

## **Humanitarian Crisis in Darfur: Implications for the United Nations and the African Union.**

**Dr. Fako Johnson Likoti**

**Msc HRD (Reading), MSOCSC IR (UCT), PhD (UWC)**

**Department of Politics and Administrative Studies**

**National University of Lesotho**

**P.o.Roma 180**

**Lesotho**

**E-mail:fakolikoti@yahoo.co.uk**

**: jflikoti@nul.ls**

### **Biography**

Dr Likoti is a lecturer in the Department of Politics and Administrative Studies at the National University of Lesotho. He specialises in international relations. He is a graduate of the Department of Southern African Studies, School of Government at the University of the Western Cape in South Africa. His PhD thesis was titled "African Military Intervention in African Conflicts: An Analysis of Military Intervention in Rwanda, the DRC and Lesotho". He also holds two Masters Degrees, one from University of Cape Town in International Relations and Masters of Social Science in Human Resources Development from University of Reading, in United Kingdom of Great Britain and Northern Ireland.

## **Humanitarian Crisis in Darfur: Implications for the United Nations and the African Union.**

### **Abstract**

The case of Sudan Darfur has created major challenges to the international community. The main question being that, why after the Rwandan genocide the United Nations (UN) is not intervening in Sudan? The Khartoum government together with its allies the Janjaweed has engaged in proxy war and continues to massacre people of Darfur, therefore, worsening the humanitarian catastrophe in this province. This humanitarian crisis appears to be escalating despite several international, continental and domestic initiatives to bring it normality. The crisis is taking place despite high expectations of international and regional peace on the part of most analysts after the collapse of cold war in 1989. Intrastate conflict in Sudan appears to have re-emerged with more intensity than ever before, as compared to other areas in sub-Saharan Africa. The purpose of this analysis is fourfold; firstly, the paper sets out to analyse the conflict in Darfur and suggests measures that can be taken by the UN to alleviate the Darfurians suffering. Secondly, in analysing this conflict, the paper traces the development of humanitarian intervention, and presents various circumstances, which justify UN intervention in situations where human lives are at stake. Thirdly, to investigate the degree within, which, humanitarian intervention is necessary in Darfur and why both the UN and the Africa (AU) have been slow to intervene. Finally, the paper concludes that since the Sudanese government has failed to protect its citizens from actions that alarm human conscience; it qualifies to be a candidate for the UN humanitarian intervention. The UN is therefore obliged to intervene in Darfur in order to save Darfurians from the blood bath.

**Keywords: Darfur, Sudan, Intervention, Military, Janjaweed, Peace.**

### **Introduction**

Few years after the genocide in Rwanda, the world is challenged by yet another conflict in Darfur Sudan. The conflict in Darfur, displaced approximately 1.85 million people of whom, 200,000 have fled into Chad (Sudan2005). More than 50,000 people have died since the crisis began early 2003. The violence has driven more than 1.5 million people to refugee camps (Sudan2005). Approximately 200,000 fled to neighbouring Chad. The escalation of atrocities as a result of the war has compelled the UN to describe the region as the world's worst humanitarian crisis. This is because an estimated 2.3 million people are reliant on aid to survive.

The government of Sudan and its militia, the Janjaweed, are alleged to be behind these atrocities. The international community has also become aware of the Sudanese involvement in this war. In order to normalise this situation, numerous ceasefire Agreements which were spearheaded by both the UN and the AU have been violated by both the Sudanese government and its partner, the Janjaweed. In fact, one, of the recent reports from the House of

Commons International Development Committee (IDC) on Sudan argues, “when a government commits atrocities against its own citizens, then the international community has a responsibility to protect the people” (Human Rights Watch Report 2004). Conversely, these violations were compounded by the inadequate monitoring capacity by the AU military observes who are thin on the ground. Several calls have been made from numerous quarters to strengthen the AU forces and the UN to intervene in order to save the Darfurians from the slaughter, in vain (Appiah- Mensah, 2005:pp.9-20).

