

4. THE AFRICAN UNION IN DARFUR: UNDERSTANDING THE AFRO-ARAB RESPONSE TO THE CRISIS

Dr. A. Sarjoh Bah

Senior Fellow, Centre on International Cooperation
New York University

March 2010

FRIDE
A EUROPEAN
THINK TANK FOR GLOBAL ACTION



A COLLECTION OF PAPERS TO PROMPT AN INTER-ARAB DIALOGUE ON POLICIES TOWARDS THE CONFLICT IN DARFUR

This paper is part of a collection of seven research papers published within the framework of the project '*The Gap between Narratives and Practices. Darfur: Responses from the Arab world*' undertaken by FRIDE from October 2008 to March 2010.

The project aims to develop an understanding of Arab states and society, as well as their attitudes and policies towards massive violations of human rights in their region. The research conducted for this purpose is manifold and aims at facilitating an inter-Arab dialogue; as well as the generation of ideas about how other actors may play a positive role to engage the Arab world in redressing the massive violations of human rights in the particular case of Darfur and beyond.

The project undertaken by FRIDE and funded by the Ford Foundation has gathered together a number of researchers and activists to develop background research, meet in an international conference in Tunis in October 2009 to discuss their findings and draw conclusions and recommendations in different thematic areas, including Arab perceptions of the crisis, Arab policies as individual states and within the framework of regional and international organisations, and other external responses related to or that influence what Arab actors could do regarding the Darfur conflict.

Cover photo: © Flickr_Internews Network

© FRIDE

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior permission of the publishers.

THE PUBLICATIONS, FOLLOWED BY THE AUTHORS' BIOGRAPHIES, ARE:

1. **DARFUR AND ARAB PUBLIC OPINION: STRATEGIES FOR ENGAGEMENT**
Jacob Høigilt
2. **ARAB OFFICIAL POSITIONS TOWARDS PRESIDENT AL-BASHIR'S INDICTMENT**
Noha Bakr and Essam Abdel Shafi
3. **BRIDGING THE GAP BETWEEN NARRATIVE AND PRACTICES:
THE ROLE OF THE ARAB LEAGUE IN DARFUR**
Annette Weber
4. **THE AFRICAN UNION IN DARFUR: UNDERSTANDING THE AFRO-ARAB RESPONSE TO THE CRISIS**
Sarjoh Bah
5. **THE UN RESPONSE TO THE DARFUR CRISIS**
Joanna Weschler
6. **THE EU'S ROLE TOWARDS THE DARFUR CRISIS FROM 2003 UNTIL TODAY**
Giji Gya
7. **REALIGNING US FOREIGN POLICY WITH REALITY IN DARFUR:
FORMULATING A WHOLE-OF-SUDAN POLICY**
Allison Rohe

Essam Mohamed Abdel Shafi Abdel Wahab holds a PhD in Political Science from the Faculty of Economics and Political Science, Cairo University. He is currently a researcher at the Center of Cultural Studies and Intercultural Dialogue, Faculty of Economics and Political Science, Cairo University.

A. Sarjoh Bah is a Senior Fellow and Program Coordinator of African Security Institutions, at New York University's Center on International Cooperation. Dr. Bah was the Program Coordinator of CIC's Peace Operations Program, and was the Lead Scholar and Volume Editor of CIC's flagship publication, the *Annual Review of Global Peace Operations: 2008 and 2009*. He holds a Ph.D. in International Relations and Comparative Development from Queen's University, Canada. Prior to his current engagement, he worked as a Senior Researcher at the Institute for Security Studies and an international consultant to several organizations including the European Commission, the Intergovernmental Authority on Development and the Center for Humanitarian Dialogue among others. He has conducted extensive research and is widely published, and specializes in regional security cooperation in Africa and international multilateral diplomacy.

Noha Bakr has a PhD in the interdisciplinary field of International Relations and International Organisations and is currently an assistant professor at the American University in Cairo. She has authored and co-authored several publications in the field of international, regional and national security. Dr Bakr has also published numerous political analytical articles in Egyptian newspapers, and has been invited as a guest on national and international TV channels, analysing political topics. She previously worked as a political and communication consultant for foreign donors to Egypt.

Giji Gya has 12 years experience in analysis of peacekeeping and crisis management missions, international security, crisis response, SSR and disarmament and of UN, EU and NGO work in international fora. Ms. Gya also lectures on human security and gender and is the developer of the CSDP Mission Analysis Partnership. She is currently the Executive Director of the International Security Information Service (ISIS Europe) based in Brussels.

Jacob Høigilt is Middle East researcher at Fafo Institute for Applied International Studies in Oslo, Norway. His research has revolved around issues of language, religion and politics in the Arab world. The regions on which he writes include Egypt and the Levant. Høigilt has written a number of articles about Islam, language and politics in international academic journals, and he contributes articles and op-ed pieces in Norwegian journals and papers. He wrote his PhD thesis about Islamic rhetoric in contemporary Egypt, and a book on the same subject is forthcoming on Routledge in 2010/2011.

Allison Rohe is an independent consultant working between New York and Madrid in the field of international relations and social intervention. She has worked at several European and American think-tanks and non-governmental organizations in the field of humanitarian action and armed conflicts, specializing in US foreign policy and whole-of-government policy approaches towards States in crisis. Additionally, Ms. Rohe has also lectured at the University of Madrid in graduate programs on International Development on the subject of humanitarian crises and information management. Ms. Rohe began her career in the area of humanitarian action, working with MSF in Kosovo on a fact-finding field mission focusing on minorities; subsequently, her work centered on policy research, focusing on mitigating the underlying causes of violent conflict through policy and the alignment of post-conflict responses. Her studies have included Political Science at Smith College, Journalism at the Universidad Complutense de Madrid and a Master in Corporate Social Responsibility at the Universidad de Alcalá (Madrid).

Annette Weber is a senior associate with the German Institute for International and Security Studies (SWP) in Berlin. Her regional expertise is on the Horn of Africa; she works mainly on conflict analysis, fragile states, non-state actors and state building. Her current focus is mainly on the situation in Sudan; the Darfur conflict as well as the fragile peace between the north and southern Sudan. Her other current focus is Somalia and the problem of maritime security. She writes extensively and advises the Bundestag and the German administration on these issues. Previously she worked as a coordinator for the Ecumenical Network on Central Africa, mainly on the Democratic Republic of Congo, Rwanda and Burundi. Annette Weber was also a researcher with Amnesty International in London for Sudan and worked as a consultant for Human Rights Watch and Amnesty International on Sudan and Uganda. She wrote her PhD dissertation on questions of gender and citizenship in southern Sudan and Eritrea.

