilities of the Darfur militia are more comparable to those of the Somalia factions which humbled US special forces in Mogadishu than the eastern Congo rebels whom the UN partly disarmed.

Some military analysts have noted that only an invasion could fulfil the promise. For example, Jim Terrie writes that a 'robust peacekeeping force' 'will make some limited difference, but not enough of one, and will certainly fall well short of a "responsibility to protect"'.<sup>20</sup> Terrie argues for an intervention that 'removes Khartoum's influence in Darfur' and suggests that a force of 40,000–50,000 could accomplish this, without giving a basis for this calculation.

Erroneous and unrealistic expectations of what UN troops would do in Darfur, which were echoed and amplified by many Darfur activists in the United States and appeared to be endorsed by the extraordinarily high level of international diplomatic effort vested in bringing the UN to Darfur, fed inflated fears and hopes in Sudan.

The prospect of a UN force mandated under Chapter VII worried Khartoum. Those fears were aroused in part by the potential threat that a UN operation might pose, for example through being able to execute arrest warrants on behalf of the International Criminal Court, or by giving the UN Special Representative

<sup>17</sup> Victoria Holt and Tobias Berkman, *The impossible mandate? Military preparedness, the responsibility to protect and modern peace operations* (Washington DC: Henry L. Stimson Center, 2006).

<sup>18</sup> International Crisis Group, 'Darfur's fragile peace agreement', policy briefing, 10 June 2006.

<sup>19</sup> Holt and Berkman, *The impossible mandate?*, ch. 8.

<sup>20</sup> Jim Terrie, 'Military options for Darfur', in David Mepham and Alexander Ramsbotham, eds, *Darfur: the responsibility to protect* (Pretoria and London: Institute of Social Studies/Institute for Public Policy Research, 2006), p. 36.

a military force with an open-ended mandate, and in part simply through suspicions of what the 'real' US agenda behind the plan might be—fears fuelled by US activities elsewhere in the Arab and Muslim world, and by the parallels made by some US politicians between 'saving' Kosovo and 'saving' Darfur.<sup>21</sup> It was not lost on Sudan's leaders that NATO's humanitarian intervention in Kosovo appears to be leading to the independence of the province. Meanwhile, the US government was also offering military training and assistance to the SPLA, many of whose members support the secession of southern Sudan in the referendum scheduled for 2011 in accordance with the Commonwealth Parliamentary Association (CPA). While the more moderate leaders in Khartoum, notably the vice-president Ali Osman Taha, argued that peace deals in the south and Darfur would lead to the United States normalizing relations and supporting the unity of Sudan, others, such as the security chief Nafie Ali Nafie, argued the contrary: that whatever concession was made, the United States would simply demand another one, until it achieved either regime change or the dismemberment of Sudan. Since 2005, Taha's influence has waned while Nafie's star has risen.

The promise of a UN force raised comparable expectations among the armed movements and their supporters. Abdel Wahid saw the possibility of an armed intervention comparable to those by NATO in Bosnia or Kosovo, and in the final negotiating session in Abuja made that demand of the Americans, considering any guarantee insufficient and refusing to sign the Darfur Peace Agreement (DPA).<sup>22</sup> Whether or not this was the critical factor in his refusal to sign, the prospect of being 'saved' by UN troops raised the hopes of Darfurians and made them consider any political compromises or offer of AMIS peacekeepers as an unacceptable second best.

In principle, the threat or promise of a robust coercive protection force can strengthen the hand of a mediator. In the case of the endgame of the Abuja negotiations, it had the reverse effect. The clamour for UN troops also had two other adverse impacts. First, it demoralized the AMIS troops stationed in Darfur. When the transition to the UN was first raised in the middle of 2005, AMIS troops were trying to do a difficult job under adverse circumstances, but in effect were told that they were the second-best option and would not be staying long, let alone reinforced and resupplied. Donor promises of funds were not fulfilled and at times the troops were not even paid. Any possibility of long-term planning in AMIS evaporated and morale began to decline.

