



House of Commons
International Development
Committee

**Darfur, Sudan:
The responsibility to
protect**

Fifth Report of Session 2004–05

Volume I



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Report, together with formal minutes

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The International Development Committee

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Footnotes

In the footnotes of this Report, references to oral evidence are indicated by 'Q' followed by the question number. References to written evidence are indicated by the page number as in 'Ev 12'

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Summary

Two years after the crisis in Darfur erupted, the international community is still failing to protect the people of Darfur from crimes committed against them, primarily by the Government of the Sudan and its allied militias. In our view, the crimes committed are no less serious and heinous than genocide. The violence and suffering continue. More than two million people have been forced to flee from their homes, many left with absolutely nothing. Nearly two and a half million people are currently in need of humanitarian assistance, a figure that looks likely to rise to four million over the course of 2005. The World Health Organization's widely-quoted mortality estimate of 70,000 is a gross underestimate. Jan Egeland, the UN Emergency Relief Coordinator, has stated that the real figure is likely to be several times that estimate. That is, we suggest, somewhere around 300,000.

We visited Darfur in early February. Images that will stay with us from our visit include: the burnt and destroyed villages which we saw from the air; the tears of women recounting the death of family members at the hands of the "Janjaweed"; the fear on the faces of women who, dreading rape, were too terrified to stray beyond the relative safety of their camps; and the aircraft at Nyala airport — at one end of the runway those for bombing and killing, at the other end those for monitoring the so-called ceasefire and delivering humanitarian assistance. We also remember the words of denial uttered by many of the Sudanese government officials we met, dismissing the deaths of tens or hundreds of thousands as the inevitable casualties of the government's counter-insurgency campaign.

The Government of the Sudan bears the primary responsibility for the suffering of the people of Darfur. But when a government commits atrocities against its own citizens, then the international community has a responsibility to protect those people. In this report we assess the international community's response to the crisis in Darfur — both the humanitarian response and the political response — and make recommendations as to how the response needs to be improved to better protect the people of Darfur.

The humanitarian response: Meeting humanitarian needs?

- Early warnings were ignored, the response from donors was initially slow, and governments, including the UK Government, should have done more to raise the alarm.
- The UK was, however, one of the first bilateral donors to respond and is, after the USA, the second most generous country in terms of humanitarian assistance. The EC/ECHO has responded well, but substantially more help is needed from individual EU Member States.
- Access for humanitarian relief has been poor, as a result of the Government of the Sudan's bureaucratic obstructions, logistical challenges, and continuing insecurity.
- The humanitarian agencies were slow to respond to Darfur, responsibilities for helping displaced people and managing the camps in which they live have been unclear, and the UN suffered from an avoidable leadership vacuum in Sudan at a critical time.

The political response: Providing protection and security by exerting political pressure?

- Stronger political pressure is needed on all sides in the conflict to protect civilians, to enhance security, and to encourage progress towards a political solution. More concerted political pressure on the Government of the Sudan would enable a more effective humanitarian response.
- The international community prioritised progress on the North-South peace process over the crisis in Darfur. This was misguided and unnecessary, and had predictable, deadly, consequences for Darfur. A more holistic approach to the problems of Sudan was possible, preferable, and would have provided a more secure basis for building a sustainable country-wide peace.
- The efforts of the African Union (AU) to end the crisis in Darfur are extremely welcome. But the AU Mission needs a stronger mandate and more troops. There must be a clear strategy to ensure its success, backed up by generous international support. The AU must not become an excuse for inaction by others.
- The UN Security Council has failed to fulfil its responsibility to protect the people of Darfur, and to maintain international peace and security. Driven by national interests, the Security Council has been divided, weak and ineffective. There should be a referral of Darfur to the International Criminal Court, targeted sanctions and an extension of the arms embargo to cover the Government of the Sudan.

Towards sustainable peace and development? Responsibilities and accountability

The crisis in Darfur will only be resolved when the parties choose a future of sustainable peace and development rather than one of conflict and poverty. For this to happen, the new National Government of the Sudan, and its international partners, must jointly deliver on their shared responsibilities, not just to protect, but also for development. The UK Government and others must work hard to ensure that the Comprehensive Peace Agreement (CPA) between the North and the South of Sudan ushers in a new Sudan, characterised by good governance, justice and human rights, and with the principles of the CPA extended to Darfur. There must be local solutions to conflicts over land and resources in Darfur. And oil revenues and aid must be invested in peace and development, to rebuild livelihoods and communities shattered by conflict. Donors must support the North-South peace process, but must not take the pressure off as regards Darfur. That mistake must not be made again. Aid and debt relief which will primarily benefit the Khartoum regime must be strictly and clearly conditional on resolving the crisis in Darfur.

Shared responsibilities to protect, and for development, will be poorly met unless those responsible — governments, humanitarian agencies, and international organisations, including the UN — are accountable for their actions and inactions. If the international humanitarian system had been more accountable, and had learnt more from past responses, then it would surely have responded more effectively to the crisis in Darfur. If the Government of the Sudan had been more accountable for its actions, to its citizens, or,

failing that, to the international community, then the crisis in Darfur would have been resolved more peacefully. And if the “international community”, and in particular the UN Security Council, were more clearly accountable to those governments and people who take seriously their responsibilities to protect, then it would surely have acted more decisively on Darfur.

If the international community is to fulfil its shared responsibility to protect, then we must all fulfil our responsibilities, and hold others to account for fulfilling theirs. The international community must now fulfil its responsibility to protect the people of Darfur. Attacked by the government which is meant to protect them, the people of Darfur, who we have collectively and demonstrably failed, deserve no less. We demand that there is action now.

Background and acknowledgements

In September 2004 the Committee announced its inquiry into Darfur. The aims of the inquiry have been to examine the effectiveness of the international community's response to the crisis and to promote a more effective response, as well as to ensure that, once the immediate crisis is over, the international community learns the lessons and remains engaged. We held a preliminary evidence session with NGOs in September and have since held six further evidence sessions. We have also received written evidence from twenty organisations including Governments, UN agencies, development NGOs, human rights organisations, and research institutes. In addition, six Members of the Committee visited Sudan for a week at the end of January 2005.

We are grateful to all those who gave evidence to the inquiry, and to the many others who have otherwise assisted us. We would like to thank especially the following individuals and organisations who gave oral evidence: the Rt Hon Hilary Benn MP, Secretary of State for International Development and the officials from DFID and from the Foreign Office who accompanied him; Mr Jan Egeland, UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Co-ordinator; Mr Oliver Ulich, Humanitarian Affairs Officer, UN Office for the Coordination of Humanitarian Affairs (OCHA); Dr Mukesh Kapila, Former UN Resident and Humanitarian Co-ordinator for the Sudan; Dr Suliman Baldo, International Crisis Group; Ms Maniza Ntekim, Amnesty International UK; Mr Steve Crawshaw, Human Rights Watch; and Mr Toby Porter, Save the Children UK, representing the Sudan Advocacy Coalition.

In relation to the visit, we would like to thank: the British Embassy and DFID staff in Sudan for their assistance with organising an extremely useful visit; the aid-workers and UN officials whose time we took up in order to understand a little better the complexities of Sudan; the Sudanese Ministers and officials who met with us; and, the people of Darfur whose hopes we may have raised by our brief visit. We trust that our report, and any impact it might have, will go some way to repaying their generosity and hospitality.

Figure 1: A map of the Sudan



NB: The precise location of the South Sudan border is being negotiated; this map does not endorse any claims.

1 Darfur, Sudan and the Responsibility to Protect

"The issue is not one of a right to intervene, but rather of a responsibility of the whole human race to protect our fellow human beings from extreme abuse wherever and whenever it occurs." (Kofi Annan, UN Secretary General, January 2004)¹

The crisis in Darfur

1. Sudan has a population of nearly 34 million, and in 2003 had a per capita annual income of US\$460.² It is a vast and desperately poor country which successive regimes have struggled to govern from Khartoum. Development and politics in Sudan are best understood therefore in terms of Khartoum's relationships with the peripheries of Sudan.³ In early 2003, as progress was being made in resolving the long-running North-South conflict, and world attention was focussed on Iraq, another centre-periphery conflict erupted in Darfur — a region the size of France, in the west of Sudan — as the Sudanese Liberation Army/Movement (SLA/M), and the Justice and Equality Movement (JEM) took up arms against the Government of the Sudan (GoS).⁴ The uprising drew its support primarily from the "African" tribes of Darfur — including the Fur, the Massalit and the Zaghawa — and was motivated by a sense of long-term marginalisation and neglect by Khartoum.⁵ This sentiment was heightened by Darfur's exclusion from the North-South peace process, and given focus by the Sudanese government's failure to prevent or punish attacks by Arab militias.⁶

2. The Sudanese government sought to crush the rebellion, both through the use of conventional armed forces — including helicopter gun-ships, MIG jets and Antonov bombers — but also through arming proxy Arab militias and granting them impunity to commit atrocities.⁷ As the authoritative and comprehensive report of the International Commission of Inquiry on Darfur (ICID) confirmed, government forces and militias — the so-called "Janjaweed" — have conducted indiscriminate attacks throughout Darfur, including the killing of civilians, torture, enforced disappearances, the destruction of

1 Kofi Annan, Address to the Stockholm International Forum on Preventing Genocide, January 2004 — available at <http://www.preventinggenocide.com>

2 World Bank, *World Development Indicators* — available at <http://www.worldbank.org>

3 Ev 105 [Associate Parliamentary Group on Sudan memorandum]; Ev 152 [Liberation memo]. Perhaps the best up-to-date analysis of Darfur and Sudan is produced by Justice Africa — see <http://www.justiceafrica.org/> — and by the International Crisis Group — see <http://www.icg.org>

4 The Justice and Equality Movement (JEM) emerged a little later than the SLA/M. The two groups cooperate closely, but JEM is an Islamist movement whilst the SLA is secular. The SLA has had some support and encouragement from the Sudanese People's Liberation Army/Movement (SPLA/M), which has, until recently, been engaged in a long-running conflict with the Government of the Sudan; Q 3 [Dr Suliman Baldo, African Program Director, International Crisis Group (ICG)]; see also ICG, *Darfur: The failure to protect*, 8 March 2005, p.12 on the emergence of other armed groups — see http://www.icg.org/library/documents/africa/horn_of_africa/089_darfur_the_failure_to_protect.pdf

5 Ev 71 and 72 [Department for International Development (DFID) memo]; Ev 115 [Darfur Relief and Documentation Centre (DRDC) memo]. The Government of the Sudan disputes the suggestion that Darfur has been neglected, see Ev 134 [Embassy of the Republic of the Sudan memo].

6 Ev 107 [Dr Suliman Baldo, James Morton, Roland Marchal and Alex de Waal memo]; Q 5 [Dr Suliman Baldo, ICG]; Ev 72 [DFID memo]; Q 14 [Dr Suliman Baldo, ICG].

7 Ev 72 [DFID memo]; Ev 151 [ICG memo]; Alex de Waal "Counter-insurgency on the cheap", *London Review of Books*, Vol. 26, No. 15, 5 August 2004 — see http://www.lrb.co.uk/v26/n15/waal01_.html

villages, rape, pillaging and forced displacement (see the appendix to our report for the ICID's executive summary). The government's actions may not amount to genocide — the key issue here is one of proving intent — but there have been widespread and systematic war crimes and crimes against humanity which may be no less serious and heinous than genocide.⁸ The guilt or otherwise of the 51 individuals named in a sealed list — which includes 10 senior government officials — remains to be determined by a court; the report of the ICID does not rule out the possibility that such individuals in the GoS and militias had genocidal intent.⁹ The rebel groups are also culpable, although their attacks have not been as widespread and have not *systematically* targeted civilians.¹⁰ The regime in Khartoum, as the government, bears the primary responsibility.

3. Historically, the tribes of Darfur had lived together relatively peacefully.¹¹ Settled farming communities would allow nomadic herders access to grazing, benefiting in turn from the manure provided by the nomads' animals. Tribes would trade and inter-marry, and ethnic boundaries were fluid. But driven by population growth and desertification, recent decades have seen increased competition for land and resources, and sporadic conflicts.¹² The picture is complex, but in outline it is one of conflict between primarily "Arab" tribes of nomadic herders, and primarily "African" tribes of sedentary farmers¹³ (but see paragraphs 109–110 on Arab tribes that have stayed out of the conflict). Traditional mechanisms for dispute resolution have been neglected and at times undermined by Khartoum. Small arms have become widely available as a result of regional conflicts. And tensions have been stoked by the selective arming of "Arab" militia by the Sudanese government's security apparatus, informed by a racist pro-Arab ideology.¹⁴ The GoS, using divide-and-rule tactics familiar from its war in the South, has deliberately and recklessly stoked ethnic and tribal tensions.¹⁵

4. Darfur's total population is approximately 6 million. Within Darfur, 2.4 million people are directly affected by the crisis and in need of humanitarian assistance. Of these, 1.84 million people have been driven out of their homes but remain in Darfur.¹⁶ Another 200,000 people have fled across the border to Chad. The lack of reliable statistics on mortality, and the misuse of what data there is, is a scandal. There is a situation of

8 *Report of the International Commission of Inquiry on Darfur (ICID) to the United Nations Secretary-General*, Geneva, 25 January 2005, pp.3-4 — see http://www.un.org/News/dh/sudan/com_inq_darfur.pdf

9 ICID, p.4 — see footnote 8 for full citation; Justice Africa, *Prospects for peace in Sudan*, February 2005 Briefing, para 15 — available at <http://www.justiceafrica.org/>; see also Human Rights Watch, *Darfur documents confirm government policy of militia support*, Briefing Paper, 19 July 2004 — see <http://hrw.org/backgrounder/africa/072004darfur.pdf>; "Sudan ordered death squads", *The Independent*, 3 March 2005; Human Rights Watch, *Darfur: militia leader implicates Khartoum*, 2 March 2005 — see http://hrw.org/english/docs/2005/03/02/darfur10228_txt.htm

10 ICID, p.60, para 240 — see footnote 8; Q 196 [Dr Mukesh Kapila, Former United Nations Resident and Humanitarian Co-ordinator for the Sudan]; Justice Africa, February 2005 Briefing, para 16 — see footnote 9.

11 Ev 112 [DRDC memo]; Ev 133 [Embassy of the Republic of the Sudan memo].

12 Ev 110 [DRDC memo]; Ev 72 [DFID memo]; Ev 134 and Ev 135 [Embassy of the Republic of the Sudan memo].

13 It is too simplistic to characterise the crisis in Darfur as a conflict between "Africans" and "Arabs". The self-identification of people as "Africans" or "Arabs", and the use of such labels for political purposes, has increased in recent years, but clumsy use of these labels obscures rather than illuminates the root causes of the crisis, and risks further dividing communities. See Ev 104 [Associate Parliamentary Group on Sudan memo]; Ev 106 [Baldo et al memo]; Ev 110 [DRDC memo].

14 Ev 113 [DRDC memo]; Ev 97 [The Aegis Trust memo].

15 Q 6 [Dr Suliman Baldo, ICG]; Ev 106 [Baldo et al memo]; Q 183 [Dr Mukesh Kapila].

16 Office of UN Deputy Special Representative of the UN Secretary-General for Sudan: UN Resident and Humanitarian Co-ordinator, *Darfur Humanitarian Profile No. 10*, 1 January 2005 — available at <http://www.unsudanig.org/>

“statistical anarchy”.¹⁷ The figure of 70,000 deaths estimated by the World Health Organization (WHO) is perhaps the most-used and certainly the most abused. In Sudan, Manuel da Silva, the UN Humanitarian Coordinator for Sudan, and in Westminster, Hilary Benn, the Secretary of State for International Development, both told us that the 70,000 estimate included deaths due to violence.¹⁸ They were mistaken. **The only violent deaths which the WHO’s estimate includes are those which took place in the camps for Internally Displaced Persons (IDPs). Of those attacked in their villages, only those who made it to the camps before dying would be included in the WHO’s estimate. With the exception of these cases, the WHO’s estimate does not include deaths due to the violence from which people have fled.**¹⁹ In addition, the WHO estimate covers only the period from March to mid-October 2004, and only takes account of deaths in accessible areas within the borders of Darfur. Cited without clear explanation of its limitations, the WHO’s estimate is extremely misleading.²⁰

5. Mortality data which do not include deaths due to the violence from which people have fled are gross under-estimates.²¹ Nobody knows how many people have died from the violence in Darfur.²² Some estimates put the total excess mortality figure at 300–400,000.²³ Jan Egeland, the UN Emergency Relief Coordinator, whilst stating that no-one knows the true figure, suggested that total excess mortality is “several times” as high as the WHO’s 70,000 estimate.²⁴ **Political pressure must be exerted on the Government of the Sudan to enable the WHO or a different competent organisation to conduct further assessments of mortality resulting from the crisis in Darfur. And, in a situation where statistics are deflated, inflated and used by all sides as political weapons, the WHO must ensure that its statistics are not open to mis-interpretation and abuse. The WHO’s press release of 14 October 2004, conflating two types of violence, demonstrated at best extreme naivety if not gross incompetence.** Whatever the real level of mortality, the displaced millions, unable to plant seeds for this year’s harvest, face a bleak, uncertain, hungry and insecure future.

17 John Prendergast, International Crisis Group, quoted in “Lack of access muddies death toll in Darfur”, *Washington Post*, 8 February 2005 — see <http://www.washingtonpost.com/wp-dyn/articles/A6186-2005Feb7.html>

18 Q 230-1 and Q 246 [Rt Hon. Hilary Benn MP, Secretary of State for International Development].

19 Letter from Hilary Benn, MP to Tony Baldry, MP, Chairman of the International Development Committee, 14 March 2005 Copy placed in the library.

20 WHO, *Mortality projections for Darfur*, 15 October 2004 — see <http://www.who.int/disasters/repo/14985.pdf>

21 Ev 154 [Médecins Sans Frontières (MSF) memo].

22 Q 167 [Jan Egeland, UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator (ERC)]; see also “Lack of access muddies death toll in Darfur”, *Washington Post*, 8 February 2005 — see footnote 17.

23 Jan Coebergh, “Sudan: genocide has killed more than tsunami”, Parliamentary Brief, Vol. 9, No. 7, February 2005, pp.5-6 — see http://www.thepolitician.org/february05/0205_Main.pdf; “How many have died in Darfur?”, BBC, 16 February 2005 — see <http://news.bbc.co.uk/1/hi/world/africa/4268733.stm>; Eric Reeves, “Darfur mortality update”, 11 March 2005 — available at <http://www.sudanreeves.org> NB: Excess mortality is the additional mortality, or that which is above the norm.

24 “UN envoy says deaths in Darfur much underestimated”, Reuters Foundation, 9 March 2005 — available at <http://www.reliefweb.int>; “Darfur death toll ‘much higher’”, BBC online, 10 March 2005 — see <http://news.bbc.co.uk/1/hi/world/africa/4336015.stm>

Figure 2: Darfur timeline

Period of time	Events
Jan-Feb 2003	Sudanese Liberation Army (SLA) emerges First early warnings of tensions in Darfur given by NGOs
March-April 2003	SLA attack on El Fasher airport and other military installations GoS decides to "unleash" the army to crush the rebellion
May-June 2003	GoS pursues military response to Darfur insurgency
July-August 2003	Conflict and displacement of civilians grows
Sept-Oct 2003	UN Greater Darfur Special Initiative appeal for funds launched
Nov-Dec 2003	UN-OCHA warns of humanitarian crisis in Darfur Secretary of State for International Development, Hilary Benn, visits Khartoum UN Secretary General, Kofi Annan, issues statement about Darfur
Jan-Feb 2004	Escalation of violence continues (Jan-April sees greatest intensity) Extremely restricted humanitarian access (Jan-May)
March-April 2004	Mukesh Kapila, UN Resident and Humanitarian Coordinator, describes situation in Darfur as "ethnic cleansing" and is then required to leave Sudan Humanitarian Ceasefire Agreement (N'Djamena Agreement) First briefing to UN Security Council by UN Emergency Relief Coordinator, Jan Egeland
May-June 2004	AU Mission in Darfur established Easing of bureaucratic obstacles to humanitarian access Media coverage begins to grow Hilary Benn visits Khartoum and Darfur
July-August 2004	Joint Communiqué and Plan of Action – UN and GoS UN Resolution 1556, 30-7-04 (includes demand to disarm Janjaweed) Foreign Secretary, Jack Straw, visits Darfur US Secretary of State, Colin Powell, and Kofi Annan visit Darfur AU-hosted peace talks begin in Abuja
Sep-Oct 2004	Colin Powell, describes events in Darfur as "genocide" UN Resolution 1564, 18-9-04 (includes consideration of "other measures") AU Mission in Darfur gets revised mandate, with more troops authorised Prime Minister and Hilary Benn visit Khartoum, outlining five-point peace plan
Nov-Dec 2004	Humanitarian and Security Protocols agreed at AU-hosted talks in Abuja UN Resolution 1574, 19-11-04 (Nairobi meeting – focus on North-South, mention of Darfur) Build up of rebel troops and GoS "road-clearing" operations
Jan-March 2005	Comprehensive Peace Agreement signed between GoS and SPLM, 9-1-05 Report of International Commission of Inquiry on Darfur – crimes "no less serious and heinous than genocide"

The Committee's inquiry and visit to Sudan

6. In September 2004 we announced our inquiry into Darfur. The inquiry's aims have been to examine the effectiveness of the international community's response to the crisis and to promote a more effective response, as well as to ensure that, once the immediate crisis is over, the international community learns the lessons and remains engaged. We held a preliminary evidence session with NGOs in September and have since held six further evidence sessions.²⁵ We have also received written evidence from twenty organisations; Governments, UN agencies, development NGOs, human rights organisations, and research institutes.²⁶

7. In January 2005, we visited Sudan. The first leg of our visit was to the South of Sudan; it was important that we saw Darfur in context. In Rumbek, the interim capital for the South, the story we heard was one of cautious optimism, huge needs and high expectations. A Comprehensive Peace Agreement (CPA) had been signed by the GoS and the Sudanese People's Liberation Movement (SPLM) on 9 January, bringing to an end a conflict which had dragged on — with a gap from 1972–1983 — since independence was achieved in 1956. The conflict has left two million people dead and four million displaced. We welcome the agreement and commend the Inter-Governmental Authority on Development (IGAD), the Chief Mediator, General Sumbeiywo, and the Troika of the USA, the UK and Norway for their role in supporting the peace process. The CPA specifies how power and resources will be divided, including revenues from the oil which has fuelled the conflict and which continues to shape the international community's dealings with Sudan.²⁷ The South is also promised a referendum on independence after a six-year period of power-sharing.