Joanna Weschler has been since 2005 director of research at Security Council Report with responsibilities that include: overseeing research as well as providing editorial and production supervision for the organization's work. Was UN representative for Human Rights Watch (1994-2005). Previously, she was the Poland researcher for Helsinki Watch; Brazil researcher for Americas Watch; as well as director of HRW's Prison Project. She has conducted human rights investigations in countries on five continents and written numerous reports and articles on human rights. She has a master's degree in Spanish and Latin American Studies from the University of Warsaw and a master's in journalism from Columbia University. She is a native of Poland, where she was a reporter for the Solidarity Union press agency, in charge of covering most meetings between Union President Lech Walesa and the communist government, and meetings of the executive leadership of the union.

4.

THE AFRICAN UNION IN DARFUR: UNDERSTANDING THE AFRO-ARAB RESPONSE TO THE CRISIS

Dr. A. Sarjoh Bah
Senior Fellow, Centre on International Cooperation
New York University

CONTENTS

Introduction

The political track

- The Darfur Peace Agreement
- From Transition to Hybridity
- Resolution 1706 and the Afro-Arab Vote
- Enter the ICC
- The AU High-Level Panel on Darfur
- The Response of Civil Society
- The Arab Response
- Joint AU-UN Mediation

Conclusions and Recommendations

INTRODUCTION

Darfur, an arid region in western Sudan, has become synonymous with genocide, though many have been reluctant to describe the situation there in such terms, not least the African Union (AU). As the conflict between Government of Sudan and the Sudan People's Liberation Army/Movement (SPLA/M) raged on for over two decades, long-standing tensions in Darfur were neglected. Meanwhile, negotiations led by the Inter-Governmental Authority on Development (IGAD) culminated in the Comprehensive Peace Agreement (CPA) in January 2005, marking the end of Africa's longest running civil war; a conflict that had claimed the lives of approximately two million people and displaced millions more. However, the marginalisation of Darfur meant that the celebrations marking the end of the north-south conflict were short-lived, as news of mass murder involving government soldiers and their infamous militia allies, the *Janjaweed*, eclipsed the much celebrated deal. In Darfur, the Government and *Janjaweed* were pitted against the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM), the two groups that had taken up arms against the Islamist government in early 2003.

As international media attention began to turn to Darfur, the gravity of the situation, with its scenes of death and destruction, was revealed to the world. Images of violence evoked memories of earlier atrocities, most notably the Rwandan genocide, leading to calls for intervention to avert a repeat of that tragedy. These calls gained momentum when former President George W. Bush and Secretary of State Colin Powell described the conflict as genocide. But the momentum was short-lived; the pronouncements were not followed up with robust action, of either the political or military kind. It soon became evident that there would be no intervention and that the people of Darfur, like the hundreds of thousands of Rwandans during the genocide in 1994, were at the mercy of killers.

However, the sub-Saharan African leadership (led by Nigeria, South Africa, Senegal and Rwanda), which was strongly criticised for its inaction during the Rwandan genocide, was determined to act through the newly established African Union (AU), whose founding treaty provides for intervention in cases of war crimes, crimes against humanity and genocide.¹ Despite the fact that the AU did not describe the crisis as genocide, it had no doubts that the deaths of thousands of civilians required its intervention. In addition, the AU was keen to ensure that the Naivasha Peace process between the GoS and the SPLM be protected from the conflict in Darfur.

This paper explores the complexities surrounding the AU's response against such a backdrop: a regional approach to what had essentially become an international problem. The Darfur crisis was internationalised because of vocal advocacy by civil society and human rights groups, and allegations of war crimes and genocide, warranting an international response. The analysis focuses on how the AU's political strategy of pursuing dialogue between the parties was contradicted and undermined by the policies of some of its members, especially from North Africa, the League of Arab States (LAS) and the International Criminal Court (ICC). Although divisions between Arab and sub-Saharan members of the AU were less evident in the debates and voting patterns in the Peace and Security Council (PSC), they made themselves felt in the UN Security Council (UNSC), where Arab members of the Council – Qatar and Algeria – either voted against actions directed at the Government of Sudan or, at best, abstained. The voting patterns and policy positions of North African members of the AU in the UNSC failed to complement its peacemaking venture. Emboldened by the support of these countries, the government of Sudan failed to cooperate with the AU by obstructing the operations of its peacekeeping mission, the African Union Mission in Sudan (AMIS) despite having consented to its deployment. Furthermore, the AU's efforts faltered due to the deteriorating political, humanitarian and security environment in Darfur, exacerbated by splintering within the armed groups and a wavering commitment to a negotiated settlement on all sides. The paper concludes by calling on the AU to examine Afro-Arab relations as a way of enhancing its peacemaking efforts, and suggests specific steps that could strengthen the AU's role in the elusive quest for peace in Darfur and elsewhere.

¹ See Constitutive Act of the African Union, 2002.

² The December 2001 Bonn Agreement called for the establishment of a special independent commission to determine the procedures and number www.irdc.org

THE POLITICAL TRACK

From the start, the AU pushed for a negotiated settlement to the conflict and deployed its peacekeeping mission, AMIS to provide security on the ground. Mediation efforts led by the AU and President Idris Dèby of Chad culminated in the first ceasefire agreement between the GoS and the SLA in September 2003. But growing tensions between Sudan and Chad ended the latter's role in the peace process. The hostility between the two countries came to a head in 2008 with rebel advances on their respective capitals. The attacks were widely viewed as tit-for-tat measures by the two rival governments. Meanwhile, peace talks continued apace under the auspices of the AU, culminating two years later in the Darfur Peace Agreement (DPA), between the GoS and the SLA led by Mini Minnawi. Signed on 6 May, 2006, the DPA faced serious challenges from its inception primarily because it was a partial agreement that did not enjoy the support of the two other parties in the conflict - the JEM and the other SLA faction led by Abdoul Wahid. The DPA was further undermined by the divisions among the armed groups along ethnic lines, pitting the Zaghawa against others most notably, the Fur, the largest ethnic group in Darfur. This rift led to increased friction among the armed groups and their civilian sympathisers in the internally displaced persons camps, and indeed it continues to hinder efforts to reach a political settlement.

THE DARFUR PEACE AGREEMENT

Despite its flaws, the DPA attempted to address the contentious issues of *security*, *power* and *wealth* sharing, but it failed as it was rejected by two key faction leaders and their followers in Darfur. Unsurprisingly, the post-DPA period witnessed an increased splintering of the rebel groups leading to the emergence of various armed factions with no clear political agenda, further complicating the situation. From the outset, implementation of the DPA proved to be a difficult challenge for the AU, especially as the non-signatories viewed the organisation as biased due to its role in negotiating the agreement. This resulted in a marked increase in hostile action towards AMIS, hindering its activities. However, targeted attacks on the peacekeepers manifested a wider deterioration of security due to the weakening of the command and control structures of the rebel groups as a result of their fragmentation. The renewed fighting exacerbated the dire humanitarian situation.

