



Rwanda 1994 - Darfur 2004

Analysing the effectiveness of the UN in preventing genocide

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Waging Peace
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Waging Peace

Queensway Business Centre
32 Queensway
London W2 3RX
0207 243 0300
www.wagingpeace.info

Waging Peace campaigns against British support for dictators. Where there is currently inadequate pressure regarding specific countries, we lobby decision-makers to change diplomatic and corporate relationships with unsavoury regimes.

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Waging Peace has been campaigning on Darfur - pressing the British government to recognise genocide has occurred there, to stop pandering to the Khartoum junta, and to start protecting the survivors.

This report was written by Waging Peace Director Louise Roland-Gosselin.

INTRODUCTION

Between April and July 1994, one million Rwandan Tutsis died as the result of one of the most efficient government-led genocidal campaigns ever.

Created at the end of the Second World War, precisely to prevent the recurrence of such horrors as the Holocaust, the United Nations failed to prevent and put an end to the killings in Rwanda. Despite being warned of the seriousness of the situation and witnessing first hand the genocide unfolding, the UN chose not to intervene. Rwanda became one of the UN's greatest failures and numerous reports¹ subsequently established various reasons for this failure. Individual governments pledged never to let this happen again and in an attempt to remain relevant and credible, the UN embarked upon what could be its greatest reform since its creation.

Yet, just under ten years after the atrocities in Rwanda, genocide has again taken place in full view of the world, in the Sudanese region of Darfur. In a three year campaign that is still ongoing at the time of writing, government forces and their *Janjawid* militia proxy have been systematically targeting the Fur, Masalit and Zaghawa tribes of Darfur, killing them and driving them away from their land. Only the US has yet officially acknowledged that genocide is taking place in Darfur, although evidence gathered by various commissions of inquiry² and the growing jurisprudence regarding the crime of genocide³ clearly indicate that the Government of Sudan and the *Janjawid* militia are guilty of committing genocide against the Fur, Masalit and Zaghawa groups within the definition of the 1948 *Convention on the Prevention and Punishment of the Crime of Genocide*⁴. Once more, the UN has tragically failed to prevent and stop the killings. With regards to Darfur, more information was available than in Rwanda as to the potential for such a crisis and more action was in fact taken by the UN through various Security Council resolutions. However the result has been the same as in Rwanda: the genocidal campaign has taken place hardly unabated with over 400,000 civilians thought to have died as a result.

Although primary responsibility lies with those organising and committing genocide, secondary responsibility can be attributed to the UN for its failure to carry out its role of protecting civilians when their governments are unwilling or unable to do so. In the context of increasing political and economic links between countries, individual states may also bear some element of responsibility for events taking place outside of their own borders.

Our aim here is to assess the UN's effectiveness at preventing genocide by comparing its response in

Rwanda in 1994, and in Darfur since 2003. In order to do so, we will successively look at what information was available to actors within the UN, what actions were taken by the UN and what the impediments to effective action may have been, in the case of both Rwanda and Sudan. Our study will not include an analysis of the whole of the UN but rather it will be limited to those actors most relevant to the prevention of genocide, mainly the Secretariat and the Secretary General, the Security Council, The Commission on Human Rights and its Special Procedures, and the Office for the High Commissioner for Human Rights. We shall as a result be able to identify the reasons for the continuing failure of the UN at effectively preventing genocide.

CHAPTER 1: THE RWANDAN GENOCIDE OF 1994

Between the months of April and July 1994, close to a million people were systematically slaughtered in Rwanda because of their ethnic origin. Through a campaign led by Hutu extremists, 75% of the Tutsi population of Rwanda was eliminated in a hundred days.

The 1994 Rwandan genocide has been described as the most obvious case of genocide since the Holocaust. Far from being secret, hate propaganda had been broadcast over the radio and had filled newspapers for months and the killing was carried out in broad day light. Events in Rwanda were deliberate, systematic and carefully planned.

And yet, the UN failed to prevent the most obvious occurrence of genocide since its creation. In fact, not only did the UN fail to prevent the genocide, but it also failed to stop the killing once the genocide had begun.

We shall attempt to establish the reasons for the failure of the UN in preventing and subsequently putting an end to the genocide in Rwanda by first contextualising the events and examining what information was available to the different actors and the UN prior to the genocide. On the basis of such information, we will then consider what actions were undertaken by the UN and how member states' agendas may have influenced decisions taken within the UN.

Although there is considerable debate over the origins of Rwanda's ethnic divisions between the Hutu, Tutsi and Twa groups, the institutionalisation of these differences can be traced back to Belgian colonial rule and the creation in 1933 of identity cards specifying ethnic origin. The Tutsis, considered more 'European' looking than the Hutu, were favoured by the Belgians and given control of the administration. It is in this context of extreme discrimination against the Hutu masses that Hutu Power, the racist anti-Tutsi ideology that underpinned the genocide, was conceived in the North of Rwanda⁵.

The three decades that followed the 1962 independence saw the gradual strengthening of Hutu nationalism and the increasing disquiet amongst mainly Tutsi refugee populations in neighbouring countries. Civil war broke out on 1 October 1990 when the Rwandan Patriotic Front (RPF) invaded Rwanda from Uganda. Peace talks were convened in Arusha and a Peace Accord was signed on 4 August 1993. On 5 October 1993, the UN Assistance Mission for Rwanda (UNAMIR) was established for six months with a mandate to monitor the ceasefire and oversee the

implementation of the accords. But as Habyarimana's plane was shot down on 6 April 1994 and massacres spread, Hutu extremists were left to carry out their 'final solution' with little outside interference.

In order to assess to what extent the genocide in Rwanda could have been prevented, it is important to examine the information available prior to and during the genocide. What appears from subsequent inquiries is that the international community was fully aware of the incipient crisis in Rwanda⁶. NGOs, the UN and individual states had substantial intelligence on events taking place in Rwanda and on the potential for these to escalate further.

The UN had been following events in Rwanda for decades. Between 1948 and 1962, the UN Trusteeship Council sent five visiting missions to Rwanda. Their reports were extremely critical of discriminatory practices against the Hutus in particular⁷. In February 1962, the UN General Assembly established a special commission of inquiry which discovered widespread abuse and discrimination against the Tutsi minority and warned of the extreme danger of the situation⁸.

NGOs such as Amnesty International⁹ and Human Rights Watch¹⁰ reported extensively on human rights abuses in Rwanda in the early nineties and on the 8 March 1993 a consortium of four NGOs produced the *Report of the International Commission of Inquiry on Human Rights Violations in Rwanda since 1 October 1990*¹¹. The report, which concluded that the government had participated in or sanctioned the killing of over 2000 Tutsi or members of the political opposition, was widely distributed to the UN Department of Humanitarian Affairs (DHA), as well as to international donors such as France, the US and Belgium¹². However, the UN Commission on Human Rights declined to discuss the matter in an open session.

The UN Commission on Human Rights (CHR) had in fact its own information on events taking place in Rwanda. At the forty-ninth session of the Commission in March 1993, the case of Rwanda had come up in the context of reports by the Special Rapporteur on Torture¹³ and by the Working Group on Enforced or Involuntary Disappearances¹⁴. Both related to the torture and ill-treatment of Tutsis and political opponents at the hands of the government. The following year, the Commission tabled the report by Ndiaye, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions¹⁵ following his mission to Rwanda from 8th to 17th April 1993. The report clearly established the role of the government and local authorities in the killings and it stated that the cases of intercommunal

violence which had been brought to the rapporteur's attention were genocidal in nature and that in particular article II (a) and (b) of the genocide convention were considered to apply. Unfortunately Ndiayes' report was widely shunned¹⁶ and the confidentiality clause of the 1503 procedure was used at both 1993 and 1994 meetings of the Commission on Human Rights.

In late 1993 and early 1994, as the security situation in and around Kigali worsened, more detailed information concerning the violence and increased militarization of the country was sent to New York by the UNAMIR Force Commander, General Dallaire. His unofficial intelligence unit had documented the location of arms caches, the military training of the militia and plans for violent action¹⁷. Some of the information relayed to New York included a letter from senior officers of the Rwandan Armed Forces to Dallaire warning him that elements close to the president were out to sabotage the peace process, with potentially devastating consequences. The conspiracy's opening act would be a massacre of Tutsis¹⁸. The letter was copied to all the diplomatic missions in Rwanda.

Dallaire, on 11th January, sent more chilling information by coded cable to Maurice Baril at the Department for Peacekeeping Operations (DPKO). The day before, Faustin Twagiramungu, the Prime Minister Designate, had put him in contact with an informer called Jean-Pierre. He reported that the *Interahamwe* militia had trained 1700 men, that there were major weapons caches spread throughout Kigali and that he had been ordered to make lists of all Tutsis in Kigali¹⁹. Dallaire informed the Secretariat of his intention to take action within the next 36 hours. The information was passed on to Kofi Annan, Iqbal Riza and Hedi Annabi (Boutros Boutros-Ghali maintains he did not see the cable until much later²⁰). Headquarters replied that such enforcement action was beyond their mandate and that they should instead share the information with the Ambassadors of France, Belgium and the US, as well as request an urgent meeting with president Habyarimana to discuss the information²¹.