8. The CPA represents an historic opportunity for Sudan to set itself on the road to sustainable peace, security and development. There is hope that the CPA will provide a blue-print for peace in Darfur, offering a greater degree of resource and power-sharing, enabling elections, and leading to human rights and judicial reforms. The entry into government of John Garang's SPLM — the Government of Sudan's opponents for many years in the North-South civil war — may also improve the prospects for peace. But if groups in Darfur and elsewhere feel that they are excluded and conclude that their only hope is to use force to win a seat at the negotiating table, then the North-South deal could have the opposite effect and stimulate further conflict which in turn might destabilise the North-South peace. The Red-Sea State in the east, and Kordofan, just east of Darfur, are potential flash-points.²⁸ Continued international engagement — pressure on all sides to resolve the crisis in Darfur, and the delivery of desperately needed aid to the people of

25 See page 90 for list of witnesses.

26 See page 91 for list of written evidence.

27 Institute for Security Studies, *Sudan Comprehensive Peace Agreement (CPA) Provisions*, 9 January 2005, — available at <http://www.reliefweb.int/>; Human Rights Watch, *Sudan, oil and human rights*, (2003), see <http://www.hrw.org/reports/2003/sudan1103/sudanprint.pdf>; *Map of Oil and gas concession holders in Sudan*, USAID, see http://www.usaid.gov/locations/sub-saharan_africa/sudan/map_oil.pdf NB: The map is not current — some of the concession holders have changed — but it does show that block 6, which is held by China National Petroleum Corporation, extends into Darfur.

28 Ev 107 [Baldo et al memo]; Ev 149 [ICG memo]; Justice Africa, February 2005 Briefing, paras 39-44— see footnote 9.

Sudan – will be crucial. Achieving the correct balance between maintaining pressure and providing incentives is the key²⁹ (see paragraphs 115–117).

9. The second leg of our Sudan visit — after a brief stop in Khartoum to hear from hard-pressed UN agencies and NGOs — was to Darfur. Based in Nyala, South Darfur, we also travelled to West and North Darfur, visiting six camps for Internally-Displaced Persons (IDPs) as well as El Fasher and Zaleingi.³⁰ We spoke with IDPs, and had meetings with UN agencies, the African Union (AU), NGOs, human rights organisations and government officials. We were unable to meet with representatives of the rebels, or the Janjaweed. We were extremely impressed with the professionalism and dedication of the humanitarian agencies' staff, working tirelessly to relieve suffering in the most trying of circumstances, and by the tremendous efforts being made by an under-resourced AU. The protagonists in Darfur have signed ceasefire agreements and protocols on humanitarian access and security, but they frequently break them. Recent weeks may have been *relatively* calm in Darfur, but the conflict, or, to be precise, the conflicts are far from over (see paragraph 109). The resulting insecurity hinders the provision of humanitarian assistance, and prolongs and extends the suffering of the people of Darfur. Images that will stay with us from our visit include: the burnt and destroyed villages which we saw *en route* from Nyala to Zaleingi; the tears of women recounting the death of family members at the hands of the Arab militias — the so-called Janjaweed; the fear on the faces of women who, dreading rape, were too terrified to stray beyond the relative safety of their camps; and the aircraft at Nyala airport — at one end of the runway those for bombing and killing, at the other end those for monitoring the so-called ceasefire and delivering humanitarian assistance. We also remember the words of denial uttered by many of the Sudanese government officials we met, seemingly indifferent to the suffering of Darfur, dismissing the deaths of tens or hundreds of thousands as the inevitable casualties of the government's counter-insurgency campaign.³¹ They appeared untroubled by their growing reputation as lepers among the international community.

The responsibility to protect

10. Mid-way through our inquiry into Darfur, the UN High-level Panel on Threats, Challenges and Change released its impressive and wide-ranging report. The report argues that there is a shared responsibility for the provision of global security. It outlines first how prevention can enhance security, second how — when prevention fails — force might then be used to enhance security, and third how the UN itself can be a more effective player in the provision of collective security. In relation to internal conflicts, the report of the High-level Panel concludes that “the principle of non-intervention in internal affairs cannot be used to protect genocidal acts or large-scale violations of international humanitarian law or large-scale ethnic cleansing”.³² We entirely agree. **Sovereignty entails responsibilities as**

29 Ev 108 [Baldo et al memo].

30 We visited IDP camps at Kalma, El Sherif, Otash, Abu Shouk, and two camps near Zaleingi (Hessa Hissa and Hamidiya).

31 Q 61 [Steve Crawshaw, London Director, Human Rights Watch]. To see the Government of the Sudan's sentiments on paper, see Ev 133 [Embassy of the Republic of the Sudan memo]; and, to see them echoed, Ev 137-145 [European Sudanese Public Affairs Council memo].

32 *A More Secure World: Our shared responsibility*, Report of the Secretary General's High-Level Panel on Threats, Challenges and Change, United Nations (2004), p.65, para 200 — available at <http://www.un.org/secureworld>

well as rights. States have the primary responsibility for their citizens, but in circumstances where states commit crimes against humanity and war crimes against their own citizens, the international community has an obligation and a duty to those citizens — a “responsibility to protect”. Sovereignty does not give states the right to commit gross human rights violations and war crimes against their citizens.³³ The “responsibility to protect” includes the responsibility to prevent, the responsibility to react, and the responsibility to rebuild and develop. *As a last resort*, reaction can include the use of force, which in all but the most exceptional of cases should be authorised in advance by the UN Security Council (see paragraphs 81–100).

11. The Government of the Sudan, its allied militias, and the rebel groups are the guilty parties. All must share the blame. But the primary responsibility for civilian deaths and suffering in Darfur rests with the Government of the Sudan. The root causes of the crisis are primarily Sudanese, so too will be its solutions. But the international community has responsibilities too. In 2001 the Prime Minister acknowledged, that were a situation similar to the Rwandan genocide to happen again “we would have a moral duty to act”.³⁴ It is not clear to whom precisely the “we” refers, and what sort of action this moral duty entails (see paragraphs 96–100). But if the responsibility to protect means anything, it ought to mean something in Darfur.³⁵ In this report we explain exactly what we believe it should mean in Darfur. Once the crisis in Darfur had begun to escalate,³⁶ fulfilling the responsibility to protect would have entailed three elements:

- a) **Political pressure** on the Government of the Sudan, its allied militias and the rebels, to: stop targeting civilians with violence and coercion; stop the conflict and move towards a peaceful resolution of its underlying causes; provide true security for Darfur; and, to allow unhindered access for humanitarian assistance;
- b) **Humanitarian relief and protection** for people affected by the crisis, provided in an effective and timely manner; and
- c) **Support for people to rebuild and develop** communities and a country devastated by decades of conflict and marginalisation, in Darfur, and across Sudan.

12. In chapter two we address the humanitarian dimension of the international community’s response. We outline the effectiveness of the response, analyse the reasons why the response was inadequate, and make recommendations as to how the response, and

33 See also *The Responsibility to protect*, Report of the International Commission on Intervention and State Sovereignty, December 2001 — see <http://www.iciss.ca/pdf/Commission-Report.pdf>; Elizabeth Wilmshurst “Scales of law unbalanced”, *International Development Magazine*, November 2004; Government Response to the Foreign Affairs Committee’s Seventh Report of Session 2003–04, *Foreign Policy Aspects of the War Against Terrorism*, CM6340 pp.39–40 and 41–42 — see <http://www.fco.gov.uk/Files/kfile/CM6340.PDF>

34 Prime Minister’s speech, Labour Party Conference 2001, “If Rwanda happened again today ... we would have a moral duty to act”; see also the Prime Minister’s response to the publication of the UN High-level Panel Report — see <http://www.primeminister.gov.uk/output/page6701.asp>

35 Q 25 [Dr Suliman Baldo, ICG].

36 The report of the UN High-level panel describes the international community’s unwillingness to do more to prevent deadly violence, as “the biggest source of inefficiency in our collective security system”, [*A More Secure World: Our shared responsibility*, Report of the Secretary General’s High-Level Panel on Threats, Challenges and Change, United Nations, 2004, p.23 — see footnote 32]; see also *Investing in Prevention: An international strategy to manage risks of instability and improve crisis response*, A Prime Minister’s Strategy Unit Report to the Government, February 2005 — see http://www.strategy.gov.uk/files/pdf/crj_report.pdf

responses to future crises, might be improved.³⁷ In chapter three we address the political and security dimensions of the international community's response to Darfur. We assess the wisdom of the apparent prioritisation of the North-South peace process over Darfur, analyse the extent to which the international community — working with and through the African Union and the UN — has discharged its responsibility to protect the people of Darfur, and make recommendations about what needs to be done to improve the response. In chapter four we outline what the international community needs to do now, along with the *new* National Government of the Sudan, and the Government of Southern Sudan, to ensure that the Comprehensive Peace Agreement and the promise of development lead Sudan, including Darfur, towards sustainable peace. All parties need to deliver on their shared responsibilities for development. Handled carefully by the international community, and with a Sudanese government committed to peace, the interplay between the North-South peace process and the situation in Darfur could now become a positive one. Handled badly, the insecurity and suffering in Darfur will continue, and the historic opportunity provided by the Comprehensive Peace Agreement will be squandered.

37 The interested reader should see also the excellent analysis provided by Hugo Slim in "Dithering over Darfur? A preliminary review of the international response", *International Affairs*, Vol. 80 (2004), pp. 811-828 — available at <http://www.hdcentre.org>

2 Meeting humanitarian needs?

13. Crises such as Darfur’s demand timely, sufficient, and well-coordinated responses that meet people’s immediate survival and protection needs and work towards resolving the underlying causes of the crisis. An effective response is one that is driven by need. An effective humanitarian response requires adherence to the core humanitarian principles of impartiality, neutrality and independence. But the context for humanitarian action is shaped by politics, at local, national and international levels. “Humanitarian space” — the freedom for agencies to provide relief according to humanitarian principles — is essential, but if the political and security dimensions of complex emergencies such as Darfur are neglected, humanitarian relief is likely to become an insufficient and yet permanent feature of the landscape.

Early warnings, donor response and the role of the media

Ignoring early warnings?

14. Amnesty International, the International Crisis Group, Justice Africa and Médecins Sans Frontières began warning the world about the emerging crisis in Darfur from the very start of 2003.³⁸ Their warnings were not taken seriously. Some NGOs were told that it was not the right time to highlight Darfur for fear of jeopardising the North-South peace process (see paragraphs 52–58).³⁹ In September 2003 the UN launched an appeal — the Greater Darfur Special Initiative — for \$23 million.⁴⁰ In November 2003, the UN Office for the Coordination of Humanitarian Affairs (UN-OCHA) warned that Darfur was set to become the world’s “worst humanitarian crisis”. Darfur still received little public attention. The UN Secretary General, Kofi Annan, added his voice in December 2003.⁴¹ Mukesh Kapila, the UN’s then-Resident and Humanitarian Coordinator in Sudan toured the capitals of countries with permanent seats on the UN Security Council from October 2003 to January 2004. Amongst the Troika, there was an appetite for action in Washington, but in London, Oslo and other capitals, he was told — by those who took him seriously — that the priority was to conclude the North-South peace agreement.⁴² The UN conducted various fact-finding missions to Chad and to Darfur from April 2004. Their reports were endorsed by the UN Security Council, but still the facts which they found received little attention.⁴³ There was, it seems, a conspiracy not to see.⁴⁴

38 Ev 100 [Amnesty International UK memo]; Amnesty International, *Urgent call for Commission of Inquiry in Darfur as situation deteriorates*, Press Release No. 38, 21 February 2003 and Amnesty International, *Crisis in Darfur: Urgent need for international commission of inquiry and monitoring*, Press Release No. 104, 28 April 2003 — both available at <http://web.amnesty.org/library/engindex>; International Crisis Group, *Sudan’s other wars*, 25 June 2003 — see http://www.icg.org/library/documents/report_archive/A401020_25062003.pdf; Justice Africa, *Prospects for Peace in Sudan briefing*, 14 March 2003 — see <http://www.justiceafrica.org/march03.htm>

39 Ev 147 [Human Rights Watch memo]; Ev 100 [Amnesty International UK memo].

40 Q 154 [Jan Egeland, UN-OCHA and ERC] and Ev 159 [UN-OCHA memo].

41 Ev 159 [UN-OCHA memo].

42 Q 187 [Dr Mukesh Kapila].

43 “Security Council expresses ‘grave concern’ over deteriorating situation in Darfur region of Sudan”, UN Press Release SC/8104, 25 May 2004 — see <http://www.un.org/News/Press/docs/2004/sc8104.doc.htm>

44 Q 187 [Dr Mukesh Kapila] — Dr. Kapila agreed that these words were an accurate description of what took place.

15. The UK could certainly have done more to raise the profile of Darfur during 2003 and the early part of 2004, but compared with the rest of the international community if not with the needs of Darfur, the UK did not drag its feet. Although the Secretary State for International Development told us that he now wishes that he had made the trip two months earlier, he did visit Khartoum in December 2003.⁴⁵ **The international community chose to ignore the early warnings of NGOs and senior UN officials. Other factors — poor access, continuing insecurity, a flawed humanitarian system, and an unfavourable political context — played a part too, but by ignoring the warnings, the international community helped to ensure that the initial humanitarian response to Darfur was, as Médecins Sans Frontières put it, “a staggering failure”.**⁴⁶

A slow donor response?

16. During the first half of 2004, the donor response to the crisis in Darfur was insufficient and the USA, the European Commission (EC) and the UK were shouldering too much of the responsibility.⁴⁷ The UK Government led the way in responding to Darfur’s humanitarian needs, and had already given £9.5m⁴⁸ for humanitarian assistance by the time the UN made its appeal for \$534m, in March 2004.⁴⁹ As the world belatedly began to acknowledge what was taking place in Darfur, and the UK and others urged other donors to respond, more donors provided more resources. Nevertheless the slow start had costs, making planning more difficult for those tasked with providing food and other essentials.⁵⁰ According to the latest figures, the UN consolidated appeal for the Darfur crisis, launched in March 2004, is eighty-four percent funded.⁵¹ Since the Greater Darfur Special Initiative was launched in September 2003, firm pledges and commitments of \$1.3bn have been recorded. This figure includes contributions to UN agencies, NGOs and the Red Cross in Chad and Darfur, and also to the AU ceasefire monitors in Darfur (\$176m). Cash contributions have amounted to \$846m, with in-kind contributions (food, shelter, non-food items, transport, equipment and secondees) amounting to \$491m. The USA has donated most (41% of the total), followed by the EC, including ECHO,⁵² (16%), the UK (12% or \$167m.), the Netherlands (4%), and Germany and Canada at approximately 3% each. In the UK, the Disasters Emergency Committee has raised an additional £32m from public donations. In terms of cash donations, the EC/ECHO has been the most generous. **The UK Government deserves credit for its speedy and generous response to the crisis in Darfur. The EC/ECHO and the USA deserve praise too. Particularly noteworthy is the EC’s early support for the AU’s work in Darfur.**⁵³ **Other donors, including other European countries, should have done more. Arab countries have donated 2.5 percent of the total, mainly through in-kind bilateral humanitarian aid. This is disappointing.**

45 Q 103 [Rt Hon. Hilary Benn MP, Secretary of State for International Development].

46 Ev 154 [MSF memo]; Ev 71 [DFID memo].

47 Ev 74 [DFID memo] and Q 112 [Hilary Benn, DFID].

48 Ev 73 [DFID memo]; Ev 99 [Mark Pallis memo].

49 The UN appeal – see <http://www.un.org/depts/ocha/cap/sudan.html#2003> – was for funds to meet needs for a nine-month period.

50 Ev 170 [UN World Food Programme (WFP) memo].

51 See <http://www.unsudanig.org/emergencies/darfur/reports/data/funding/Darfur-Funding-Note.pdf>

52 ECHO is the European Commission’s Directorate-General for Humanitarian Aid.

53 Q 124 [Hilary Benn, DFID].

The donor response to Darfur has, after a slow start, been very good. But huge needs remain across Sudan and elsewhere.⁵⁴ (See paragraphs 44–45 on “forgotten crises” and funding imbalances).

The role of the media

17. The generous and speedy public and donor response to the south Asian tsunami disaster, has focussed minds on the uneven donor response to disasters and emergencies. Some emergencies are well-funded, others are largely forgotten.⁵⁵ There is a danger that Darfur, along with much of the rest of Africa, will lose out as resources are switched to respond to the aftermath of the tsunami.⁵⁶ Donor responses must be predictable and need-driven. The international community responds to crises which are made visible by the media. Crises which are invisible, are forgotten. In 2003 and early 2004 there were only isolated reports about Darfur in the UK media. Even the warnings given by Jan Egeland in 2003 and the comparisons drawn between Rwanda and Darfur by Mukesh Kapila in March 2004 received little coverage. The crisis in Darfur was, as DFID put it, “slow to be revealed”.⁵⁷ It was not until June and July of 2004 — by which stage more than one million people had been forcibly displaced⁵⁸ — that the Darfur story began to receive wide coverage, and governments, including the UK, began to express their concerns more forcefully.⁵⁹

18. One response to the recognition of the importance of media coverage would be to castigate the media for failing to reveal the emerging crisis in Darfur. We would certainly like to see more and better-informed media coverage of international development and humanitarian needs, and have nothing but praise for those journalists — from the BBC, from Channel 4, from Reuters and other agencies — who helped to break the story, in some cases taking great personal risks. But criticising the media will not change much. And this is not the real issue. Governments which are aware of emerging humanitarian crises have a responsibility to act in a timely manner, regardless of the level of media coverage, as indeed do humanitarian agencies.⁶⁰ The UK Government, through its Embassy in Khartoum and its international partners, was well aware of the emerging crisis in Darfur. **Governments and politicians must not wait to act until images of death and destruction are on the TV screens. By then it is too late.**

19. The UK Government is not without expertise in media management. It could have decided to push the Darfur story in 2003 and early 2004. The fact that there were few such stories suggests that it did not. In June 2004, Hilary Benn, the Secretary of State for International Development, did much to raise the media profile of Darfur by taking a BBC

54 Ev 170 [WFP memo].

55 Ev 165 [UN-OCHA supplementary memo].

56 Overseas Development Institute (James Darcy), *The Indian Ocean Tsunami crisis: humanitarian dimensions*, Overseas Development Institute (ODI), 11 January 2005 — see <http://www.odi.org.uk/hpg/Tsunami.html>; Oxfam, *The Asian Tsunami: The challenge after the Jakarta summit*, Briefing Note, 7 January 2005 — see http://www.oxfam.org.uk/what_we_do/issues/conflict_disasters/downloads/bn_tsunami.pdf

57 Ev 75 [DFID memo].

58 *Darfur Humanitarian Profile No. 4*, 1 July 2004, p.2 — available at <http://www.unsudanig.org/>

59 Ev 146 [Human Rights Watch memo].

60 Ev 147 [Human Rights Watch memo]; Q 70-71 [Steve Crawshaw, Human Rights Watch].

camera crew along with him on his visit.⁶¹ More timely attention would undoubtedly have been given to Darfur at an earlier stage if the Government had worked with the media to ensure that the crisis was covered, through visits to Darfur or strongly-worded public statements in the first half of 2004.⁶² **Governments play an active part in shaping the news agenda.** The visits to Sudan by the Secretary of State for International Development, the Foreign Secretary and the Prime Minister, and the resulting media coverage, were extremely valuable. But **the UK Government could and should have done more to try to ensure that Darfur received greater news coverage in 2003 and early 2004. We invite the Government to outline, in its response to our report, its strategy for more effective media engagement around complex emergencies such as Darfur.**

Humanitarian access: Government obstructions, logistics, insecurity

The Government of the Sudan's obstructions

20. Access to those in need of humanitarian assistance in Darfur has been poor, particularly in the first few months of 2004.⁶³ The Government of the Sudan has been, and remains, in a state of denial: first, about the scale of the crisis in Darfur; second, about its involvement in and responsibility for the crisis.⁶⁴ This is not to say that the Sudanese government has been unaware of what has been taking place.⁶⁵ In an attempt to conceal the atrocities in Darfur from the outside world, so as to prevent its stories being exposed as lies, the GoS has hindered access to Darfur for humanitarian agencies, human rights organisations and journalists.⁶⁶ The ultimate aim of the GoS and specifically the military and security clique, in this regard, was to hold on to power, and to crush the rebels, regardless of the consequences for civilians. Until the end of May 2004, when they were eased somewhat, the GoS placed severe obstructions in the way of humanitarian agencies' and others' access to Darfur.⁶⁷ These obstructions, we were told, accounted for 75–80 percent of the problems faced by the humanitarian response.⁶⁸ They included visa restrictions, travel restrictions on the basis of feigned concern about NGOs' security, and news blackouts.⁶⁹ The impact of such restrictions was, as Jan Egeland put it, “a complete access failure”⁷⁰, particularly beyond the state capitals of Nyala, El Fasher and El Geneina. Governments including our own were well aware of the conflict in Darfur, and its consequences, but the level of humanitarian need was not known for many months.⁷¹

61 Ev 74 [DFID memo].

62 Whilst it is not an angle which we have taken evidence on, a free and independent local media in developing countries, something which seems to be lacking in Sudan, can do much to avert crises – see <http://www.panos.org.uk>

63 Ev 162 [UN-OCHA memo, chart II].

64 Ev 150 [ICG memo]; Q 57, Q 59 and Q 60 [Maniza Ntekim, Parliamentary Officer, Amnesty International UK]; Q 61 [Steve Crawshaw, Human Rights Watch].

65 Q 181 [Dr Mukesh Kapila].

66 Q 212 [Hilary Benn, DFID]; Q 181 [Dr Mukesh Kapila].

67 Ev 71 [DFID memo].

68 Q 185 [Dr Mukesh Kapila].

69 Hugo Slim, “Dithering over Darfur? A preliminary review of the international response”, *International Affairs*, Vol. 80 (2004), p.812 — see footnote 37.

70 Q 154 [Jan Egeland, UN-OCHA and ERC].

71 Ev 169 [WFP memo].

21. Many of the bureaucratic restrictions were eased by the Sudanese government from the end of May 2004 as the result of intense diplomatic pressure, multilaterally, as the UN Security Council began to at least discuss sanctions, and bilaterally, with the UK playing a key role.⁷² Toby Porter of Save the Children told us that it was the first time in his humanitarian career that he could remember the specific operational concerns of humanitarian agencies being taken up in great detail by a Secretary of State.⁷³ **We condemn the Government of the Sudan for its deliberate policy of limiting humanitarian access to Darfur. We applaud the UK Government and the British Embassy in Khartoum for their persistent efforts to get restrictions lifted. The humanitarian response would have been more effective if diplomatic pressure had led to an earlier lifting of the Sudanese government's bureaucratic restrictions, but Hilary Benn and Jack Straw, the Foreign Secretary, deserve much credit for ensuring that such restrictions were eventually eased. Effective humanitarian response to crises such as Darfur depends upon unhindered humanitarian access.**

22. Obstruction and intimidation of humanitarian agencies is still a daily occurrence in Darfur, particularly for those NGOs engaged in activities aimed at protecting human rights, improving the safety of civilians and reducing the risks of widespread or targeted violence, coercion or deliberate deprivation of basic needs (“protection” in the language of the humanitarian community).⁷⁴ Humanitarian agencies which seek to raise awareness of the gravity of the situation and highlight abuses by the military and the issue of rape, have especially been targeted. The Sudanese government regards protection and human rights work as political activities which take humanitarian agencies beyond their remit.⁷⁵ In a context such as Darfur, protection *is* primarily protection from the results of GoS policies. This is hardly the fault of NGOs. When governments fail to protect those caught up in conflict, humanitarian NGOs, left to pick up the pieces, do risk finding their activities labelled as “political”.⁷⁶ **Continuing diplomatic pressure is needed to ensure that humanitarian agencies and staff, including those involved in human rights and protection work, are not harassed. In a context where the Sudanese government is failing to protect its own people, it will not and must not escape criticism from agencies concerned with protection and human rights. And, specifically, the Sudanese government should be put under pressure to ensure that the International Committee of the Red Cross — perhaps the archetypal *humanitarian* organisation — has the access which it needs to detainees. The UK Government, through the Embassy in Khartoum, must continue to press the Sudanese government on these issues.**

72 Q 154 [Jan Egeland, UN-OCHA and ERC]; Q 76 [Toby Porter, Emergencies Director, Save the Children UK, representing the Sudan Advocacy Coalition (Care, Christian Aid, International Rescue Committee, Oxfam, Save the Children, Tearfund)].