Despite these challenges, the AU established the DPA Implementation Team (DPAIT) with a mandate to spearhead implementation of the agreement. The DPAIT was to work closely with the chairperson of the Darfur-Darfur Dialogue and Consultation (DDDC). The DDDC, modelled on the *Loya Jirga* in Afghanistan, was to address issues ranging from security, claims of marginalisation and exclusion and socio-economic development to reconciliation.² It was envisaged as a bottom-up approach to remedy some of the anomalies that resulted from the top-down approach of the Abuja peace process. The central aim was to increase the local population's sense of ownership of the peace process, thereby legitimising it. Moreover, it was meant to encourage dialogue between the people of Darfur. But, since the vast majority of the people had already rejected the DPA, efforts to convene the DDDC were obstructed, undercutting the bottom-up peacemaking approach that had been envisaged.

For its part, the PSC endorsed the DPA and set a deadline for the non-signatories to sign up or face sanctions.³ Unsurprisingly, these groups failed to comply, forcing the PSC to impose targeted sanctions including a travel ban and asset freeze of the leadership of the factions who were now viewed as spoilers.⁴ But the sanctions were largely symbolic since the AU lacked the leverage and mechanism to enforce them. Additionally, the move put the AU at loggerheads with the affected groups, who were already sceptical about its role. Consequently, disagreements about the DPA weakened the AU's mediation efforts, plunging the entire peace process into disarray.

of participants in an Emergency *Loya Jirga*, convened in June, 2002. The *Loya Jirga*, or traditional Afghan Grand Council, was to elect a Head of State for Afghanistan's Transitional Administration, and propose its structure and key personnel. For the operations of the Emergency and Constitutional *Loya Jirga*, go to: <http://www.eurasianet.org/loya.jirga/commission.shtml>

³ *Communiqué* of 51st Meeting Peace and Security Council, 15th of May, 2006, Addis Ababa, Ethiopia PSC/MIN/Comm/1(LI)

⁴ *Communiqué* of the 58th Meeting of the Peace and Security Council, Banjul, The Gambia, PSC/MIN/Comm (LVIII), 27th of June, 2006.

⁵ These differences were not helped by the personality clashes between the two leading mediators, Salim Ahmed Salim and Jan Pronk of the AU and

Meanwhile, the inter-Sudanese peace talks in Abuja that culminated in the DPA were plagued by differences between the AU and UN, the other partner in the peace process. While the UN favoured a step-by-step approach, the AU aimed for a comprehensive agreement because the parties had signed earlier agreements, which in its view, was already the basis for a final settlement.⁵ While these differences were minor, the mediation efforts faltered due to what some have described as *deadline diplomacy* and a lack of commitment from the parties.⁶ There was undue emphasis throughout the talks in concluding negotiations even after the parties had repeatedly demonstrated a lukewarm commitment to the peace process and the will to implement any subsequent agreement. This situation was summed up by the head of the AU mediation team Sam Ibok, when he stated that ‘...our experience over the past sixteen months has led us to conclude that there is neither good faith nor commitment on the part of any of the parties.’⁷

Nonetheless, the pressure to conclude the negotiations was intense due to a combination of factors. The donors, most notably, the ‘quartet’ - the United States, Britain, Canada and the EU - who funded the talks, repeatedly threatened to withhold their financial support if the parties failed to reach an agreement. The quartet and the UN believed that signing an agreement would pave the way for a transition from the under-resourced AMIS to a more comprehensive UN peace operation. This logic was flawed, because even after the DPA, the GoS refused to consent to the transition, an issue that will be revisited later. The GoS’s intransigence over the transition coupled with the anti-DPA propaganda by the non-signatories exposed the weakness of ‘deadline diplomacy.’⁸

The flawed logic of this approach was captured by Laurie Nathan, who argued that ‘deadline diplomacy was the strategy and the plan, and it was far too simplistic, vacuous, and rigid for this purpose...’ adding that ‘external pressure fixed in place a process and trajectory in which neither the mediator nor the parties had any confidence, but from which little deviation was possible.’⁹ The failure of this deadline diplomacy can be partially attributed to the absence of penalties for non-compliance. As one deadline after another was missed, the parties realised that the threats were hollow and therefore were not inclined to abide by future deadlines. A major consequence of this approach was the rejection of the DPA, since it was viewed as an outcome that was driven by external imperatives out of synch with the demands of participants. In other words, the non-signatories regarded the process as an attempt to impose peace without adequately addressing the issues at the heart of the conflict. Perhaps more time might have helped bridge the gap between those around the peace table.

The peace talks also ran into questions of timing; as summed up by one senior AU official, ‘...the peace negotiations were launched...at a time when both parties believed they could advance their positions on the battlefield. Therefore, each was a reluctant negotiator from the outset. Until the very end of the talks...the parties tended to see the Abuja talks as a tactical forum, rather than the central stage on which a solution to Darfur’s conflict could be found.’¹⁰

In the end, a lack of commitment by the GoS and the armed groups proved a self-fulfilling prophecy, as their actions in the post-DPA era contributed to undermining the security situation; with more actors emerging from the fragmenting process, differences only widened. Furthermore, it removed any possibility of implementing what was already a weak agreement. The signatories of the DPA used it as a license to mount military offensives against non-signatories, while the non-signatories embarked on a propaganda campaign to discredit the agreement, playing the ethnic card as they did so. The end result was greater animosity all round and a poisoned environment for peace.

UN respectively.

⁶ Interview with former UN and AU officials accredited to the Inter-Sudanese Peace Talks in Abuja, 5th of May, 2009.

⁷ Cited in Laurie Nathan, *“The Making and Unmaking of the Darfur Peace Agreement,”* (Alex de Waal, *War in Darfur and the Search for Peace*, Global Equity Initiative, Harvard University, 2007, p.254).

⁸ For a detailed account of the Inter-Sudanese Peace Talks on the Conflict in Darfur, see Dawit Toga, *“The African Union Mediation and the Abuja Peace Talks,”* (in Alex de Waal, *War in Darfur and the Search for Peace*, Global Equity Initiative, Harvard University, 2007, pp.214-244).

⁹ Op. Cit., Laurie Nathan, pp. 245-266.

¹⁰ Ibid, p.243

¹¹ *Communiqué* of the 45th Meeting of the Peace and Security Council, Addis Ababa, Ethiopia PSC/PR/Comm. (XLV), 12 January 2006.