### **The Case of Darfur, Sudan**

The Sudanese government has been active in fuelling atrocities in Darfur. According to Human Rights Watch reports and other sources, (Human Rights Watch Report 2004) the Government of Sudan and the nomadic ethnic militias known as the Janjaweed (Presidential Political Degree 2004, Joint Communiqué 2004, Sudan 2004)<sup>1</sup> have operated together in spreading murder and mayhem in southern Sudan. The report demonstrates that the Sudanese government not only armed and clothed these rebels, but it also paid their salaries and supplied them with communication. It says that “government officials ... have participated in joint ground attacks on civilians with government troops, often with aerial bombing and reconnaissance support from government aircraft” (Presidential Political Degree 2004). The government backing and aerial support enabled the Janjaweed to operate with ease in this area without being checked. For instance, in early January 2005, the Sudanese government

“undertook an aerial bombardment of Askanita village and its surrounding localities. In addition, the GoS-backed Arab militia vented its wrath on Salokoya village on 10 January 2005, fully backed by the GoS forces, leaving many civilian casualties in its wake. On the 13 January, the Janjaweed, supported by

---

<sup>1</sup> The term “Janjaweed” has become the source of increasing controversy, with different actors using the term in very different ways. Literally, the term is reported to be an amalgamation of three Arabic words for ghost, gun, and horse that historically referred to criminals, bandits or outlaws. In the wake of the conflict in Darfur, many “African” victims of attacks have used the term to refer to the government-backed militias attacking their villages, many of whom are drawn from nomadic groups of Arab ethnic origin. The Sudanese government and members of the government-backed militias themselves reject the name “janjaweed” and appear to use the term “janjaweed” to refer to criminals and outlaws.

GoS military vehicles, attacked Hamada, leaving about 30 people dead (Report of Ceasefire Commission 2005).

These atrocities took place during the month of January 2005 alone. The question is, how long should the UN wait before intervening in order to save the Darfurian from their government and Janjaweed militias? It can be argued that government support also illustrates its covert strategy to implement its policy of ethnic cleansing in this area while the AU has been making rhetoric statements without operationalising its Articles. According to *Human Rights Watch*, a top Janjaweed militia leader, Musa Hilal (in a video) interview states,

the government of Sudan directed all military activities of the militia forces he (Musa Hilal) had recruited. "All of the people in the field are led by top army commanders." He told *Human Rights Watch* on videotape that. "These people get their orders from the Western command center, and from Khartoum. Musa Hilal squarely contradicts the government's claim that it has 'no relationship' with local militias," (Darfur 2005).

Despite this clear evidence, the Sudanese government continue to deny any association with the Janjaweed militias. Musa Hilal has been alleged to have committed serious atrocities, murdering and abducting women and children under the orders of the Khartoum government. He was also armed and uniformed by the Khartoum government to conduct its dirty work on black Africans. In spite of the mounting international pressure against the Sudanese government to disarm the Janjaweed and other armed outlawed groups sympathetic to the regime, the Khartoum government has absorbed these groups into the police and other paramilitary forces operating in this region.

Judging from the above situation in Darfur, the UN is obliged to intervene in Sudan to protect the Darfurians, irrespective of whether the Sudanese government wills it or not. The dilemma of humanitarian intervention lies in the controversy of the concept itself. The concept is more controversial when it takes place than when it fails to take place, as it was the case in Rwanda, in 1994, where the consequences were severe. While humanitarian intervention is aimed at alleviating people's suffering (Thusi2001) and saving lives during

the period of crisis and violence, it remains controversial because the international community's response to crises has been mixed. For instance, the international community withdrew UN troops in the Great Lakes Region in Rwanda when they were most needed to prevent the genocide that was in the process. Thompson argues that:

ironically, in creeping cases of violence, when neither the international nor the regional community is interested due to the relative unimportance of the situation, humanitarian interventions may be minimal or too late or both. The Rwandan genocide in 1994 is a clear case in point (Thompson 2001:p.7).

When the international community judges cases differently this makes the concept of humanitarian intervention even more complicated. It becomes difficult for this intervention to be wholly neutral or impartial. Nonetheless, Thusi argues that humanitarian intervention tends to fail because it focuses on short-term programmes, without taking a deeper look at the root causes of the conflict at hand. The controversy surrounding this concept has always been the fact that it produces mixed results. In most cases humanitarian intervention has failed to "mitigate violent conflict and help reduce human suffering" (Thompson 2001:p.40). The failure of the humanitarian intervention, according to Thusi, has resulted in several questions such as: "can complex emergencies be prevented? Given the magnitude and proliferation of relief agencies in a given conflict, can humanitarian assistance be better coordinated?" (Thompson 2001:p.40).

In 2005 alone, there was a threatening trend of humanitarian violations in Darfur in any one-month of the year. These violations include those relating to a ceasefire and human rights abuses. In fact, "since the inception of Ceasefire Commission, there have been over 179 violations" (Appiah-Mensah 2005:p.14), with over 900 people killed and more than half of these deaths attributed to the Janjaweed. The figures may be much higher since these statistics are only those reported to the Commission. This was also because the region lacked modern infrastructure such as communication and roads. Darfur is also a very remote area, which is not easily accessible because of

lack of development. The humanitarian situation in Darfur therefore, remains dire and challenges both the UN and AU operations in the area.