Second and most important, it compromised the integrity of the peace process. In most circumstances, the political and diplomatic objective is to obtain a peace agreement, and a peacekeeping force is secondary to and supportive of that agreement. In Darfur, it was the other way round. The primary international objective was to dispatch a UN force, and the Abuja negotiations became a prop for achieving that. On 9 March 2006 Vice-President Taha indicated that, subsequent

<sup>21</sup> Anthony Lake, Susan Rice and Donald Payne, 'We saved Europeans. Why not Africans?', *Washington Post*, 2 Oct. 2006.

<sup>22</sup> de Waal, 'Darfur's deadline', at p. 276.

to signing a Darfur peace agreement, he would work to ensure that UN troops could be dispatched to Darfur. On the basis of this commitment (which Taha subsequently tried but failed to deliver), the deadline for the Abuja negotiations was decided and the negotiations were rushed to a conclusion. That rapid termination of talks meant that the text of the agreement was substantively deficient in important respects and, more significantly, that the process was too rushed to carry the armed movements along with it. Darfurians' central criticism of the Abuja process is that it was too hasty to retain their confidence.<sup>23</sup>

## **Operationalizing the R2P in Darfur**

The success or failure of any peace support operation in Darfur will depend upon the long-term vision and strategy of the operation, and the intellectual leadership provided accordingly. It is only on the basis of such a concept of operations that the most fundamental question can be answered, namely: *What is the force there to do?* The mandate sets limits on what the force commander *may* do, especially in extremis, and the force numbers, logistics, armaments and political backing allow him to decide what he can attempt to do in specific instances up to the limits of the mandate. But only a concept of operations determines what counts as ultimate success, and hence the strategy he should adopt and tasks he will need to undertake. In turn, that concept of operations should be embedded not just in the mandate provided by his political masters (AU PSC or UNSC) but also in the security arrangements agreed by the warring parties in their ceasefire or peace agreement.

Darfur is the locus of several complex conflicts involving many different armed groups and, consequently, a range of different types and layers of conflict and threat. From the outset of the war, and especially once the shortcomings of the Ndjamena humanitarian ceasefire agreement had become clear, it was evident that a classic Chapter VI peacekeeping operation was insufficient. There were no sharp lines of territorial delineation between the parties, and there were numerous groups in possession of arms that were commanded neither by the Sudan armed forces nor by the rebel commanders represented at the peace talks. However, an outright invasion or air assault, as undertaken in Iraq, Afghanistan or Kosovo, was impracticable because of the unwillingness of NATO countries to commit the huge numbers of troops that would be required and to accept the casualties, cost and indefinite commitment required of a ground occupation. Something else was required. While armchair theorists in the United States and Brussels fantasized about sending special forces, cruise missiles or mercenaries, or dispatching the UN to confiscate the arms of the Janjaweed, and professional military officers attached to the UN DPKO or AMIS were tasked with an avalanche of practical and administrative details concerning maintaining the existing force or finding ways in which it could operate in tandem with the UN, the requirement of developing a concept of operations received very little attention.

<sup>23</sup> Laurie Nathan, 'The making and unmaking of the Darfur Peace Agreement', in de Waal, ed., *War in Darfur and the search for peace*, pp. 245–66.

At no point during the AMIS operation and the peace negotiations was an opportunity provided for systematically exploring a concept of operations for a Darfur peace support operation. The basis for such an exercise, namely field assessments in Darfur, an assessment of all armed groups on the ground (including militia and self-defence groups in addition to the armed forces of the government and the SLA and JEM) and a process of capacity-building and confidence-building among the commanders of the armed groups, was never established. This process was twice proposed by AU security advisers during 2005 and again in early 2006, but on each occasion it was dismissed as being an unnecessary luxury, requiring an estimated six to nine months, while a solution was required within six to eight weeks.