Subsequent commissions of inquiry by the Belgian Senate and the French Parliament revealed that the ambassadors in Kigali were relaying extensive information to their governments throughout the crisis²². France, Belgium and the US, three of the five permanent members of the Security Council with relative interest in Rwanda, could not claim to ignore what was taking place in Rwanda in the early months of 1994.

Early warning intelligence concerning widespread human rights abuses, possibly amounting to genocide, had therefore been available for years

both within the UN structure at large, and by its member states.

Considering the wealth of information relating to grave human rights violations available to the UN and the international actors involved in the crisis, the failure to prevent the genocide in Rwanda can be attributed to the failure by the UN to channel relevant information to key decision makers and to act upon available intelligence.

Most prominently, the Commission on Human Rights, the Centre for Human Rights and the High Commissioner for Human Rights clearly failed to draw international attention to human rights abuses in Rwanda in the weeks preceding the genocide. There is no indication for example that Ndiaye's report was transmitted to senior UN decision makers. Neither the Secretary-General, the Security Council nor Dallaire were given the report. This information was capital and key decision makers should have been made 'undeniably' aware of it²³.

With regards to the forty-ninth and the fiftieth sessions of the Commission on Human Rights, the fact that the situation in Rwanda had been considered under the confidentiality clause only shielded it from public scrutiny and meant that no effective pressure was put upon the Rwandan government, and other parts of the UN were not alerted as to the seriousness of the situation.

It took four weeks for the High Commissioner for Human Rights, Jose Ayala Lasso, to respond to the crisis and undertake a mission to Rwanda on the 11th and 12th May 1994²⁴. His report, tabled at the third special session of the Commission on Human Rights on 24-25th May 1994, is remarkable for its weak language, describing the events as a "human rights tragedy" and being careful not to lay blame clearly on the Rwandan government and to not describe the events as genocide²⁵. Only at that session was a Special Rapporteur on Rwanda, René Degni-Segui, appointed. His subsequent reports²⁶ established that the planned, systematic and atrocious massacres of the Tutsi minority amounted to genocide.

In the light of the warnings coming from its rapporteurs, the Commission and the High Commissioner for Human Rights failed to alert other UN actors and failed take appropriate early action on Rwanda.

As for the Secretariat and the Secretary-General, the overall impression they gave member states was that they were not up to the task²⁷. Receiving daily information from the field through its Special Representative - Jacques Roger Booh-Booh - and from Dallaire, staff at the Departments for Peacekeeping Operations, humanitarian and political

affairs as well as the Secretary-General were some of the best informed concerning events in Rwanda. However, they failed to channel the information to the Security Council, thereby undermining their capacity to respond adequately to the threat²⁸. Some of the incidents include the failure to transmit information from the informer in January 1994, failure to transmit Ndiaye's report and alarmist reports from Dallaire²⁹.

The Secretary-General has been heavily criticised for his handling of the crisis. As well as having facilitated arms deals between Egypt and the Rwandan Government as late as during the Arusha talks³⁰, Boutros Boutros-Ghali initially misrepresented the nature of the conflict. Presenting events as a breakdown in a ceasefire and a resumption of a civil war, he undermined throughout the month of April the moral case for military intervention³¹. His absence from New York and his failure to offer any options to the Security Council regarding the future of UNAMIR meant that he was not seen as being up to the task of crisis management³². A possible course of action would have been for the Secretary-General to have recourse to article 99 of the UN Charter which allows him to bring to the attention of the Council any matter which he considers threatens the maintenance of international peace and security³³.

Finally, the role of the Security Council in the genocide is striking for its complete failure to prevent and stop the killing in Rwanda.

In late 1993 and early 1994, the Council was in constant meeting, dealing with numerous crises, including Bosnia and Somalia. The vote for the creation of UNAMIR on 5 October 1993 came only two days after the death of 18 US Elite Troops in Mogadishu, which led the UN to conclude that never again should it undertake enforcement action within internal conflicts of states³⁴. UNAMIR's mandate and size was greatly weakened as a result, with enforcement action strictly excluded.

In the months preceding the genocide, there was no talk in the Council of changing the mandate of UNAMIR from peacekeeping to preventive humanitarian intervention³⁵. This would nevertheless have been possible on the basis of a broad and dynamic interpretation of article 39 of the UN Charter, arguing that the massive human rights violations taking place amounted to a threat to peace. Unwillingness on behalf of the US and the UK to shift the mission towards enforcement action, despite lobbying by Nigeria and New Zealand, undermined the capacity of the Council to protect civilians.

Unable to view their interests as suitably engaged to justify the involvement of their troops for a risky mission, member states' first decision during the

genocide was to withdraw the bulk of the troops and leave a token presence behind³⁶. On the 17th May 1994, SC Resolution 918 finally allowed for the reinforcement of UNAMIR with the addition of 5,500 troops³⁷. However, there were no available equipped troops and no plan as to what they would do when they got there. Three months after the resolution, they were still short of 4,293 soldiers³⁸. Lack of troops, funds and available equipment seems like an inadequate excuse in the light of the rapid deployment and strong intervention of France in June, the millions of dollars subsequently spent on humanitarian relief and the increase in strength of UN troops in Bosnia to 6,550, six days only after withdrawal from Rwanda³⁹. Lack of political will and commitment to the mission more rightly explain the failure of the Security Council. This lack of interest is also apparent in the Council's tolerance of the presence of a Rwandan delegate on the Council throughout the crisis.

As well as individual and institutional failings of the UN *per se* in responding adequately to the genocide in Rwanda, it is important to acknowledge the role played by member states of the UN and the influence they may have had on decisions taken in particular in the Security Council. We shall briefly discuss the role of the Belgium, the US and France.

As the ex-colonial power, Belgium took close interest in the events that took place in Rwanda. Indeed, the Belgian Commission of Inquiry later concluded that Belgium had been fully aware of the explosiveness of the situation⁴⁰. The Ministry of Foreign Affairs was kept constantly informed of events through its ambassador Johan Swinnen and Lt. Marc Nees, an intelligence officer with the Belgian Paratroopers⁴¹. Both gave strong warnings as to the severity of the situation⁴². In the months preceding the genocide, their ambassador to the UN Willy Claes strongly lobbied for a stronger mandate for UNAMIR. However, the death of 11 Belgian Peacekeepers on 7th April 1994 created outrage in Belgium and Claes decided to evacuate his troops. Claes subsequently embarked on a campaign to try and get the Council to withdraw UNAMIR⁴³ which certainly contributed to the UN's decision to withdraw on 21st April.

The US had a strong influence within the Security Council but unfortunately it used this to the detriment of effective action. As a result of the Somalia casualties, the US led a successful campaign to remove most of the UN peacekeepers in Rwanda, block demands for reinforcement and portray the situation as a civil war and not genocide⁴⁴. The new Presidential Decision Directive PDD-25, which placed strict conditions on US support for UN peacekeeping, was used to justify not intervening in Rwanda. Although some have argued that US reluctance to intervene was due to it

having limited intelligence⁴⁵, it appears that on the contrary the US Government had extensive intelligence, even more so than the Force Commander himself⁴⁶. The US simply had no national interest in Rwanda and claimed that it was doing the moral and ethical thing by safeguarding the reputation of the UN and by protecting the lives of peacekeepers⁴⁷.

The role of France in the Rwandan genocide remains extremely controversial. Despite urging for a UN peacekeeping force in Rwanda, it subsequently did little to support UNAMIR. The 1998 French Parliamentary Inquiry was mostly a whitewash, but it clearly found that France possessed the most detailed knowledge of what was going on in Rwanda⁴⁸. France had been a great supporter of the Habyarimana regime and as part of the Francophonie family, Rwanda was central in maintaining French influence in Africa. The French had armed, trained and financed the Presidential Guard and the Rwanda Army. Despite the worsening of the situation in the early 1990's, the regime in Kigali continued to receive diplomatic, military and financial support from Paris. Human Rights Watch even established that French arms were being delivered through Goma during the genocide⁴⁹. Through their involvement, they contributed to prolonging the conflict. As to the Operation Turquoise, its humanitarian motives have been overshadowed by the help it provided to fleeing genocidaires and the acts perpetrated by its soldiers. A Commission of investigation was set up in early 2006 in Rwanda to investigate the role of France in the genocide. It is hoped that some light will finally be shed on claims of France's direct and indirect participation in the genocide.

The Rwandan genocide of 1994 will undoubtedly remain one of the greatest failures of the UN. Despite a wealth of information and warning signs, very little was done to prevent the genocide and to stop the killing once it had started.

Two commissions of inquiry were set up by the UN following the genocide. The first, the Commission of Experts⁵⁰, published its report in December 1994 and concluded that genocide had clearly been committed against the Tutsi minority. Following persistent controversy, a further investigation was carried out and in 1999 the Independent Inquiry into the Actions of the UN during the 1994 Genocide in Rwanda⁵¹ published an indicting report which clearly stated that the UN system as a whole had failed in Rwanda.

It is clear that the UN system failed to distribute the information that it had to top decision makers within and outside the UN. Regardless of whether they may have received that information from other sources, it is crucial that actors be made to

acknowledge this information so as not to be able to deny knowledge.