The government of Sudan (GoS) appears not to be able or to be keen to disarm the Janjaweed militia. In the meanwhile, this development has provided this armed militia with the opportunity to continue their deadly mission of massacring innocent people as well as looting and burning their villages. This proxy force (the Janjaweed), together with the GoS have been pillaging and torching the villages and continue the perpetration of heinous crimes. This development has created a Hobbsian situation of war of all against all, where the state is failing to protect its citizens.

### **Humanitarian Intervention**

An ancient philosopher, Cicero (106-43 BC) once argued that, “assistance to suffering groups is a matter of justice, not morality”(Weiss and Collins1996: p.16). Therefore, by intervening in Darfur, the UN will be upholding the principle of justice. The doctrine of humanitarian intervention has strong roots in the moral political theory of Just War (*bellum justum*). In the development of the Just War theory, St. Augustine (354-430) argued that “the justness of action could be judged without evaluating the driving intention, so also with the state action of going to war”(Mushkat1986: p.278). St Thomas Aquinas (1224-74), on the other hand, argues that, war must be waged by a competent authority and there must be a just cause for it, so that those who were invaded must deserve to have been attacked. In this case, the UN intervention in Sudan will be just because the mission is to secure Darfurians by a body that is recognised by the world as the only competent body to conduct it. Furthermore, a “just cause for war could be found in self-defence, restoration of peace, assistance of neighbours against attack and, most notably, defence of the poor and the oppressed” (Mushkat1986). In a spirit to justify humanitarian intervention to save people from state oppression, Grotius (1583-1645) argued that “when that conduct was so brutal and large-scale as to shock the conscience of the community of nations”(Buergenthal1998: p.3, Thomas1956: pp.372-73), member states have a legitimate right to use force to rescue innocent people from the oppressive government from persecuting

its people. Even though Grotius wrote a long time ago, his description could not fit the Darfur situation better. For Suárez, the defence of innocent people, no matter where in the world, would be a just cause, (Mushkat1986, Gentili 1612:p.48) for that reason, the UN will be just to intervene in Sudan.

The history of military interventions can be traced back to the 1827 when England, France and Russia intervened in Greece to stop massacres and suppression of the population associated with insurgents, and “the intervention by France in Syria in 1860 to protect Maronite Christians”(ICISS2001: p.16, ICISS2000). This type of intervention was humanitarian in character because it was geared towards saving people’s lives. The ICISS argued that between 1827 and 1908, the European powers mounted five interventions against the Ottoman Empire to save Civilians from persecution.

The International Commission on Intervention and State Sovereignty (ICISS) argues that humanitarian intervention is associated with justifiable means of using force for the purpose of protecting the people within another state “from the treatment which is so arbitrary and persistently abusive as to exceed the limits of that authority within which the sovereignty is presumed to act with reason” (ICISS2001: p.17, Slim2004). It has become imperative that the UN must intervene in order to arrest this humanitarian crisis in Darfur.

Many attempts have been made by writers to properly define the term ‘humanitarian intervention’. Verwey describes the term ‘humanitarian’ as one of the most contested, legally controversial and obscure concepts in international law (Verwey1985). The controversy of humanitarian intervention lies in the fact that the sovereignty of the targeted state is being violated by whoever is intervening, even though it is on humanitarian grounds. To emphasize this point further, Rostow argues that the international system is predicated on the principle that each state is autonomous and therefore independent. This means that each country “has the right in its internal affairs to be free from acts of coercion committed or assisted by other states. This rule is basic to the possibility of international law” (Rostow1971). Similarly, the

concept of sovereignty grants state autonomy and the right to self-determination. This would also carry with it full legislative powers and rights to make laws and execute them (The International Law Commission 1949). Therefore, all states are equal and enjoy sovereign rights. This does not preclude the legitimate humanitarian intervention, which is morally required, where the use of force is intended to stop the slaughter of human beings by states that hide behind sovereignty and the concept of the norm of non-intervention in carrying out such actions. The UN intervention in Sudan will therefore be justified under the principle of humanitarian intervention.

### **Why Intervention is Necessary in Darfur**

Walzer (1992) argues that sovereignty itself is a moral good because self-determination, and hence sovereignty, is the only way that a people can be free (Philips and Cady 1996: p.13). In principle, the principle of sovereignty is, therefore, inviolable. There are some cases when intervention can be justified. This are the times when the state grossly violates its own citizen's human rights, A sovereign state that violates its people's rights also loses its right to sovereignty. Walzer states:

When a government turns savagely upon its own people, we must doubt the very existence of a political community to which the idea of self-determination might apply....People who initiate massacres lose their right to participate in the processes of domestic self-determination. Their military defeat is morally necessary....(Walzer 1992: pp.101-106).