Nonetheless, during the Abuja negotiations and the subsequent months, some progress was made towards working out the central concepts under which a peace support mission could operate. Some of these discussions were conducted by the AU mediation's commission on security arrangements in Abuja and others by the joint UN DPKO–AU planning team for UNAMID. These exercises were unsatisfactory for a number of reasons. First, the Abuja security talks were focused on obtaining a text acceptable to the parties, without the benefit of an expert security assessment in the field. The parties were extremely reluctant to negotiate in any serious manner, and the mediators and international partners did not welcome any process that brought additional complexities to the mediation effort. The Sudan government repeatedly refused AU requests to attach additional military advisers to the mediation team, while the AU was reluctant to press the issue too hard because both the arguments with the government delegation and the advice of the experts would have slowed down a negotiation process that was already under extremely tight deadlines.<sup>24</sup> Of the security advisers present, several left in frustration while others felt their expertise was not adequately drawn upon. Second, many of Darfur's armed groups were not represented in the talks. The Arab militias were excluded on the assumption, increasingly tenuous, that they were represented by the government delegation. Important sections of the armed movements either were debarred from the talks altogether (e.g. the National Movement for Reform and Democracy) or were present but unable to participate in the talks (the 'Group of Nineteen' dissident SLA commanders). Third, technical advice was also ignored in the implementation phase. Neither the United States nor the AU fulfilled their commitments to take rapid practical steps to support key tasks such as verification of the positions of the forces or convene the working group on Janjaweed disarmament (in the latter case, because the AU Special Representative, in his own words, 'forgot'). However, the worst error, committed against the advice of the security commission, was to expel the non-signatory parties from the Ceasefire Commission. Finally, the immense logistical and administrative complexities of organizing an innovative hybrid UN–AU mission presented DPKO staff with an overwhelming burden of work, which left them too busy to develop strategic plans—an activity that was never demanded by their superiors. At no point were

<sup>24</sup> Nathan, 'The making and unmaking of the Darfur Peace Agreement'.

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sufficient time, resources or political leadership devoted to the task of properly analysing the security challenges on the ground in Darfur, obtaining a common understanding of the basic tasks by all players (government, movements, other armed groups and militia, AU and UN), and orchestrating the different military, civilian and political instruments available. The joint UN–AU quick review mission was in the field only from 8 to 19 February 2007.

The result of this shortfall is that the key texts for planning the peace support operation in Darfur are significantly deficient. The security arrangements chapter of the DPA, while long and detailed, was developed by just a handful of individuals over three months. The proposals that were put forward in April 2006 and incorporated into the final text represented a set of incompletely developed concepts, as they existed at an arbitrary cut-off point in what all had assumed would be continuing talks. The joint UN–AU report based on the quick review mission largely replicates the same sets of tasks but without the necessary in-depth field assessment and analysis needed to develop the concepts of operations.<sup>25</sup>

Three complementary operations are central to Darfur's security: ceasefire, disarmament and civilian protection. To date, the concepts for each are insufficiently developed.

### *Ceasefire*

The AU mediation Security Commission developed a plan, agreed by the parties, for a three-stage ceasefire, consisting of the disengagement of forces, followed by their withdrawal to their respective zones of control accompanied by the creation of demilitarized and buffer zones, and limited arms control focusing on the monitoring and non-use of heavy and crew-manned weapons including aircraft. For each stage, the government was obliged to complete its withdrawal and control activities, verified by the Ceasefire Commission, before the armed movements completed their counterpart operation. This sequencing provided the movements with their best guarantee of security. During this period, the function of AMIS was primarily to monitor the implementation of the stages of the ceasefire.<sup>26</sup> Prior to the first stage, AMIS would be responsible for verifying the positions of the forces and establishing the necessary mechanisms at the Ceasefire Commission and its political oversight body, the Joint Commission. The implementation of the ceasefire was envisaged as taking seven months to complete—a schedule agreed between the parties which the Security Commission considered extremely optimistic.

The Sudan government demanded that the verification of the positions of forces be conducted prior to the conclusion of the negotiations, so that the parties could agree and sign a map as part of the DPA. The AU and its international partners objected to conducting a verification exercise while the talks were in session,

<sup>25</sup> UN, 'Report of the Secretary General and the Chairperson of the African Union Commission on the hybrid operation in Darfur'.