73 Q 76 [Toby Porter, Sudan Advocacy Coalition]; Ev 148 [Human Rights Watch memo].

74 Inter-Agency Standing Committee (IASC), *Inter-Agency evaluation of the humanitarian response to the Darfur crisis*, 3 March 2005, p.8 — see <http://www.reliefweb.int/library/documents/2005/ocha-sudan-03mar.pdf>; Q 37 [Dr Suliman Baldo, ICG].

75 The Minister for Humanitarian Affairs made this point to us in Khartoum.

76 “Aid agencies’ rape reports ‘political’, Sudan says”, Reuters Foundation, 7 March 2005 – available at <http://www.reliefweb.int>

Logistical challenges

23. The humanitarian response has also been hampered by logistical challenges. The fundamental challenge has been the remoteness of Darfur and its poor transport links. There are few tarmac roads, and the one rail link — to Nyala — is unreliable and insecure. This poses major problems for the timely delivery of adequate humanitarian supplies. For instance it can take three weeks to deliver food by truck from Port Sudan to El Geneina. In the rainy season, most roads are impassable. Faced by bureaucratic obstructions and insecurity, the World Food Programme (WFP) had a slow start in Darfur in 2004, and spent much of the year playing catch-up. Once a reasonable operating capacity had been reached, WFP faced additional problems of airport apron capacity, aviation fuel shortages, and insecurity.⁷⁷ As we heard from NGOs in Khartoum, and data for early 2005 confirm⁷⁸, there are still concerns about the ability of WFP to deliver sufficient food to Darfur, especially if insecurity continues. **All organisations tasked with the delivery of humanitarian supplies, including the WFP, must be well-supported by the donors at an early stage. If they are to deliver adequate supplies at the right time, then this is essential. In return for donor support, the organisations must deliver. The WFP must do all it can to ensure that adequate food supplies are in place before demand peaks in August this year.**

The threat of insecurity to the humanitarian response

24. Until February 2004, the humanitarian community had access to less than ten percent of the displaced people in Darfur, primarily because of widespread fighting.⁷⁹ Security remains a key impediment, with access to rebel-held areas proving particularly difficult in recent months.⁸⁰ Major roads in Darfur are often closed due to banditry, the AU ceasefire monitors have been shot at, and NGO workers have been abducted and killed.⁸¹ On 10 October 2004 two staff members of Save the Children UK were killed and another seriously injured when a land-mine exploded. In December 2004, a Médecins Sans Frontières aid-worker was killed, and two Save the Children UK staff were shot dead by Sudanese Liberation Army (SLA) soldiers. Shortly afterwards, Save the Children UK pulled out of Darfur. **The killing of humanitarian workers in situations of armed conflict is a war crime.⁸² The perpetrators of such crimes must be brought to justice, and the protection provided to humanitarian workers under international law must be clarified, and, if necessary, strengthened.**

77 Ev 169 [WFP memo].

78 Ev 164 [UN-OCHA memo, chart V] — shows that food deliveries covered 70% of the conflict-affected population in October 2004, 57% in November, 61% in December, and 62% in January; see also UN-OCHA, “WFP warns of potential food crisis”, 24 February 2005 — available at <http://www.reliefweb.int>

79 Ev 74 [DFID memo].

80 Ev 169 [WFP memo]; Ev 129 [ECHO memo].

81 Ev 101 [Amnesty International UK memo].

82 In Resolution 1502 (2003), the UN Security Council noted: “*Emphasizing* that there are existing prohibitions under international law against attacks knowingly and intentionally directed against personnel involved in a humanitarian assistance or peacekeeping mission undertaken in accordance with the Charter of the United Nations which in situations of armed constitute war crimes and recalling the need for States to end impunity for such criminal acts”.

25. The UN security agency — the Department of Safety and Security (UNDSS)⁸³ — is responsible for the safety and security of UN workers. One of its tasks in Darfur is to assess whether roads are safe enough to use. The agency has high standards, and applies them strictly. But as we heard in Nyala this can sometimes mean that those NGOs which follow UNDSS guidelines, as well as UN agencies, are unable to access people in need for considerable periods of time. This can be frustrating, and prolongs the hardship of those in need. **Resolving the security problem requires political pressure on the parties to stick to the ceasefire, and more robust protection for humanitarian agencies. But in the meantime, with more resources, UNDSS could check roads more frequently, allowing it to maintain its standards without having to declare roads “no-go” for long periods of time.**⁸⁴ **The UK Government, in its support for the humanitarian response, must ensure that UNDSS receives adequate funding.**

26. In December 2004, Toby Porter of Save the Children UK explained to us that the humanitarian effort was in danger of being de-railed by the deterioration in the security situation. The priority he told us is “security, security, security”.⁸⁵ Insecurity prolongs and deepens humanitarian need. Security is the pre-requisite for the effective provision of humanitarian relief. This in turn requires that the parties — the GoS, and also the rebels — do not violate the ceasefire, and stick to the humanitarian and security protocols to which they are signatories. **To ensure that the humanitarian effort is not derailed by insecurity, the AU, the UK and other external powers must apply firmer political pressure, bilaterally and through the UN, to ensure that the parties honour their ceasefire commitments. But no matter what happens politically, or in terms of sticking to the ceasefire, humanitarian relief must be provided according to need; relief must not be made conditional.**

The humanitarian system: Capacity, coordination and leadership

27. The humanitarian response to the crisis in Darfur has done much to meet humanitarian needs. We have nothing but praise for the agencies and individuals who devote their lives to providing relief in circumstances which are both trying, and — being beyond their control — frustrating.⁸⁶ Nevertheless, the agencies which make up the humanitarian system could have responded more effectively. Beyond the political context, bureaucratic obstructions, logistical challenges and insecurity were the main constraints, but there are lessons to be learnt as regards the humanitarian system itself. The system must, as Hilary Benn emphasised in a speech made in December 2004, be better equipped to operate in challenging environments.⁸⁷

83 UNDSS was approved by the UN General Assembly in December 2004. It aims to strengthen and unify the UN security system, and incorporates three UN agencies with responsibility for staff safety, including the Office of the United Nations Security Coordinator (UNSECOORD).

84 Q 175 [Jan Egeland, UN-OCHA and ERC]; IASC, *Inter-Agency evaluation of the humanitarian response to the Darfur crisis*, 3 March 2005, p.4— see footnote 74.

85 Q 55 [Toby Porter, Sudan Advocacy Coalition]; Ev 129 [ECHO memo].

86 Ev 74 [DFID memo].

87 Ev 92 [Speech given by Hilary Benn, DFID, at the Overseas Development Institute (ODI), December 15 2004].

Humanitarian agencies' speed of response

28. Once the bureaucratic obstructions to humanitarian access began to be lifted, and donors began to make funds available,⁸⁸ the humanitarian agencies — NGOs and UN agencies — were slow to deploy in sufficient number.⁸⁹ In March 2004, there was a total of just over 200 humanitarian workers — NGOs and UN, national and international — in Darfur. By April, this had increased to just over a thousand. From July, the numbers of humanitarian workers began to increase rapidly, such that by the end of December 2004, there were 9108 aid-workers in Darfur, of which 814 were international staff.⁹⁰ Staff turnover remains unacceptably high.⁹¹ Those NGOs that had been active in Darfur prior to 2004 were focussed on development activities, and did not switch their focus to humanitarian relief quickly enough. They also found gearing up and securing funding a serious challenge. All agencies found it extremely difficult to find experienced staff to take up posts in Darfur.⁹² As Jan Egeland told us, some NGOs which were able to deploy 100 people to provide relief to the tsunami victims in two weeks got ten people to Darfur in two months.⁹³ When a humanitarian crisis emerges there is a tremendous surge in demand for staff as NGOs and UN agencies compete to employ personnel from the same limited and insufficient pool of staff.⁹⁴ To add to the problems of recruitment, working in Darfur, with its harsh climate, bureaucratic obstructions and insecurity, is not an attractive proposition, even by the standards of the sorts of places where humanitarian agencies tend to work.⁹⁵

29. The inability of the humanitarian agencies, especially NGOs, to deploy quickly to Darfur raises important questions. How can the humanitarian system be reformed so that it has the capacity, particularly in terms of personnel, to respond quickly and reliably to humanitarian crises and the peaks of demand that they create? DFID and the relevant UN agencies fully acknowledge this problem.⁹⁶ We look forward to seeing the results of their considerations, but have two modest suggestions to make. The staff of humanitarian agencies provide an element of protection simply by their presence,⁹⁷ perhaps especially those international staff who are clearly not party to the conflict. Notwithstanding this, **donors, NGOs and UN agencies should give serious consideration to investing more in training and skills development for humanitarian staff from the developing world, so that the capacity of the humanitarian system can be enhanced.** Further, **humanitarian donors must do more to support their implementing partners in the times between crises. In the absence of core-funding, it is no surprise that NGOs find it difficult to train and retain staff and to respond quickly to need. We would appreciate further information about DFID's policy on this.**

88 Ev 75 [DFID memo].

89 Q 64 [Toby Porter, Sudan Advocacy Coalition]; Q 154 [Jan Egeland, UN-OCHA and ERC]; Ev 74 [DFID memo].

90 *Darfur Humanitarian Profile No. 10*, 1 January 2005, p.3 — see footnote 16; Ev 163 [UN-OCHA memo, chart III].

91 IASC, *Inter-Agency evaluation of the humanitarian response to the Darfur crisis*, 3 March 2005, p.6 — see footnote 74.

92 Q 66 [Toby Porter, Sudan Advocacy Coalition].

93 Q 162 [Jan Egeland, UN-OCHA and ERC].

94 Q 66 [Toby Porter, Sudan Advocacy Coalition].

95 Q 73 [Toby Porter, Sudan Advocacy Coalition].

96 Ev 92 [Hilary Benn speech at ODI — see footnote 86]; Q 66 [Toby Porter, Sudan Advocacy Coalition].

97 Q 37 [Dr Suliman Baldo, ICG].

Coordination gaps: IDPs, camp management and voluntary return

30. There have been concerns about the coordination of the humanitarian response to Darfur. DFID — which itself deserves credit for the practical steps it took to enhance coordination⁹⁸ — notes that on the ground coordination has generally been satisfactory, but that at the national level it has been lacking. It took, says DFID, too long to define areas of sectoral responsibility, there was a lack of strategic coordination and analysis was poor.⁹⁹ ECHO too suggests that there is “room for improvement.”¹⁰⁰ Coordinating the UN’s work across Sudan in 2003 and early 2004 presented many challenges. First, efforts by UN Member States to promote their own agendas through the UN, and to favour their preferred agencies. Second, a lack of communication between UN agencies and staff working in different parts of Sudan. And third, divisions and competition for resources between UN agencies, particularly across the artificial — and in Sudan’s recent experience, unhelpful — divide between humanitarian assistance and assistance designed to meet human development needs.¹⁰¹

31. Rejecting some of the criticism which has been levelled at the UN’s role in coordinating the humanitarian response, Jan Egeland, the head of the UN Office for the Coordination of Humanitarian Affairs, told us that coordination “has not been as bad as it may seem”. In his view it was not so much coordination which was lacking but the volume of humanitarian response. There were too few agencies and NGOs to coordinate.¹⁰² There is undoubtedly much truth to this, but there have been and remain large coordination gaps, particularly as regards specific issues: providing relief and protection to IDPs; and managing the huge camps which in Darfur are now home for 1.8 million people who have fled from their homes.¹⁰³

32. That conflicts cause the displacement of people within the borders of their own country should not come as a surprise. That the international humanitarian system remains ill-equipped to deal with such people — IDPs — is shocking. As Hilary Benn acknowledged, it is “ludicrous” that a person who has failed to cross an imaginary line which she may well not be aware of should forfeit the help she needs to survive.¹⁰⁴ This failing of the humanitarian system — constrained by the politics of sovereignty — has been all too evident in Darfur.¹⁰⁵ The Office of the United Nations High Commissioner for Refugees (UNHCR) has a formal mandate to deal with those who happen to have stepped across the border and become “refugees”, but no agency is in the lead on dealing with IDPs.¹⁰⁶ **If the international community is to be able to fulfil its responsibility to protect, it must act now to ensure that it is able to deal effectively with crises involving IDPs. *Ad hoc* arrangements will not see duties adequately fulfilled. To respond to IDPs’ needs with**

98 Q 65 [Toby Porter, Sudan Advocacy Coalition].

99 Ev 74 [DFID memo].

100 Ev 130 [ECHO memo].

101 Q 189 and Q 190 [Dr Mukesh Kapila].

102 Q 155 and Q 162 [Jan Egeland, UN-OCHA and ERC].

103 Q 190 [Dr Mukesh Kapila].

104 Q 141 [Hilary Benn, DFID].

105 Ev 75 [DFID memo].

106 Q 67 [Toby Porter, Sudan Advocacy Coalition].

excuses about institutional mandates would be laughable if it did not have such tragic human consequences.¹⁰⁷

33. Managing the IDP camps has been perhaps the most glaring coordination gap.¹⁰⁸ Jan Egeland told us that matters did improve over the course of 2004, and was keen to praise the NGOs which have taken on the responsibility for managing particular camps.¹⁰⁹ Over the border in Chad, whilst the camps are stretched and there are increasing tensions with local communities over resource-use, the responsibility for camp management at least is clear; it rests with UNHCR.¹¹⁰ In Darfur, whilst the primary responsibility for assisting and protecting IDPs rests with the GoS, the camps are managed by different NGOs, most of which lack the relevant experience.¹¹¹ Many do a commendable job, but it would be better if there were a UN Agency with the responsibility for the management of IDP camps. UNHCR was asked at the end of 2003 to take on the responsibility for IDP camp management in Darfur. The United Nations Children's Fund (UNICEF) was also asked. Neither took on the responsibility. Asked in June 2004 by the UN Country Team to share its expertise in camp management, site planning and protection, UNHCR responded swiftly.¹¹² Our puzzlement is increased by the fact that UNHCR rejected an August 2004 request from the Special Representative of the Secretary General of the UN, to take the lead in coordinating assistance and protection for IDPs in camps.¹¹³ **The UK Government should — on behalf of the UK taxpayers who help to fund the agencies — find out why UNHCR and UNICEF were unwilling to take on the responsibility for the management of IDP camps in Darfur.**

34. There are specific gaps too. Insufficient attention and resources have been given to the continuing risks of violence faced by people once they reach what should be the safety of IDP camps. **All IDPs are affected by violence, but the needs of women and girls affected and threatened by rape and gender-based violence stand out.**¹¹⁴ **Many attacks take place when women — putting themselves at risk of attack, rather than their husbands and sons, who might be killed — are collecting firewood outside the camps.**¹¹⁵ **Fuel-efficient stoves can help, and arrangements should be made to ensure — as was the case at Al Sherif camp when we visited — that trustworthy police patrols are stepped up to protect women collecting firewood**¹¹⁶ (see paragraphs 70–71 on policing). **More attention and**

107 There is a UN-OCHA Inter-Agency Internal Displacement Division, but the fact that no-one has brought this to the attention of us during the course of our inquiry gives us no reason to doubt Hilary Benn's assessment, made in his ODI speech — see footnote 87 — that it has neither the operational capacity nor the formal authority to achieve coordination.

108 IASC, *Inter-Agency evaluation of the humanitarian response to the Darfur crisis*, 3 March 2005, pp.13-16 — see footnote 74.

109 Q 155 [Jan Egeland, UN-OCHA and ERC].

110 Ev 156-158 [UNHCR memo].

111 IASC, *Inter-Agency evaluation of the humanitarian response to the Darfur crisis*, 3 March 2005, p.14 — see footnote 74.

112 Ev 156 [UNHCR memo].

113 IASC, *Inter-Agency evaluation of the humanitarian response to the Darfur crisis*, 3 March 2005, p.14 — see footnote 74.

114 MSF, *The crushing burden of rape: Sexual violence in Darfur*, Briefing Paper, 8 March 2005 — available at <http://www.msf.org>

115 Ev 101 [Amnesty International UK memo].

116 IASC, *Inter-Agency evaluation of the humanitarian response to the Darfur crisis*, 3 March 2005, p.10, recommendation no.28 — see footnote 74. Such a system was in use, we were told, on our visit to El Sherif camp.

resources also need to be devoted to the rights and needs of those who have been attacked, and to ensuring that those responsible are brought to justice.¹¹⁷ Other gaps are apparent as regards the management and mitigation of the environmental impact of camps, the provision of adequate water and sanitation, policing, and protection, especially child protection.¹¹⁸

35. Darfur's IDP camps are the result of the murderous policies pursued by the GoS and its allied militias. Enabling IDPs to return home — or, to be precise, enabling them to exercise a choice as to whether or not to return home — must be a key goal of the international community.¹¹⁹ Otherwise, the ethnic cleansers will have achieved their objectives. As we saw for ourselves in Darfur, the camps are of variable quality. But even the worst perhaps offer better security and slightly better services — water, health and education — than the villages from which people have fled. As such, and particularly given IDPs' well-founded fear that they might be attacked if they return to their homes, there is a serious risk that many of the IDP camps may become permanent. Indeed, in some of the camps we visited, mud-brick houses had been built alongside the flimsy tents that most IDPs live in, a sure sign that some IDPs are expecting to stay for some time.

36. The Sudanese government is keen to see the IDPs return home. With people in camps it can off-load onto humanitarian agencies the responsibility for providing services, but it does not want huge camps of dispossessed and potentially angry people around the state capitals of Darfur.¹²⁰ The international community is keen to enable IDPs to return home if they so wish; it cannot allow temporary displacement to become permanent ethnic cleansing.¹²¹ But the international community must take great care that its aims of enabling freely-chosen well-informed return are not subverted by the Sudanese government's enthusiasm for return regardless of its circumstances. Forced returns or relocations of IDPs to other camps are contrary to international humanitarian law, and — in the absence of investment in meeting people's needs in their home villages — can make it harder to provide relief.¹²² Regrettably, unjustifiable forced return and relocations have continued. Near Nyala, we saw the remains of Al-Geer camp. This camp had been raided and the people moved by force in November 2004, in the full view of AU observers, UN humanitarian workers, and the international media.¹²³ This was not an isolated incident.¹²⁴

37. The Government of the Sudan has frequently flouted the Memorandum on Voluntary and Safe Return it signed with the International Organization for Migration (IOM), and

117 Q 78 [Maniza Ntekim, Amnesty International UK].

118 IASC, *Inter-Agency evaluation of the humanitarian response to the Darfur crisis*, 3 March 2005, pp. 8-11, — see footnote 74; Q 156 [Jan Egeland, UN-OCHA and ERC].

119 Ev 103 [Amnesty International UK memo].

120 Q 7 [Dr Suliman Baldo, ICG].

121 "Safe areas", the misconceived idea of Jan Pronk, the Special Representative of the Secretary General carried with it the risk of institutionalising forced displacement too, as well as giving the GoS an excuse for military action to enforce and extend the "safe areas". Ev102 [Amnesty International UK memo]; Ev 104 [Associate Parliamentary Group for Sudan]; Q 10 [Dr Suliman Baldo, ICG].

122 There are two situations in which forced relocations, done correctly, are legal; when the security of civilians, or imperative military reasons, demand it. Additional Protocol II to the Geneva Conventions: Art. 17 — Prohibition of forced movement of civilians.

123 Ev 150 [ICG memo]; "Sudanese forces raid refugee camp", BBC on-line, 10 November 2004 — see <http://news.bbc.co.uk/2/hi/africa/3998243.stm>

124 Q 7 [Dr Suliman Baldo, ICG]

agreements reached with the UN through UNHCR.¹²⁵ Serious concerns have been expressed about the way in which the GoS was able to use the IOM — an independent agency, outside the UN system — as a smokescreen for its policy of forced returns and relocations. We trust that lessons have been learnt.¹²⁶ **If returns and relocations are to be truly voluntary, then there must be extensive consultation with the IDPs. And with the women, not just with the male tribal leaders.**¹²⁷ The UN's Guiding Principles on Internal Displacement demand this.

38. IDPs will not return home voluntarily until they feel safe to do so.¹²⁸ The violence must end, and the threat of violence be lifted. The Janjaweed and other militias must be disarmed, and the rebels must stop their provocative attacks too. Trustworthy security, policing and protection must be stepped up in the places to which IDPs might return.¹²⁹ **Security and progress on the political front are the pre-requisites for voluntary return. Agreements on Voluntary Return will not in themselves bring it about. Nevertheless, the international community must ensure that the Sudanese government sticks to the agreements it has reached and stops its practice of forcing IDPs to return home or to move to other camps. Rather than waiting for security to improve, the UN should be putting plans in place now, for the informed and voluntary return of IDPs to their homes over the next year.**¹³⁰

A leadership vacuum

39. Mukesh Kapila was the UN Resident and Humanitarian Coordinator from March 2003 until 1 April 2004 when he was required to leave Sudan. He had been present during the genocide in Rwanda ten years earlier, an experience which did much to shape his response to the unfolding events in Darfur. The UN's explanation for his departure is that a Special Representative of the Secretary General was to be installed as the UN's role in Sudan evolved to take account of the fast-moving North-South peace process.¹³¹ This is a very partial explanation. In the months prior to his departure, Dr. Kapila had become an increasingly outspoken critic of what he saw as the Sudanese government's policy of "ethnic cleansing".¹³² By speaking out he helped to embarrass the international community into paying attention to the ongoing crisis in Darfur. His forthright approach won him few friends in the Sudanese government. And his efforts to better coordinate the humanitarian and development effort across Sudan upset the UN's established ways of working in Sudan. He was also an irritant to those who preferred a strategy of "quiet diplomacy" on Darfur.¹³³ Having expended his personal political capital, and having received personal threats, he had little choice but to leave. **Mukesh Kapila's enforced departure from Sudan was, it**

125 Ev 104 [Associate Parliamentary Group for Sudan].

126 Q 164 [Jan Egeland, UN-OCHA and ERC].

127 Q 163 [Jan Egeland, UN-OCHA and ERC].

128 Q 104 [Hilary Benn, DFID].

129 Q 166 [Jan Egeland, UN-OCHA and ERC].

130 ICG, *Darfur: The failure to protect*, 8 March 2005, p. ii — see footnote 4.

131 Ev 96 [Letter to the Chairman of the Committee from the Rt Hon. Hilary Benn MP, Secretary of State for International Development].

132 "Mass rape atrocity in west Sudan", BBC 19 March 2004 – see <http://news.bbc.co.uk/1/hi/world/africa/3549325.stm>

133 Q 200 [Dr Mukesh Kapila].

seems, the inevitable result of his decision to speak out and insist that a so-called “humanitarian crisis” had political causes and required political pressure for its resolution. Dr. Kapila told us that as the ethnic cleansing was not averted, he believes that he personally failed in Darfur. But it was the international community that failed, despite the best efforts of Dr. Kapila, and others such as Jan Egeland.