Since the 1920s, the concept of intervention has been broadened to include protections of civilians from state abuse of its sovereignty by unwarranted and brutal, cruel treatment of vulnerable people under state control. It was this type of actions by states, which invited collective military interventions from other states. This type of intervention has been depicted as humanitarian intervention even though it relies

upon force for the justifiable purpose of protecting the inhabitants of another state from the treatment which is so arbitrary and persistently abusive as to exceed the limits of that authority within which the sovereignty is presumed to act with reason (ICISS 2001: p.17).



However, many critics saw the evoking of humanitarian intervention as a covert strategy for countries to pursue their political and economic interests. Even in situations where humanitarian intervention was legally acceptable, states were still motivated by strategic, economic and political interests. Some legal authorities tried to clear this confusion of interventions. For instance, in 1963 one legal authority concluded that,

no genuine case of humanitarian has occurred with the possible exception of the occupation of Syria in 1860 and 1861. The scale of the atrocities in this case may well have warranted intervention – more than 11000 Maronite Christians were killed and 100,000 were made homeless in a single four – week period (ICISS2001: p.17).

Since the end of the 19<sup>th</sup> century, the debate around the doctrine of humanitarian intervention has proliferated around Legal Experts and Political Scientists about this doctrine (Mosae2001-2004). What exacerbated the debate was the fact that the doctrine was practised prior to 1945 when the United Nations institutions were established. These institutions formed the only legally recognised international system, charged with the protection of human rights. What was clear was that before 1945, it was not difficult to monitor and protect human rights in the absence of these institutions.

Since the issue of intervention is controversial, the ICISS identified six criteria for humanitarian intervention that conform to the United Nation Charter and the Security Council Articles. These were, the just cause, the right authority, the right intention, the last resort, proportional means and the reasonable prospects (ICISS2001). Among these, the last resort criterion does not apply in the case under discussion.

### **The Just Cause**

The ICISS Commission concluded that for military intervention to carry legitimacy, it must be conducted for humanitarian protection. For intervention to be justified, it must be geared toward preventing or averting human catastrophe. Similarly, it must be mounted to avert large scale loss of life,

actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action or state neglect or inability to act, a failed state situation, or large scale “ethnic cleansing”, actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape (ICISS2001: p.32). The state of affairs described above is congruent with the current situation in Darfur. For the UN to intervene under this circumstance, the above conditions of the just cause would have been met.

### **The Right Authority**

It is the international responsibility to ensure the safety of the world’s people. This responsibility is vested in the United Nations. It is the UN, through its institutions and regional bodies that is charged with the responsibility of protecting the human population from harm. In the same manner, it is the UN Security Council, which has the power, order and grand mandate to execute any intervention to protect the people of Darfur from harm.

The principle of non-intervention, which has been spelt out succinctly in Article 2.4 of the UN Charter, provides that “all members shall refrain...from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the united Nations” (ICISS2001: p.47). The question of the right authority resides with the UN under Article 2.4 of the Charter, which forms a crucial qualification to ensure prompt and effective action by the United Nations. This Charter confers upon the Security Council the primary responsibility for the maintenance of international peace and security, not only in Darfur but also around the globe.

It is the Security Council which grants the authority for humanitarian intervention in Chapter VII of the UN Charter, “It describes the action the Security Council may take when it determine/s the existence of any threat to the peace, breach of the peace, or act of aggression (Article39) as is the case in Sudan” (ICISS2001: p.47). While the UN Security Council, under Article 51, acknowledges a cross-border multilateral force in defence of a member state, the Article insists, however, that such measures be reported to the Security

Council. Similarly, Chapter VIII acknowledges the roles of regional security arrangements, provided such roles are approved by the Security Council prior to intervention. This was despite the fact that the 1992-1997 ECOWS interventions in Liberia and Sierra Leone received late approval from the world body. Therefore, the UN Security Council remains the right authority to sanction humanitarian intervention to be judged as legitimate

### **The Right Intention**

It was the Commission's view that the just cause condition was not sufficient if the primary condition was not to avert human catastrophe. Therefore, from the outset of the humanitarian intervention in Sudan, the main objective must be to halt or avert human suffering and incapacitate any group goal of altering the borders and advancement of any objective of self-determination by any faction within the state. The intervention must espouse these right intentions in order to ensure that the

overthrow of regimes is not, as such, a legitimate objective, although disabling that regime's capacity to harm its own people may be essential to discharging the mandate of protection - and what is necessary to achieve that disabling will vary from case to case(ICISS2001: p.35).