A second issue was the failure of the UN to act decisively on existing information and mount a preventive humanitarian operation. This could have been justified by a broad interpretation of article 39 of the UN Charter or by reference to obligations under the Genocide Convention⁵². Considering the reasonable likelihood of the situation further deteriorating, a contingency plan should have been prepared by the Secretary-General. He later acknowledged this failure by admitting to UN's "extreme inadequacy to respond urgently with prompt and decisive action to humanitarian crises entwined with armed conflict"⁵³.

Once the genocide had started, the Secretary-General failed to make a strong case for reinforcement and member states failed to find the political will to act. The latter created a dilemma between responsibility towards Rwandans on the one hand and responsibility towards safeguarding the reputation of the UN and protecting its peacekeepers on the other. Remarkably, the 'bureaucratisation of indifference' meant that not acting in the face of genocide became the moral and ethical thing to do⁵⁴. However, this dilemma could easily have been prevented by a change in mandate and an effective fighting force⁵⁵. Indeed, in a report to the Carnegie Commission on Preventing Deadly Conflict⁵⁶, Colonel Scott Feil established that had Dallaire's plan for an emergency international intervention of 5,500 troops been implemented in the two weeks following the genocide, the casualties of the genocide would have been stopped or at least dramatically reduced.

Although there may not have been great public support in the US, Belgium or elsewhere for a more robust UN intervention in Rwanda, it is surely the responsibility of heads of states to lead public opinion and create support for a mission aimed at protecting the lives of hundreds of thousands of people⁵⁷.

Only in late May, when confronted with overwhelming evidence, did states start acknowledging that genocide had taken place. Returning to Kigali in 1998, Clinton declared that "Never again must we be shy in the face of evidence"⁵⁸. Little did he know that ten years later the same pattern would unfold.

CHAPTER 2: GENOCIDE IN DARFUR

Barely ten years after the Rwandan genocide the Darfur region of Sudan has become the theatre of similar state-perpetrated violence. War crimes, crimes against humanity, and possibly genocide have been perpetrated against mainly the Fur, Masalit and Zaghawa groups, leading to the death of up to 400,000 people, the displacement of up to two million people, and to what has been described as the world's worst humanitarian crisis.

The root causes of conflict in Darfur are complex and numerous. Essentially, Darfurians felt alienated and marginalised politically, socially and militarily by the centralised Khartoum government for most of the twentieth century⁵⁹. Severe drought in the 1970s and 1980s intensified the struggle over scarce land and resources, and exacerbated tensions between (mostly 'Arab') nomadic pastoralists and (mostly 'African') sedentary agriculturalists⁶⁰. The situation deteriorated throughout the 1990s, as the Government of Sudan (GoS), pursuing a policy of 'Arabisation' of Sudan got increasingly involved in Darfur, arming the various groups, and giving particular support to groups of Arab descent⁶¹.

The rebellion organised politically and militarily and on the 25th April 2003, the Sudan Liberation Movement (SLM) and the Justice and Equality Movement (JEM) attacked Al Fasher air base and destroyed up to seven Antonov bombers and helicopter gunships⁶². This was an unexpected and terrible blow for Khartoum and relying on its military intelligence and air force, as well as the government-sponsored *Janjawiid* militias, the Government of Sudan systematically destroyed villages and killed civilians of the same ethnic group as the rebels.

Faced with these state-perpetrated crimes, the UN and its member states have dithered over how to respond to Darfur. Fearing to get involved in another Rwanda and unwilling to compromise on the implementation of the Comprehensive Peace Agreement (CPA) between the GoS and the South, the UN has insisted on an African Union mediation and monitoring. Despite the signing of the Darfur Peace Agreement (DPA) on 5th May 2005 between the GoS and the Minni Minnawi faction of the SLM, there is no peace in Darfur and attacks against civilians have continued unabated⁶³.

Although there are significant differences between the UN's response in Darfur and in Rwanda, the UN has nonetheless yet again failed to prevent and to put an end to state-perpetrated genocide. We shall examine the UN's response by first assessing the information available to decision makers within the

UN and subsequently what action was undertaken by the UN on the basis of such information. Finally, we will consider some possible explanations as to this UN failure, namely in the prioritisation of the CPA, and UN member states' other interests.

With all eyes on a possible end to a twenty year long war between the GoS and the Sudan Peoples' Liberation Movement (SPLM), little attention was initially given to events taking place in Darfur. The first Human Rights NGOs to report on atrocities in Darfur were in fact Amnesty International⁶⁴ and the International Crisis Group⁶⁵, both warning of a serious human rights and humanitarian crisis. In April 2004, Human Rights Watch published its own report, clearly accusing the GoS of crimes against humanity in Darfur⁶⁶. These reports were widely published and disseminated.

The UN also had its own information on events taking place in Darfur. Special Rapporteurs appointed by the Commission on Human Rights had warned for years of the explosive situation in Darfur. In 1997, Gaspar Biro had alerted the Commission to the fact that serious inter-tribal clashes were taking place in Darfur⁶⁷. In January 2003, his successor, Gerhard Baum expressed deep concern at continuing impunity for the security services and the lack of accountability in the special courts established in Darfur⁶⁸. However, the Commission refused to recommend strong action against Khartoum and suppressed its own highly critical investigation⁶⁹.

In March 2004, when Mukesh Kapila, the UN-OCHA coordinator in Sudan, described the situation as the world's worst humanitarian crisis and compared it to Rwanda, the UN was forced to face the situation in Darfur. Three fact-finding missions were sent in April and May 2004 to Darfur and Chad by the Secretary-General and the Acting High Commissioner for Human Rights.

Some of the best documented and stronger worded reports have come from the Special Rapporteurs and Advisors to the Commission on Human Rights and to the Secretary-General.

In August 2004, Asma Jahangir, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, published a report on her visit to Sudan. She found that the GoS was "responsible for extrajudicial and summary executions of large numbers of people over the last several months in the Darfur region"⁷⁰. Qualifying its attacks as disproportionate and indiscriminate, Jahangir established that the GoS was responsible for crimes against humanity in Darfur.

Four months later, Yakin Arturk, the Special Rapporteur on Violence Against Women reported on

the 'grave human crisis' in Darfur, where women were systematically raped by security forces and the government-backed *Janjawiid* militias⁷¹.

In February 2005, one month after the signing of the CPA between the GoS and the SLPM, Emmanuel Akwei Addo, the Special Rapporteur on the Situation of Human Rights in Sudan described the Government's systematic campaign against the unarmed civilian population in Darfur as "ruthless and disproportionate"⁷² and amounting to war crimes and crimes against humanity.

All these reports, along with that of Francis Deng, the Representative of the Secretary-General, on IDPs⁷³, the High Commissioner for Human Rights' May 2005 report⁷⁴, and the International Commission of Inquiry's January 2006 report⁷⁵ were discussed at the sixty first session of the Commission on Human Rights from 14th March to 22nd April 2005 in Geneva. The mandate of a special rapporteur on the situation of human rights in Sudan was established for a year and the Commission called upon the GoS to disarm the *Janjawiid*, end impunity in Darfur and called for the strengthening of human rights monitoring by the Office of the High Commissioner for Human Rights. The resulting statement was nevertheless relatively weak.

In October 2005, the Secretary-General's Special Adviser on the Prevention of Genocide, Juan Mendez, warned of a worsening situation in Darfur and noted an alarming gap between government rhetoric and the situation on the ground⁷⁶. The report was presented to the General Assembly but, blocked by the US, China, Russia and Algeria, it never made it to the Security Council⁷⁷.

Sima Samar, the Special Rapporteur on Sudan published her report in January 2006⁷⁸. She deplored the delays in the implementation of the CPA, and noted that although there had been changes in principle, there had been no changes in the everyday life of civilians. Like others before her, she noted the lack of sincerity in measures aimed at protecting Darfurian civilians and bringing about accountability.

The Office for the High Commissioner for Human Rights has been substantially more pro-active than it had been in Rwanda. Between May 2004 and August 2006, four reports on the situation of human rights in Sudan were issued.

The first report by the Acting High Commissioner for Human Rights, Bertrand Ramcharan, was published in May 2004⁷⁹ and was based on two fact-finding missions he had sent to Chad and Sudan in April. The report is surprisingly weak, with Ramcharan condemning the GoS but not holding it

accountable⁸⁰. Unlike reports by previous rapporteurs, Ramcharan repeatedly presents the situation as a humanitarian crisis and describes the conflict as having commenced as a result of rebel action. Government involvement in fuelling the conflict is not mentioned and its role as the main perpetrator of atrocities is not emphasised.

The three following reports issued by the new High Commissioner for Human Rights Louise Arbour, in conjunction with the UN Mission in Sudan have been more openly critical of Khartoum's unwillingness to put an end to human rights violations in Darfur. The three reports⁸¹ consistently condemn the continuing violence in Darfur, the absence of human rights accountability throughout Sudan as well as the inefficiency and partiality of the few measures implemented by the GoS.

Finally, the Secretary-General Kofi Annan has provided relatively detailed and informative monthly reports to the Security Council on the situation in Sudan and Darfur pursuant to Security Council Resolution 1556 of July 2005⁸². The Secretary-General has however been somewhat weak in pressuring the Security Council in taking more forceful action with regards to Darfur. This is particularly apparent in the language used in Annan's reports. Like Ramcharan, Annan describes the conflict as started by rebels, while the government is seen merely as responding to rebel attacks. Annan often describes attacks by militias but fails to insist on the fact that they are government-backed⁸³. A certain moral equivalency is created between all parties to the conflict despite the fact that the GoS is responsible for most of the atrocities.