40. The departure of Mukesh Kapila left a gaping hole in the UN’s operations in Sudan at a critical time.¹³⁴ The resulting leadership vacuum made it hard for the UN Country Team and its members to reorient themselves towards Darfur.¹³⁵ And, at a time when important negotiations were taking place about humanitarian access, human rights, and compliance with humanitarian principles, the absence of leadership made it hard for the UN to deal effectively with the GoS.¹³⁶ Happy to have a weakened UN to deal with, the GoS did what they could to delay the appointment of Dr. Kapila’s successor. The UN itself did a poor job of managing the transition. The UN’s suggestions — Alan Doss (a UK citizen, like Kapila), and Kevin Kennedy (a US citizen, with strong ties to the US government) — were not accepted by the GoS.¹³⁷ Though we might wish for a world where UN staff are treated as global citizens, and indeed operate as global citizens, the political reality is different. The UN was not wise to make these suggestions, and should have acted much earlier to ensure a smooth transition. In this regard, the UN — with its actions no doubt shaped by powerful Member States — failed. It was not until the UN Security Council began to exert effective pressure on the Sudanese government, that the UN was able to appoint Jan Pronk as the Special Representative of the Secretary General, and Manuel da Silva as the Humanitarian Coordinator.¹³⁸ **Mukesh Kapila was right to speak out about Darfur, of that we have no doubt. The UN system failed to ensure a smooth transition at a critical time, because of a lack of planning, because — once sensible suggestions for his replacement were made — of a lack of political pressure by Member States through the Security Council, and because of the intransigence of the Government of the Sudan.**

Towards effective humanitarian relief?

Darfur’s continuing humanitarian needs

41. The humanitarian crisis in Darfur is far from over. The relief effort made steady progress with providing assistance to an increasing number of people over the course of 2004, but big gaps remain. Thirty-eight percent of those in need of food are not provided for, twenty-seven percent of those in need of shelter, and fifty-one percent of those in need of clean water. Ninety-six percent of those in need of agricultural inputs — seeds and tools — have not been provided for.¹³⁹ Millions of people remain displaced and affected by conflict. The effects of the crisis will be felt across Darfur for many years to come, by the mainly Arab nomadic herders as well as the mainly “African” sedentary farmers, many of

134 Ev 74 [DFID memo].

135 Ev 75 [DFID memo].

136 Q 182 [Dr Mukesh Kapila].

137 Q 159 [Jan Egeland, UN-OCHA and ERC].

138 *Ibid.*

139 Ev 163 [UN-OCHA memo, chart IV].

whom are currently housed in camps.¹⁴⁰ Such concerns were put to us particularly forcefully in El Fasher, by representatives of the World Food Programme (WFP) and the Food and Agriculture Organization (FAO). **If, as seems certain, the IDPs are unable to return home this spring in time to plant crops, continuing food aid will still be needed this year to feed 3 or perhaps 4 million people, nomadic Arabs as well as African sedentary farmers.**¹⁴¹ **There is an extremely serious risk of famine.**¹⁴² **Having arrived late in the day, the humanitarian community must not now turn its back on Darfur.**¹⁴³

Reforming the international humanitarian system

42. Giving his assessment of the international community's response to Darfur, Jan Egeland told us:

“I have not been satisfied either with the donor response nor with the humanitarian community's response to the Darfur emergency. I think we were late as a UN community, I think the donors were late, I think the Security Council were late, I think most of our Member States were late in recognising the gravity of the crisis and really addressing it in a forceful manner. [...] If I am, as Emergency Relief Coordinator with the General Assembly mandate, the one supposedly in charge of coordinating humanitarian efforts in the world, if I say it is one of the worst humanitarian crises in the world we should have gotten more money from donors to our already-issued appeals, we should have seen an initiative from the Security Council in asking for a briefing and we should have ideally seen pressure on the Sudanese government to giving access.”¹⁴⁴

43. The international community's failure to fulfil its responsibility to protect the people of Darfur cannot be blamed on the UN agencies and NGOs which make up the “humanitarian community”. Nevertheless the humanitarian response could and should have been better. The response to the tsunami is instructive. For Darfur, the UN asked its Member States for six helicopters in April 2004. By July, none had been provided. For the tsunami, on day two of the emergency, a request was made for helicopters; within days five helicopter-carrier ships with hundreds of helicopters were made available.¹⁴⁵ Darfur is not so favoured. This report, along with critical reflection by the UN and donors including DFID is part of the lesson-learning process.¹⁴⁶ **There is strong case for initiating an inter-governmental review of the humanitarian response, along the lines of that which took**

140 IASC, *Inter-Agency evaluation of the humanitarian response to the Darfur crisis*, 3 March 2005, p.3 — see footnote 74.

141 Ev 158 [UNHCR memo]; Ev 129 [ECHO memo]; ‘Jan Egeland, “World must act now on Darfur, with millions of lives at stake”, *UN News Service*, 18 February 2005 — available at <http://www.reliefweb.int>

142 Helen Young, Abdul Monim Osman, Yacob Aklilu, Rebecca Dale, Feinstein International Famine Center, Tufts University and Babiker Badri, Ahfad University for Women, Omdurman, Sudan, *Darfur 2005: Livelihoods under siege*, February 17 2005 — see <http://www.unsudanig.org/emergencies/darfur/assessments/data/Under%20Siege.pdf>; Q 173 [Jan Egeland, UN-OCHA and ERC];

143 Q 62 [Steve Crawshaw, Human Rights Watch]; Q 62 [Toby Porter, Sudan Advocacy Coalition].

144 Q 155 and Q 158 [Jan Egeland, UN-OCHA and ERC].

145 Q 1 of Oral and written evidence, Session 2004-05, *Responses to the Asian tsunami disaster*, HC 328 [Jan Egeland, UN-OCHA and ERC].

146 IASC, *Inter-Agency evaluation of the humanitarian response to the Darfur crisis*, 3 March 2005 — see footnote 74; Ev 92 [Hilary Benn speech to ODI — see footnote 87].

place after Rwanda, led perhaps by an African country. The UK Government should consider supporting such a review.¹⁴⁷ We have made a variety of recommendations: about early warnings, donor response and the role of the media (paragraphs 14–19); about humanitarian access (paragraphs 20–26); and about the effectiveness of the humanitarian system itself (paragraphs 27–40). Some issues however deserve further attention.

44. First, the issue of donor response. The UN has sophisticated systems to provide early warnings of humanitarian crises. But early warnings are of little value if those warnings are not heeded by governments.¹⁴⁸ **There may be value in having a system of graded warnings which, depending on the level of warning, require mandatory action by governments.** Predictable and flexible donor response is key.¹⁴⁹ Predictable donor responses to individual crises must be part of a system for allocating humanitarian resources according to need rather than on the basis of national interest and media attention. Otherwise the huge disparities in the levels of assistance provided to people suffering in different places will remain: the UN's 2003 appeal for Chechnya was ninety-one percent funded, providing \$40 per beneficiary; the UN's 2003 appeal for Mozambique was fifteen percent funded, providing 40 cents per beneficiary. Hilary Benn, in a speech made two weeks prior to the south Asian tsunami, made two excellent suggestions. First, there should be a new humanitarian fund, resourced by Member States and the UN, controlled by the Secretary General, and administered by the UN Emergency Relief Coordinator. Second, ECHO should focus more of its funds on those crises which would not otherwise attract sufficient funds, the “forgotten crises” such as the Central African Republic, the Democratic Republic of the Congo, northern Uganda, Somalia and Colombia.¹⁵⁰ The Secretary of State recently told us that ECHO is not keen on this suggestion, perhaps because it would leave it dealing with low-profile crises, but there might be ways of making it a more attractive proposition for ECHO.¹⁵¹

45. A second area of concern is coordination. Taxpayers in donor countries expect their money to be spent effectively. This requires that the humanitarian response to crises is well-coordinated. Humanitarian agencies have their own specialisations and mandates, and — competing for scarce resources — may sometimes be party to turf wars. This does not make for a well-coordinated and effective humanitarian response. Hilary Benn's sensible suggestion is to give UN-OCHA more clout in terms of coordination, backed up by more control of resources.¹⁵² It is not acceptable for those in need to suffer as a result of institutional gaps. UN-OCHA should provide more robust leadership and coordination to fill gaps, particularly as regards issues which are of concern to multiple agencies. That is, UN-OCHA might be more active as regards needs assessment and planning, and as regards the organisation of joint logistics, transport, communications, shelter and early deployment, but leave agencies which are able to effectively fulfil their own mandates to get

147 Hugo Slim, “Dithering over Darfur? A preliminary review of the international response”, *International Affairs*, Vol. 80 (2004), p.827 — see footnote 37.

148 Ev 166 [UN-OCHA, supplementary memo].

149 Q 157 [Jan Egeland, UN-OCHA and ERC].

150 Ev 93 [Speech by Hilary Benn at ODI — see footnote 87].

151 Q 22 of Oral and written evidence, Session 2004-05, *Responses to the Asian tsunami disaster*, HC 328 [Hilary Benn, DFID].

152 Q 129 [Rt Hon. Hilary Benn MP, Secretary of State for International Development]; Ev 94 [Speech by Hilary Benn at ODI — see footnote 87].

on with it.¹⁵³ More broadly in terms of institutional gaps, **the international community needs to establish ways of working which deliver humanitarian aid when it is needed, but which do not institutionalise artificial and unhelpful divisions between humanitarian relief, reconstruction and development.**

46. We endorse strongly the suggestions made by the Secretary of State for International Development for reforming the international humanitarian system, particularly as regards funding and giving UN-OCHA a stronger role in coordination. More broadly, we share his concern that there are no clear means of holding humanitarian donors and agencies to account.¹⁵⁴ Accountability, in turn, requires standards against which agencies' performance can be assessed, but which do not — by focussing too much on inputs rather than outcomes — distort the humanitarian response.¹⁵⁵ **In the absence of accountability, the provision of humanitarian relief will be slow to improve.**

The limits of humanitarian relief

47. To fulfil the responsibility to protect, the international community must address both the symptoms and the causes of crises such as that in Darfur. This has not always been achieved. The problem starts with labelling. Despite its commendable effort in setting up a joint FCO-DFID Sudan Unit,¹⁵⁶ the UK Government — along with most others — has tended to refer to Darfur as either a “humanitarian emergency” or a “humanitarian crisis”.¹⁵⁷ In our final evidence session, after the Asian tsunami, Hilary Benn referred to Darfur as “the greatest humanitarian crisis in Africa”.¹⁵⁸ This is a simple way of describing a complex crisis, but it can be very misleading. It also raises suspicions that humanitarian action is being used to mask the international community's failure to respond on the security and political front.¹⁵⁹ **The suffering of Darfur's millions is not the result of a natural disaster. It is not solely a “humanitarian crisis”. It is a political, human rights and humanitarian crisis, and — as the UN Security Council has confirmed — a crisis which threatens international peace and security. Every opportunity should be taken to make this clear. Unless the causes as well as the symptoms of the crisis in Darfur are**

153 Q 8 of Oral and written evidence, Session 2004-05, *Responses to the Asian tsunami disaster*, HC 328 [Jan Egeland, UN-OCHA and ERC]; Ev 94 [Speech by Hilary Benn at ODI — see footnote 87].

154 Ev 94 [Speech by Hilary Benn at ODI — see footnote 87].

155 IASC, *Inter-Agency evaluation of the humanitarian response to the Darfur crisis*, 3 March 2005, pp.12-13 — see footnote 74 — raises some concerns about the use of the Sphere Project's Minimum Standards in Disaster Response. On the sphere project see <http://www.sphereproject.org/> and on “good humanitarian donorship” see <http://www.reliefweb.int/ghd/>

156 Ev 71 [DFID memo].

157 Ev 99 [Mark Pallis memo] makes this point. Primary evidence includes: FCO and DFID, “Sudan — a significant step towards peace”, Statement by Jack Straw and Hilary Benn, 7 January 2004 — available at <http://www.fco.gov.uk>; DFID, *UK presses Sudan government for urgent action on Darfur*, Press Release, 8 June 2004; DFID, *Parliamentary statement on Darfur*, Press Release, 9 June 2004; DFID, *A statement by Hilary Benn on future aid for Sudan*, 14 October 2004 — all available at <http://www.dfid.gov.uk>

158 Q 212 [Hilary Benn, DFID].

159 Q 60 and 76 [Steve Crawshaw, Human Rights Watch]; Ev 148 [Human Rights Watch memo]; see also Hugo Slim, “Dithering over Darfur? A preliminary review of the international response”, *International Affairs*, Vol. 80 (2004), pp. 811-828 — see footnote 37.

dealt with, and the humanitarian response is able to proceed in a secure context — with political progress being made — no amount of money will resolve the crisis.¹⁶⁰

48. **Humanitarian aid is not a substitute for political pressure, and, if necessary, military action to enhance security. The humanitarian community must not be made a scapegoat for the international community's failure to respond adequately to Darfur on the political level.**¹⁶¹ As Jan Egeland, the UN Emergency Relief Coordinator put it: “too often the world sends us, the band aid, and the world believes that we keep people alive and then they don't have to take a political and security action. This is wrong and that's why we are really tired of being that kind of a substitute for political and security action.”¹⁶² Humanitarian relief can only be delivered effectively if there is security. In Darfur, security depends upon the government and the rebels sticking to their ceasefire commitments, and the Arab militias — along with the rebels — being disarmed. This will not happen unless the AU as a regional body, and countries such as the UK — bilaterally and through the UN — step up the political pressure.

160 Q98 [Toby Porter, Sudan Advocacy Coalition]; Ev 101 [Amnesty International UK memo]; Ev 104 [Associate Party Group for Sudan memo].

161 Q185 [Dr Mukesh Kapila].

162 'Jan Egeland, "World must act now on Darfur, with millions of lives at stake"', *UN News Service*, 18 February 2005 – available at <http://www.reliefweb.int>

3 Providing protection and security by exerting political pressure?

Negotiating the political and security landscape

49. Fundamentally, the crisis in Darfur is political, involving struggles for control over resources. Its solutions will be political too. Stronger political pressure is needed on all sides to protect civilians, to enhance security, and to encourage progress towards a political resolution. A political agreement between the GoS and the rebels will not resolve Darfur's problems, but it will set a framework within which local solutions can be found to complex problems of land, resources and governance.

50. The landscape on which humanitarian agencies work is shaped by politics and (in)security. If the rebels had not taken up arms, and if the GoS and its allied militias had not responded with a policy of ethnic cleansing, then the crisis in Darfur would have been on a smaller scale, and there would have been less need for humanitarian assistance. If the GoS and the rebels had stuck to their commitments, persuaded by more effective international pressure, then less relief would have been needed, and it would have been delivered more effectively. And if international politics and the priorities of governments had allowed and led to a more concerted international response and sustained pressure on the GoS and the rebels, then many of the reasons why the humanitarian response was slow and insufficient — the early warnings which were ignored, the lack of media attention, the slow donor response, the bureaucratic obstructions imposed by the Sudanese government, the insecurity, the coordination gaps as regards IDPs and camp management, and the leadership vacuum at the UN in Sudan — would have been diminished.¹⁶³

51. In this chapter we address the political and security dimensions of the international community's response to Darfur: what the response has been; how effective it has been; why it hasn't been more effective; and what needs to be done now to make it more effective. We examine in particular the international community's prioritisation of the North-South peace process, the roles played by the AU (political mediation, ceasefire monitoring and verification), and by the UN Security Council.

Sequencing and the prioritisation of the North-South peace process

Was the North-South peace process (CPA) prioritised over Darfur?

52. As the crisis in Darfur was emerging in 2003 and escalating in early 2004, the North-South peace process was making good progress. The Comprehensive Peace Agreement (CPA) — a framework for peace, power-sharing and resource-sharing — would be signed by the GoS and the Sudanese People's Liberation Movement (SPLM) on 9 January 2005. The international community wanted to see progress both on the North-South peace process (hereafter, the CPA), and also on Darfur. The international community had a choice of three approaches: one, prioritise the CPA over Darfur; two, prioritise Darfur over

163 Ev 151 [ICG memo].

the CPA; or three, adopt a “whole of Sudan” approach and deal with Darfur and the CPA in the round. **The evidence shows that the international community — including the UK¹⁶⁴ — chose to treat the CPA and Darfur sequentially, with the priority given to securing the North-South peace through the CPA, in the hope that it would in turn provide a template for peace in Darfur. Governments, including our own, felt that highlighting events in Darfur, and pressurising the Sudanese government in relation to Darfur, might throw the CPA peace process off-track.**¹⁶⁵ Some countries may also have felt that their national interests — in oil and possible uranium deposits, in seeing the SPLM enter government, or in demonstrating their diplomatic prowess — were best-served by prioritising the CPA.¹⁶⁶

53. When Mukesh Kapila visited the capitals of the Permanent Members of the UN Security Council in late 2003 and early 2004, he was told: “We sympathise with the problems of Darfur but do not make too much noise and trouble now, let us sort this Naivasha thing out and then everything will be alright.”¹⁶⁷ The international community is not, as its failure to act in concert through the Security Council shows (see paragraphs 83–89), an indivisible block. As the crisis in Darfur evolved, the USA was keen to apply sanctions and stronger pressure on the GoS, but other countries — including Norway and the UK — were not.¹⁶⁸ Recalling his visit to London to raise the issue of Darfur, Mukesh Kapila told us:

“I remember saying to the Foreign Office, ‘Please refer this matter [to the Security Council]. As a UN coordinator I am bringing to your attention that there are crimes against humanity being committed. This must be brought to the Security Council’s attention’, and I was told ‘Not yet’”.¹⁶⁹

The prioritization of the CPA: Consequences for Darfur

54. Governments did not deliberately sacrifice the people of Darfur to ensure that the CPA process wasn’t destabilised. Nevertheless, the sequential approach to engaging with the Sudanese government on the CPA and on Darfur had major implications for the evolution of the crisis in Darfur which were “obvious to anyone”.¹⁷⁰ **Governments, including our own, failed to speak out about Darfur at an early stage; failed to get the UN Security Council to adopt a Resolution about Darfur until July 2004; failed to put concerted pressure on the Sudanese government to allow humanitarian access; and failed to make the government take seriously its responsibilities for protecting the people of Darfur and for complying with its ceasefire commitments and legal obligations.**¹⁷¹ On the

164 Q 201 [Dr Mukesh Kapila].

165 Ev 100 [Amnesty International UK memo]; Q 68 [Steve Crawshaw, Human Rights Watch]; Ev 120 [DRDC memo]; Ev 148 [Human Rights Watch memo]; Ev 146 [ICG memo]; Q 13 [Dr Suliman Baldo, ICG]; Q 64 [Toby Porter, Sudan Advocacy Coalition]; Q 64 [Maniza Ntekim, Amnesty International UK].

166 Q 200 [Dr Mukesh Kapila].

167 *Ibid.*

168 Q 204 [Dr Mukesh Kapila].

169 *Ibid.*

170 Q 187 [Dr Mukesh Kapila].

171 Q 204 [Dr Mukesh Kapila]; Ev 148 [Human Rights Watch memo].

ground, this catalogue of diplomatic failures had serious repercussions. In early 2004, with the international community prioritising the CPA process, the Government of the Sudan unleashed its deadly and totally disproportionate counter-insurgency strategy.¹⁷² It was given a window of opportunity, and — with its room for manoeuvre soon to be reduced by the entry into power of the SPLM — a reason to take it quickly. If Darfur had not been sidelined, there is no doubt that events would have turned out differently.¹⁷³ The International Crisis Group, an organisation which consistently provides first-rate analysis, put it thus:

“The international community refrained from intervening in the Darfur crisis during its crucial first phase when it was still possible to arrest the escalation and steer the parties to an early negotiated solution. Instead, the wrong-headed belief that more aggressive pressures would cause Khartoum to opt out of the IGAD negotiations prevailed. The government used that lack of resolve to slow the IGAD [Inter-Governmental Authority on Development] process, while its army, air force, and allied Janjaweed militia jointly bombed, raided, and burned to the ground hundreds of villages predominantly inhabited by groups of African ancestry, forcibly displacing their inhabitants and indiscriminately killing, maiming, and raping many in the process.”¹⁷⁴

Sequencing: A misguided and unnecessary approach?