For the criterion of the right intention to be satisfied, the intervention must be done collectively by multilateral forces rather than on single or on unilateral bases. Humanitarian motive must be the primary motive, which drives the multilateral intervention rather than altruistic intentions of groups, which lacks national interest. Lastly, once the hostilities cease, the territory must be returned to the sovereign state (Sudan) or else it must be governed under the auspices of the United Nations.

### **Proportional Means**

What this criteria means according to ICISS is that the duration and scale of military intervention should be commensurate to the task at hand. This means of planning the intervention must primarily be to secure humanitarian objectives in question. Therefore, "the effect on the political system of the targeted country should be limited to what is strictly necessary in order to accomplish the purpose of the intervention" (ICISS2001: p.37). This means

that the planning and operational procedures followed must be in accordance with international humanitarian laws and be strictly observed. The scale of the operation must be proportional to the conflict at hand.

### **Reasonable prospects**

There is no doubt that the UN intervention in Sudan will succeed to rescue Darfurians. According to this criteria, 'military action can only be justified if it stands a reasonable chance of success, that is halting or averting the atrocities or suffering that triggered the intervention in the first place" (ICISS2001: p.37). The toppling of Idi Amin by the Tanzanian force was executed within the confines of this criterion and the human rights of Ugandans were restored. Consequently, humanitarian intervention can only be justified only if a humanitarian prevention can be achieved. The criteria for a reasonable prospect of success must be justified after ensuring that conflict can be achieved through the military means and that the intervening force will not be endangered by the conflictual forces. Furthermore, the actual protection of people must be achieved for this criterion to be sufficiently satisfied. It is also important to ensure that the intervention does not spark other major conflicts within the country. The military planners must be careful to ensure that the operation is not biased or else the above criteria would be a failure.

### **Why Intervention has not happened**

While most people recognise that intervention is necessary in Darfur, there are many reasons why it appears to be failing to take place. Among some of these reasons include the following, the weakness of the United Nation and the African Union and lack of political will among African countries.

### **The Weakness of the United Nation System**

The UN itself grew out of the League of Nations experience and its body of international law is opposed to aggression and the threat or use of force without UN authority. There is a considerable body of agreements developed since the Second World War that forbids military/humanitarian interventions without UN authorisation. Nevertheless, states have frequently violated

international law in order to secure their national interests. The war in Darfur, continues because it is in the national interest of some countries for this war to continue. For instance:

International law like domestic law is frequently broken, and there have been numerous wars since the United Nations was established. The Soviet Union and the United States, although sponsors of the UN definition of aggression, had themselves committed aggression (Yonder1997: p.122).

Aggressive military intervention was seen in the US intervention in Panama in 1989, when it arrested the leader of that country for drug offences. However, when Iraq overran Kuwait in 1990, the US successfully mobilized the international community and Saddam Hussein was expelled from Kuwait. This action made the US seen internationally as the most committed member of the United Nations Security Council (UNSC). The US was also regarded as a country that reveres and promotes the respect for International law (Tehrani1998).<sup>2</sup>

The UN represents the idealist framework of multilateralism. It is also composed of individual states who act unilaterally to secure their national interest. The UNSC has five permanent members: Britain, France, China, the US and Russia. They are charged with maintaining international peace and security. As such, the authorisation for intervention derives from them. However, it is also important to note that interventions have been covertly discouraged where members' interests were not threatened, as in the Rwandan genocide in 1994(Collins2005). The former UN Secretary-General, Boutros-Ghali, explained that during the Rwandan crisis, "The official policy of the US under President Bill Clinton was that it was not in their interests to get involved. The US determined that the UN would not intervene either, as the US contributed 30% of its budget"(Slattery2005). This would also mean that the atrocities that have become a daily occurrence in Darfur have not persuaded these members of UNSC to have interest in stopping this war. Recently, interventions have taken place to secure interests of the three most

---

<sup>2</sup> This shows that a member of the Security Council can pursue his realist interest when it's prudent to him and then become a good supporter of the UN when it suits him.

influential members of the UNSC (Britain, the US and France) in the former Yugoslavia,<sup>3</sup> Rwanda and the DRC.