FROM TRANSITION TO HYBRIDITY

The growing insecurity and additional mandated tasks from the DPA served as strong arguments for a transition from AMIS to a UN force. The under resourced AU peacekeepers had proved incapable of addressing the mounting security problems. Consequently, the PSC decided on a '...transition from AMIS to a UN operation, within the framework of the partnership between the AU and the United Nations.'¹¹ However, it stressed that this transition should take place only with the consent of the GoS and on the understanding that the African character of the UN mission would be maintained, including its composition and leadership.¹²

If these caveats were meant to appease the GoS, they did not; President Bashir rejected the proposal, arguing that the AU lacked the mandate to handover its mission to another organisation. Disagreements over the proposed transition proved to be a major sticking point, highlighting the challenges facing the AU in bringing round intransigent members.

For its part, the UNSC welcomed the PSC's decision and requested that the Secretary-General draw up contingency plans to explore options for a handover to the UN.¹³ During this period, the UNSC visited Sudan and Chad with the aim of boosting the DPA and paving the way for the proposed transition. The Council held high-level consultation meetings with members of the government of national unity, including President Bashir. It also met with the senior leadership of the AU and AMIS and held its first joint session with the PSC in Addis Ababa, Ethiopia. Despite their efforts, President Bashir reiterated his objection, particularly to the deployment of a UN mission under Chapter VII, which in his view would have amounted to the recolonisation of Sudan. He cited resolution 1679 (2006), adopted under Chapter VII, as an example of bad faith by the international community.¹⁴ Nonetheless, the UNSC outlined a seven-stage process that would culminate in the deployment of UN blue helmets.¹⁵ The plan included the provision of additional resources to AMIS to ensure that there was no hiatus during the transition period.

RESOLUTION 1706 AND THE AFRO-ARAB VOTE

As the debate on transition continued, the Security Council adopted Resolution 1706 (2006)¹⁶ expanding the mandate of the United Nations Mission in Sudan (UNMIS) to include deployments in Darfur. Twelve members of the Council (including the African member states, Ghana, which co-sponsored the resolution along with Congo and Tanzania) voted in favour of the Resolution, while China, Russia and Qatar, the only Arab country represented on the UNSC, all abstained, pointing to potential obstacles to its implementation. Both China and Russia have strong interests in Sudan (oil and armaments respectively) and so it was difficult to see how these two countries could put pressure on the GoS without jeopardizing their relationship. Additionally, China repeated its usual refrain of not interfering in the internal affairs of member states, breaking ranks with the rest of the UNSC and advocating a softly-softly approach. As will be seen later, the reluctance of these countries to put pressure on Sudan was mirrored on the question of the ICC indictment of President Bashir. In fact, China was one of four Security Council members – with Brazil, Algeria, and the United States – that abstained during the adoption of resolution 1593 (2005) referring Sudan to the ICC.¹⁷

Qatar's abstention was less surprising, since the League of Arab States (LAS), of which it is a member, had repeatedly voiced its support for the GoS, including its rejection of the proposed transition. Both the LAS and GoS either boycotted or sent low-level officials to the final deliberations leading up to Resolution 1706. They questioned the appropriateness of the resolution. Meanwhile, LAS's refusal to release the report of its fact-finding mission to Darfur in 2005 raised questions about its willingness to criticise one of its own. LAS's support for the GoS is viewed by some as a clear case of 'double standards', on three counts. First and foremost, the vast ma-

¹² *Communiqué* of the 46th Meeting Peace and Security Council, Addis Ababa, Ethiopia, PSC/MIN/Comm. (XLVI), 10 March 2006.

¹³ Statement by the President of the Security Council, S/PRST/2006/05, 3 February, 2006

¹⁴ Resolution 1679(2006), Adopted by the Security Council at its 5439th Meeting, S/RES/1679 (2006), 06 May 2006.

¹⁵ See: Report of the Security Council mission to the Sudan and Chad, S/2006/433, 4-10 June 2006.

¹⁶ Security Council Resolution 1706 (2006), SC/8821, 31 August 2006.

¹⁷ Security Council Resolution 1593 (2005), SC/8351, 31 March 2005. This was significant because it marked the first referral by the Security Council of a case to the ICC.

majority of the victims in Darfur are Muslims. Second, there has been a stark contrast between the usual activism and public manifestations of anger by the LAS and the Arab public over the 'plight' of Muslims, whether in Bosnia, Chechnya, Palestine or Kashmir, and the response to the Darfur crisis, where a deafening silence is all that has been heard. Third, the absence of financial and humanitarian support for the AU peacekeeping mission and the large numbers of internally displaced persons by LAS was a further manifestation of the group's indifference to the crisis. This has led some, including the author, to wonder whether LAS places a greater premium on the lives of the Muslims in the aforementioned places than those in Darfur.

For his part, President Bashir sharply criticised the African members of the UNSC for supporting what his government viewed as a neo-colonial agenda; this, despite the fact that the AU, with the consent of Khartoum, was leading peacemaking efforts in Darfur. In playing the neo-colonial card, President Bashir was hoping to win the sympathy of AU members, but this discourse failed to resonate with the vast majority of members. The reason is straightforward enough; having adopted one of the most 'interventionist security regimes' anywhere in the world for war crimes, crimes against humanity and genocide, the AU could not have afforded to look the other way. Secondly, with the trauma of the Rwandan genocide fresh in the minds of many, the AU was less sympathetic to the GoS's position. Thirdly, the AU was frustrated by the repeated problems which its peacemaking efforts ran into, including the obstruction of AMIS from implementing its mandate. Khartoum's invocation of neo-colonialism might have worked had it not frustrated and undermined the AU's peacemaking efforts. However, emboldened by support from the LAS and key members of the UNSC, the GoS continued its military push against the rebels, further undermining the position of the AU which was increasingly perceived by the armed groups and their civilian sympathisers as weak and ineffective.

Meanwhile, the cardinal principle of consent in UN peacekeeping became a thorny issue in the proposed transition, highlighting at least two challenges for the AU. First of all, the issue exposed the complexities the AU faces in implementing its interventionist security regime, which calls for intervention in situations involving crimes against humanity. The Darfur crisis, coming a year after the inauguration of the AU with an ambitious peace and security agenda, exposed the political and operational challenges of implementing such an intrusive agenda. Politically, the AU had to walk a fine line between adhering to its stated principles, while ensuring the continued support of its members. At the same time, upholding its principles was critical as it sought to offer a clean break from what were widely viewed as the timid policies of its predecessor, the Organisation of African Unity (OAU). The OAU was criticised for its inaction against member states with poor governance and human rights record. Consequently, inaction by the AU in this instance could have undermined its standing with members, as well at the international level. There was added pressure from those civil society organisations which had adopted the Darfur cause as their own, and were calling for intervention. So, despite the political and operational constraints that confronted the nascent organisation, indifference was not an option.