55. In his evidence, the Secretary of State acknowledged the dilemmas with which the international community — wanting to see progress on the CPA, but wanting to avoid an escalation of the conflict in Darfur — had to grapple as it made judgements and balanced different considerations.¹⁷⁵ Having acknowledged the difficulties, Hilary Benn offered a stout defence of the (sequential) approach which the UK Government, along with most of the other external governments involved in Sudan, had taken.¹⁷⁶ There were three strands to his defence.¹⁷⁷ First was the desirability of a peace deal between the North and the South of Sudan. The prospect of an end to a civil war that had left 2 million people dead, and the opportunity to foster much-needed development in the South, had to be grasped.¹⁷⁸ Second, the CPA process had already begun, under the auspices of IGAD; the UK, along with the USA and Norway, was committed to it. And third, the CPA would provide a template — negotiating principles — for a peace which would encompass the whole of Sudan.¹⁷⁹

172 Q 13 [Dr Suliman Baldo, ICG].

173 Q 200 [Dr Mukesh Kapila].

174 Ev 149 [ICG memo]; Ev 107 [Baldo et al memo]; Q187 [Dr Mukesh Kapila].

175 Q 114 [Hilary Benn, DFID]; Ev 75 [DFID memo].

176 Q 103 [Hilary Benn, DFID].

177 Q 114 [Hilary Benn, DFID].

178 Q 222 and Q 239 [Hilary Benn, DFID].

179 Q 106 and Q 107 [Hilary Benn, DFID]; Ev 71 [DFID memo].

56. We understand the points made by the Secretary of State; **it certainly would have been wrong to let the chance of securing the North-South peace, and perhaps a template for a wider peace, slip away. But prioritising the CPA ran counter to the needs of the people of Darfur for protection, security and humanitarian assistance.**¹⁸⁰ **When the conflict in Darfur escalated in early 2004, this much was crystal clear.** Added to which, the analysis which informed the sequential approach was flawed. There are two elements to this. One is that, in contrast to the analysis offered by Hilary Benn which portrayed a choice between pursuing the CPA or pressing on Darfur, **the international community did not need to make such a choice, and — by emphasising one set of issues (the CPA) rather than the other (Darfur) — was playing into the hands of the Sudanese government.**¹⁸¹ The regime's actions in Darfur strongly support this view. The International Crisis Group rejected the view that more aggressive pressure on Khartoum would cause the regime to opt out of the CPA negotiations.¹⁸² Human Rights Watch told us that the sequential approach was based on a “grave misunderstanding”.¹⁸³ **The international community could have pushed harder on Darfur without risking the CPA negotiations. A more holistic approach would not, it seems to us, have prevented the signing of the CPA (it may have delayed it by a few months, but as the North-South peace had already been established, this would have been at no great practical cost), and it would certainly have prevented the crisis in Darfur getting as bad as it did. In the simple terms of balancing likely costs and benefits, prioritising the CPA was misguided.**¹⁸⁴ **A more holistic approach was possible, and, in terms of likely impact, was preferable.**

57. The second element of the charge that the prioritisation of the CPA was based on flawed analysis, is that the CPA will only work if the conflict in Darfur is resolved. Or, put another way, the crisis in Darfur — along with potential conflicts in other regions excluded from the CPA — risks destabilising the CPA.¹⁸⁵ A more integrated, less sequential approach, was possible at the time, preferable in terms of immediate consequences, and would have provided a more secure basis for building a sustainable country-wide peace. The sequential approach, attempting to parcel off Sudan's problems rather than treat them in an integrated manner, was short-sighted, misleading and unhelpful, particularly so when dealing with a regime that is adept at playing games with the international community.¹⁸⁶ Unless the problems of Sudan as a whole are tackled, a *sustainable* peace will remain a pipe dream.¹⁸⁷ As Human Rights Watch put it in their memorandum: “The ‘we’re too busy now to think about that other problem’ school of policy-making may seem sensible in the short term; in the long term, it is not.”¹⁸⁸

180 Q 64 [Toby Porter, Sudan Advocacy Coalition]; Q 200 [Dr Mukesh Kapila].

181 Q 13 [Dr Suliman Baldo, ICG].

182 Ev 149 [ICG memo].

183 Q 93 [Steve Crawshaw, Human Rights Watch].

184 Q 200 [Dr Mukesh Kapila].

185 Ev 104 [Associate Parliamentary Group for Sudan memo].

186 Q 68 [Steve Crawshaw, Human Rights Watch].

187 Q 64 [Maniza Ntekim, Amnesty International UK].

188 Ev 148 [Human Rights Watch memo].

58. The international community, including the UK Government, seems reluctant to acknowledge that it was a mistake to sideline Darfur. It is now rightly focused on trying to ensure that the CPA does provide benefits for the whole of Sudan, including Darfur (this is our focus in Chapter 4). But there are signs that lessons might be being learnt, at least in DFID. When pressed about the sequential approach, the Secretary of State for International Development told us:

“Clearly, knowing what we know now, if we went back in time, I would certainly do some things differently — let us be honest. That is a luxury we have. [...] Looking back on it, could we have been louder earlier about Darfur? Yes, we could — I could have been, actually, if I was being self-critical — and it is important that we do learn those lessons.”¹⁸⁹ [emphasis added]

We regret that the Foreign Secretary did not accept our invitation to give evidence; he may have been able to throw more light on the UK’s approach to Darfur and the CPA, and might have benefited from being questioned on the wisdom of a sequential approach. **We believe that the UK Government has had honourable intentions throughout; but mistakes were made. Strategies for dealing with governments to move dual peace-processes forward will be needed again. Lessons must be learnt. In its response to our report, we invite the Government — not solely DFID — to outline the lessons which have been learnt about sequencing and prioritisation as a result of the experience of Darfur.**

The role of the African Union: African-led solutions for African problems?

The involvement of the African Union

59. The African Union has taken centre-stage in the international community’s response to the crisis in Darfur, with the UN Security Council providing post-facto endorsement.¹⁹⁰ **We unreservedly welcome the AU’s involvement in Darfur, for two reasons.¹⁹¹ First, the AU’s involvement signals a new commitment by African countries to take responsibility for dealing with the problems of their neighbours, a commitment which will in time do much to enhance the world’s ability to deal with crises and conflict.¹⁹² Second, and more importantly, the AU was and remains the only entity willing to involve itself so fully in trying to tackle the crisis and protect the people of Darfur.** Indeed, as authorisation from the UN Security Council for military intervention by other organisations has never looked likely, the AU has been the only realistic option. The Sudanese government — perhaps mistakenly imagining that the AU would be a “soft touch”¹⁹³ — has been prepared to accept the involvement of the AU in what it regards as an

189 Q 114 [Hilary Benn, DFID].

190 Paragraph 2 of UN Security Council Resolution 1556 of 30 July 2004 “endorses” the AU Mission. Paragraph 2 of UN Security Council Resolution 1564 of 18 September 2004 “welcomes and supports the intention ... to augment” the AU Mission — see http://www.un.org/Docs/sc/unsc_resolutions04.html

191 Q 214 [Hilary Benn, DFID].

192 Q 102, Q 111 and Q 138 [Hilary Benn, DFID].

193 Ev 107 [Baldo et al memo].

internal matter.¹⁹⁴ The AU, it should be noted, is only in Sudan with the consent of the host government. The Sudanese government has repeatedly ruled out military intervention by non-African organisations¹⁹⁵, and is backed up by Chad, Egypt, Liberia and Nigeria in its promotion of “African solutions for African problems”.¹⁹⁶ The AU however, has a mandate for intervention in cases of genocide, gross human rights violations, military coups and rigged elections which threaten peace and security in its Member States. The thresholds for triggering intervention remain unclear, and would be determined by the AU’s Peace and Security Council. The politics of the AU and the Peace and Security Council are complex (see paragraphs 78–80), but sovereignty is no longer sacrosanct, as SaferAfrica’s Brigadier General Pal Martins — a top-level adviser to the AU/NEPAD on peace and security — put it to us.¹⁹⁷

60. In the case of Darfur, the UK Government’s rhetoric of “African-led solutions for African problems” is rather simplistic; many countries have had a role in the evolution of Sudan’s problems. But nevertheless, HMG deserves a great deal of credit for its support of the AU.¹⁹⁸ As its first donor, the UK enabled the AU mission to establish itself. Further funds have been provided from the Africa Conflict Prevention Pool (£12m), and also — with the UK’s encouragement — from the EU’s Peace Facility (€80m).¹⁹⁹ More recently, the UK has provided much practical support, and indicated its willingness to provide more. In concrete terms, the AU Mission in Darfur has an extra 143 vehicles thanks to the UK Government.²⁰⁰ With the support of the UK and others, the AU is working hard to help to resolve what is unquestionably a very complex crisis, both in terms of helping the parties to come to a political resolution to the crisis, and, in the meantime, by putting troops on the ground to monitor the commitments entered into — the ceasefire, and the humanitarian and security protocols — by the GoS and the rebels.²⁰¹

The AU-hosted talks in Abuja

61. Nigeria, the current Chair of the AU, has been hosting and mediating talks in Abuja between the GoS and the rebel groups — the SLA/M and the JEM — aimed at finding a political solution to the crisis in Darfur. There have been three rounds of negotiations. The first round began on 23 August 2004 and broke up in mid-September, after inconclusive talks on a humanitarian protocol. The second round led to the signing of two protocols — on humanitarian issues and on security — on 9 November 2004. The Humanitarian Protocol includes commitments on free movement and access for humanitarian agencies; the protection of civilians; the role of the international community; and an implementation

194 Ev 135 [Embassy of the Republic of the Sudan memo]; Ev 75 [DFID memo].

195 “Sudan says no to non-African troops for Darfur”, Reuters Foundation, 16 February 2005 — available at <http://www.reliefweb.int>

196 These four countries, along with Sudan, held a summit on 17 October 2004. The resulting communiqué rejected “any foreign intervention by any country, whatsoever in this pure African issue”, stressed “the importance of non-interference in the internal affairs in a manner which hampers the efforts exerted to attain stability and security throughout the Sudan.” — see <http://www.iss.co.za/AF/profiles/Sudan/darfur/minisumoct04.pdf>

197 Q 47 [Dr Suliman Baldo, ICG]; see also Elizabeth Wilmschurst “Scales of law unbalanced”, *International Development Magazine*, November 2004.

198 Ev 73 [DFID memo].

199 Ev 73 [DFID memo].

200 Q 102 [Hilary Benn, DFID].

201 Q 16 [Dr Suliman Baldo, ICG].

mechanism — the Joint Humanitarian Facilitation and Monitoring Unit.²⁰² The Security Protocol recommitments the parties to the N'Djamena Ceasefire of April 2004, reiterates the Sudanese government's responsibility for disarming the Arab militias (Janjaweed), and specifies a reporting mechanism for the AU ceasefire monitors.²⁰³ A third round of talks in December 2004 was intended to lead to the signing of a "Political protocol", but the talks were abandoned because of escalating violence in Darfur, caused in large part by the Sudanese government's aggressive "road-clearing" operations.

62. This illustrates one of the problems with the Abuja talks; they are liable to be thrown off course by events on the ground in Darfur, particularly when the parties to the conflict fail to live up to the commitments they have entered into. This problem was acknowledged by Jan Pronk, the Special Representative of the Secretary General, in his January 2005 proposal to "de-link" the political negotiations from immediate humanitarian and security issues²⁰⁴; this approach will likely be taken up at Abuja. The rebel groups have not negotiated seriously. As relatively new political movements, they have little experience; their demands are ill-defined; their leadership structures are unclear, with the leadership based in Eritrea; and, they have failed to demonstrate serious commitment to the negotiations.²⁰⁵ For its part, the Sudanese government has not been an enthusiastic negotiator and — by initiating other negotiations — has deliberately muddied the waters. The AU too has made some mistakes in its role as mediator.²⁰⁶

63. The third round of talks, which stalled in December 2004, had been scheduled to resume in February 2005. This did not happen. It remains unclear when the talks, focussed on a political resolution to the crisis, will recommence. When we were in Sudan, the British Ambassador suggested to us that it would be a mistake to resume the Abuja talks until the work had been done to give them a reasonable chance of success. We agree. At the AU's Summit in Abuja from 30–31 January 2005, a group of "concerned countries" was established, including Nigeria, Egypt, Libya, Chad and Gabon (but not Eritrea, the base for the rebels' leadership). This group met on the 17 February to consider how to make the AU's involvement more effective. Concerted efforts also need to be made to examine how the CPA might inform a political solution to the crisis in Darfur (see paragraphs 106–107). **If the Abuja talks are to make progress on a political solution, sustained international pressure on the Government of the Sudan and the rebels will be needed, along with a clear vision of a desirable outcome.**²⁰⁷ **But it would be better to wait a month or two and get it right, than resume negotiations now, only to see them fall apart next week.**²⁰⁸

202 See <http://www.unsudanig.org/emergencies/darfur/reports/data/misc/humanitarian-protocol-abuja.doc>

203 See <http://www.unsudanig.org/emergencies/darfur/reports/data/misc/security-protocol-abuja.doc>; Ev 150 [ICG memo].

204 See <http://www.un.org/News/dh/sudan/infocusnewssudan.asp?NewsID=846&slD=23>

205 Ev 106 [Baldo et al memo]; Q 174 [Jan Egeland, UN-OCHA and ERC].

206 Ev 107 [Baldo et al memo]; Ev 121 [DRDC memo].

207 Ev 121 [DRDC memo].

208 Justice Africa, February 2005 Briefing, paras 25-28 - see footnote 9.

The AU's Mission on the ground

64. As we witnessed when we spent a half-day in Leer on the South-North border learning about the impressive work of the Verification and Monitoring Team, relatively small operations can play important roles in peace-building. But this can only happen if they have the trust of parties committed to peace, if they work to resolve conflicts at the level, and if they are adequately-resourced. In the Nuba Mountains, the Joint Military Commission, which is also funded by North American and European governments, has been similarly effective, albeit with more resources.

65. In Darfur, with a mandate provided by the AU's Peace and Security Council, and endorsed by the UN Security Council, the AU Mission in Sudan has taken the lead in monitoring and reporting on the ceasefire agreed at N'Djamena on 8 April 2004.²⁰⁹ Reports made by the AU Mission go to the Joint Commission, a body made up of representatives from the GoS, the SLA and JEM, the Chadian mediators, the AU, and the USA and EU, with the UN granted observer status. This, it is hoped, will reduce the scope for the parties to violate the ceasefire with impunity, and hence reduce violations. In its early stages, the AU mission numbered less than 500. In October 2004, the AU's Peace and Security Council revised the mandate. The AU Mission was given a more pro-active monitoring and (limited) civilian protection role, and plans were made to deploy a total of 3320 personnel, including 815 police, by the end of February 2005. Darfur is something of a test-case for the AU, which is desperately keen to show what it can do. We welcome the AU's ambition. But that aside, the job of the AU Mission is to monitor and report on ceasefire violations, so as to reduce their occurrence and – in large part through its monitoring and reporting – to protect the civilians of Darfur.

66. **Evidence suggests that the AU Mission in Darfur has had a positive impact on security. Through prompt and objective monitoring and reporting on ceasefire violations, and by making its presence felt, the AU has both enhanced accountability for violations and prevented violations from taking place. However, comprehensive data on ceasefire violations — how frequent they are, who is responsible for them, and what the trends are — does not seem readily available. The AU should make such information public.**²¹⁰ The AU Mission has not yet put itself out of a job. The responsibility for ceasefire violations rests with the parties. If they stuck to their commitments — with more encouragement from their African neighbours (through the AU Peace and Security Council) and the wider international community (through the UN Security Council) — then the AU Mission would no longer have a role. But whilst ceasefire violations continue, the AU must do all it can to enhance the effectiveness of its mission in Darfur.

A stronger mandate

67. The initial AU mandate for Darfur was ceasefire monitoring. The revised mandate, from October 2004, was extended to include some civilian protection. It does not extend to peace enforcement or disarmament. There has been confusion about the interpretation of

209 Ev 74 [DFID memo].

210 Q 131 [Hilary Benn, DFID]; *Darfur Humanitarian Profile No. 10*, 1 January 2005, p.3 - see footnote 16; Justice Africa, February 2005 Briefing, para 24 - see footnote 9.

the civilian protection mandate. The mandate gives the AU Mission the task of “protecting civilians whom it encounters under imminent threat and in the immediate vicinity, within its resources and capability, it being understood that the protection of the civilian population is the responsibility of the GoS.”²¹¹ It is not surprising that this has been interpreted in different ways.²¹² **The AU, at the level of its Peace and Security Council, and on the ground in Darfur, needs to ensure that the mandate is clear, and clearly understood by all parties. Further, it is not clear that the mandate will be sufficient, even if the AU Mission works right at the limit of its civilian protection mandate.**²¹³ **Decisions about mandate are for the AU’s Peace and Security Council to make, in consultation with the wider international community. However, if security does not improve in Darfur within weeks, and if large-scale killing continues, then the mandate of the AU must be revised to enable it to use force to protect civilians, and to disarm militias. As a first next-step, the AU should do more pro-actively to police the no-fly zone, agreed to by the parties as part of the 9 November Security Protocol.**²¹⁴ **The AU must also be provided with the logistical and technical support to enable it to fulfil its mandate.**

More troops and police

68. Darfur is the size of France, or Iraq. There are serious questions about whether the AU Mission will have enough troops to fulfil its mandate. It was supposed to have 3320 personnel by the end of February but even now (mid-March) the total number of troops, police and support staff, remains at 1942.²¹⁵ **The speed of deployment, hindered by a lack of planning capacity at AU headquarters and by inefficient contractors, has been unacceptable. During our visit, some were keen to emphasise that the AU Mission was deploying more quickly than would a UN mission. This may be correct, but it offers little comfort to the people of Darfur. The UN and its Member States, alongside regional organisations such as the AU, urgently need to find ways of deploying troops more quickly.** We are not in a position to know how many troops are needed, but it seems clear that the number currently planned for will be nowhere near enough. In El Fasher, the AU Mission told us that they require “no less than 6000 troops — a battalion in each sector”. On 23 February, Hilary Benn reported to us that the AU’s Commander had told him that more troops would be needed. Messages take time to filter through from the Mission in Darfur, to the AU’s headquarters in Addis Ababa and the politics of the AU Peace and Security Council, and to countries eager to provide support²¹⁶ (see paragraphs 78–80).

211 Communiqué of the Seventeenth Meeting of the [African Union] Peace and Security Council, 20 October 2004 — available at <http://www.africa-union.org/DARFUR/homedar.htm#>

212 Ev 122 [DRDC memo].

213 Q 28 [Dr Suliman Baldo, ICG].

214 Q 228 [Hilary Benn, DFID]; Ev 152 [ICG memo].

215 United Nations: Security Council, *Report of the Secretary-General on the Sudan pursuant to paragraphs 6, 13 and 16 of Security Council resolution 1556 (2004), paragraph 15 of resolution 1564 (2004) and paragraph 17 of resolution 1574 (2004)*, S/2005/140, 4 March 2005, para 53 — available at <http://www.un.org/documents/>

216 Q 218 [Hilary Benn, DFID].

Figure 3: Selected UN interventions – mandates and personnel

Intervention	Duration	Mandate	Authorised no. of personnel
Croatia, Bosnia and Herzegovina (UNPROFOR)	Feb 1992 – March 1995	Initially established in Croatia to ensure demilitarization of designated areas. The mandate was later extended to Bosnia and Herzegovina to support the delivery of humanitarian relief, monitor "no fly zones" and "safe areas". The mandate was later extended to the former Yugoslav Republic of Macedonia for preventive monitoring in border areas	38,599 (actual max)
Mozambique (ONUMOZ)	Dec 1992 – Dec 1994	ONUMOZ was established to help implement the General Peace Agreement, signed by the President of the Republic of Mozambique and the President of the Resistência Nacional Moçambicana. The mandate included facilitating the implementation of the Agreement; monitoring the ceasefire; monitoring the withdrawal of foreign forces and providing security in the transport corridors; providing technical assistance and monitoring the entire electoral process	6,625 military; 1,144 civilian police
Sierra Leone (UNAMSIL)	Oct 1999 - present	To cooperate with the government and the other parties in implementing the Lomé Peace Agreement and to assist in the implementation of the disarmament, demobilization and reintegration plan.	17,500 military incl. up to 170 civilian police
Democratic republic of Congo (UNMONUC)	Feb 2000 - present	To monitor the implementation of the Ceasefire Agreement and investigate violations of the ceasefire.	16,700 military; 475 civilian police
Burundi (ONUB)	June 2004 - present	To support and help to implement the efforts undertaken by Burundians to restore lasting peace and bring about national reconciliation, as provided under the Arusha Agreement.	5,650 military; 120 civilian police.
Somalia (UNOSOM II)	March 1993 – March 1995	To take appropriate action, including enforcement measures, to establish throughout Somalia a secure environment for humanitarian assistance.	28,000 military and civilian police.
Cambodia (UNTAC)	Feb 1992 – Sept 1993	To ensure implementation of the Agreements on the Comprehensive Political Settlement of the Cambodia Conflict, signed in Paris on 23 October 1991. The mandate included aspects relating to human rights, the organization and conduct of elections, military arrangements, civil administration, maintenance of law and order, repatriation and resettlement of refugees and displaced persons and rehabilitation of Cambodian infrastructure.	15,547 military; 3,500 civilian police

Data source: UN Department of Peacekeeping Operations <http://www.un.org/Depts/dpko/dpkol/index.asp>

69. Lieutenant General Roméo Dallaire, the commander of UN forces in Rwanda in 1994, has estimated that 44,000 troops are required to bring peace to Darfur.²¹⁷ John Garang, the leader of the SPLM has called for a force of between 15,000 and 30,000 troops, to be made up of troops provided by the GoS, the SPLM/A and troops provided to the African Union.²¹⁸ And Jan Egeland has called for a four- or five-fold increase in the AU force.²¹⁹ Certainly if the AU Mission were to have a role in disarming the militias and providing security for the IDPs once they have returned home, many more troops than are currently planned would be needed.²²⁰ The number of personnel required — soldiers and police — depends upon the role they are expected to fulfil. And as Iraq illustrates, even well-equipped forces, backed by the support of powerful states, can find it difficult to fulfil their missions. It would be a mistake to give the AU Mission an impossible job.²²¹ **The AU Mission is in the best position to know how many troops are required to fulfil a particular mandate. Their views must be given much weight: by the AU's Peace and Security Council; by the members of the AU who have accepted a role in bringing peace and security to Africa; and by the UK, the EU and others who are in a position to respond to requests for assistance. Those African countries who have provided troops and police to the AU can be proud of their contributions as can the troops on the ground. They embody Africa's commitment to African solutions for African problems.**²²²

70. More police and better policing is needed, both in the IDP camps and in the countryside. Policing will be essential to the provision of basic law and order, and is needed now to provide protection for IDPs and others.²²³ The Sudanese government has stepped up policing in the camps, but these police — who include former Janjaweed militia — are, rightly, not trusted.²²⁴ Civil policing will be an essential element of post-conflict reconstruction in Darfur, but the lack of protection must be addressed now. **The international community must apply sustained pressure on the Sudanese government, so that Janjaweed are not absorbed into the police, and the policing element of the AU Mission must be strengthened.**

71. The AU Mission is intended to include 815 police, but as the Secretary of State acknowledged, deploying this element of the mission is proving very difficult. Only a quarter of the total have been deployed, the latest batch provided by South Africa.²²⁵ In December, Hilary Benn told us that the UK Government was looking at what practical assistance it might provide on the policing front and that this issue had been the subject of

217 "South Africa 'should play greater part in resolving crisis'", *Business Day* (Johannesburg), 25 February 2005. On the need for more troops see also Ev 98 [Aegis Trust memo]; and, Q 171 [Jan Egeland, UN-OCHA and ERC].

218 "Sudanese rebel leader wants large force in Darfur", Reuters Foundation, 9 February 2005 — available at <http://www.reliefweb.int>

219 "Sudan: World must act on Darfur situation, with millions of lives at stake – UN relief chief", UN News Service, 21 February 2005 – available at <http://www.reliefweb.int>

220 Q 171 [Jan Egeland, UN-OCHA and ERC].

221 Q 197 [Dr Mukesh Kapila].

222 As at January 2005, troops had been provided by Rwanda, Nigeria, Gambia, Egypt, Ghana, Chad, South Africa, Congo, Gabon, Kenya, Senegal, Mali, Mozambique, Namibia and Algeria.

223 Ev 108 [Baldo et al memo]; Q 7 [Dr Suliman Baldo, ICG].

224 Q 78 [Maniza Ntekim, Amnesty International UK]; Ev 104 [Associate Party Group for Sudan memo]; Ev 101 [Amnesty International UK].