The UN has become less capable of restraining interventions because it depends on the willingness (Yonder1997) of world leaders, but primarily members of the UNSC, to settle disputes and it also depends on public support for the UN as an institution. From the political/rhetoric level, the UN framework remains idealist in character while in practice realist interests predominate. The idealist belief is that human beings have the capacity to cooperate and peace can be achieved through multilateralism rather than unilateralism. On the contrary, however, I therefore maintain that national interests have taken a central stage in the failure for the UN to intervene in Sudan and stop the carnage in Darfur.

The idealists have been critical about realist methods as having a poor record in terms of peacekeeping and peacemaking. They see realism as being war-conducive rather than war-preventive. But this can be equally misleading because, as Jacobsen puts it, the “idealist route popular among NGOs is pursued with dangerous naiveté that also exacerbates conflict”(Jacobsen2005: p.3). For instance, the UN/idealist approach has often been manipulated by the big powers in the UNSC. As the permanent members of the UN follow a realist route to secure their interests, so other members as well. This route has not been limited to the permanent members alone. The same can be said about the conduct of the African Union in relation to Darfur as it will become clear below. In most cases, the UN procedures are always abandoned when state interests take the upper hand. In fact, Jacobsen states:

idealist NGO/UN activities have also at times been infiltrated and manipulated. In Bosnia, for example, some Red Cross drivers were later identified as CIA operatives. NGO and UN vehicles have also been used

---

<sup>3</sup> These three countries intervened in the former Yugoslavia without the authorisation of the UN and in idealist perspective their intervention was illegal. Nevertheless, their intervention was based on realist interests.

by both local and outside actors to smuggle arms and goods (Jacobsen2005: p3).

This serves to demonstrate how even the UN (The United Nation at 50, 1995) is used by some members to achieve their national interests. Similarly, Museveni, who was a Chairman of the OAU, was, conveniently for the Rwandan Patriotic Front/Army (RPF/A), able to manipulate this body in 1993 August during the signing of the Arusha Accords, which “translated RPF/A prowess on the battlefield into a position that was arguably the most powerful of all parties involved”(Collins2005). Equally, South Africa appeared to have intervened in Lesotho to salvage its interests at a time when it was Chair of SADC, rather than to assist in the mediation of the domestic conflict that was taking place in that country. This conflict, led to massive destruction and looting of properties. .

States tend to ignore the UN Charter and these international bodies because national interests predominate in the international system. While the UN and its subordinate bodies approve some interventions, its subordinate bodies, like Southern African Development Community (SADC) and the African Union (AU). In most cases, interventions have not been presented before these bodies for approval. These inconsistencies have presented a major challenge to the international community as to how they can be managed and addressed.

As it can be observed from history, member states within these idealist institutions have always intervened when their interests were threatened, as I have argued above. International law has always been flouted when states felt that their national interests were endangered. It would therefore, appear that, the UN is not intervening in Darfur because the security interests of states continue to be dominated by states’ realist agenda even within the UNSC.

### **The weakness of the African Union**

The AU was launched in July 2001 in South Africa. The Constitutive Act (CA) dedicated itself to promoting unity, solidarity, cohesion and cooperation

among its African people and African states. The Constitutive Act (Africa's development Thinking2002) identifies democracy, human rights and good governance as one of the core challenges that AU must address. It argues that the continent is determined to promote and protect human and peoples' rights, consolidate democratic institutions and culture, and ensures good governance and the rule of law.

In this context, the CA also commits Africa to other related objectives, of which two are relevant for this paper. One, it says that the continent is committed to respect the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities. However, this principle has not been upheld in Darfur as demonstrated above. Two, and most importantly, it asserts the right of the Union to intervene in a member state pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity. This objective is yet to be realised, as allegations of genocide have been rife in Sudan.

According to President Thabo Mbeki, one of the most challenging tasks of the establishment of the AU and the initiation of New Partnership for African Development (NEPAD) is the requirement that, Africans must take full responsibility for their destiny. In this regard, the CA even includes the pursuit of the goal of self-reliance (Mbeki2005). The principle of self-reliance appears to be challenging the AU to achieve. African leaders appear not speaking in one voice. Some leaders speak about democracy and development while others do on the contrary. In stressing one of the primary obligations of the AU, President Mbeki argues further that,

Democracy, development and unity in Africa, and the realisation of the goal of an African Century depend on the achievement of real peace and stability in all our countries. This can only come about as a result of our sovereign and purposeful actions as Africans. Only when we accomplish this will a meaningful Pax Africana become reality rather than a dream (Mbeki2005).