Secondly, at the global level, the crisis drew attention to the contradictions between existing international principles and emerging concepts such as the Responsibility to Protect (R2P). The Darfur crisis, more than any contemporary conflict, has brought to the fore the challenges of reconciling existing norms and emerging concepts. While the crisis met or even surpassed some of the thresholds for invoking R2P – such as the complicity and unwillingness of the GoS to end the violence - navigating the issue of consent proved especially difficult. Caught between these competing challenges, the international community dithered at the expense of thousands of lives in Darfur. Debates about the appropriateness of invoking the concept meant that R2P was subject to varied interpretations, exposing the tensions surrounding intervention even where its pre-conditions are met. These dilemmas raised several as yet unanswered questions for the AU and the wider international community regarding the compatibility of existing norms and concepts such as *sovereignty, consent, and R2P*.¹⁸ Meanwhile, it was obvious that the GoS objected to a UN peace operation due to concerns that such a force could be used to arrest senior government officials indicted by the ICC, the latter itself a part of the changing landscape of international norms and the institutions which interpret them.

¹⁸ For a comprehensive discussion of the concept and its application, including in Darfur, see Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All*, Brookings Institution Press, 2008.

ENTER THE ICC

The warrant of arrest¹⁹ issued for President Bashir by the ICC, on 4 March 2009, added another complex layer to the crisis, threatening to overshadow not only efforts to deploy the hybrid AU-UN force, UNAMID – a process that has been painfully slow – but to erode progress in terms of the implementation of the CPA. There were also concerns that differences between the UNSC and the PSC over the indictment could complicate their evolving partnership with negative consequences for the faltering peace process in Darfur. The decision split the two Councils, as the PSC made repeated requests to the UNSC to suspend the warrant by invoking Article 16 of the Rome Statute. To their surprise, their requests failed to elicit a positive response from the UNSC.

Three Permanent Members of the Security Council – the UK, U.S. and France – insisted that the ICC process should be allowed to run its course. For the most part, the trio maintained their support for the indictment, despite some flip-flopping by President Nicolas Sarkozy of France, who in several moments offered to support a suspension of the indictment if Sudan agreed to meet certain conditions, including full cooperation with UNAMID. These offers however, elapsed but had the unintended effect of widening the rift between the two Councils because the PSC felt that the UNSC might have considered France's request for a suspension based on the usual *quid pro quo* which operates among the five permanent members of the UNSC, having conspicuously ignored its own requests.

The U.S., though not a state party to the ICC, under both President Bush and President Obama supported the indictment. However, China and Russia, the other two Permanent Members of the UNSC, expressed doubts about the efficacy of the move arguing that Khartoum should be given time to deal with what both countries perceived as a domestic affair. But despite their objections neither has offered to champion the AU's call for a suspension of the indictment.

Although the AU did not object to the indictment *per se*, it expressed alarm at the poor timing which, in its view, could exacerbate the Darfur crisis; this, despite two African members of the Security Council (Benin and Tanzania) voting in support of the referral in 2005. The third AU member on the UNSC, Algeria, abstained in the vote on Resolution 1593 (2005)²⁰ which was adopted with 11 votes and 4 abstentions (with Brazil, China and the U.S.). The AU was also concerned that the timing would complicate peacemaking efforts in Darfur and potentially undermine the CPA²¹ and expressed fears about the safety of UNAMID personnel, the bulk of whom are Africans. The AU feared that any reprisals by Khartoum and its militia allies would be directed at its personnel on the ground. The AU's response to the warrant was summed up by Jean Ping, Chairperson of the AU Commission, who tried to walk the tightrope between dealing with peace and justice when he stated that '...we support the fight against impunity; we cannot let crime perpetrators go unpunished. But we say that peace and justice should not collide, that the need for justice should not override the need for peace.'²² Supporters of the AU on the issue of timing, including this author, point to the fact that, unlike the tribunals for the former Yugoslavia and Rwanda, and the Special Court for Sierra Leone, the ICC is a permanent institution and as such, its activities are not dictated by timelines, as is the case with the *ad hoc* tribunals. The rationale of the ICC's ill-timed move is what is to be questioned, especially given its potential to destabilise the various peace processes in Sudan with wider regional consequences.

More generally, the indictment touches on the dilemma of whether peace should be pursued before justice or justice before peace, a sequencing dilemma that confronts most post-conflict societies. This is a fundamental challenge for the AU given that it is committed to resolving conflicts characterised by crimes violating its founding principles.

¹⁹ Warrant of Arrest for Omar Al Bashir, ICC-02/05-01/09-1, 4 March 2009.

²⁰ Security Council Resolution 1593 (2005), SC/8351, 31 March 2005.

²¹ Peace and Security Council Communique, 21 July, 2008. PSC/MIN.Comm (CXLII).

²² Modupe Ogunbayo, "Moment of Reckoning for Al-Bashir," *Newswatch*, March 2009. This article can be found at: http://www.newswatchngr.com/index.php?option=com_content&task=view&id=697&Itemid=41.

THE AU HIGH-LEVEL PANEL ON DARFUR

The establishment of an independent High-Level Panel on Darfur (AUPD) by the PSC following the issue of the arrest warrant for President Bashir was perhaps the most practical step the AU took in facing up to the dilemma. The panel, consisting of eminent Africans, was mandated to 'examine the situation in depth and submit recommendations to the Council on how best the issues of accountability and combating impunity on the one hand, and reconciliation and healing on the other, could be effectively and comprehensively addressed...'²³ The panel was established against the backdrop of a growing concern among African leaders of what they perceive as the abuse of the principle of universal jurisdiction. These concerns were described by a 2008 AU summit as '...a development that could endanger international law, order and security'²⁴ pointing to what the summit viewed as the political nature of legal proceedings initiated by non-African judges, most notably from France and Spain, against officials in the current government of Rwanda, including President Paul Kagame. These judges' actions amounted to a violation of Rwanda's sovereignty and territorial integrity, according to these critics. Subsequently, the summit called on its members to disregard such arrest warrants and EU member states to impose a moratorium on any detentions until the matter had been fully discussed in all its diplomatic, political and legal complexity, by the AU, the EU and the UN.²⁵

The panel marks an important step in the AU's response to the ICC decision and the need to strike an appropriate balance between dealing with impunity and promoting peace and reconciliation. It is to be hoped that the panel's recommendations will contribute to shaping the AU's response to the ever shifting justice *versus* peace dilemma. The AU is faced with the challenge of treading the fine line between upholding its principles on the one hand, and promoting peace and reconciliation on the other. The UN has plugged the gap in the absence of an AU framework and/or capacity to bring the perpetrators of such crimes to justice through *ad hoc* institutions such as the International Criminal Tribunal for Rwanda²⁶ (ICTR) and the Special Court for Sierra Leone²⁷ (SCSL). However, the operations of the Tribunal and the Special Court brought to the fore several issues relating to *ownership*, cost and *legacy*. Criticisms have been voiced by some as to the undue influence the international community has exerted over their operations; this is due to the fact that funding was provided primarily by western countries, especially in the case of the SCSL. Another issue was the high cost of the trials in relation to the number of those indicted, as well as the legacy of the courts, more specifically, their impact on national judicial systems.²⁸