<sup>26</sup> The DPA makes reference only to AMIS, but this embraces its successor UNAMID also. In this and the following paragraphs, AMIS refers to AMIS and its successor.

fearing that this would turn into a stalling tactic. The government countered that it had no confidence that a fair exercise would be conducted after an agreement was signed. In the event the government signed without a final map and subsequently no verification was undertaken at all.

The ceasefire plan was developed at a time (early 2006) when it made sense to speak of relatively cohesive armed movements and when it was still possible to regard most Arab militia as elements of the Sudan army. Subsequently, neither of these suppositions hold good. A future ceasefire will need to be based upon a comprehensive field-based mapping of all armed groups.

### *Disarmament*

One of the most contentious issues in the Abuja security negotiations was the question of disarming the Janjaweed. The official position of the AU and the international partners was that the government should fulfil its obligation under UNSC Resolution 1556 and disarm the Janjaweed. However, there was no prospect of reaching any agreement on a definition of the Janjaweed. The government insisted that the Janjaweed consisted solely of 'outlaw militia'—that is, bandit groups. No group or individual would admit to being associated with the Janjaweed. Many among the armed movements, especially Minni Minawi, insisted that the term 'Janjaweed' referred to all groups that had obtained weapons with the support or consent of the government. Following the lead of some foreign advocacy organizations, some movements' delegates even proposed that the UN or AMIS should forcibly disarm the Janjaweed. Those members of the Security Commission who had field experience knew that forcible disarmament of any substantial militia by anyone, including the Sudan government, was simply impossible. Consequently, one of the major challenges facing the Security Commission was squaring this particular circle.

The path adopted to tackle the Janjaweed and militia issue was to address the question empirically, beginning with a master map of Darfur, on which militia camps were marked. By dealing with the militia on a case-by-case basis, it became possible to distinguish their identities. The majority of the groups that had been labelled as 'Janjaweed' were identified as popular defence forces, border intelligence, nomadic police, popular police or foreign combatants. Almost all the Arab militia groups in north and west Darfur fell into these categories. In addition, a number of groups could be classified as tribally based militia that either had recently been armed by the government and were engaged in offensive actions, or had armed themselves and were principally engaged in defensive actions. Another category was 'other armed groups' that were aligned with the SLA and JEM against the government but were not parties to the negotiation.

This approach had the distinct advantage that it allowed for the real problems of armed groups to be addressed without using the term 'Janjaweed'. The Security Commission's preferred approach was to complete the empirical identification and classification of armed groups into categories that included recognized paramilitaries,

militia under the disciplined control of a tribal authority, other armed (anti-government) groups and 'undisciplined militia'. The concept of 'undisciplined militia' was introduced to refer specifically to militia units and individuals that ranged outside designated areas or committed human rights or ceasefire violations. During the ceasefire phase, it was envisaged that the government would take responsibility for restricting militia to specific areas, controlling their heavy weapons, crew-operated weapons and vehicles, and taking enforcement action against the 'undisciplined militia'. A distinction between 'other armed groups previously associated with the movements and community defence groups under the disciplined control of tribal leaders that are not parties to this Agreement' and 'Janjaweed/outlaw militia and undisciplined militia' existed in the 12 April draft of the ceasefire agreement. Accepted by the government delegation and Abdel Wahid, this distinction was still disputed by Minawi, and the final text presented to the parties included only 'other armed groups and militia' (referring to allies of the rebels) and 'Janjaweed and armed militia' (referring to those armed by the government).<sup>27</sup> However, for the sake of completeness it was necessary to include all paramilitaries in the proposed security sector reform process.<sup>28</sup> The text on this was not discussed with the parties at all but simply presented as a mediator's proposal.