225 Q 234 [Hilary Benn, DFID].

much discussion over the previous few months.²²⁶ Two months later, the Secretary of State was able to provide us with some, but not much, good news. The AU has drawn up a plan for a civilian police component to monitor the activities of the Sudanese government's police, and the UK has been pressing the EU to see what more help it can provide, and to assess whether more direct involvement in capacity-building might be possible.²²⁷ Such limited progress is disappointing. **Helping the AU Mission, and bringing pressure to bear on the Government of the Sudan, to improve policing, is a matter of considerable urgency; the UK and the EU must do more to provide support, more quickly. As discussions continue, and action follows, attention must also be given to ensuring that there are sufficient numbers of women police officers and civilian specialists so that reports of violence against women and girls can be dealt with appropriately.**²²⁸

Cooperation with human rights organisations and others

72. Beyond the mandate and troop numbers, other aspects of the AU Mission also demand attention. One is the fact – raised by the AU's Commander Mensah on BBC's Panorama, and confirmed to us in Sudan by him, and by Ian Martin of the UN Office of the High Commissioner for Human Rights (UN-OHCHR) — that the inclusion of representatives of the rebels and the GoS on monitoring and verification missions ensures that troops on the ground receive advance warning to leave the area and to destroy any evidence of atrocities.²²⁹ **The inclusion in ceasefire-monitoring and verification missions of representatives of the Sudanese government and of the rebel groups does much to ensure that the AU Mission is trusted as being impartial.** This, we were told, is also the case for the JMC in the Nuba Mountains. **But it is not difficult to come up with solutions which allow for this but which do not inhibit the monitors' effectiveness: don't tell the parties' representatives exactly where the monitoring mission is going; and, don't let them carry satellite phones.**

73. A second issue concerns the way in which the AU Mission releases information. Justice Africa report that the AU Mission “is possibly the most outspoken monitoring mission in history, certainly in comparison to the UN in Rwanda in 1994.”²³⁰ The UN's record in Rwanda is hardly a benchmark of success, but an energetic AU Mission is very welcome. Its work should be widely used. **The AU Mission should share its reports on ceasefire violations widely, without having to secure the consent of the parties. Access to reports should be unrestricted and immediate for UN agencies, including UN-OHCHR. Serious consideration should also be given to the inclusion of a human rights monitor, a nurse, and a child protection officer, on monitoring missions. Concerns about their security are not insuperable. Adopting this proposal would: enable the monitoring of human rights violations and enhance the chances of people being brought to justice for human rights violations;²³¹ enable the provision to rape victims of emergency contraceptives, and drugs to reduce the likelihood of HIV transmission; and ensure**

226 Q 109 [Hilary Benn, DFID] – the phrase he used was “we are looking at ourselves” – we assume this means the UK.

227 Q 234 [Hilary Benn, DFID].

228 Ev 158 [UNHCR memo].

229 BBC TV, “Panorama: The new killing fields”, broadcast on 14 November 2004.

230 Justice Africa, February 2005 Briefing, para 24 — see footnote 9.

231 Q 241 [Hilary Benn, DFID].

that the needs of child victims of atrocities — a neglected group in the crisis — are better met. If the international community is serious about protecting the civilians of Darfur, such measures are essential.

Working on the basis of strategy?

74. The AU's Mission in Darfur must succeed; if Africa is to take more responsibility for its own peace and security in the years ahead, then this is essential. And the people of Darfur must be protected. The immediate steps to make it more effective include revising its mandate (see paragraph 67) and increasing the troop numbers (see paragraphs 68–71). The international community should continue to make clear that it will respond positively to all requests for support from the AU. **The UK and the EU have been particularly generous with financial support,²³² but as Hilary Benn acknowledged — and the Commission for Africa reiterated in its recommendation that donors provide fifty percent of the AU's peacekeeping requirements — there is a need to find a mechanism that will allow funding to support AU peace support operations on a more consistent and long-term basis.²³³** Beyond money, the AU needs more support with logistics, planning and technical capacity, and personnel development. **Following the UK's lead, other donors should make vehicles available to the AU Mission on request, and satellite intelligence and help with radar to monitor the no-fly zone must be provided. The UK Government should take the lead on this, working with its partners in the EU and the USA.** At the AU's headquarters in Addis Ababa there is a need for much more capacity; we were told that there are fewer than 10 peace and security advisers to cover the AU's 53 member-states. **The UK should second technical experts to the AU in Addis Ababa to provide the support which the AU requires. Political support to the AU is crucial too; the UK Government and others must publicise and condemn the ceasefire violations which the AU confirms, and ensure that the AU Peace and Security Council and the UN Security Council use the evidence collected by the AU Mission to hold the parties to account, and to ensure that consequences follow.²³⁴**

75. Beyond supporting the AU Mission, and keeping its mandate and troop numbers under close, systematic, and regular review, the strategy for enhancing protection and security is not clear. One option which comes closer as the months pass by is cooperation between the UN peace-support operation in the south of Sudan, and the AU Mission in Darfur. The nature of such cooperation — whether it would amount to the UN taking over from the AU — is far from clear.²³⁵ A second option would be for countries with the military capacity, to provide support to the AU Mission in Darfur. This option does not appeal, either to the GoS, or to those countries which might be expected to play a part in providing such support. For instance, Chris Mullin MP, the Foreign Office Minister for Africa, told BBC's Panorama that:

232 Q 22 [Dr Suliman Baldo].

233 Q 224 [Hilary Benn, DFID]; *Our Common Interest*, Report of the Commission for Africa, March 2005, p.162 — see http://www.commissionforafrica.org/english/report/thereport/cfafullreport_1.pdf

234 Q 219 [Hilary Benn, DFID]; Q 83 [Maniza Ntekim, Amnesty International UK].

235 Q 109 and Q 218 [Hilary Benn, DFID].

“the odds are that if any western force did intervene it would become bogged down and that some new cause for all the Jihadists in the world would emerge and we'd find ourselves very quickly being shot at by all sides, plus we would probably destabilise the whole of Sudan which is the size of western Europe and the last thing we want is a failed state the size of Western Europe on our hands.”²³⁶

76. No-one wants to see this scenario come to pass. But there might be ways of offering military assistance to the AU which do not run such risks. It might, for instance, be possible to provide the AU with appropriate stand-by tactical support units,²³⁷ perhaps with EU troops working under an AU Commander. The Chief of the General Staff, General Sir Mike Jackson, has signalled the British Army's ability to provide up to 5000 troops if requested.²³⁸ And in February 2005, Kofi Annan urged the EU and NATO to give serious consideration to what they can do to help.²³⁹ **Providing military assistance to the AU is an option which should not be closed off. On the contrary, it should be explored without delay. Policy should be based on the analysis of options and their attendant risks. Military intervention entails risks, but it is risky too for the international community to fail in its responsibility to protect the people of Darfur.**

77. The effectiveness of the AU Mission in Darfur is dependent on many factors beyond its control. These include: the attitudes and actions of the GoS forces and the rebels; the mandate and troop numbers that the AU Peace and Security Council and African countries provide; and, the political pressure exerted by the international community, including through the UN Security Council. But **what concerns us most about the international community's delegation of responsibility to the AU is: first, that there seems little sense of urgency; and second, that the support which the international community provides to the AU Mission, does not seem to be based on a strategy in which the risks attendant to different options are assessed. Complex challenges are best tackled on the basis of a clear strategy; muddling through, or waiting and seeing, rarely works. Starting from the basis that protecting the people of Darfur, and holding the parties to account for ceasefire violations is the goal, we must have clear answers to the following questions:**

- **How is the effectiveness of the AU Mission being assessed, on what basis, and by whom?**
- **What level of insecurity would signal that the AU Mission — working in a context largely beyond its control — was not being effective?**
- **How many months does the AU Mission have to demonstrate its effectiveness?**

236 BBC TV, “Panorama: The new killing fields”, broadcast on 14 November 2004.

237 Q 28 [Dr Suliman Baldo, ICG].

238 “UK troops ‘ready to go to Sudan’”, BBC online, 24 July 2004 — see http://news.bbc.co.uk/2/hi/uk_news/3922109.stm; Ev 123 [DRDC memo].

239 “Annan tells EU, NATO more help needed”, Reuters Foundation, 13 February 2005 — available at <http://www.alertnet.org>

- **If the AU Mission proves unable to fulfil its mandate effectively — monitoring and reporting on the ceasefire, and providing civilian protection — what are the next steps to ensure its success, who will ensure that they are taken, and when?**

An excuse for inaction by others?

78. In El Fasher we were told that the AU Mission requires no less than 6000 troops. Others have called for more (see paragraph 69). The UK Government and others have declared that they will respond favourably to the AU's requests for support. But still the AU Mission has a deployment of around 1800 troops and 93 police and there seems little sense of urgency to accelerate or increase the deployment.²⁴⁰ There is clearly a problem, a blockage somewhere along the line from the needs of the AU Mission, to the requests for support made by AU Headquarters, and to the international community's provision of support. One aspect of the problem is the slow deployment of the planned 3320 troops. Another would seem to be that the needs of the AU Mission, are not known, or are not quickly reiterated, by the AU's Peace and Security Council. Well-trained and fully-equipped troops cannot be magically made to appear; countries have to provide them and preparations have to be made. But if the AU's Peace and Security Council had called for no less than 6000 troops and satellite intelligence, as a starting point — this was the AU Mission's request to us on 2 February in El Fasher — then urgent action might have followed.

79. We appreciate that the AU wants to show what it can do in Darfur. But we believe that this is not the only reason for its reticence in asking for assistance. Sudan has friends in the African Union and on the AU's Peace and Security Council.²⁴¹ The politics of the AU — as well as the needs of Darfur — shape the statements made by the AU Peace and Security Council. As a Permanent Member of the UN Security Council, the UK knows only too well that politics shapes the actions and inactions of such bodies. We have received no indication that the UK Government is engaging with the members of the AU Peace and Security Council, to emphasise their "responsibility to protect".²⁴² **Fulfilling the responsibility to protect includes persuading others to fulfil their responsibilities too. The UK Government should be engaging with members of the AU and specifically the AU Peace and Security Council, in order to protect better the people of Darfur.**

80. Many African countries are uncomfortable with the idea of intervening in the affairs of their neighbours, especially when former colonial powers are involved. **But if the AU is to play its role in helping Africa to a peaceful, secure and more prosperous future, then its Member States must be prepared to make clear, through action as well as words, that sovereignty does not give states the right to commit gross human rights violations and war crimes against their citizens. African countries too have a responsibility to protect, as the AU's mandate affirms. Nevertheless, the fact that African countries have a responsibility to protect, and that the AU is increasingly willing to take on that**

240 United Nations: Security Council, *Report of the Secretary-General on the Sudan* — see footnote 215.

241 Ev 122 [DRDC memo]; see also Eric Reeves' 4 March 2005 analysis of the statement made — "Things are looking greatly better in Darfur" — by AU Chair and Nigerian President Olusegun Obasanjo, following discussion of the crisis with Sudanese President Omer Beshir, 16 February 2005" — available at <http://www.sudanreeves.org>

242 The current Members of the AU Peace and Security Council — a question we asked of Hilary Benn at Q 144, but he was not able to answer — are: Gabon, Ethiopia, Algeria, South Africa, Nigeria, Cameroon, Republic of Congo, Kenya, Sudan, Libya, Lesotho, Mozambique, Ghana, Senegal and Togo — see Ev 96 [DFID supplementary memo].

responsibility, does not absolve others of their responsibilities. Countries beyond Africa share the responsibility for the success of the AU Mission, and for protecting the people of Darfur. If Africa needs assistance to protect the people of Darfur, then richer countries should step in. The AU's involvement is extremely welcome, but it must not become an excuse for inaction on the part of others²⁴³ (see paragraphs 96–100 on the responsibility to protect and collective in-action).

The UN Security Council: Maintaining international peace and security?

Oil, national interests and the UN

81. On the walls of the office of the Sudanese Ambassador to the UK, there are two maps. One is of the UK; the other is of oil and gas concessions in Sudan. Oil plays an important role in shaping the views of individual states, and, in turn, the actions, or lack of them, of the UN Security Council in relation to Darfur (as it does in relation to other countries). Oil plays a two-edged role; it has both fuelled the conflict, and has been one of the motivations behind the push for peace. The current holders of oil and gas concessions in Sudan include Chinese, Malaysian, Indian and French-Belgian companies.²⁴⁴ Incurring costs because of the North-South conflict, the US oil company Chevron pulled out of Sudan in the early 1990s. Although US oil companies are keen to return, they are restricted from so doing.²⁴⁵ The French-Belgian oil company, Total-Fina-Elf has been waiting in the wings, eager to resume its oil exploration activities once peace is established. Oil contracts are supposed to remain in place with the entry into government of the SPLM. But recent claims by White Nile trading that it has secured oil concessions with the SPLM, and reports in the *Washington Post*, suggest that there are those — inside and outside of Sudan — who would like to see a restructuring of oil concessions.²⁴⁶

82. Mukesh Kapila threw light on how Member States' national interests complicated his work as coordinator of the UN in Sudan. His task was to juggle a range of Member State interests and efforts to shape the UN's activities, and to try to piece them together into a coherent and effective response to the needs of Sudan and its people.²⁴⁷ The UN's role in Sudan was, we were told, circumscribed as a result of the wishes of Member States. The members of the Troika — the USA, the UK and Norway — wanted to retain control of the CPA peace process, with the result that the UN was largely excluded from involvement in the peace process.²⁴⁸ The UN's role in Sudan was to remain humanitarian and, where

243 Q 78 [Maniza Ntekim, Amnesty International UK]; Q 118 [Hilary Benn, DFID]; Q 19-20, Q 30 and Q 47 [Dr Suliman Baldo, ICG].

244 Ev 121 [DRDC memo]; "China invests heavily in Sudan's oil industry: Beijing supplies arms used on villagers", *Washington Post*, 23 December 2004 – see <http://www.washingtonpost.com/wp-dyn/articles/A21143-2004Dec22.html>; Economist Intelligence Unit, Sudan — Country Reports and Country Profiles.

245 Congressional Research Service, Sudan: Humanitarian crisis, peace talks, terrorism, and US policy, 19 January 2005 — see <http://www.treas.gov/offices/enforcement/ofac/sanctions/t11sudan.pdf>; US Department of the Treasury, Sudan: What you need to know about US sanctions — see <http://www.treas.gov/offices/enforcement/ofac/sanctions/t11sudan.pdf>

246 "China invests heavily in Sudan's oil industry", *Washington Post*, 23 December 2004 — see footnote 244; "White Nile signs joint oil venture with Sudan", *Daily Telegraph*, 22 February 2005; "White Nile denies needing Khartoum blessing for deal", *The Guardian*, 22 February 2005; "White Nile to bolster Sudan claim", *Financial Times*, 3 March 2005.

247 Q 189 [Dr Mukesh Kapila]

248 Q 186 [Dr Mukesh Kapila]

appropriate, developmental. The fact that the CPA was concluded might indicate that this was wise. The fact that there has been little political progress as regards Darfur, might indicate the opposite (see paragraphs 52–58 on prioritising the CPA). Mukesh Kapila, whilst emphasising that the UN is driven by its Member States, was sure: “the failure of the UN to take a political approach to Darfur is fundamentally responsible for the fact that we could not deal with ethnic cleansing.”²⁴⁹

The UN Security Council: Divisions and weakness

83. In Sudan, as elsewhere, Member States determine the role of the UN, ultimately by the decisions that they make, in accordance with the UN Charter, on the UN Security Council. The UN Security Council, divided over the war in Iraq, and with many Member States keen to see the CPA concluded, was slow to give serious consideration to the crisis in Darfur. In late 2003 and early 2004, the USA was the only member of the Security Council keen to press the GoS to fulfil its responsibilities to protect its own people. Many other countries were not in a mood to hear the concerns voiced by the USA.²⁵⁰ From mid-2004, Darfur received more attention: Kofi Annan, US Secretary of State Colin Powell, Jack Straw and Hilary Benn visited the region; the USA declared on 9 July 2004 that genocide was occurring, something which President Bush had noted in reference to the Clinton regime’s failure to act on Rwanda would not occur “on his watch”; media coverage exploded; and Member States such as the UK decided to take a firmer line. The UN Security Council sprang into action, of a sort, adopting four Resolutions about Sudan in the latter half of 2004.

84. The UN Security Council adopted its first Resolution on Darfur (1556) in July 2004, with a second (1564) following in September.²⁵¹ Both of these Resolutions were adopted under Chapter VII of the UN Charter, implying that the crisis in Darfur represents a threat to international peace and security. As such, the UN Security Council could legitimately and legally adopt mandatory punitive measures against the Sudanese government in the event of non-compliance, including economic sanctions, and, if necessary, military action. The Resolutions called on all parties to allow humanitarian access, to cooperate with AU mediation efforts, and to respect their ceasefire and other commitments. Resolution 1556 demanded that the GoS fulfil its commitments to disarm the Janjaweed and bring their leaders to justice, requesting a report on compliance in thirty days time, to be followed by monthly reports. The Security Council also expressed its intention to consider further unspecified economic and diplomatic sanctions in the event of non-compliance, and decided to implement an arms embargo covering all non-governmental entities. Resolution 1564 expressed grave concern at the lack of progress with regard to security and the protection of civilians, and the disarmament of the Janjaweed, demanded that the GoS provide the Security Council with the names of Janjaweed leaders, and requested the establishment of an International Commission of Inquiry. The Security Council noted that

249 Q 198 [Dr Mukesh Kapila].

250 Q 204 [Dr Mukesh Kapila].

251 For UN resolutions, voting records and meeting transcripts see http://www.un.org/Docs/sc/unsc_resolutions04.html

it would consider additional measures such as actions to affect Sudan's petroleum sector and the GoS, or individual members of the regime, in the event of non-compliance.²⁵²

85. China and Pakistan had abstained on the first Resolution, while Russia and Algeria ultimately supported it but felt that the Sudanese government should be given more time. China, Russia, Algeria and Pakistan abstained on the second Resolution. They all felt that sanctions were inappropriate, and that the GoS deserved more credit for the steps it had taken to comply. A stronger Resolution would likely have been vetoed by China, and possibly Russia.²⁵³ The UN Security Council met in Nairobi from 18–19 November, to emphasise the importance which the international community attached to peace in Sudan.²⁵⁴ The Nairobi Resolution (1574) urged the GoS and the SPLM to conclude the CPA, and emphasized that progress towards resolving the crisis in Darfur would create conditions conducive for the delivery of assistance for the implementation of the CPA.²⁵⁵ It made no mention of the Government of the Sudan's obligations under previous Resolutions, and backtracked on prior threats of sanctions.²⁵⁶ It was passed unanimously.

86. The Resolutions of the UN Security Council succeeded in focusing attention on Darfur, within the context of Sudan, but made few demands of the Sudanese government, or the rebels, and failed to specify what consequences would flow from non-compliance. The one clear demand that the Resolutions did make was that the GoS must disarm the Janjaweed and bring their leaders to justice. Eight months later, despite repeated commitments and promises, there is no evidence that the GoS has made any serious effort to comply with this resolution; the Janjaweed remain at large, supplied with arms and operating in a climate of impunity.²⁵⁷ With the exception of the occasional slip of the tongue by people such as Major General Salah Abdallah "Gosh" (Director General of GoS Security),²⁵⁸ the GoS denies responsibility for arming the Janjaweed. This is a lie.²⁵⁹ Reining in the Janjaweed is not an easy task, but doing next-to-nothing does not amount to compliance with the UN's demands.²⁶⁰ We have seen no evidence to suggest that the Sudanese government is even trying to fulfil its responsibilities.

87. In the absence of a more robust mandate for the AU, the GoS is best-placed to disarm the Janjaweed. The responsibility lies ultimately with the GoS. But the UN Security Council too needs to reflect on the Sudanese government's non-compliance with its demands. One lesson is that **the Government of the Sudan will not comply with resolutions which it considers counter to its interests unless there is sustained and concerted international pressure, with consequences of non-compliance spelt out clearly.** The UN Security

252 *Ibid.*

253 *Ibid.* Ev 174 [Alex Vines, Royal Institute of International Affairs].

254 Ev 120 [DRDC memo].

255 Q 16 [Dr Suliman Baldo, ICG].

256 ICG, *Darfur: The failure to protect*, 8 March 2005, p.3 — see footnote 4.

257 Ev 14 [Steve Crawshaw, Human Rights Watch]; Ev 150 [ICG memo]; In El Fasher, the presentation we received from the AU Mission confirmed that there are "no signs of any action being taken to control the activities of the Janjaweed."

258 Ev 151 [ICG memo].

259 Musa Hilal, the Janjaweed leader told researchers from Human Rights Watch that the Khartoum government backed and directed the activities of his militia – see <http://www.hrw.org/video/2005/musa>; "Sudan ordered death squads, says warlord", *The Independent*, 3 March 2005; Human Rights Watch, *Darfur documents confirm government policy of militia support*, 20 July 2004 – see <http://www.hrw.org/english/docs/2004/07/19/darfur9096.htm>

260 Ev 106 [Baldo et al]; Ev 135 [Embassy of the Republic of the Sudan memo]

Council made mistakes: first in demanding something which would allow the GoS, at a later date, to claim reasonably that it was unable to do; and second in failing to specify clear benchmarks and a timetable for the Sudanese government's efforts to disarm the Janjaweed.²⁶¹ **Disarming the Janjaweed is important in itself, but it also illustrates the failure of the UN Security Council on Darfur. To be effective, demands must: be well-defined; be ambitious but achievable; include mechanisms for monitoring compliance; specify a timetable; and spell out the consequences which will flow from non-compliance.**²⁶² The UN Security Council has recent, bitter and divisive experience of what can happen when its demands for compliance fail to deliver, and when it fails to specify — in terms which are precise and well-understood by all — what consequences will result.

88. The members of the UN Security Council are fully aware that unless consequences flow from non-compliance with their resolutions, their authority and that of the UN is undermined.²⁶³ The fact that the UN Security Council is failing on Sudan is not simply a mistake, it is the result of the dynamics of the Security Council.²⁶⁴ Countries' involvement in Sudan, and engagement with its government, might be driven by a wide range of (often mixed) motives. Motives include: stopping the killing in Darfur; helping Sudan to move towards a future of sustainable peace and development; ensuring that Sudan does not become a haven for terrorists; exporting arms, including MIG-fighters and Antonov bombers, to a lucrative market; and, maintaining or securing access to Sudan's oil and mineral deposits. China, it should be noted, is beginning to enjoy the fruits of its forty percent stake in Sudan's oil industry.²⁶⁵ Many countries, to further their various interests, would like to see a change of regime in Sudan. Others are content with the existing regime. During our visit to Sudan, a senior UN official suggested to us that the UN Security Council "works without strategy". This is abundantly clear, and, driven as it is by Member States which have a range of interests in Sudan, and in the role played by the UN in world affairs, it is not surprising.

89. Beyond the Security Council, the Sudanese government has the strong support of many of its neighbours (see paragraph 59), as well as other countries with commercial interests in Sudan, and — it would seem by their virtual silence — from many Arab and Islamic countries.²⁶⁶ But what matters most in terms of action is those countries which might veto proposed Security Council Resolutions. **It is a scandal that interests in oil and arms exports can prevent the Security Council from acting firmly on behalf of the international community to protect the people of Darfur. It shames those countries which, fuelling the crisis in Sudan, are happy to turn a blind-eye to crimes no less serious and heinous than genocide. And it demonstrates the impotence of the international community to act to prevent such crimes and to fulfil its responsibility to protect.**

261 Ev 151 [ICG memo]; Q 192-4 [Dr Mukesh Kapila].

262 Q 108 [Hilary Benn, DFID].

263 Q 235 [Hilary Benn, DFID].

264 Q 212 [Hilary Benn, DFID].

265 Ev 121 [DRDC memo]; Q 17 [Dr. Suliman Baldo, ICG]

266 Ev 121 [DRDC memo]; although see "The Secretary General of the Organization of the Islamic Conference reaffirms the organization's commitment to energizing the political process in Darfur", Organization of the Islamic Conference, 9 March 2005 — available at <http://www.reliefweb.int>

A referral to the International Criminal Court?