Since its inception, the AU appears to be experiencing acute challenges in the areas of promoting peace and democracy among member states. It has become clear that Africa has not achieved these goals. The only achievement of relative note is that of agreeing to refuse the Al-Bashir regime chairmanship of the AU. This also was not an achievement that could be attributed to African Leaders alone. The UN, European Union and the government of United States of America have been instrumental in lobbying African countries such as South Africa, Nigeria Ghana Senegal and others to persuade Sudan not to take up the AU seat because of what is happening in Darfur. The position of AU regarding humanitarian intervention has produced mixed results on the ground.

This intransigent on the part of AU to provide a rapid intervention force with a strong mandate has made President AL-Bashir to dictate terms to both the AU and UN. President AL-Bashir has been quoted as saying that he would only accept the AU troops with the UN expertise. The statement went further to argue that UN forces will not be allowed in Sudan and GOS will also not allow the conversion of the AU mission into UN. Therefore, they will only accept AU force, led by an African commander and raised completely by AU. In this manner the AL-Bashir regime is exploiting the apparent African division and of course lack of resources and commitment to assist Darfurians. For instance AU currently has a meagre 10,000 troops in Sudan for various activities such as observer mission and enforcing separate peace missions. These troops have a weak mandate that cannot enable them to assist the Darfurian or that can stop the on-going atrocities. This was a clear defiance from GOS. The AU itself has appeared weak, divided and without a clear political will to help Darfurians. Hence, why active intervention from AU has not happened.

## **Conclusion**

This dire situation in Darfur, Sudan, necessitates a more comprehensive and robust mandate to rescue the Darfurians from this escalating catastrophe. The situation will require a stronger UN mandate that will secure this humanitarian crisis. It has become abundantly clear that the Sudanese government is not in the least prepared to reduce the suffering of the Darfurians. Instead, the

Janjaweed are being trained, equipped, clothed and paid to commit even more atrocities with impunity against the Darfurians while the world watches. It would not be in the interest of the UN to let the situation in Darfur continue. Therefore, it would be wise for the world body to arrest this state of affairs with the urgency it deserves. In fact this is what the UN was created for, to save the world against the scourge of war, which is exactly what, is happening in Darfur.

This humanitarian crisis must be stopped immediately or else the UN will further lose its international credibility for departing from its core mandate that of protecting people from war. The UN must intervene in Sudan to end the atrocities committed against the Darfurians, despite the Sudanese government objections just as the Great Britain and its allies, under the treaty of Locarno intervened in the Graeco-Turkish war to end atrocities against Christians in 1827(Mosae2001-2004).

The UN appears to have created a fungible legal system that has always been violated by its members, including the members of the UNSC. This legal system has allowed them to abide by it when it is expedient to do so and to violate it at will when their interests are threatened. Members of the UNSC, in most cases, have assisted other countries to violate the UN Charter. For instance, France, the US and Britain supported different factions during the Ugandan intervention in Rwanda. This trend appears to have been followed by some African countries, as these interventions have demonstrated.

Judging from the existing tension that exists between idealism and realism, it is clear that international anarchy in the international system cannot be totally eradicated. This would mean that states will still follow their national interests as illustrated by the Darfur situation studied here. It could be argued, however, that while existing anarchy cannot be eradicated from the international system, it can be partially regulated. The role of international institutions like the UN, AU and SADC remains critical in the management of international peace and other non-state actors can also be important in managing intrastate conflicts. In order to manage these interventions,

therefore, an integrated approach is necessary, which may include – but not be limited to – military stabilisation, political negotiation, humanitarian support, civilian peacekeeping, relief efforts, reconstruction and development.

## References

- Africa's Development Thinking Since Independence. (2002). "Constitutive Act of The African Union". African Institute of South Africa.
- Appiah-Mensah CDR Seth. (2005) *"AU's Critical Assignment in Darfur: Challenges and Constraints"*. African Security Review 14 (2), pp9-20.
- British Broadcasting Co-operation. (1995) "The United Nation at 50".
- Buergenthal T. (1998). International Human Rights Law. St. Paul, Minn.: West.
- Collins Barrie, Rewriting Rwanda: Today's accepted wisdom about Rwanda bears little relations to the real events of 10 years ago. < <http://www.spiked-online.com/Articles/0000000CA4BD.htm> [16May2005].
- Darfur Destroyed. (2004). Ethnic Cleansing by Government and Militia Forces. Western Sudan, Vol.16, No. 6(A), May.
- Darfur. (2004). Too Many People Killed for No Reason, Amnesty International, February 3.
- Darfur, Militia Leader Implicates Khartoum: Human Rights Watch (Washington) Press Release: In Human Rights Watch videotape, <http://hrw.org/english/docs/2005/03/02/darfur10225.htm>
- Gentili De (1612) *Jure Belli Libri Tres* A. (Photographic Reproduction and Translation of Text of 1612,). Humanitarian Intervention: Historical, Legal and Moral perspectives; Kyrre Grimstad (2001) unpublished LLM Thesis. University of Cape Town.
- House of Commons International Development Committee. (2005). Darfur Sudan: The responsibility to protect, Fifth Report of the Session 2004-2005, Vol. 1, 30 March, the Stationery Office Limited, London.
- Human Rights Watch reports. (2004). Darfur in Flames: Atrocities in Western Sudan, Vol.16, No.5(A), April.
- Mosae M. (2001-2004). *"An Inquiry into the Legality of Unilateral Humanitarian Intervention in International Law"*. Lesotho Law Journal, Vol. 14, No. 2, pp207-236.