The Abuja negotiations and subsequent analyses by AU and UN security specialists established that the idea of an international peacekeeping force imposing its will on Darfur by force of arms is naive, impractical and dangerous. The only viable arms control mechanism is one that is consensual, staged and reciprocal, leading ultimately to general disarmament in the context of improved security for all. Intermediate stages might include the registration of all arms and ensuring that every individual in possession of a firearm is answerable to a specified authority (e.g. a commander or tribal leader), the restriction of militia to specified areas, the impounding of armed vehicles and crew-operated weapons leading to their confiscation and destruction, and a gradual tightening of restrictions on where weapons can be carried and openly used. These concepts were discussed at Abuja but there was insufficient time to develop them. Instead the issues were postponed to the implementation stage, during which it was anticipated that there would be a detailed field assessment and mapping of armed groups, capacity-building and training among the military commanders of all armed groups, the convening of a disarmament working group, and the establishment of a 'peace and reconciliation council' of tribal leaders. Unfortunately, these activities were not undertaken after the signing of the DPA, with the result that UNAMID is likely to deploy without a concept of operations for its role in general disarmament.<sup>29</sup> The responsibility

<sup>27</sup> Darfur Peace Agreement, paras 334–40.

<sup>28</sup> Darfur Peace Agreement, paras 446–7. Given also that the reform of these institutions was entrusted to a body, the Darfur Security Arrangements Implementation Commission, headed by a nominee of the movements, this provision was rightly seen by the government delegation as the single most substantial threat to its military control of Darfur. Contrary to the DPA, this commission has subsequently been headed by a Sudanese armed forces general officer.

<sup>29</sup> Conventional disarmament, demobilization and reintegration activities, focusing on the armed movements, are contained in the joint UN–AU proposals (UN, 'Report of the Secretary General and the Chairperson of the African Union Commission on the hybrid operation in Darfur', paras 85–7).

is simply passed back to the Sudan government, with UNAMID's task being 'to monitor, verify and promote [government] efforts to disarm the Janjaweed and other militia'.<sup>30</sup>

This situation is potentially dangerous for UNAMID. The worst-case scenario is that UNAMID deploys amid international calls for Janjaweed disarmament, at a time in which the Arabs are not independently represented in the revived peace process, and as a consequence the Arab militia perceive the international troops as an enemy. Less bad is a situation in which UNAMID finds itself monitoring symbolic government disarmament exercises while the UNSC again chastises Khartoum for failing to implement its obligation to disarm the Janjaweed, or for following its preferred strategy of neutralizing militia by incorporating them into its armed forces and paramilitary units. The best option is one in which UNAMID is able to establish a good working relationship with the leaders of all tribally based militia. This would open up the possibility of using existing armed groups as intermediaries in the process of stabilizing Darfur, so that the primary responsibility for ensuring good conduct among the militia fell on the leaders of the militia themselves. Thereby, community-based armed groups in Darfur (which comprise the majority of such groups) would become a force multiplier for the peace support operation, rather than being indifferent observers or, worse, adversaries.

### *Civilian protection*

The DPA security arrangements included provisions for the demilitarization of displaced persons' camps and their perimeters. Inside the camps, a 'community police force' was to be established, trained by AMIS civilian police. The community police was envisaged as a volunteer force drawn from the community itself, which would ultimately become part of the regular police, but in the interim would remain autonomous. Security in the demilitarized perimeters was to be provided by AMIS patrols. Undertaking these tasks in more than 100 camps is a task that will stretch the capacity of UNAMID. In addition, humanitarian supply routes were also designated for demilitarization, to be protected by AMIS.

The movements' delegates to Abuja initially framed the challenge as implementing an international responsibility to protect. On numerous occasions from 2004 up to the time of writing, SLM and JEM leaders demanded that the international community fulfil its commitment to protect civilians as a precondition for pursuing talks. The AU mediators were able to make progress in this area by reframing the task as achieving security and emphasizing the responsibilities of the parties themselves.

A key issue in the negotiations was the extent to which AMIS civilian police would undertake executive policing. The Sudan government refused to yield powers of arrest to international forces, and the UN lawyers concurred that neither UN civilian police nor peacekeepers were able to assume this authority.

<sup>30</sup> UN, 'Report of the Secretary General and the Chairperson of the African Union Commission on the hybrid operation in Darfur', para. 55(b)(iii).