It is therefore possible to conclude that the UN at large and the Security Council in particular were informed of events in Darfur. What they chose to do with that information remains to be examined.

Confronted with information of state-perpetrated crimes against humanity and war crimes against the civilian population in Darfur, the UN has in large preferred to delegate responsibility for mediating at the talks and monitoring the ceasefire to the AU, invoking the 'Brahimi Principle' that argues that regional organisation should have primary responsibility for conflicts within their region⁸⁴. They have mainly adopted a supportive role, preferring to concentrate on the implementation of the CPA.

Unfortunately, lack of funds and equipment, and a weak mandate have seriously undermined AMIS' protective role⁸⁵. As for the Darfur Peace Agreement signed between the GoS and Minnawi's faction of the SLA, Abdul Wahid's faction of the SLA and JEM were dissatisfied with its terms and refused to sign the Agreement⁸⁶.

In a hurry to put an end to a diversion from the CPA it would seem that the DPA was pushed through too quickly, resulting in an imposed and partial peace⁸⁷. As a Sudanese political analyst notes, "implemented correctly, the agreement can bring justice and peace. (...) [However] it relies on the good faith of the government of Sudan and the willingness of the international community to closely get involved. And this is a minefield⁸⁸". Considering the failure of the GoS to implement the CPA, prospects for the adequate implementation of the DPA seem difficult.

Following alarming reports by the three fact-finding mission of April 2004, and a visit to Darfur by Annan in June, pressure mounted within the UN, resulting in the adoption of SC Resolution 1556⁸⁹ imposing an arms embargo on the *Janjawiid* militia and the rebels, and requesting Khartoum to disarm the *Janjawiid* in 30 days or face sanctions. This resolution was watered down by Jan Pronk to 90 days⁹⁰ and has yet to be implemented by Khartoum.

On the basis of a US State Department Report, Colin Powel declared in September 2004 that the GoS and the *Janjawiid* were guilty of committing genocide against the Fur, Masalit and Zaghawa⁹¹. The UN was caught off guard by such an announcement which prompted the Security Council to pass resolution 1564 on 18 September 2004, establishing an International Commission of Inquiry into Darfur⁹². This is an extremely positive development, since it is the first time that the UN has attempted to determine whether genocide has been committed during on going violence⁹³. The report, published in January 2005, found the same evidence as the American report, however it concluded that the GoS and the *Janjawiid* were guilty of crimes against humanity and war crimes but not genocide since the element of intent was found to be missing⁹⁴. By claiming that some Government officials may have had a genocidal intent, the report nonetheless allows for the future determination of genocide by the International Criminal Court (ICC). Whereas some have hailed this conclusion as "wise and balanced"⁹⁵, others have criticised it as faulty and self-contradicting⁹⁶. However, the available evidence and the context within which the atrocities have been perpetrated strongly indicate that the crimes amount to genocide.

The report also recommended referral of the situation in Darfur to the ICC which is what the Security Council did in its Resolution 1593 of the 31st March 2005⁹⁷. The Prosecutor was given a list of 51 suspected individuals by the Independent Inquiry and opened an investigation on 6th June.

But following the continuing failure of the GoS and rebel groups to comply with their commitments under the ceasefire agreement and the arms

embargo, the Security Council appointed in March 2005 a Sanctions Committee and a Panel of Experts with a view on imposing a broader range of sanctions such as travel restrictions and asset freezes⁹⁸. Ten months later, in its report to the Security Council, the Panel of Experts deplored the blatant violations of the arms embargo by both sides as well as the failure of the Committee to designate any individual against whom sanctions should be applied, and a confidential list of 22 individuals who impede the peace process was transmitted to the Security Council and the Committee⁹⁹. In its April 2006 report, the Panel noted that the situation remained largely the same, with none of its recommendations having been taken into account¹⁰⁰. It took thirteen months for the Security Council to publish the names of four people against whom sanction should be imposed¹⁰¹. The four men are Gaffar Mohamed Elhassan (a Sudanese army commander), Sheikh Musa Hilal (head of the *Janjawiid*), Adam Yacub Shant (SLA commander) and Abdel Karim Bari 'Tek' (NMRD commander). Under pressure from British, American and French diplomats, the list does not reflect responsibility for crimes in Darfur, and attempts to disproportionately put equal blame onto all parties.

As AMIS' funding problems continued and as it increasingly struggled to carry out its mandate¹⁰², a proposal to replace or "blue hat" AMIS with a UN force gathered momentum in January 2006. Annan described the take over as "inevitable" while the AU summit in Khartoum agreed a resolution supporting the take-over of the force by the UN¹⁰³. However, under pressure from Khartoum which has fiercely lobbied against a strong UN force, the AU has extended its mandate twice already in 2006 and is meant to remain in Darfur until January 2007. Although the UN has continued preparing to send troops¹⁰⁴, UN deployment in Darfur no longer looks inevitable. At the AU Summit in Banjul in July, Annan claimed there was no political will on the part of western countries to push for and provide troops and equipment to a UN force¹⁰⁵. At the meeting of Western Donors in Brussels on 18-19 July, only US\$200 million were raised for the AU mission (enough to sustain current operations with no expansion until September 2006) and UN member states failed once again to persuade the GoS to accept a UN peacekeeping force¹⁰⁶.

Despite several important resolutions, the UN has failed to insure the implementation of its measures and parties have not been sanctioned for their consistent breach of obligations. In order to understand this reluctance to be more forceful with the GoS we shall now turn to UN member state interests.

The reasons for the failure of the UN and its member states to assure proper implementation of its resolution are numerous but one important explanation lies in their prioritising of the CPA.

The CPA, signed in Naivasha in January 2005, put an end to a twenty-one year war between the Government of Sudan and the Sudan People's Liberation Movement. Acclaimed as the best hope for peace in Sudan, it has been strongly supported by the international community, led by the UK, US and Norway.

However, eighteen months later the CPA has not held its promise of a peaceful Sudan. Its implementation is slow and the government of Sudan seems very reticent to devolve its power and wealth to the South¹⁰⁷. Nevertheless, it has remained the priority of the Security Council and of the Secretary-General to see this peace agreement implemented

Unfortunately, not only has the CPA not improved the situation in Darfur as some had thought it would¹⁰⁸, but it has more importantly meant that Khartoum can now threaten not to implement the agreement if anyone gets too vocal regarding events in Darfur.

With regards to UN member states' reasons for wanting to maintain diplomatic relations with the Khartoum government, the need for information on terrorist activities in the context of the War against Terror has become a priority for countries such as the US and UK.

The US had been concerned for some time with stopping Sudan from becoming a haven for terrorists¹⁰⁹ as Khartoum had indeed hosted Osama bin Laden in 1992-1996. The CIA has been keen to get information from Salah Abdallah Gosh, head of Sudanese intelligence and in April 2005 it sent a private jet to bring him to Washington for a debriefing¹¹⁰. At the same time, Bush stopped referring to Darfur as genocide and allegedly tried to remove Gosh's name from the Independent Commission of Inquiry's secret list of 51 individuals accused of war crimes in Darfur¹¹¹. On the 9th March 2006, Gosh visited the UK on 'medical grounds', but was said to have met officials from the CIA¹¹². The US Assistant Secretary of State for African Affairs was in London at the same time. The Foreign Commonwealth office explained that there was a "need to retain a relationship with senior Sudanese figures in order to press them to take forward the Sudanese and Darfur peace process"¹¹³. The French, British and American security services have consistently argued against indictments of Sudanese officials for crimes in Darfur and they have certainly succeeded in keeping Gosh from having sanctions imposed on.

Some UN member states also have economic interests in Sudan and these have proved a real hindrance in passing or implementing any resolution concerning Darfur.

The US in particular has carried out an ambiguous policy in Darfur because of conflicting interests. Pressure from the Christian Right, the Congressional Black Caucus and human rights groups has meant that the US government has been extremely vocal on human rights abuses in Darfur - calling it genocide - but it has refused to match its words with action. This is partly because of the pressure on the peace process from American oil companies eager "to re-enter a territory that they had unceremoniously been forced to leave two decades ago, and to gain the GoS the international legitimacy that would justify the US Congress revoking its trade and investment embargo against Sudan"¹¹⁴.

China has also been reluctant to take forceful sanctions against Sudan. With 6.9% of its oil imports coming from Sudan and three billion dollars invested there¹¹⁵.

Russia is in a similar position as China: with a \$200 million oil deal signed with Sudan in 2002 and around \$150 million worth of military equipment sold to the Government of Sudan, "Russia fears that sanctions could provide a loophole for the Sudanese government to default on its payments to Russia"¹¹⁶.

Therefore, China and Russia, together with Qatar have systematically vetoed or diluted Security Council Resolutions aimed at economic sanctions on Sudan.

Instead of exerting real political pressure on Khartoum and unanimously supporting UN resolutions, Western powers have chosen to pursue their own economic and strategic interests, which has meant that action by the UN has remained limited and that the few resolutions that have been taken by the Security Council have not been implemented.