Despite its far-reaching recommendations which included the establishment of a hybrid court, some had raised doubts as to the impartiality of the High-Panel due to the AU's decision not to cooperate with the ICC. Following the decision, some armed groups in Darfur refused to meet with the panel accusing it of trying to protect President Bashir. But these concerns proved unfounded as the High-Panel made some bold recommendations and was critical of the government of Sudan. For instance, the panel criticised the government's response to crimes in Darfur, describing its efforts as '...ineffective and confusing... it has also failed to obtain the confidence of the people of Darfur.'²⁹ In line with its mandate, the High-Panel did not take a position on the ICC's indictment

²³ Ibid. The eight member High-Level Panel headed by former South African President, Thabo Mbeki, consists of two other former presidents: Pierre Buyoya (Burundi) and General Abdulsalami Abubakar (Nigeria). The other members are Rakiya Abdullahi Omar, Director of African Rights (Somalia); Tiéblé Dramé, former minister (Mali); Al-Hajji Mohammed, Special Envoy of former President Olusegun Obasanjo on the trial of suspects of war crimes and human rights violations in Darfur, (Nigeria); judge Florence Mumba (Zambia) and Ahmed Maher, former foreign minister (Egypt).

²⁴ Decision on the Report of the Commission on the Abuse of the Principle of Universal Jurisdiction, DOC.EX.CL/411 (XIII), 3 July 2008. In January 2007, A French judge indicted President Paul Kagame of Rwanda and nine senior Rwandan officials for shooting down the plane carrying the former Rwandan President Juvenal Habyarimana and his Burundian counterpart. This crime marked the commencement of 100 days genocide which left an estimated 800,000 Tutsi's and moderate Hutu's dead.

²⁵ Ibid

²⁶ Security Council Resolution 955, S/RES/955 (1994) On 8 November 1994, the Security Council adopted Resolution 955 'to establish an international tribunal for the sole purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994...'

²⁷ For details see the 'Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone,' signed on 16 January, 2002. The SCSL was mandated to 'prosecute those who bear the greatest responsibility for serious violation of international law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996.'

²⁸ For more on the legacy issue see, Vincent O. Nmeihille and Charles Chernor Jalloh, 'The Legacy of the Special Court for Sierra Leone,' *The Fletcher Forum of World Affairs*, Summer 2006 Vol 30:2.

²⁹ Wasil Ali, "AU Mbeki panel makes implicit endorsement of ICC prosecutions in Darfur," *Sudan Tribune*, 23 October, 2009. Article can be accessed from: <http://www.sudantribune.com/spip.php?article32878>. Accessed 23/10/09

of President Bashir, or the call by the AU and the League of Arab States for a suspension of the warrant. Instead the panel adopted a balanced approach by recommending *restorative* and *retributive* forms of justice. To further reconciliation and healing, it called for the establishment of a Justice, Truth and Reconciliation Commission (JTRC) and a hybrid court to try those responsible for serious crimes in Darfur with the aim of enhancing accountability, since the ICC can only handle a relatively small number of cases. The passing reference to the ICC is itself already an implicit acknowledgement of the ICC's role in securing justice for the victims of the Darfur conflict. By all accounts, the panel's recommendations were far-reaching and groundbreaking, vindicating it in the eyes of its critics. Now it remains to be seen whether Khartoum will comply with the recommendations and, if it fails to do so, whether the AU will demand it does so, and if so, how. Early indications are not promising, since the GoS had already indicated that it would not abide by any recommendation calling for the establishment of a hybrid court on the grounds that such a body would amount to a violation of its constitution and sovereignty.

The AU's decision not to cooperate with the ICC came as little surprise given the support of AU chairperson and Libyan president, Colonel Muammar Gaddafi, for President Bashir and the former's staunch opposition to the ICC.³⁰ But efforts to present the decision as one based on consensus failed as several states - Botswana, Ghana, Chad and later South Africa - distanced themselves from the decision, promising to abide by their treaty obligations. But despite their objections, Chad was the only country that officially registered its reservation when the decision was taken in Tripoli. This was not surprising given the bad blood between Khartoum and Ndjamena. It was apparent though that even some state parties that objected to the move did so out of frustration with the UNSC, which had ignored the PSC's requests for a suspension of the indictment.

The AU's frustration was expressed by Ghana's foreign minister - despite his country's opposition to the AU decision - when he stated that 'We have been a little unhappy about the whole process... the AU actually addressed a resolution to the Security Council asking the SC to defer the warrant for one year, and it was virtually ignored. That we thought was a slap.'³¹ Thus, the AU's decision not to cooperate with the ICC was directed at the UNSC for being unresponsive to its request, with the ICC being the immediate casualty of the failed dialogue between the two organisations. This development does not bode well for their evolving partnership, something essential given that the bulk of the UNSC's work is on Africa, not to mention the growing profile of the PSC on the continent and at the international level. How such differences are dealt with in the future will determine the strength of partnership between the two institutions.

Meanwhile, the response of individual AU member states was varied. While Senegal and others openly voiced their concerns over the move, Botswana applauded it and Libya vociferously rejected it, calling on African states to withdraw their membership of the Court. Although the chances of a mass walk out by African states as advocated by Libya is remote, the ICC needs to embark on a charm offensive to fend off criticisms of bias from certain African countries including signatories of the Rome Statutes. Part of this offensive should include a clear demonstration by the ICC that it can go where the evidence leads it and is not deterred by the whims of the powerful members of the international community, as is the case right now. The stakes are high for both Africa and the ICC, and it is not in the interest of either to be seen as obstructing justice or peace. The challenge is how to ensure that peace and justice are viewed as complementary rather than mutually exclusive.