Mushkat R.(1986). *The Concept of Just War in International Law*.LLD Thesis, UNISA.

Jacobsen Carl, Conflict Transcendence: Review Essay. <

<http://www.peacemagazine.org/archive/v13n5p26.htm> >[11May2005].

Phillips R.L. and D.L. Cady. (1996). *Just War vs. Pacifism*. London, Rowman & Littlefield.)

Presidential Political Decree to Resolve the Darfur Conflict, June 20, 2004, Embassy of the Republic of Sudan website at

<http://www.sudanembassy.org/default.asp?page=viewstory&id=280>, [July 3, 2004].

Report of the High Commissioner (2004). *The Situation of Human Rights in the Darfur region of the Sudan*, E/CN.4/2005/3, U.N. Office of the High Commissioner of Human Rights, May 3.

Rostow E. (1971). *In Search of a Major Premise: "What is Foreign Policy For?"* (April 1971) Round Table 239.

Slattery Linda, Rwanda-10 years since the

genocide.<<http://www.wsws.org/articles/2004/may2004/rwan-m03.shtml>> [16May2005].

Slim Hugo, Military Intervention as a Means of protecting Human Rights. <<http://www.jha.ac/articles/a084.htm>> [04March2004].

Sudan: EU Fails to Agree Steps to End Killing: Inter Press Service; in <http://www.allafrica.com> [2005March 3].

Sudan. (2004). *Arabs Reject Marauding 'Janjaweed' Image,*" Reuters, July 12, the Report of the Ceasefire Commission on the situation in Darfur conflict at the Joint Commission Meeting, N'djamena, Chad, 16-17 February 2005, paragraph 7.

Sudan: IDPs Report Continuing Killings By Gunmen in Darfur *UN Integrated Regional Information Networks*: In <http://www.allafrica.com> [2005March 3]. [March 2, 2005].

Tehrani Majid, *A Requiem for Realism?* Peace & Policy, 3:1, Spring 1998, foreign Affairs, Journal of Council on foreign relations: In <

[http://www2.hawaii.edu/~majid/review\\_articles/requiem.html](http://www2.hawaii.edu/~majid/review_articles/requiem.html)> [11May2005].

The International Commission on Intervention and State Sovereignty (ICISS)(2001). The Responsibility to Protect: Research, Bibliography, Background, in Supplementary Volume to the Report of The International Commission on Intervention and State Sovereignty; Published in Canada by International Development Research Centre; December.

The International Law Commission (ILC). (1949). Draft Declaration on Rights and Duties of States. (1949),

Thomas A. and A. Thomas. (1956). Non-Intervention. Southern Methodist University Press: Dallas, pp372-73.

Thompson Lisa, (2001). Humana Security and Humanitarian Aid in Southern Africa: A Critical Security Perspective: Humanitarian Aid and Development Aid in Southern Africa: Clash or Continuum? Monograph Series. Lisa Thompson, Scarlett Cornelissen ed. Centre for Southern African Studies: University of the Western Cape.

Thusi Thokozani.(2001). Mission Impossible? Assessing Attempts at Linking Humanitarian Assistance with Development Aid in Mozambique's Transition from War to Peace: Humanitarian Aid and Development Aid in Southern Africa: Clash or Continuum? Monograph Series. Lisa Thompson, Scarlett Cornelissen ed. Centre for Southern African Studies; University of the Western Cape.

Verwey, V.D. (1985). Humanitarian Intervention Under International Law, Netherlands ILR 357 at 358.

Walzer M., (2<sup>nd</sup> ed), (1992). Just and Unjust Wars. New York, Basic Books.

Weiss T. and C. Collins. (1996). Humanitarian Challenges and Interventions. Westview Press, Harper Collins Publishers.

Yonder Amos, (3<sup>rd</sup> ed), (1997). The Evolution of The United Nation System. USA;Taylor & Francis.