Yet again, the UN in Darfur has failed to prevent and put an end to state-perpetrated genocide. Substantial information was available to the UN prior to and throughout the crisis in Darfur. The Security Council and other decision makers in the UN certainly cannot claim not to have known what was taking place.

In fact, four important resolutions were taken by the Council regarding the situation in Darfur. These resolutions are great improvements when compared to the absence of decisions taken during the Rwandan genocide. However, these have not been

successively implemented and have therefore had little effect on the ground.

The main reason for this failure to implement the resolutions lies in the prioritisation at the UN and member state level of the CPA. Wishing to finally see the end to a twenty year war, the UN attached great importance to the implementation of the CPA, sending 10,000 peacekeepers to the South within two months of the agreement and deploying an important Human Rights monitoring team there. The Security Council certainly did not wish to have to indict for crimes perpetrated in Darfur the same people which it was desperately trying to convince to implement the CPA.

This prioritisation of the CPA by the UN was facilitated by some member states' desire to keep good diplomatic relations with Khartoum in order to pursue their own self-interest. This has led to a total lack of political will on the part of UN members to act effectively and commit the funds and the troops which are necessary to protect Darfurians. Lack of will, not of capacity, is essentially the reason of such failure.

Member states and the UN have allowed for a trade off to take place between 'peace' in Sudan and human rights accountability in Darfur. Khartoum has mastered the art of threatening the UN and its member states not to implement the CPA as soon as voices are raised concerning Darfur. Three months later, the CPA is near collapse. How could it have been otherwise considering the government's unwillingness to abide by his commitments under the CPA, and the refusal of two rebel groups to sign the agreement?

The security situation is now worse than ever, Minnawi now fighting alongside government forces and committing ethnic cleansing against populations supporting other rebel groups¹¹⁷. Overwhelmed by the resurgence of violence and seriously lacking funds, equipment and a more forceful mandate, the AU is unable to protect civilians. In fact, seen as complicit with the government and Minnawi's faction, it is now coming under increasing attack for rebel groups and from IDP populations.

As a result, the crisis in Darfur is deepening. The humanitarian situation is critical. Two million civilians remain in unprotected IDP camps with little or no aid reaching them and up to 700 000 people in need are believed to be unreachable¹¹⁸ as a cholera epidemic spreads.

CONCLUSION

Ten years separate the genocides in Rwanda and Darfur, yet little progress has been achieved. Again, the UN has failed to prevent and put an end to a state-organised genocidal campaign.

When comparing the way the genocide was portrayed in Rwanda and in Darfur, certain similarities are striking. These include: refusal by the UN to describe the situation as a genocide; describing the violence as resulting from ancient tribal or ethnic hatred; referring to the crisis as a humanitarian and not a political one; concentrating on a ceasefire and humanitarian access; playing the moral equivalency game between the different parties to the conflict; refusing to commit funds, equipment or troops to the AU or the UN and finally upholding the sovereignty of the genocidaire governments despite them being the perpetrators and organisers of the atrocities.

A first lesson from the Rwanda and Darfur genocides is the crucial need at the UN level for a greater analysis of available information and the translation of the information into policy prescription¹¹⁹. This would allow for the information gathered through the Special Procedures, Human Rights Monitors and other elements of the UN to act as an early warning mechanism.

In Rwanda the main impediment to effective UN action was the quasi absence of interests in the country by UN member states, especially the Five Permanent Members of the Security Council. In Darfur it is on the contrary excessive interest in Sudanese affairs which have impeded such action. As noted by Prunier (2005), this clearly demonstrates the practical limitations of the UN in crises in which the heavy weight members of the UN do not want to act.

After Rwanda, it was said that had there been more information available to the UN as to the seriousness of the events, more would have been done to stop the atrocities. But Darfur has clearly shown that even when presented with clear evidence of genocide taking place, state interests systematically override humanitarianism¹²⁰. Another worrying legacy of Darfur is the complete destruction of the notion of any sense of obligation to act under the Genocide Convention. The US has indeed shown that you can publicly state that genocide is taking place and do nothing about it. Despite such bleak realisations, institutional changes at the UN level and a shift in state practice can allow for a more consistent and effective approach to genocide prevention.

Changes at the UN level are essential, since no failure has done more damage to the UN than its

reluctance to recognise and effectively act upon state perpetrated genocide. And it is in order to salvage its reputation and prove to governments its continuing relevance in facing the new challenges of intra-state warfare and gross violations of human rights that the UN has been attempting to reform itself. Kofi Annan has been behind much of the move towards reforms and commissioned several reports¹²¹, elements of which were incorporated into the *Outcome Document* of the September 2005 Summit of world leaders in New York¹²². Unfortunately, while the necessity for action is emphasised in the *Outcome Document*, the commitment to concrete measures is half-hearted¹²³.

Two important reforms were nonetheless endorsed at the Summit: the replacement of the Commission on Human Rights by a Human Rights Council and the creation of a Peacebuilding Commission. Both have however already been criticised, the former for remaining a political body and not an independent one¹²⁴ and the latter for lacking an early warning or monitoring function which would arguably constitute a far greater interference with sovereignty than post-conflict assistance¹²⁵.

With regards to the Security Council, the *Outcome Document* states that it should be made "more broadly representative, efficient and transparent"¹²⁶ but it fails to give any precision as to how this should be done. As for interventions in response to large-scale human rights abuses, the continuing lack of general rules and conditions on intervention means that decisions in the Security Council will continue to be taken on an Ad Hoc basis, and will remain fraught with secrecy and double standards, thereby threatening the Council's remaining legitimacy and authority¹²⁷. It had been hoped that the report entitled the '*Responsibility to Protect*'¹²⁸ also adopted at the Summit would provide a clear set of guidelines on interventions¹²⁹ but prospects of it actually being implemented in practice seem unlikely as the report is now only rarely mentioned. Despite calls for the development of a UN-level early warning system and of a rapid deployment Headquarter and force, none of these have yet been undertaken.

As for states' reluctance to act beyond their national self-interests, it is the role of NGOs, lobby groups, the media and civil society to change the way governments define their interests so as to include the international protection of populations from genocide as part of these interests. The power of civil society has been most apparent in the US with regards to the Darfur crisis. It is precisely this lobbying power together with a strengthening of obligations under international law, which hold the best chance of preventing the 'Next Darfur'.

NOTES

INTRODUCTION

¹ See UN Document S/1999/1257 and *The International Response to Conflict and Genocide: Lessons from the Rwanda Experience: Synthesis Report* (Copenhagen: Steering Committee of the Joint Evaluation of Emergency Assistance to Rwanda, March 1996).

² See UN Document S/2005/60 and US State Department (2004) "Documenting Atrocities in Darfur", State Publication 11182, September 9. Washington DC: US State Department

³ *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgement, 2 September 1998

⁴ *Convention on the Prevention and the Punishment of the Crime of Genocide* (1948) Approved and proposed for signature and ratification or accession by GA resolution 260 A (III)

CHAPTER 1

⁵ Melvern, L. (2000) *A People Betrayed: The role of the West in Rwanda's Genocide*, London: Zed Books

⁶ Larose-Edwards, P. (1994) *The Rwandan Crisis of April 1994: The Lessons Learned*, Ottawa: International Human Rights, Democracy and Conflict Resolution.

⁷ Melvern, *supra* note 5

⁸ UN Document A/5126.

⁹ Amnesty International, 'Rwanda, persecution of Tutsi minority and repression of government critics 1990-1992' An Amnesty International Report, Afr 47/02/92, 1 May 1992.

¹⁰ See Africa Watch 'Rwanda, Talking Peace and Waging War: human rights since the October 1990 Invasion', Vol. 4 No.3, New York, 27 February 1992; Beyond the Rhetoric: continuing human rights abuses in Rwanda', Vol. 5 No. 7; and HRW Arms Project, 'Arming Rwanda, The Arms Trade and Human Rights Abuses in the Rwandan War', Vol. 6, No. 1, January 1994.

¹¹ Africa Watch, International Federation of Human Rights Leagues, Interafrican Union for Human and Peoples' Rights, and the International Centre for Human Rights and Democratic Development, 'Report of the International Commission of Investigation on Human Rights Violations in Rwanda since October 1, 1990' March 1993 cited in Des Forges, A. (1999) *Leave None to Tell the Story: Genocide in Rwanda*, New York: Human Rights Watch. p93

¹² Des Forges, A. (1999) *Leave None to Tell the Story: Genocide in Rwanda*, New York: Human Rights Watch

¹³ UN Document E/CN.4/1993/26 paragraphs 386 to 390

¹⁴ UN Document E/CN.4/1993/25 paragraphs 441 to 446

¹⁵ UN Document E/CN.4/1994/7/Add.1

¹⁶ The International Response to Conflict and Genocide: Lessons from the Rwanda Experience: Synthesis Report (1996) Copenhagen: Steering Committee of the Joint Evaluation of Emergency Assistance to Rwanda.

¹⁷ Ibid

¹⁸ Dallaire, R. (2004) *Shake Hands with the Devil: The Failure of Humanity in Rwanda*, London: Arrow Books

¹⁹ Ibid

²⁰ Melvern, *supra* note 5

²¹ International Commission of Investigation, *supra* note 11

²² Melvern, *supra* note 5

²³ Larose-Edwards, *supra* note 6

²⁴ UN Document E/CN.4/S-3/3

²⁵ Ibid

²⁶ See UN Documents E/CN.4/1995/7 of June 1994; E/CN.4/1995/12 of August 1994; E/CN.4/1995/70 of November 1994

²⁷ Barnett, M. N. 'The UN Security Council, Indifference, and Genocide in Rwanda' in *Cultural Anthropology*, Vol. 12, No. 4, pp: 551-578, November 1994.