One of the unintended consequences of the ICC's indictment of president Bashir and perceptions about the abuse of the principle of universal jurisdiction has been the bolstering of the AU's determination to establish an African criminal justice mechanism instead of referring cases to the ICC. In this vein, a meeting of the AU's executive council in Kampala, Uganda, led to the idea for an organisation of its own being adopted.³² Although this is a laudable

³⁰ "Decision on the Meeting of African State Parties to the Rome Statute of the International Criminal Court," Doc Assembly/AU/13/XIII, Sitre, Libya, 3 July, 2009. This document can be accessed at: [http://www.africaunion.org/root/au/Conferences/2009/july/summit/decisions/ASSEMBLY%20AU%20DEC%20243%20-%20267%20\(XIII\)%20_E.PDF](http://www.africaunion.org/root/au/Conferences/2009/july/summit/decisions/ASSEMBLY%20AU%20DEC%20243%20-%20267%20(XIII)%20_E.PDF). Accessed 22/07/09

³¹ AU Votes against cooperating with ICC arrest for Bashir, France24, 3 July 2009. This article can be found at: <http://www.france24.com/en/20090703-african-union-votes-end-cooperation-over-bashir-indictment-sudan-icc-darfur>. Accessed 22/07/09

³² Cyprian Musoke, "Leaders to Strengthen African Court" New Vision, Kampala, Uganda, 21 October 2009

move that could ensure African ownership on the one hand and accountability for crimes against humanity on the other, the AU needs to take concrete steps to bridge the gap between its decisions and the poor record of implementation. For instance, commitment of resources remains a big challenge as most of its members are either still too poor to make a meaningful contribution or those with resources have their priorities elsewhere.

THE RESPONSE OF CIVIL SOCIETY

At another level, the AU's decision drew heavy fire from African civil society organisations, condemning the move and calling on individual states to respect their treaty obligations. Even before the AU summit, a group of African civil society organisations met to discuss the implications of the AU's position on the abuse of the principle of universal jurisdiction and the activities of the ICC on the continent. In their final statement, the group called on African states to reaffirm their commitment to ending impunity in accordance with AU's Constitutive Act, and other regional and international legal instruments. The group also called on non-signatories to endorse the Rome Statute to ensure its universality on the continent. Additionally, they called on civil society to put pressure on African governments to ensure that they respect their legal obligations under a number of different instruments.³³

The seeming disconnect between the AU and civil society on this issue has two possible explanations. It may be that AU member states are out of synch with their populations if we take it for granted African civil society organisations are representative of broad sections of their own society. On the other hand, it may simply be that AU member states are putting regime security ahead of human security. While the latter may be a somewhat unfair generalisation given some of the bold decisions by the PSC, it nonetheless captures neatly the unresolved tension in terms of the approach and conception of security, with civil society more preoccupied with human security and some governments focused on regime security.

THE ARAB RESPONSE

Unsurprisingly, Arab members of the AU and the LAS were unanimous in rejecting the ICC decision. Like the AU, the LAS called on the UNSC to suspend and even drop the indictment. Driven by different interests and motivations, the AU and the LAS found common ground in their opposition to the ICC decision. While the position of the AU is somewhat surprising, the same cannot be said of the LAS, which has backed the GoS even in the face of evidence of war crimes in Darfur. LAS member states including Qatar, Algeria, and Libya either openly supported President Bashir or at best abstained during voting at the UNSC. This seriously compromised any impartial peacemaking role that the LAS or its individual members could play in the future. The involvement of any of these states would require a great deal of confidence-building with the armed groups in Darfur. Lacking any feasible operational role given its internal dysfunctions, the LAS could have had exerted more political leverage on the GoS than any other organisation, including the AU. But the opportunity was squandered.

That the LAS provided minimal financial and humanitarian support to AMIS and the internally displaced in Darfur was another manifestation of its indifference to the plight of civilians caught up in the crisis. In fact, Canada alone provided more financial and logistical support to AMIS than the 22 members of LAS put together.³⁴ This at a time when some members of LAS, most notably Saudi Arabia and the Gulf States, were reaping the benefits of the oil bonanza, something that has raised a lot of troubling questions.

³³ "Statement by representative of African civil society and the legal profession on the implications of the African Union's recent decisions on universal jurisdiction and the work of the International Criminal Court in Africa," Cape Town, South Africa, 11 May 2009.

³⁴ Canada provided 18 utility helicopters and 103 unarmed Armoured Personnel Carriers (APCs). For detail see James Mackie, A.M.S. Bah, Jonas Frederiksen and Stella Sabiiti "Mid-Term Evaluation of the African Peace Facility Framework Contract (9ACP RPR 22) 250 M€, " Evaluation Commissioned by the European Commission, Maastricht, 19 January, 2006.

The question on everybody's lips, but which few dare to ask openly, is whether the fact that the victims in Darfur are black Africans - albeit predominantly Muslim - shape the position of Arab states and Arab public opinion? Weighed against LAS's consistent condemnation of the suffering of Muslims elsewhere in the world, the answer is somewhat obvious. LAS's open support for the GoS, repeating ad nauseam Khartoum's position that the conflict is nothing more than a *tribal* war between pastoral tribes demonstrated its bias as it contributed to distorting the real causes of the conflict. Indeed Libyan President, Colonel Gaddafi, went so far as to describe the conflict as a "quarrel over a camel."³⁵ This stands in stark contrast to what the Bush administration described as genocide, despite its subsequent failure to follow through with concrete action.

The effect of such language by Arab leaders has been to further weaken the role of the LAS in the peace process. Unsurprisingly, recent efforts by the LAS on the one hand and then Qatar to help resolve the conflict were viewed as an attempt to protect President Bashir from the ICC, no doubt because it was the ICC indictment which sparked their interest. Just like the AU-led peace talks in Abuja, Qatar's efforts are bound to falter for similar reasons, namely, a lack of inclusiveness and impartiality. So far, only the government and JEM are involved in the talks, with the third party, which has a large following in Darfur, staying out of the process.

JOINT AU-UN MEDIATION

The Joint AU-UN mediation team attempted to jump start the peace process without success. Initially led by two mediators, Salim Ahmed Salim and Jan Eliasson from the AU-UN respectively, the joint mediation team was tasked with bringing the warring parties together, something it failed to accomplish. The AU and UN were criticised for appointing two part-time mediators to lead a process which required full-time commitment. Djibril Yipènè Bassolé, former Foreign Minister of Burkina Faso, was appointed joint-mediator. But Bassolé was unable to reinvigorate the peace process, as the parties showed little inclination to negotiate. Instead, some of the armed groups seemed emboldened by the indictment.

In the wake of the ICC decision, some of the groups refused to negotiate with the government, arguing that they would not sit down to talks with an indicted war criminal. The negative effects of the indictment on the peace process was summed up by Senegalese President, Abdoulaye Wade: 'The accusations of President Bashir by the International Criminal Court have come to complicate things, because the rebels now say, "how can we now negotiate with a president who's going to go to prison", so that's what caused a setback in negotiations with the rebels.'³⁶

There is no doubt that the Qatar peace process - though carried out in collaboration with the joint AU-UN mediation - further complicates the situation since Qatar is not viewed as impartial by all parties. Additionally, Qatar and Egypt continue to squabble over who plays host to the peace process, something which could lead to alternative forums. This breaks a cardinal rule in mediation, namely, the need for unity and one voice. Failure to adhere to this rule has often resulted in 'forum shopping' by belligerent parties, giving them an opportunity to play one mediator off against another. The joint mediation's involvement in the Qatari peace process, the Qatar-Egypt spat, and other initiatives underway, all threaten to undermine the joint mediation, as it risks ceding control of the process to actors who do not enjoy the confidence of all the belligerent parties.