90. The most recent issue to divide the Security Council is the International Commission of Inquiry on Darfur's recommendation that the situation in Darfur be referred to the International Criminal Court (ICC). Those responsible for atrocities must be brought to justice, not least to demonstrate to others that crimes against humanity will not go unpunished. A sustainable peace requires accountability and justice²⁶⁷ (see paragraphs 104–105). The Sudanese legal system is not currently equipped to deliver justice. To use the Rwanda tribunal or to establish other *ad-hoc* tribunals would delay justice as well as imposing unnecessary costs.²⁶⁸ An ICC referral also has the strong support of a broad coalition of more than 40 primarily Africa-based civil society organisations, operating as “the Darfur Consortium”.²⁶⁹ **The International Criminal Court — a court which 44 African countries have signed up for — must be the venue in which those responsible for atrocities in Darfur are brought to justice. It was set up to deal with such cases.**

91. The UK Government has been a strong supporter of the ICC and continues to state that the ICC is its preferred option.²⁷⁰ The USA is firmly opposed to the ICC and does not want to give it support by allowing it to deal with the case of Darfur.²⁷¹ **The ICC is the only venue that will provide reliable, timely, cost-effective justice. The UK Government, which claims to enjoy a privileged relationship with the USA, must stand firm on this; to state that the ICC is HMG's “clear preference” is not firm enough.**²⁷² **The UK Government, in concert with its EU partners, has to persuade the USA that its commitment to stopping the conflict in Darfur, and bringing those responsible to account, is best served in this instance by pragmatism. The USA should make clear that it will not veto an ICC referral from the UN Security Council. This would do much to re-establish the transatlantic unity which is vital if the international community is to fulfil its responsibility to protect the people of Darfur.**²⁷³

Targeted sanctions and an extended arms embargo

92. The question of an ICC referral is not the only issue which the UN Security Council has to consider. Member States including the USA and the UK are keen to see a strongly worded resolution threatening sanctions against the GoS. Not everyone is convinced about the desirability of sanctions. Poorly-designed sanctions might end up punishing the Sudanese people themselves; others argue that sanctions would be ineffective.²⁷⁴ **We support the use of sanctions. Well-designed sanctions that target key individuals within**

267 Q 195 and Q 210 [Dr Mukesh Kapila]; Statement by Ms Louise Arbour, UN High Commissioner for Human Rights to the Security Council on The International Commission of Inquiry on Darfur, New York, 16 February 2005 — available at <http://www.ohchr.org/english/press/NewsFrameset-1.htm>

268 Q 195 [Dr Mukesh Kapila].

269 Darfur Consortium, *African Civil Society Calls on UN Security Council to Ensure Protection and Justice for Darfur*, 11 March 2005 — available at <http://www.darfurconsortium.org>

270 Q 227 [Hilary Benn, DFID].

271 Q 90 [Steve Crawshaw, Human Rights Watch]

272 Q 232-3 [Hilary Benn, DFID].

273 Q 56 and Q 90 [Steve Crawshaw, Human Rights Watch]; ICG, *Darfur: The failure to protect*, March 8 2005, p.22 — see footnote 4.

274 Justice Africa, February 2005 Briefing, para 52 — see footnote 9.

the regime, through travel bans and asset freezes, will send a strong message that the international community has had enough of the Sudanese government's non-compliance and murderous policies in Darfur.²⁷⁵ We applaud the UK Government for the firm line it is now taking on sanctions.²⁷⁶ In addition, the UN arms embargo, which applies to non-governmental entities, should be extended to cover the Government of the Sudan, with an effective monitoring mechanism established.²⁷⁷ In a situation where the Sudanese government actively arms its preferred non-governmental entities, the Janjaweed, an embargo which does not include the GoS is next to useless. Sanctions should of course apply equally to the rebels.

93. Those members of the Security Council who back the Sudanese government might veto any proposed sanctions or extension of the arms embargo. Their bluff should be called. **There is little purpose in diplomatic energy being wasted on a Resolution which achieves consensus on the Security Council but nothing for Darfur. The USA and the UK should force a vote on a Resolution which extends the arms embargo, imposes targeted sanctions, makes clear demands, and outlines what further sanctions — to include oil sanctions — will follow in the event of non-compliance.**²⁷⁸ A failed Resolution which exposes the “blocking” states would be better than the current stalemate, a stalemate which adds weight to the recommendation of the UN High-level panel that Member States should come to an agreement not to use the veto, except in circumstances where vital interests are genuinely at stake, and also to the proposal that **indicative voting, to reveal countries' positions on proposed actions, be adopted.**²⁷⁹ It may be held that some states are too powerful to respond to pressures and incentives. This should be tested; perhaps using the EU's arms embargo with China. An additional way in which the blockage on the UN Security Council might be removed would be for the AU to make a request for a firm Resolution and decisive action on Darfur. A request has been made to the UN Security Council by the Darfur Consortium of civil society organisations.²⁸⁰ A request from the AU itself might achieve much. China likes to think of itself as a friend of Africa; it might be reluctant to block a friend's request for international assistance.²⁸¹

Diplomatic negotiations and the responsibility to protect

94. The international community has failed the people of Darfur, as well as those of its members who take seriously their responsibility to protect. **The international community's major failing has been its failure to intervene at an early stage.**²⁸² **Waiting**

275 Ev 152 [ICG memo]; Q 40 [Dr Suliman Baldo, ICG].

276 Q 17 [Dr. Suliman Baldo, ICG]; Q 197 [Dr Mukesh Kapila]; Q 235 [Hilary Benn, DFID].

277 Q 235 [Hilary Benn, DFID]; Q 16 [Dr Suliman Baldo, ICG]; Q 55 [Maniza Ntekim, Amnesty International UK]; Ev 103 [Amnesty International UK memo]; Ev 105 [Associate Party Group for Sudan memo]; Ev 151 [ICG memo].

278 Q 32 [Dr Suliman Baldo, ICG].

279 *A More Secure World: Our shared responsibility*, Report of the Secretary General's High-Level Panel on Threats, Challenges and Change, United Nations, 2004, paras 256-7 — see footnote 32; Q 97 [Steve Crawshaw, Human Rights Watch].

280 Darfur Consortium, *African Civil Society Calls on UN Security Council to Ensure Protection and Justice for Darfur*, 11 March 2005 — see footnote 269.

281 Q 132 [Hilary Benn, DFID]; Q 17 and Q 20 [Dr Suliman Baldo, ICG].

282 Q 41 [Dr Suliman Baldo, ICG].

has allowed the crisis to grow, and a larger crisis requires stronger, more intrusive, intervention. Stronger and more intrusive intervention — especially military intervention — may, on the one hand make consensus hard to achieve, and on the other, demand the agreement of the UN Security Council. Without consensus, legally-authorized action is hard to take. And so the cycle continues. The lesson is clear: do not wait to intervene — work hard for a consensus for early, non-military, intervention. The international community has failed to bring to bear on the GoS, effective, coordinated, consistent political pressure. This is apparent as regards the prioritisation of the CPA (see paragraphs 52–58), the lack of a clear strategy for ensuring the success of the AU’s mission (see paragraphs 74–80), and the lack of action on the part of the UN Security Council (see paragraphs 81–93). There are two common elements in this catalogue of failures: first, the GoS; and second, a failure on the part of the international community to act in a strategic and well-coordinated manner.

Dealing with the Government of the Sudan

95. The Sudanese government makes concessions in response to concerted pressure, and only then.²⁸³ Protecting the people of Darfur requires the international community to exert concerted and consistent political pressure on the GoS, and on the rebels, to stick to their commitments. Dealing with the GoS has proved a challenge for the international community, no matter whether negotiations have been bilateral, through the AU, or mediated through the UN Security Council.²⁸⁴ There are differences of opinion and approach within the GoS, but those in control of the military and security apparatus have a history of untrustworthiness. The GoS is skilled in dealing with the international community, making just enough concessions, just in time, creating diversions and distractions, seeking to divide the international community, and to provide it with reasons for vacillating. Nevertheless, the international community has considerable practice in dealing with such regimes and ought to be able to take account of such characteristics in its negotiations. **Some simple guidelines for dealing with regimes like the Sudanese government are: do not trust what they say; demand hard evidence to back up what they say they have done; establish clear benchmarks and timetables against which their actions can be judged; and, specify what consequences will flow, and when, if the government fails to meet its commitments. Dealing with the rebels has its own problems too, with a lack of clarity as regards their organisation and their demands at the top of the list. Efforts must be made to engage with the rebels, not least to identify their demands.**

Collective in-action: Who has a responsibility to protect?

96. The Government of the Sudan has been able to avoid international political pressure on Darfur, in part because such pressure has been poorly coordinated. There has been pressure at various levels — bilaterally, through the AU, and through the UN Security Council — but the relationships between these different fora are not clear, as, in general terms, the report of the Commission for Africa acknowledged.²⁸⁵ To illustrate, consider the

283 Ev 111 [DRDC memo].

284 Q 56 [Steve Crawshaw, Human Rights Watch].

285 *Our Common Interest*, Report of the Commission for Africa, March 2005, p.163 — see footnote 233.

following questions, none of which have been conclusively answered by the international community: does the AU mission require explicit authorisation by the UN Security Council; has the AU mission got UN authorisation, specifically to use force to protect civilians; at what point, and on whose say-so, might the UN Security Council authorise military intervention to ensure that the mission currently being carried out by the AU in Darfur is effective; and, what would happen if the AU declared that it did not need such assistance? (see paragraphs 59 and 75). **The application of political pressure through different channels is the right approach, but it must be better coordinated. The AU, the UN, and its international partners must work from a coordinated strategic plan, with roles and responsibilities made clear.**²⁸⁶

97. At the root of the problem is the fact that there is no clear *legal* obligation on any state or supra-state organisation to prevent another government from committing war crimes against its own citizens.²⁸⁷ No-one is ultimately accountable. **The “responsibility to protect” is an emerging legal norm, but as yet it has no firm legal basis. As a result, a shared responsibility to protect risks degenerating into a game of passing the buck and avoiding responsibilities. When everyone is responsible for collective security, it might be that no-one will take responsibility. To put it differently, when the Prime Minister says that in a situation similar to Rwanda in 1994, “we would have a moral duty to act”, who precisely is the “we”, and what action would be required? Despite the commendable efforts of the UK and others to promote the notion of the “responsibility to protect”, and what it terms the “doctrine of humanitarian intervention”, regrettably, there are no clear answers. There may be a shared responsibility to protect, but the mechanisms of accountability, to ensure that responsibilities are shouldered, are lacking.** We are aware that perceptions of the UK’s role in the build-up to war in Iraq, and the legal arguments used to justify that intervention, will no doubt have made some countries question the UK’s motives in promoting a doctrine of intervention, including military intervention, for humanitarian purposes.

98. The UN Security Council might seem the best place to pin down the responsibility to protect. The UN Security Council has the “primary responsibility for the maintenance of international peace and security” (Article 24–1 of the UN Charter).²⁸⁸ If the Security Council determines that a crisis — which can include a humanitarian disaster — is a threat to international peace and security,²⁸⁹ then it is treated under Chapter VII of the UN Charter. In such cases, the principle of non-intervention in sovereign states in relation to matters which are “essentially within the domestic jurisdiction” (Article 2–7 of the UN Charter) is effectively overridden. The evidence demonstrates this to be the case: “The Security Council has on a number of occasions cited severe cases of internal repression or

286 Justice Africa, February 2005 Briefing, para 3 — see footnote 9.

287 Article 1 of the Convention on the Prevention and Punishment of the Crime of Genocide states “the Contracting Parties confirm that genocide ... is a crime under international law which they undertake to prevent or punish”. Whether an undertaking amounts to a legal obligation is a matter for lawyers. We have not pursued this legal matter, or the question of whether “genocide” has taken place in Darfur, because these issues are a distraction from the urgent need to provide protection to the people of Darfur, regardless of the label attached to the crimes against humanity committed by the GoS and its allied militias.

288 *The Responsibility to Protect*, Report of the International Commission on Intervention and State Sovereignty, December 2001, para 6.7 — see footnote 33.

289 Paragraph 6.12 of *the Responsibility to Protect* puts it carefully: “The UN, with the Security Council at the heart of the international law-enforcement system, is the only organization with universally accepted authority to validate such operations” [to settle issues of international peace and security].

humanitarian disasters in determining that a situation constitutes a threat to international peace and security, and has acted to address the situation, for example in Somalia, eastern Zaire, East Timor, Sierra Leone and Haiti.”²⁹⁰

99. The Security Council’s two main Resolutions on Darfur (1556 and 1564) were adopted under Chapter VII. As such, intervention — economic sanctions or military intervention — could be considered, and, ultimately, authorised. The fact that the Security Council has failed to authorise decisive intervention of any sort is explained more by politics and the interests of Member States, than by the legal complexities. Nevertheless, a lack of legal clarity does not help. The “responsibility to protect” is as yet only an emerging legal norm. But — given credence by human rights treaties, the Genocide Convention, the Geneva Conventions and international practice — the principle is becoming more widely accepted.²⁹¹ As the report of the UN High-level panel put it:

“The principle of non-intervention in internal affairs cannot be used to protect genocidal acts or other atrocities, such as large-scale violations of international humanitarian law or large-scale ethnic cleansing, which can properly be considered a threat to international security and as such provoke action by the Security Council.”²⁹²

100. As our report was being finalised, the UN Security Council was in its *fifth* week of discussions about a new Resolution on Darfur. Predictably, there have been disagreements over an ICC referral, and over proposals to extend the arms embargo, to impose sanctions on the oil sector, and to freeze the assets of key individuals within the Khartoum regime. The failure of the UN Security Council to act decisively has serious consequences, both for the people of Darfur and for the credibility of the UN. **If the UN Security Council fails to act on Darfur, it will once more find its position undermined, in two ways. First, many will conclude that the workings of the UN Security Council do not promote the responsibility to protect. And second, if frustrated Member States act successfully outside the authority of the Security Council, many will conclude that the UN is not necessary.**²⁹³ Those who do not wish to see the UN authorise military interventions for humanitarian purposes, for fear that they might be abused, have legitimate concerns. They should however, consider the following: if such interventions are left to “coalitions of the willing”, acting without UN-authorisation, then they will be more open to abuse, will be more likely to be driven by national interests, and will be less responsive to humanitarian need. For those of us who believe that membership of the international community requires that countries adhere to certain minimum standards of behaviour, and who regard the UN — flawed as it is — as the best hope of achieving collective security and sustainable development, this would be nothing short of

290 Government Response to the Foreign Affairs Committee’s Seventh Report of Session 2003-04, *Foreign Policy Aspects of the War Against Terrorism*, CM6340 p.39 — see footnote 33.

291 See *The Responsibility to Protect*, especially chapter six — see footnote 33.

292 *A More Secure World: Our shared responsibility*, Report of the Secretary General’s High-Level Panel on Threats, Challenges and Change, United Nations (2004), p.65, para 200 — see footnote 32.

293 *The Responsibility to Protect*, paras 6.37 to 6.40 — see footnote 33. For instance, the UK Government, in response to the Foreign Affairs Committee — see footnote 33 — wrote: “The Government has also made its view clear that international law recognises that, in exceptional circumstances, military action may be justified when it is the only way to avert an overwhelming humanitarian catastrophe, and that this is the case even in the absence of explicit authorisation from the Security Council.”

disastrous. Global social justice — in relation to peace, security, development, and the environment — requires an effective and accountable UN.

101. If the Comprehensive Peace Agreement is to provide a template for sustainable peace and development across Sudan, and a framework for a political agreement between the GoS and the Darfur rebels, an effective UN will be crucial. Peace will only be established once the parties see that other options offer more than does continued conflict. This scenario will only come to pass when the Sudanese government, and its international partners, jointly deliver on their shared responsibilities, not just to protect, but also for development.

4 The responsibility for development

102. There are three elements to the responsibility to protect; the responsibility to prevent, to react, and to rebuild.²⁹⁴ Fulfilling the responsibility to rebuild will include peace-building, security, justice and reconciliation and development. Darfur is not in a post-conflict phase. More effective “reaction” — political pressure on the GoS and the rebels to enhance security and to move towards a political resolution, and effective humanitarian response — remains crucial, and has been the main focus of our report. But in this chapter our focus is on the responsibility to rebuild, and in particular, for development, for Darfur and for Sudan as a whole.

103. Conflict often affects poor countries. Countries are made poorer by conflict. There is a simple, vicious and deadly cycle. Development can break that cycle. It can both prevent crises starting and re-starting, and — by offering the warring parties a future of sustainable peace, security and increasing prosperity — can help to bring existing conflicts to an end. By tackling the root causes, development offers a way of preventing, and a way of reacting to, crises. It may well be the most cost-effective way in which the international community can fulfil its responsibility to protect.²⁹⁵ In the remainder of this chapter we outline how the international community and the new National Government of the Sudan which is due to be established by July of this year when the SPLM gains a share of power, and the new Government of Southern Sudan, might begin to fulfil their shared responsibilities to protect the people of Sudan, by taking on their responsibilities for development. The messages we heard in Sudan were clear. In the South: there are great needs; peace has been delivered; the international community must now support development. In Darfur: there are immediate needs, but the fulfilment of these (humanitarian relief, enhanced security and political progress) must not mean that planning for peace and development is delayed until the conflict is over.²⁹⁶ Actions now should be taken within a long-term strategic framework.²⁹⁷

Governance and political change: Institutions for peace?

The new Sudan: Good governance, justice and human rights

104. The British Ambassador, whom we acknowledge is particularly well-informed about the realities of politics in Sudan, suggested that there might have to be a trade-off between justice and peace. That is, that pursuing justice for the crimes that have been committed in Darfur might be detrimental to the peace process. Political negotiations would be disrupted were key players in the GoS, who are likely to be named in the International Commission of Inquiry’s sealed annex of 51 names, removed from the political process. This is no doubt true, and is an argument for making progress on peace irreversible, but **we do not accept**

294 *The responsibility to protect* — see footnote 33.

295 *Investing in Prevention: An international strategy to manage risks of instability and improve crisis response*, A Prime Minister’s Strategy Unit Report to the Government, February 2005 — see footnote 36.

296 Ev 122 [DRDC memo].

297 Alex de Waal, *Steps towards the stabilization of governance in Darfur*, 7 January 2005, paragraph 2 – see http://www.justiceafrica.org/stabilisation_of_government.htm

that there is a trade-off, or choice to be made, between justice and peace. If the aim is a *sustainable* peace, then justice and accountability are required.²⁹⁸ Political negotiations with those responsible for crimes against humanity are hardly a sound basis for a sustainable peace. There should be a referral of the situation in Darfur to the International Criminal Court (see paragraphs 90–91). In addition, an International Compensation Commission, as recommended by the International Commission of Inquiry, would do much to ensure that victims of crime were afforded redress.²⁹⁹

105. In our view, justice matters to the future of Sudan more broadly too. Along with trust and fairness, justice is what holds societies together. At the national level, if Sudan is to hold together as a country — the stated desire of the GoS, the SPLM, and, it seems, the people of Darfur — then resources and power must be fairly shared, and not distributed unfairly according to ethnicity or religion. Otherwise, Sudan will fail as a state. There must be a significant chance that it will. At the personal level too, trust and fairness are key. On our visit to Leer, a village which had been the front-line of conflict for many years, we met with soldiers from the Sudanese government's Armed Forces and from the SPLM. These military men, sitting together drinking tea with each other and smiling, and looking slightly uncomfortable in each other's presence, had known nothing but conflict, war and poverty throughout their lives. Their lives tell their own tales of the need for reconciliation, trust, justice, peace, development, and support.

106. The Comprehensive Peace Agreement (CPA), signed on 9 January 2005, is an agreement between the GoS and the SPLM. Its six protocols provide a framework for peace based on sharing power and resources fairly. The CPA provides an historic opportunity for sustainable peace and development, not just for the South, but for the whole of Sudan.³⁰⁰ It also demonstrates that even the longest and bloodiest conflicts can be brought to an end through political negotiation.³⁰¹ Fighting for decades to gain a seat at the negotiating table, is not an attractive option. But the CPA is only the starting point; implementing the agreement will be as challenging as was its negotiation, and will require similarly sustained international support. The CPA represents an opportunity for the regime in Khartoum to turn away from conflict and towards sustainable peace, development and fuller participation in the international community. The mind-set of the regime's leaders will have to change too, to focus on inclusive development rather than fighting a war. For the South it offers hope of a permanent end to a conflict which has left its people with nothing. The SPLM, as it becomes the Government of Southern Sudan as well as a partner in the National Government, will need to develop, to become a movement for (good) governance, rather than an army for war; assuming, of course, that it is seriously committed to making a success of a new, but still unified, Sudan, rather than preparing for secession.³⁰² **The UK Government and others must work alongside the SPLM and the Khartoum regime to help them to prepare for governing Sudan. The parties seem committed to implementing the CPA. Their goal, and that of the international**

298 Q195, Q196 and Q210 [Dr Mukesh Kapila]; Q 95 [Steve Crawshaw, Human Rights watch]; Ev 148 [Human Rights Watch memo].

299 ICID, paras 590-603 — see footnote 8; *Darfur: no peace without justice*, DRDC briefing paper No. 4, Geneva, 21 February 2005 — see <http://www.darfurconsortium.org/Assets/PDFs/DRDCPaperNo4.pdf>

300 Ev 71 [DFID memo].

301 Q 237 [Hilary Benn, DFID].

302 Q 242 [Hilary Benn, DFID]; Justice Africa, February 2005 Briefing, paras 6 and 53 — see footnote 9.

community, must be to ensure that the nature of politics in Sudan is transformed so that when the South votes on secession in six years' time, the decision is respected by all.

107. Darfur was not party to the CPA negotiations. The SPLM is sympathetic to the rebels' cause in Darfur, and may be able to bring pressure to bear on them to negotiate, but the CPA cannot be expected to have an immediate impact on Darfur.³⁰³ As it stands, the CPA risks being seen as another example of the marginalisation and exclusion of Darfur, and also of the East. For Darfur, the hope is that the principles of the CPA — the autonomy it gives to the South, the sharing of wealth and of power, and the agreements on contested areas at the North-South border³⁰⁴ — might provide a framework for an inclusive peace and the emergence of a new Sudan.³⁰⁵ This is a hope which the GoS claims to share; that the Naivasha process can be built on by bringing in all those previously excluded.³⁰⁶ One fear is that continuing conflict in Darfur and in the East might destabilise the CPA.³⁰⁷ Another fear is that meeting Darfur's demands might lead to the unravelling of the CPA.³⁰⁸ The immediate challenge is to ensure that the Constitutional Review Commission — the body charged with translating principles of fairness into law — is inclusive, so that all regions, including Darfur and the East, feel represented.³⁰⁹

108. From a human rights perspective, much reform is needed if peace and justice are to be institutionalised across Sudan.³¹⁰ This is one of the gaps in the CPA.³¹¹ The justice system has failed to protect those who have suffered human rights violations at the hands of the GoS and its militias. Reform of the justice system is crucial if there is to be any confidence in the rule of law.³¹² Prisoners of conscience should be released immediately and without conditions. Fair trials should be instituted. Detainees should have prompt access to a judicial authority, to lawyers and to their families. The laws which allow detention without charge for up to nine months (Article 31 of the National Security Forces Act), and which give immunity to members of the security forces (Article 33) should be amended. All places of detention must be registered and independently inspected, with prompt and impartial investigation of all allegations of torture. And there should be freedom of expression and association.³¹³ **With a comparative advantage in supporting judicial reform and good governance, the UK has an important role to play in Sudan. We look forward to hearing more about DFID's plans.**³¹⁴

303 ICG, *Darfur: The failure to protect*, 8 March 2005, p.i — see footnote 4.

304 ICG, *Darfur: The failure to protect*, 8 March 2005, p.4 — see footnote 4.

305 Q 107 [Hilary Benn, DFID].

306 Ev 136 [Embassy of the Government of Sudan memo].

307 "Darfur taints Sudanese hopes for a new era", *Financial Times*, 9 March 2005.