²⁸ Wheeler, N. J. (2000) *Saving Strangers: International Intervention in International Society*, Oxford: Oxford University Press.

²⁹ Larose-Edwards, *supra* note 6

³⁰ Melvern, *supra* note 5

³¹ Ibid

³² Barnett, *supra* note 27

³³ Larose-Edwards, *supra* note 6

³⁴ Melvern, *supra* note 5

³⁵ Wheeler, *supra* note 28

³⁶ UN Document S/RES/912 (1994)

³⁷ UN Document S/RES/918 (1994)

³⁸ Larose-Edwards, *supra* note 6

³⁹ Melvern, *supra* note 5

⁴⁰ Ibid

⁴¹ Des Forges, *supra* note 12

⁴² Melvern, *supra* note 5

⁴³ Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda. 15 December 1999. UN Document S/1999/1257

⁴⁴ Power, S. (2002) *A Problem from Hell: America and the Age of Genocide*, New York: Basic Books

⁴⁵ Barnett, *supra* note 27

⁴⁶ Dallaire, *supra* note 18

⁴⁷ Barnett, *supra* note 27

⁴⁸ Melvern, L. (2006) *Conspiracy to Murder: The Rwandan Genocide*, London: Verso

⁴⁹ Human Rights Watch Arms Project, 'Rwanda/Zaire: Rearming with Impunity', Vol. 7, No.4, New York, May 1995

⁵⁰ UN Document S/1994/1405

⁵¹ Independent Inquiry, *supra* note 43

⁵² Wheeler, *supra* note 28

⁵³ UN Document S/1994/640 para. 43

⁵⁴ Barnett, *supra* note 27

⁵⁵ Wheeler, *supra* note 28

⁵⁶ Feil, S.R. (1998) *Preventing Genocide: How the Early Use of Force Might have Succeeded in Rwanda*, A report to the Carnegie Commission on Preventing Deadly Conflict, New York: Carnegie Corporation.

⁵⁷ Wheeler, *supra* note 28

⁵⁸ Power, *supra* note 44

CHAPTER 2

⁵⁹ Prunier, G. (2005) *Darfur: the Ambiguous Genocide*, London: Hurst and Company.

⁶⁰ UN Document E/CN.4/2005/7/Add.2

⁶¹ Ibid

⁶² De Waal, A. and Flint, J. (2005) *Darfur: A Short History of a Long War*, London: Zed Books.

⁶³ African Confidential, Vol. 47 No. 16

⁶⁴ Amnesty International, 'The Looming Crisis in Darfur', Afr 54/041/2003 1 July 2003

⁶⁵ International Crisis Group, 'The Other War in Sudan: A Call for High Level Observer in Western Sudan Peace Process'. 10 December 2003

⁶⁶ Human Rights Watch, 'Sudan – Darfur in Flames: Atrocities in Western Sudan', Vol. 16 No.4 (A), New York, April 2004

⁶⁷ UN Document E/CN.4/1997/58

⁶⁸ UN Document E/CN.4/2003/42

⁶⁹ Africa Research Bulletin Vol. 41 No. 4

⁷⁰ UN Document E/CN.4/2005/7/Add.2: page 2

⁷¹ UN Document E/CN.4/2005/72/Add.5

⁷² UN Document E/CN.4/2005/11: page 2

⁷³ UN Document E/CN.4/2005/8

⁷⁴ UN Document E/CN.4/2005/3

⁷⁵ UN Document S/2005/60

⁷⁶ Report of the Special Advisor of the Secretary-General on the Prevention of Genocide: Visit to Darfur, Sudan Juan Mendez, 19-26 September 2005

⁷⁷ Mendez, J. *Genocide Prevention All Parliamentary Group: Meeting with Juan Mendez*, Macmillan Room, Portcullis House – 26th of October 2005

⁷⁸ UN Document E/CN.4/2006/111

⁷⁹ Ramcharan, *supra* note 74

⁸⁰ Prunier, *supra* note 59

⁸¹ Second (January 2006), third (April 2006) and fourth (July 2006) Periodic Report of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Sudan.

⁸² UN Document S/RES/1556 (2004)

⁸³ UN Document S/2004/703

⁸⁴ De Waal, A. and Flint, J *supra* note 62

⁸⁵ Human Rights Watch, 'Imperatives for Immediate Change: The African Union Mission in Sudan', vol. 18 No. 1(A), New York, January 2006

⁸⁶ Flint, J. 'Not the worst of accords on Darfur' *The Daily Star*. 9 May 2006

⁸⁷ *Ibid*

⁸⁸ Akec, J.A. 'Darfur Peace Agreement: A just Peace or a Peace at All Cost' *Sudan Tribune Article*, 29 April 2006

⁸⁹ UN Document S/RES/1556 (2004)

⁹⁰ De Waal, A. and Flint, J *supra* note 62

⁹¹ Totten, S. and Markusen, E. 'The US Government Darfur Genocide Investigation' *Journal of Genocide Research*, Vol. 7 No. 2 pp. 279-290, June 2005

⁹² UN Document S/RES/1564 (2004)

⁹³ Totten, S. and Markusen, E. *supra* note 91

⁹⁴ Report of the International Commission of Inquiry on Darfur, 25 January 2005. UN Document S/2005/60

⁹⁵ Shabas, W. 'Darfur and the 'Odious Scourge': The Commission of Inquiry's Findings on Genocide', *Leiden Journal of International Law*, Vol. 18, December 2005, p 885

⁹⁶ Totten, S. and Markusen, E. *supra* note 91

⁹⁷ UN Document S/RES/1593 (2005)

⁹⁸ UN Document S/RES/1591 (2005)

⁹⁹ UN Document S/2006/65

¹⁰⁰ UN Document S/2006/250

¹⁰¹ UN Document S/RES/1672

¹⁰² HRW Vol 18 No.1 (A) January 2006, *supra* note 85

¹⁰³ MacAskill, E. 'UN prepares to send peacekeeping force to Darfur' *The Guardian*. 27 January 2006

¹⁰⁴ UN Document S/2006/430

¹⁰⁵ Reeves, E. 'Darfur: An Abject Abandonment of the "Responsibility to Protect"'. *Sudan Tribune Article*, 5 July 2006

¹⁰⁶ Africa Confidential – Vol.47 No.15

¹⁰⁷ Human Rights Watch, 'The Impact of the Comprehensive Peace Agreement and the New Government of National Unity on Southern Sudan', A Human Right Watch Report, No. 1, March 2006.

¹⁰⁸ De Waal, A. 'Briefing: Darfur, Sudan: Prospects for Peace', *African Affairs*, Vol. 104, No. 414, pp.127-135, January 2005.

¹⁰⁹ Williams, P. D. and Bellamy, A. J. 'The Responsibility to Protect and the Crisis in Darfur', *Security Dialogue*, vol.36(1), pp.27-47, March 2005

¹¹⁰ Africa Confidential Vol 47 No. 9

¹¹¹ Tinsley, B. 'Essay: Why the World is Ignoring Darfur' *The New Internationalist Magazine* No 383 October 2005.

¹¹² *Sudan Tribune*, 'Sudan's Gosh holds Talks in London on Darfur and Terror', 14 March 2006

¹¹³ Africa Confidential Vol 47 No.6 p8

¹¹⁴ Young, J. 'Sudan: A Flawed Peace Process Leading to a Flawed Peace', *Review of African Political Economy*, No. 103, pp. 99-113, March 2005: page 103

¹¹⁵ *Sudan Tribune*, 'China's Oil Ties to Sudan force it to oppose Sanctions', 29 October 2004

¹¹⁶ Williams, P. D. and Bellamy A.J. *supra* note 109: page 33

¹¹⁷ Africa Confidential Vol 47 No 16

¹¹⁸ Reeves, E. 'Despite Darfur peace, insecurity, humanitarian crisis continue to deepen' *Sudan Tribune Article*, 30 July 2006

CONCLUSION

¹¹⁹ International Commission on Intervention and State Sovereignty (2001) *The Responsibility to Protect, Report of the ICISS*, Ottawa: The International Development Research Centre.

¹²⁰ Caplan, G. (2006) 'Learning From History: The Lessons of Rwanda and Darfur' *Ferguson Occasional Paper Series No. 1*, University of Bradford: Africa Centre for Peace and Conflict Studies.

¹²¹ See UN Document A/55/305, UN Document A/59/565, UN Document A/59/2005

¹²² Hilpold, P. 'Reforming the United Nations: New Proposals in a Long-Lasting Endeavour', *Netherlands International Law Review*, Vol. 52, pp389-431, December 2005.

¹²³ Laurenti, J. 'Grand goals, Modest Results: the UN in Search of Reform', *Current History*, December 2005, Vol. 104 No. 686, pp 431-437, December 2004

¹²⁴ *Ibid*

¹²⁵ Hilpold, *supra* note 122

¹²⁶ UN Document A/60/L.1 : page 29

¹²⁷ Aznar-Gomez, M. 'A Decade of Human Rights Protection by the UN Security Council: A Sketch of Deregulation?', *European Journal of International Law*, Vol.13 No.1, pp:223-241, February 2002.