³⁵ Mumar Gaddafi, "Darfur: Quarrel Over a Camel," BBC news, 23 October, 2007. This article can be accessed from: <http://news.bbc.co.uk/2/hi/africa/7058671.stm>. Accessed 30/04/09.

³⁶ "World Reaction: Bashir Warrant" BBC Africa News, <http://news.bbc.co.uk/2/hi/africa/7923797.stm>

CONCLUSIONS AND RECOMMENDATIONS

It is evident that north and sub-Saharan members of the AU and wider Arab world have differed in their responses to the conflict in Darfur. While sub-Saharan African countries have been more concerned with the human right abuses, their North African counterparts have been more preoccupied with shielding the Sudanese government from international pressure by insisting that the conflict is a domestic issue and should be dealt with as such. These differences have become more pronounced since the arrest warrant for President Bashir and the AU's decision not cooperate with the ICC. North African states, most notably Libya, pushed for the decision, as some sub-Saharan members broke ranks with the AU. In fact, with the exception of Eritrea, Ethiopia and Zimbabwe, President Bashir's defiant visits following the warrant were limited to North Africa and the Middle East; in addition, several planned visits to South Africa and Uganda were cancelled due to uncertainties about the reception in those countries.³⁷ Additionally, President Bashir even skipped the special PSC summit in Abuja, Nigeria, convened to discuss the High-Panel's report.

Meanwhile, the indictment of President Bashir revealed two key issues. First, it exposed the fault lines in Afro-Arab relations in the AU and beyond. The responses of Arab members of the AU and their sub-Saharan counterparts were starkly different; sub-Saharan members favoured the move while their counterparts in the North objected to it. Second, the indictment refocused attention on the unresolved dilemmas of dealing with peace and justice. The AU's decision to set up the High-Level Panel is a good first step that could serve as a foundation for the AU's broader response to this on-going dilemma. How the AU responds to these challenges will lay the foundations for greater consensus on issues of transitional and international justice in post-conflict environments.

More broadly, the AU's mediation efforts at the inter-Sudanese talks in Abuja highlighted some valuable lessons. The first of these is that imposing deadlines without the leverage and means to implement sanctions is counterproductive, as it eventually undermines the credibility of the mediator. Second, timing is critical as it determines whether belligerents view the battlefield as the strategic front thereby minimising the chances of a negotiated settlement. Thirdly, ownership of both the mediation process and the outcome is essential for implementation. The AU lost ownership of the peace process, since the 'quartet' keen on concluding the talks pressured the parties, which ultimately lead to a flawed agreement.

Finally, the AU's peacemaking efforts in Darfur exposed its limitations in dealing with intransigent member states. It was obvious that the Government of Sudan preferred the AU because it was a softer option due to its operational and political constraints. Politically, the GoS calculated that the AU would be less assertive as a hard-line might alienate some its members. Meanwhile, the AU's intervention, especially the deployment of peacekeepers, served as an alibi for the international community. That there were AU peacekeepers in Darfur helped the international community respond to the pressure from advocacy groups in their countries by citing their support for the AU, despite their full knowledge of the inadequacies of that support.

³⁷ Xan Rice, "Sudanese president Bashir flouts war crimes indictment with visit to Egypt," *The Guardian*, 25 March 2009. This article can be found at: <http://www.guardian.co.uk/world/2009/mar/25/sudan-middleeast>. Accessed 30/07/09; Henry Mukasa, "Sudan: President Skips Kampala Conference", *the New Vision*, Kampala, Uganda, 16 July 2009. This article can be accessed from: <http://allafrica.com/stories/200907300007.html>. Accessed 30/07/09. "Sudanese president to skips Zuma's inauguration," *The Sudan Tribune*, 9 May 2009. This article can be found at: <http://www.sudantribune.com/spip.php?article31109>. Accessed 30/07/09

BASED ON THE ABOVE, THE FOLLOWING RECOMMENDATIONS CAN BE MADE.

- I. The AU should critically examine Afro-Arab relations as a way of improving its partnership with the League of Arab States and its Arab members. This is critical because the AU's peacemaking efforts partially floundered due to the uncomplementary policies of some of its Arab members and the wider LAS.
- II. Closely related to the above, the AU should explore ways of enhancing the partnerships that emerged from Darfur by making sure that lessons from these partnerships are properly understood and internalised by the institution. However, in doing so, the AU should guard against partnerships that contradict its commitment to promoting and enhancing human security on the continent.
- III. The AU should ensure that when it leads a peace process, it enjoys the support of its members and that of the wider international community. In addition, it is critical to ensure that the negotiating parties have a strong sense of ownership of the process, as this increases compliance and cooperation in implementing subsequent peace agreements. To do this, external parties should resist imposing deadlines as a strategy to securing an agreement and should respect the leadership of the AU.
- IV. The AU and African civil society organisations should engage more comprehensively, bridging the gap on issues like their understanding of security and transitional justice in its various aspects. Although it is unrealistic to expect a uniform response from diverse bodies driven by different motives and modus operandi, establishing some kind of broad consensus on general principles of human security, justice and peace is critical, as it would enhance cooperation among these actors, potentially empowering the AU's peacemaking efforts.
- V. The AU should endeavour to coordinate and, to the extent possible, harmonise its initiatives on issues of transitional justice such as the proposed African Criminal Court with other international actors, most notably, the UN. Proper coordination would have positive benefits.
- VI. Finally, AU peacemaking efforts should be guided by the overarching desire to enhance human security which is at the core of its founding charter, the Constitutive Act. Any deviation from this will undermine its credibility and weaken its ability to enforce its ambitious peace and security agenda in the region.

FRIDE

— A EUROPEAN —
THINK TANK FOR GLOBAL ACTION



Calle Goya 5-7. 28001 Madrid
e-mail: fride@fride.org
www.fride.org

“The Gap Between Narratives and Practices. Darfur: Responses from the Arab world”

Project Director: Pierre Schori
Project Coordinator: Isabel Moreno

With the financial support from the Ford Foundation

About FRIDE

FRIDE is an independent think-tank based in Madrid, focused on issues related to democracy and human rights; peace and security; and humanitarian action and development. FRIDE attempts to influence policy-making and inform public opinion, through its research in these areas.