### *Darfur and the failure of the responsibility to protect*

This formulation was not altered in the subsequent discussions on the mandate and tasks of UNAMID.<sup>31</sup> The UN police contingents envisaged in the joint UN–AU report include both formed police units with the capacity for crowd control and patrolling, and civilian police liaison and training officers.<sup>32</sup> However, DPKO policing staff have not had the opportunity to develop the necessary doctrines and strategies for the deployment of civilian police. The wider question remains: how to undertake civilian policing within a Chapter VII peacekeeping operation but without the authority of executive policing?

### *The legacy for UNAMID*

One of the ironies of the Abuja peace process is that the Sudan government conceded much more ground on the security arrangements than the movements, and entered the final hours of the negotiation voicing three major reservations over the security provisions,<sup>33</sup> whereas both SLM leaders agreed fully with the text and Khalil Ibrahim's sole additional demand was for salaries for his forces.<sup>34</sup> A security protocol could have been signed then and there.

The DPA's text on security arrangements is nonetheless flawed. It represents a series of half-developed concepts which did not command the full, informed consent of the parties. It is extremely complicated and ambitious and requires a high degree of mutual confidence between the parties and peace-support capabilities, which do not exist. The implementation plan was also insufficient, though it represented an advance on the piecemeal approach that had prevailed over the previous year of AMIS operations. Nonetheless, the DPA's security chapter represented the starting point for the operational planning for the UN force envisaged in UNSC Resolution 1706 and subsequently embodied in UNAMID.

The greatest frustration of the AU mediation team's security advisers and the senior DPKO staff assigned to the Darfur file is that their professional advice has been consistently brushed aside by political concerns. Thus, DPKO staff argued strongly that the priority was a sound peace agreement and that peacekeepers could be dispatched only in support of such an agreement. They were overruled by the politicians' demand for protection first and peace second. The AU's security advisers argued for a longer process of capacity-building and confidence-building among the commanders in the field, and when that was rejected, for a longer time to develop the basic concepts for advancing security in Darfur and obtaining the agreement of the parties. They were overruled by the politicians' demand for haste. With this history, it is difficult for the UN and AU to attract security specialists

<sup>31</sup> It is, however, difficult to envisage how UN police would have fulfilled their tasks in the context of a non-consensual deployment.

<sup>32</sup> UN, 'Report of the Secretary General and the Chairperson of the African Union Commission on the hybrid operation in Darfur', paras 82–7. The UN and AU also requested (in para. 82) a mandate that would allow them to promote the reform of the Sudanese police service.

<sup>33</sup> These concerned the status of foreign combatants, the identity of the head of the Darfur Security Arrangements Implementation Commission, and the number of the movements' combatants to be integrated into the army. See de Waal, 'Darfur's deadline'.

<sup>34</sup> Subsequently the JEM's and Abdel Wahid's positions hardened.

with the necessary skill and experience, and it is probable that the mistakes of the recent past will be repeated.

## **Conclusion**

The pursuit of the responsibility to protect in Darfur has not achieved its goal. Contrary to the position taken by the most ardent advocates of R2P, this article argues that this failure owes much to the inadequate conceptualization of the R2P, the inflated expectation that physical protection by international troops is indeed possible within the limits of the military strength envisaged, and the confused advocacy around the issue. It is possible that more concerted international pressure could have brought a bigger and better-equipped international force to Darfur earlier. That would, in itself, have been a positive development. But the expectation that such a force could 'save' Darfur is erroneous.

At the time of writing (September 2007), security for Darfurian civilians remains extremely poor. The main reason for this is multiple conflicts and lawlessness in Darfur, arising from the lack of an agreed and workable peace agreement, which in turn derives from the perfidy and ruthlessness of the Sudan government, and the incompetence and vanity of the leadership of the armed movements. Reviewing the failures to improve security in Darfur and especially the missed opportunity of the Abuja peace negotiations, it is clear that the fears expressed in the Brahimi Report over protection mandates are more prescient than the hope of a new era of international protection heralded by the International Commission on Intervention and State Sovereignty. In pursuit of an unachievable ideal, the international community has failed to achieve practical solutions that lay within its grasp.