¹²⁸ International Commission on Intervention and State Sovereignty, *supra* note 119

¹²⁹ Bercow, J. Dallaire, R. Kapila, M. Short, C. 'Moving from Words to Action; the Responsibility to Protect', Canada House, 25th January 2006.

BIBLIOGRAPHY:

Articles, Books and Journals:

- Africa Confidential, London: Blackwell:
 - Vol. 47 No. 2, 20 January 2006: 'Sudan: Beyond that now'
 - Vol. 47 No. 3, 3 February 2006: 'African Union: Human Wrongs'
 - Vol. 47 No. 5, 3 March 2006: 'Sudan: Names and blames'
 - Vol. 47 No. 6, 17 March 2006: 'Sudan/Britain: Now you see him'
 - Vol. 47 No. 9, 28 April 2006: 'Sudan: Oddest bedfellows'
 - Vol. 47 No. 10, 12 May 2006: 'Sudan: it's the Government Stupid'
- Africa Confidential, London: Asempa
 - Vol. 47 No. 15, 21 July 2006: 'Sudan: Khartoum's veto'
 - Vol. 47 No. 16, 4 August 2006: 'Sudan: After Darfur's Deal'
- Africa Research Bulletin 'Sudan: Darfur's Genocide' Vol. 41 No. 4, pp 15729-15731, 27 May 2004, London: Blackwell.
- Africa Watch 'Rwanda, Talking Peace and Waging War: human rights since the October 1990 Invasion' A Human Rights Watch Short Report, Vol. 4 No.3, New York, 27 February 1992.
- Africa Watch 'Beyond the Rhetoric: continuing human rights abuses in Rwanda' A Human Rights Watch Short Report, Vol. 5 No. 7, New York, June 1993.
- Aznar-Gomez, M. 'A Decade of Human Rights Protection by the UN Security Council: A Sketch of Deregulation?', *European Journal of International Law*, Vol.13 No.1, pp:223-241, February 2002.
- Barnett, M. N. 'The UN Security Council, Indifference, and Genocide in Rwanda' in *Cultural Anthropology*, Vol. 12, No. 4, pp: 551-578, November 1994.
- Caplan, G. (2006) 'Learning From History: The Lessons of Rwanda and Darfur' *Ferguson Occasional Paper Series No. 1*, University of Bradford: Africa Centre for Peace and Conflict Studies.
- Dallaire, R. (2004) *Shake Hands with the Devil: The Failure of Humanity in Rwanda*, London: Arrow Books.
- Des Forges, A. (1999) *Leave None to Tell the Story: Genocide in Rwanda*, New York: Human Rights Watch.
- De Waal, A. 'Briefing: Darfur, Sudan: Prospects for Peace', *African Affairs*, Vol. 104, No. 414, pp.127-135, January 2005.
- De Waal, A. and Flint, J. (2005) *Darfur: A Short History of a Long War*, London: Zed Books.
- Feil, S.R. (1998) *Preventing Genocide: How the Early Use of Force Might have Succeeded in Rwanda, A report to the Carnegie Commission on Preventing Deadly Conflict*, New York: Carnegie Corporation.
- Happold, M. 'Darfur, the Security Council, and the International Criminal Court', *International and Comparative Law Quarterly*, Vol. 55, pp226-236, January 2006 .
- Hilpold, P. 'Reforming the United Nations: New Proposals in a Long-Lasting Endeavour', *Netherlands International Law Review*, Vol. 52, pp389-431, December 2005.
- Human Rights Watch Arms Project, 'Arming Rwanda, The Arms Trade and Human Rights Abuses in the Rwandan War', *A Human Rights Watch Short Report*, Vol. 6, No. 1, New York, January 1994.
- Human Rights Watch Arms Project, 'Rwanda/Zaire: Rearming with Impunity', *A Human Rights Watch Report*, Vol. 7, No.4, New York, May 1995.
- Human Rights Watch, 'Sudan – Darfur in Flames: Atrocities in Western Sudan', *A Human Rights Watch Report*, Vol. 16 No.4 (A), New York, April 2004.
- Human Rights Watch, 'Entrenching Impunity: Government Responsibility for International Crimes in Darfur', *A Human Rights Watch Report*, vol. 17, No. 17(A), New York, December 2005.
- Human Rights Watch, 'Imperatives for Immediate Change: The African Union Mission in Sudan', *A Human Rights Watch Report*, vol. 18 No. 1(A), New York, January 2006.
- Human Rights Watch, 'The Impact of the Comprehensive Peace Agreement and the New Government of National Unity on Southern Sudan', *A Human Right Watch Report*, No. 1, New York, March 2006.
- International Commission on Intervention and State Sovereignty (2001) *The Responsibility to Protect, Report of the ICISS*, Ottawa: The International Development Research Centre.
- *The International Response to Conflict and Genocide: Lessons from the Rwanda Experience: Synthesis Report* (1996) Copenhagen: Steering Committee of the Joint Evaluation of Emergency Assistance to Rwanda.
- Larose-Edwards, P.(1994) *The Rwandan Crisis of April 1994: The Lessons Learned*, Ottawa: International Human Rights, Democracy and Conflict Resolution.
- Laurenti, J. 'Grand goals, Modest Results: the UN in Search of Reform', *Current History*, December 2005, Vol. 104 No. 686, pp 431-437, December 2004.
- Mans, U. 'Briefing: Sudan: The New War in Darfur', *African Affairs*, vol. 103, pp. 291-294, April 2004.
- Melvern, L. (2000) *A People Betrayed: The role of the West in Rwanda's Genocide*, London: Zed Books.
- Melvern, L. (2006) *Conspiracy to Murder: The Rwandan Genocide*, London: Verso.
- Power, S. (2002) *A Problem from Hell: America and the Age of Genocide*, New York: Basic Books.
- Prunier, G. (2005) *Darfur: the Ambiguous Genocide*, London: Hurst and Company.
- Shabas, W. 'Darfur and the 'Odious Scourge': The Commission of Inquiry's Findings on Genocide', *Leiden Journal of International Law*, Vol. 18 pp. 871-885, December 2005.
- Slim, H. 'Dithering over Darfur? A preliminary review of the international response', *International Affairs*, Vol 80, pp. 811-33, August 2004.
- Totten, S. and Markusen, E. 'The US Government Darfur Genocide Investigation' *Journal of Genocide Research*, Vol. 7 No. 2 pp. 279-290, June 2005.
- US State Department (2004) "Documenting Atrocities in Darfur", State Publication 11182, September 9. Washington DC: US State Department.
- Young, J. 'Sudan: A Flawed Peace Process Leading to a Flawed Peace', *Review of African Political Economy*, No. 103, pp. 99-113, March 2005.

- Wheeler, N. J. (2000) *Saving Strangers: International Intervention in International Society*, Oxford: Oxford University Press.
- Williams, P. D. and Bellamy, A. J. 'The Responsibility to Protect and the Crisis in Darfur', *Security Dialogue*, vol.36(1), pp.27-47, March 2005.

Case Law:

- *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgement, 2 September 1998

UN Documents

Commission on Human Rights

Rwanda

- *Report of the Special Rapporteur on questions relevant to torture*, Mr P. Kooijmans, pursuant to Commission on Human Rights resolution 1992/32. 15 December 1992. UN Document E/CN.4/1993/26.
- *Report of the Working Group on Enforced or Involuntary Disappearances* submitted pursuant to Commission on Human Rights resolution 1992/30. 7 January 1993. UN Document E/CN.4/1993/25
- *Report by the Special Rapporteur on Summary, Arbitrary and Extrajudicial Executions*, Mr. B.W. Ndiaye, on his mission to Rwanda from 8-17 April 1993. 11 August 1993. UN Document E/CN.4/1994/7/Add.1
- *Report of the United Nations High Commissioner for Human Rights*, Mr. Jose Ayala Lasso, on his mission to Rwanda 11-12 May 1994. 19 May 1994. UN Document E/CN.4/S-3/3
- *Report of the Commission on Human Rights on its third special session* (24-25 May 1994). 30 May 1994. UN Document E/CN.4/S-3/4
- *Report by the Special Rapporteur on the Situation of Human Rights in Rwanda* submitted by Mr. René Degni-Ségui, , under paragraph 20 of the Commission on Human Rights resolution S-3/1 of 25 May 1994:
 - Report on his mission to Rwanda from 9-20 June 1994. 28 June 1994. UN Document E/CN.4/1995/7
 - Report on his mission to Rwanda from 29-31 July 1994. 12 August 1994. UN Document E/CN.4/1995/12
 - Report on his mission to Rwanda from 14-25 October 1994. 11 November 1994. UN Document E/CN.4/1995/70

Sudan:

- *Report of the Special Rapporteur on the Situation of Human Rights in the Sudan*, Gaspar Biro, pursuant to Commission on Human Rights resolution 1996/73. 3 February 1997. UN Document E/CN.4/1997/58
- *Report of the Special Rapporteur on the Situation of Human Rights in the Sudan*, Gerhart Baum, pursuant to Commission on Human Rights 2002/16. 6 January 2003. UN Document E/CN.4/2003/42
- *Report of the United Nations Acting High Commissioner for Human Rights, Bertrand Ramcharan, on the Situation of Human Rights in the Darfur Region of Sudan*. 7 May 2004. UN Document E/CN.4/2005/3
- *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, Ms. Asma Jahangir on her mission to the Sudan in June 2004. 6 August 2004. UN Document E/CN.4/2005/7/Add.2

- *Report of the Representative of the Secretary-General on Internally Displaced Persons*, Mr Francis Deng, on his mission to the Sudan from 25 July to 1 August 2005, pursuant to Commission on Human Rights resolution 2003/51. 27 September 2004. UN Document E/CN.4/2005/8

- *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, Yakin Erturk, on her visit to the Darfur region of the Sudan in September 2004. 23 December 2004. UN Document E/CN.4/2005/72/Add.5

- *Report of the Independent Expert on the Situation of Human Rights in the Sudan*, Emmanuel Akwei Addo on his mission to the Sudan from 19 to 31 August 2004, pursuant to Commission on Human Rights resolution 2004/128. 28 February 2005. UN Document E/CN.4/2005/11

- *Report of the Commission on Human Rights on its sixty-first session* (14 March-22 April 2005). 27 April 2005. UN Document E/CN.4/2005/135

- *Report of the Special Rapporteur on the Human Rights Situation in the Sudan*, Sima Samar, on her mission to the Sudan from 15-22 October 2005, pursuant to Commission on Human Rights resolution 2005/82. 11 January 2006. UN Document E/CN.4/2006/111

General Assembly:

- *Report of the UN Commission for Ruanda-Urundi established under GA Resolution 1743 (XVI)* - Question of the Future of Ruanda-Urundi. 30 May 1962. UN Document A/5126.
- *Report of the Panel on United Nations Peace Operations*. 21 August 2000. UN Document A/55/305
- *Report of the Secretary General Kofi Annan 'In larger freedom: towards development, security and human rights for all'*. 21 March 2005. UN Document A/59/2005
- *Report of the High Level Panel on Threats, Challenges and Change, 'A More Secure World: Our Shared Responsibility'*. 2 December 2004. UN Document A/59/565
- *2005 World Summit Outcome*, 20 September 2005. UN Document A/60/L.1

Security Council:

Rwanda:

- Security Council Resolution 912. 21 April 1994. UN Document S/RES/912 (1994)
- Security Council Resolution 918. 17 May 1994. UN Document S/RES/918 (1994)
- Report of the Secretary-General on the Situation in Rwanda pursuant to S/1994/546. 13 May 1994. UN Document S/1994/565
- Report of the Secretary-General on the Situation in Rwanda pursuant to S/1994/918. 31 May 1994. UN Document S/1994/640
- *Final Report of the Commission of Experts* established pursuant to Security Council resolution 935. 9 December 1994. UN Document S/1994/1405
- *Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda*. 15 December 1999. UN Document S/1999/1257

Sudan:

- Security Council Resolution 1556. 30 July 2004. UN Document S/RES/1556 (2004)

- Security Council Resolution 1564. 18 September 2004. UN Document S/RES/1564 (2004)
- Security Council Resolution 1591. 29 March 2005. UN Document S/RES/1591 (2005)
- Security Council Resolution 1593. 31 March 2005. UN Document S/RES/1593 (2005)
- Security Council Resolution 1672. 25 April 2006. UN Document S/RES/1672
- Report of the Secretary-General pursuant to Security Council Resolution 1556 (2004). 30 August 2004. UN Document S/2004/703
- *Report of the Secretary-General on Darfur* pursuant to Security Council Resolutions 1556 (2004), 1564 (2004), 1574 (2004), 1590 (1005). 19 May 2006. UN Document S/2006/306
- *Report of the Secretary-General on Darfur* pursuant to Security Council Resolutions 1556 (2004), 1564 (2004), 1574 (2004), 1590 (1005). 21 June 2006. UN Document S/2006/430
- *Report of the Independent Commission of Inquiry on Darfur to the United Nations Secretary-General*, 25 January 2005, pursuant to Security Council Resolution 1564 of 18 September 2004. UN Document S/2005/60

- *Report of the Panel of Experts* established pursuant to Paragraph 3 of Security Council Resolution 1591 (2005) concerning the Sudan. 30 January 2006. UN Document S/2006/65
- *Second Report of the Panel of Experts* established Pursuant to paragraph 3 of Security Council Resolution 1591 (2005) concerning the Sudan. 19 April 2006. UN Document S/2006/250

Talks

- Mendez, Juan (Special Advisor to the Secretary General on the Prevention of Genocide) *Genocide Prevention All Parliamentary Group: Meeting with Juan Mendez*, Macmillan Room, Portcullis House –26th of October 2005
- Bercow, J. Dallaire, R. Kapila, M. Short, C. *Moving from Words to Action: the Responsibility to Protect*, Canada House – 25th January 2006.

Web Resources:

- Akec, J.A. 'Darfur Peace Agreement: A just Peace or a Peace at All Cost' *Sudan Tribune Article*, 29 April 2006, Accessed 02/08/2006.
www.sudantribune.com/article_impr.php3?id_article=15343
- Amnesty International, 'Rwanda, persecution of Tutsi minority and repression of government critics 1990-1992' *An Amnesty International Report*, Afr 47/02/92,1 May 1992, Accessed 12/03/2006.
<http://web.amnesty.org/library/Index/ENGAFR470021992?open&of=ENG-315>
- Amnesty International, 'The Looming Crisis in Darfur', *An Amnesty International Report*, Afr 54/041/2003 1 July 2003, Accessed 02/08/2006.
www.web.amnesty.org/library/Index/ENGAFR540412003?open&f=ENG-SDN
- *Convention on the Prevention and the Punishment of the Crime of Genocide* (1948) Approved and proposed for signature and ratification or accession by GA resolution 260 A (III), entry into force 12 January 1951, Accessed 01/02/2006
http://www.unhchr.ch/html/menu3/b/p_genoci.htm

- De Waal, A. 'Darfur's Deep Grievances Defy all Hopes for an Easy Solution' *The Guardian Unlimited Special Reports*. 25 July 2004. Accessed 06/03/2006.
www.guardian.co.uk/sudan/story/0,14658,1268773,00.html
- Flint, J. 'Not the worst of accords on Darfur' *The Daily Star*. 9 May 2006. Accessed 11/05/2006
www.dailystar.com.lb/printable.asp?art_ID=24260&cat_ID=5
- International Crisis Group, 'The Other War in Sudan: A Call for High Level Observer in Western Sudan Peace Process' *An International Crisis Group Media Release*. 10 December 2003, Accessed 03/08/2008
<http://www.crisisgroup.org/home/index.cfm?id=2415&l=1&m=1>
- MacAskill, E. 'UN prepares to send peacekeeping force to Darfur' *The Guardian*. 27 January 2006. Accessed 16/03/2006
www.guardian.co.uk/sudan/story/0,,1695920,00.html
- Reeves, E. 'Darfur: An Abject Abandonment of the "Responsibility to Protect"' *Sudan Tribune Article*, 5 July 2006, Accessed 02/08/2006
www.sudantribune.com/article_impr.php3?id_article=16530
- Reeves, E. 'Despite Darfur Peace, insecurity, humanitarian crisis continue to deepen' *Sudan Tribune Article*, 29 July 2006. Accessed 02/08/2006
www.sudantribune.com/article_impr.php3?id_article=16858
- *Report of the Special Advisor of the Secretary General on the Prevention of Genocide: Visit to Darfur*, Sudan Juan Mendez, 19-26 September 2005. Accessed 02/02/2006.
http://www.un.org/Depts/dpa/prev_genocide/DarfurReportSept2005.pdf#search=%22Report%20of%20the%20Special%20Advisor%20on%20the%20Prevention%20of%20Genocide%3A%20Visit%20to%20Darfur%2C%20Sudan%20%22
- *Sudan Tribune*, 'China's Oil Ties to Sudan force it to oppose Sanctions', 29 October 2004. Accessed 29/03/2006.
http://www.sudantribune.com/article_impr.php3?id_article=6057
- *Sudan Tribune*, 'Sudan's Gosh holds Talks in London on Darfur and Terror', 14 March 2006. Accessed 16/03/2006.
http://www.sudantribune.com/article_impr.php3?id_article=14517
- Tinsley, B. 'Essay: Why the World is Ignoring Darfur' *The New Internationalist Magazine* No 383 October 2005. Accessed 28/02/2006.
www.newint.org/issue383/essay.htm

High Commissioner for Human Rights Reports:

- *Second Periodic Report of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Sudan*. January 2006. Accessed 02/02/2006
<http://www.ohchr.org/english/press/docs/Sudanreport2.doc>
- *Third Periodic Report of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Sudan*. April 2006. Accessed 02/08/2006.
<http://www.ohchr.org/english/countries/sd/docs/3rdOHCHRApril06.pdf>
- *Fourth Periodic Report of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Sudan: Deepening crisis in Darfur, two months after the Darfur Peace Agreement: An Assessment*. July 2006. Accessed 02/08/2006.
<http://www.ohchr.org/english/countries/sd/docs/4thOHCHRjuly25final.pdf>