308 ICG, *Darfur: The failure to protect*, 8 March 2005, p.4 — see footnote 4.

309 Justice Africa, February 2005 Briefing, paras 6-13 and 53 — see footnote 9.

310 Q 55 and Q 99 [Maniza Ntekim, Amnesty International UK].

311 Q 95 [Steve Crawshaw, Human Rights Watch].

312 Ev 102 [Amnesty International UK memo].

313 *Ibid.*

314 Q 242 [Anna Bewes, Head of Sudan Unit, DFID].

Local solutions to conflicts over land and resources

109. There are two inter-linked conflicts in Darfur. That which has received most attention is between the GoS (and its allied militias), and the rebel groups. A second conflict, which is intertwined with the first, in part as a result of the Sudanese government arming its favoured Arab militias, is over access to land and resources. This conflict pits sedentary farmers, mainly “African”, against nomadic herders who are mainly “Arab”, and has been exacerbated by the break down of traditional mechanisms for dealing with tribal tensions.³¹⁵ Tackling the root causes of this conflict will require tribal reconciliation and the negotiation of local agreements, and regional agreements across Darfur, within the framework provided by a national agreement between the GoS and the rebels.³¹⁶ There is some hope. The Janjaweed do not represent all the Arab tribes of Darfur.³¹⁷ To their great credit, the larger and more powerful Arab tribes in Darfur have deliberately stayed out of the conflict, despite pressures, intimidation and incentives offered by the GoS.³¹⁸ But those Arab tribes who have joined the conflict — and who have become known as the Janjaweed — will not welcome the return of the IDPs onto land which they covet. When the IDPs return home, with the encouragement of the GoS which armed the Janjaweed, this may set the government and the Janjaweed on a collision course. If the people of Darfur are to live in peace, there is a need for tribal reconciliation across the board.³¹⁹

110. There are signs of progress. Communal peacemaking efforts at the local level have begun, with pacts taking place between some of the major Arab and non-Arab groups. Such pacts might involve Arab tribes withdrawing from areas which were traditionally home to sedentary farmers, in return for guarantees of secure access to grazing routes. On a larger scale, Libya has hosted two rounds of a tribal reconciliation conference. This is a useful initiative which provides a forum for Darfurians — predominantly, we fear, men — to discuss the issues which matter to them.³²⁰ When we were in Khartoum, we met eight MPs from Darfur; the fact that their meeting with us was also the first time they had met together indicates a need for more intra-Darfur dialogue. There have been disagreements at the Libyan-hosted talks: over an amnesty requested by the GoS for crimes committed; over the issue of whether or not Darfur should remain divided into three states; and over the question of Darfurian representation in national politics. But some progress has been made; on questions of land tenure, and on systems of local governance (tribal administration). The Libyan initiative is the only current forum in which it might become possible to clarify the political demands of the nomadic herders. **It is not clear whether there will be another round of the Libyan-hosted tribal reconciliation talks. It is important that the relationship between any such talks and the Abuja peace process is clear. Stakeholders such as the UK should — whilst being careful to remain neutral —**

315 Ev 110-11 [DRDC memo].

316 Q 174 [Jan Egeland, UN-OCHA and ERC]; Q 64 [Toby Porter, Sudan Advocacy Coalition]; Ev 104 [Associate Parliamentary Group for Sudan memo].

317 Ev 114 [DRDC memo].

318 Q 6 [Dr Suliman Baldo, ICG].

319 Ev 108 [Baldo et al memo].

320 Ev 108 [Baldo et al memo].

offer support to such initiatives. Attention must also be given to the establishment of a Land Commission for Darfur, to determine a fair formula for access to land.³²¹

Development and livelihoods: Incentives for peace?

Oil revenues, transparency and development

111. Since its discovery in the early 1980s, oil has played an important role in shaping both the internal politics of Sudan,³²² and the outside world's dealings with Sudan (see paragraphs 81–82).³²³ Oil may have fuelled the civil war, but it also provided an incentive for peace. Oil revenues paid for military hardware, but the oil could not be extracted efficiently during the civil war. Sudan began exporting oil in 1999. Its output is now 250,000 barrels per day, a figure which is expected to rise to 600,000 barrels per day by 2007. Earnings of \$2bn per year are a significant sum for a country as poor as Sudan.³²⁴ The CPA's protocol on wealth-sharing includes an agreement to share the oil revenues. The formula approximates to equal shares going to the Government of Southern Sudan, and the National Government in Khartoum. Oil represents a massive opportunity for Sudan.

112. Transparency and accountability are essential if corruption is to be avoided, and the oil revenues are to be invested wisely. **Sudan's international partners, including the UK, must insist that all oil-related transactions — payments by outside companies, as well as flows of finance within Sudan — are published in line with the highest international standards of transparency. Specifically, they should comply at least with the guidelines promoted by the Extractive Industries Transparency Initiative and consult openly with civil society. A full, independent audit of the state oil company should also be carried out, and the results published.**³²⁵ The audit trail must not stop there. Somewhere between forty and eighty percent of the Sudanese government's spending is on the military.³²⁶ No government can maintain such spending patterns and expect to receive the support of the international community. **The UK Government should make its financial support to the Government of the Sudan conditional on a substantial and rapid decline in military spending, and encourage other donors to do likewise.**³²⁷

Rebuilding shattered livelihoods

113. The oil will not last forever. Neither will its development benefits necessarily trickle down as far and as fast as we might like. There is a great need both for economic diversification beyond oil, and — at the local level — for support for poor people's

321 Justice Africa, February 2005 Briefing, paras 31–34 — see footnote 9; Alex de Waal "Steps towards the stabilization of governance in Darfur", 7 January 2005, paragraph 18 — see footnote 297.

322 Ev 107 [Baldo et al memo].

323 "Oil reserves transform the Sudanese civil war", *Jane's Intelligence Review*, 6 June 2001 — available at http://www.janes.com/security/international_security/news/jir/jir010606_1_n.shtml NB: This article includes a list of companies that have invested in various sectors of the Sudan oil industry. From the UK, the list includes Weir Pumps Ltd., Allen Power Engineering Ltd., and Angus Fire.

324 "Africa: Sudan peace in the balance", *Jane's Islamic Affairs Analyst*, 1 June 2004 — available at <http://jiaa.janes.com/>

325 For Extractive Industries Transparency Initiative see <http://www.dfid.gov.uk/news/files/extractiveindustries.asp>; see also the Publish What You Pay initiative at <http://www.publishwhatyoupay.org/english/>

326 Q 121 [Dr Alistair McPhail, UK Special Representative for Sudan, FCO].

327 Q 122 [Hilary Benn, DFID].

livelihoods. Across Sudan, this primarily means support for rural livelihoods, based on agriculture. In Darfur, as well as in other areas affected by conflict, rural livelihoods have been devastated. Families have lost assets, some of which might have taken generations to acquire; seeds, beds, blankets, utensils, tools, donkeys, livestock, orchards, irrigation pumps, grinding mills, lorries and tractors.³²⁸ Forced to flee the violence, hundreds of thousands of people escaped only with their lives. They, the “lucky” ones, have nothing except the clothes they are wearing.³²⁹ The fundamental problem affecting livelihoods in Darfur is insecurity. Fearing attack, people are unable to move. Any activity that involves movement has been drastically curtailed: herding livestock to grazing lands and to market; travelling to rural areas to collect firewood, fodder and wild foods; migrating to town, or to Libya and sending money back. In Darfur, livelihoods are under siege.³³⁰ As the International Crisis Group put it in their recent briefing: “By displacing its agricultural and trading partners and destroying their livelihoods in pursuit of short term advantage, the Janjaweed has set in motion the demise of the region's medium term economic potential and thus significantly worsened the humanitarian situation for all its residents, not just those targeted for ethnic cleansing.”³³¹

114. Security is the key to rebuilding rural livelihoods. Without security, people cannot move around. Without mobility, people will not survive. When security is established, and there is progress towards a political resolution to the crisis in Darfur, there will be a great need to help people to rebuild their lives and their means of survival. **The humanitarian response must be integrated with plans for longer-term development. Working with the new Government of the Sudan, donors including the UK should consider how Reconstruction and Development Funds, such as those provided for in the CPA, might be used to support the rebuilding of livelihoods in Darfur.**³³² And, whilst the focus of livelihood rehabilitation will be on agriculture and related activities, the looming threat of HIV/AIDS must not be forgotten.

Shared responsibilities, accountability and effective partnerships

Investing in peace and development

115. The responsibility to make the Sudan a success following the signing of the CPA, and to bring peace and security to Darfur, has to be widely shared. The soldiers we met in Leer, along with millions of others in Darfur and across Sudan, must be provided with opportunities to make a living so that they, and the country as a whole, do not slip back into conflict. In a country full of guns, conflict-relapse is a huge risk. The new National Government of the Sudan, the Government of Southern Sudan (that which the SPLM will

328 *Rule of lawlessness: Roots and repercussions of the Darfur crisis*, Interagency Paper, January 2005

329 Imagine, if you are from the developed world: you lose your home, your car, your job, your savings, your laptop and mobile phone, your TV, your clothes, your books and CDs, your food, your access to water, your partner and two of your children. You are attacked and left for dead. If you are a woman, you may be raped. And then, faced with the threat of attack by murdering robbers, and a Government which seems at best indifferent to your plight, you have to re-build your life. In a semi-desert environment.

330 *Livelihoods under siege* — see footnote 142.

331 ICG, *Darfur: The failure to protect*, 8 March 2005, p.2 — see footnote 4.

332 Alex de Waal, *Steps towards the stabilization of governance in Darfur*, 7 January 2005, paragraph 7 — see footnote 297.

become), and the rebels in Darfur all have important roles to play. The continuing support of the international community is crucial too, both in terms of political support and pressure, and in terms of resources. Unless the international community provides Sudan with the funds it needs for peace and development now, the opportunity provided by the CPA will be squandered. The Joint Assessment Mission, a team made up of GoS and SPLM members, recently concluded its assessment.³³³ They report that nearly \$8bn dollars will be needed over the next two years for reconstruction and development, to help Sudan to recover from the civil war. This figure does not include the cost of the UN peace-support operation to the South of Sudan, or any funds required to restore stability to Darfur. Donors will have to find \$2.66bn; over \$5bn will come from domestic oil revenues.³³⁴ The assessment is not simply a request for funds from donors; it is also a statement of political commitment, and a plan for how domestically-generated resources are to be spent for development.

116. International support is needed, but the signs are not very good, especially as regards the South. The UN Workplan for Sudan for 2005, launched on 30 November 2004, requested \$1.56bn, with \$691m of that sum required for activities in Darfur.³³⁵ By mid-March, a total of \$388m had been provided by donors for the whole of Sudan's needs. This is a positive response, but it remains insufficient and hugely imbalanced. Resources needed for food aid are 73% covered. All other sectors are less than 5% covered.³³⁶ In Khartoum, the heads of the UN agencies in Sudan told us they had no money. And, on a recent visit to Sudan, and speaking specifically about the South, Jan Egeland noted a "disturbing discrepancy" between what the world promised the signatories to the CPA that it would deliver, and what has since been forthcoming.³³⁷ The South, he noted, had actually received only five percent of what it needs to implement the UN Workplan, with another five percent promised. Donor countries are failing to support the peace process. This year is a make or break year for Sudan. The historic opportunity provided by the CPA must not be lost. If the international community is generous with its support, that will not only help Sudan on the road to sustainable peace and development, but it may also have a knock-on effect throughout Africa. If the peace falters, Sudan risks sinking further into crisis, with consequences across Africa and beyond. **Donors must be generous, immediately and at the donors' conference in Oslo from April 11–12. The needs are immediate, and will be long-term; the support should be too. We expect the UK Government, which has worked tirelessly in support of the CPA, to provide generous and immediate financial support. It should also persuade its European partners to invest in the Sudanese peace.**

333 Q 222 [Anna Bewes, DFID]

334 "Sudan appeals for billions in post-war reconstruction, development aid", *Agence France-Presse*, 9 March 2005 — available at <http://www.reliefweb.int/>

335 UN and partners, *Work Plan for Sudan 2005* — available at <http://www.unsudanig.org/publications/workplan/>

336 UN and partners, *Work Plan for Sudan 2005* — see footnote 335; United Nations: Security Council, *Report of the Secretary-General on the Sudan pursuant to paragraphs 6, 13 and 16 of Security Council resolution 1556 (2004), paragraph 15 of resolution 1564 (2004) and paragraph 17 of resolution 1574 (2004)*, S/2005/140, 4 March 2005 — see footnote 215.

337 "UN official says Sudan is not getting the aid it was promised", *The New York Times*, 6 March 2005 — available at <http://www.nytimes.com/>; "Emergency relief coordinator Jan Egeland concludes trip to Sudan", UN Press Release, 8 March 2005 — see <http://www.un.org/News/Press/docs/2005/afr1122.doc.htm>; "Transcript of media briefing with Jan Egeland, UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator", UN-OCHA, 9 March 2005 — available at <http://www.reliefweb.int>

Accountability and the responsibility to protect

117. Donors face a challenge. In order to help meet the huge human development needs in Sudan, they must fulfil their promises to invest in the North-South peace process. This will involve working with the regime in Khartoum, but in so doing *the international community must not take off the pressure as regards Darfur*.³³⁸ That mistake must not be made again. **The Government of Southern Sudan must be provided with the resources it needs to become a partner for peace and development, and to invest in the human development of its citizens. But the provision of debt relief and of funds which would primarily benefit the National Congress Party — the Khartoum regime responsible for the crisis in Darfur — must be conditional on resolving the crisis in Darfur.** The UK Government seems to understand this.³³⁹ **The conditions to be met must be clearly benchmarked, the timetables for meeting them spelt out, and the consequences which flow from meeting or not meeting commitments must be specified. The UK Government should take the lead on this, ensuring that donors speak with one voice at Oslo.**

118. Development partnerships entail shared responsibilities.³⁴⁰ Shared responsibilities such as the responsibility to protect, and for development, will not be met unless those responsible are accountable for their actions and inactions. As the report of the Commission for Africa rightly emphasises, accountability, along with the capacity to deliver, is the basis of good governance. If the international humanitarian system had been more accountable, and had learnt more from past responses, then it would surely have responded more effectively to the crisis in Darfur. If the Government of the Sudan had been more accountable for its actions, to its citizens, or, failing that, to the international community — working bilaterally, through the AU, and through the UN — then the crisis in Darfur would have been resolved more peacefully. And if the “international community”, and in particular the UN Security Council, were more clearly accountable to those governments and people who take seriously their responsibilities to protect, then it would surely have acted more decisively on Darfur. The response to the south Asian tsunami proved that the public is willing to assist those in need, and that the international community can respond effectively. What are lacking are mechanisms to hold to account the humanitarian agencies, governments and international organisations which are entrusted with translating that willingness to help into effective action.

119. This is the lesson of Darfur. **If the international community is to fulfil its shared responsibility to protect, then we must all fulfil our responsibilities, and hold others to account for fulfilling theirs. The UK Government has, on the whole, responded well to Darfur. The international community must fulfil its responsibility to protect the people of Darfur, now. Attacked by the government which is meant to protect them, the people of Darfur, who we have collectively and demonstrably failed, deserve no less. Action is needed now.**

338 Q 205 [Mukesh Kapila]; Q 239 [Hilary Benn, DFID]

339 Q 222 [Hilary Benn, DFID].

340 *Our Common Interest*, Report of the Commission for Africa, March 2005 — see footnote 233.

Conclusions and recommendations

Introduction

Darfur mortality estimates

1. The only violent deaths which the WHO's estimate includes are those which took place in the camps for Internally Displaced Persons (IDPs). Of those attacked in their villages, only those who made it to the camps before dying would be included in the WHO's estimate. With the exception of these cases, the WHO's estimate does not include deaths due to the violence from which people have fled. In addition, the WHO estimate covers only the period from March to mid-October 2004, and only takes account of deaths in accessible areas within the borders of Darfur. Cited without clear explanation of its limitations, the WHO's estimate is extremely misleading. (Paragraph 4)
2. Political pressure must be exerted on the Government of the Sudan to enable the WHO or a different competent organisation to conduct further assessments of mortality resulting from the crisis in Darfur. And, in a situation where statistics are deflated, inflated and used by all sides as political weapons, the WHO must ensure that its statistics are not open to mis-interpretation and abuse. The WHO's press release of 14 October 2004, conflating two types of violence, demonstrated at best extreme naivety if not gross incompetence. (Paragraph 5)

The responsibility to protect

3. Sovereignty entails responsibilities as well as rights. States have the primary responsibility for their citizens, but in circumstances where states commit crimes against humanity and war crimes against their own citizens, the international community has an obligation and a duty to those citizens — a “responsibility to protect.” Sovereignty does not give states the right to commit gross human rights violations and war crimes against their citizens. (Paragraph 10)

Meeting humanitarian needs?

Early warnings, donor response and the role of the media

4. The international community chose to ignore the early warnings of NGOs and senior UN officials. Other factors — poor access, continuing insecurity, a flawed humanitarian system, and an unfavourable political context — played a part too, but by ignoring the warnings, the international community helped to ensure that the initial humanitarian response to Darfur was, as Médecins Sans Frontières put it, “a staggering failure”. (Paragraph 15)
5. The UK Government deserves credit for its speedy and generous response to the crisis in Darfur. The EC/ECHO and the USA deserve praise too. Particularly noteworthy is the EC's early support for the AU's work in Darfur. Other donors,

including other European countries, should have done more. Arab countries have donated 2.5 percent of the total, mainly through in-kind bilateral humanitarian aid. This is disappointing. The donor response to Darfur has, after a slow start, been very good. But huge needs remain across Sudan and elsewhere. (Paragraph 16)

6. Governments and politicians must not wait to act until images of death and destruction are on the TV screens. By then it is too late. (Paragraph 18)
7. Governments play an active part in shaping the news agenda. The UK Government could and should have done more to try to ensure that Darfur received greater news coverage in 2003 and early 2004. We invite the Government to outline, in its response to our report, its strategy for more effective media engagement around complex emergencies such as Darfur. (Paragraph 19)

Humanitarian access: Government obstructions, logistics, insecurity

8. We condemn the Government of the Sudan for its deliberate policy of limiting humanitarian access to Darfur. We applaud the UK Government and the British Embassy in Khartoum for their persistent efforts to get restrictions lifted. The humanitarian response would have been more effective if diplomatic pressure had led to an earlier lifting of the Sudanese government's bureaucratic restrictions, but Hilary Benn and Jack Straw, the Foreign Secretary, deserve much credit for ensuring that such restrictions were eventually eased. Effective humanitarian response to crises such as Darfur depends upon unhindered humanitarian access. (Paragraph 21)
9. Continuing diplomatic pressure is needed to ensure that humanitarian agencies and staff, including those involved in human rights and protection work, are not harassed. In a context where the Sudanese government is failing to protect its own people, it will not and must not escape criticism from agencies concerned with protection and human rights. Specifically, the Sudanese government should be put under pressure to ensure that the International Committee of the Red Cross — perhaps the archetypal humanitarian organisation — has the access which it needs to detainees. The UK Government, through the Embassy in Khartoum, must continue to press the Sudanese government on these issues. (Paragraph 22)
10. All organisations tasked with the delivery of humanitarian supplies, including the WFP, must be well-supported by the donors at an early stage. If they are to deliver adequate supplies at the right time, then this is essential. In return for donor support, the organisations must deliver. The WFP must do all it can to ensure that adequate food supplies are in place before demand peaks in August this year. (Paragraph 23)
11. The killing of humanitarian workers in situations of armed conflict is a war crime. The perpetrators of such crimes must be brought to justice, and the protection provided to humanitarian workers under international law must be clarified, and, if necessary, strengthened. (Paragraph 24)
12. Resolving the security problem requires political pressure on the parties to stick to the ceasefire, and more robust protection for humanitarian agencies. But in the meantime, with more resources, UNDSS could check roads more frequently, allowing it to maintain its standards without having to declare roads “no-go” for long

periods of time. The UK Government, in its support for the humanitarian response, must ensure that UNDSS receives adequate funding. (Paragraph 25)

13. To ensure that the humanitarian effort is not derailed by insecurity, the AU, the UK and other external powers must apply firmer political pressure, bilaterally and through the UN, to ensure that the parties honour their ceasefire commitments. But no matter what happens politically, or in terms of sticking to the ceasefire, humanitarian relief must be provided according to need; relief must not be made conditional. (Paragraph 26)

The humanitarian system: Capacity, coordination and leadership

14. Donors, NGOs and UN agencies should give serious consideration to investing more in training and skills development for humanitarian staff from the developing world, so that the capacity of the humanitarian system can be enhanced. (Paragraph 29)
15. Humanitarian donors must do more to support their implementing partners in the times between crises. In the absence of core-funding, it is no surprise that NGOs find it difficult to train and retain staff and to respond quickly to need. We would appreciate further information about DFID's policy on this. (Paragraph 29)
16. If the international community is to be able to fulfil its responsibility to protect, it must act now to ensure that it is able to deal effectively with crises involving IDPs. *Ad hoc* arrangements will not see duties adequately fulfilled. To respond to IDPs' needs with excuses about institutional mandates would be laughable if it did not have such tragic human consequences. (Paragraph 32)
17. The UK Government should – on behalf of the UK taxpayers who help to fund the agencies — find out why UNHCR and UNICEF were unwilling to take on the responsibility for the management of IDP camps in Darfur. (Paragraph 33)
18. All IDPs are affected by violence, but the needs of women and girls affected and threatened by rape and gender-based violence stand out. Many attacks take place when women — putting themselves at risk of attack, rather than their husbands and sons, who might be killed — are collecting firewood outside the camps. Fuel-efficient stoves can help, and arrangements should be made to ensure that trustworthy police patrols are stepped up to protect women collecting firewood. More attention and resources also need to be devoted to the rights and needs of those who have been attacked, and to ensuring that those responsible are brought to justice. (Paragraph 34)
19. If returns and relocations are to be truly voluntary, then there must be extensive consultation with the IDPs. And with the women, not just with the male tribal leaders. (Paragraph 37)
20. Security and progress on the political front are the pre-requisites for voluntary return. Agreements on Voluntary Return will not in themselves bring it about. Nevertheless, the international community must ensure that the Sudanese government sticks to the agreements it has reached and stops its practice of forcing IDPs to return home or to move to other camps. Rather than waiting for security to

improve, the UN should be putting plans in place now, for the informed and voluntary return of IDPs to their homes over the next year. (Paragraph 38)

21. Mukesh Kapila's enforced departure from Sudan was, it seems, the inevitable result of his decision to speak out and insist that a so-called "humanitarian crisis" had political causes and required political pressure for its resolution. Dr. Kapila told us that as the ethnic cleansing was not averted, he believes that he personally failed in Darfur. But it was the international community that failed, despite the best efforts of Dr. Kapila, and others such as Jan Egeland. (Paragraph 39)
22. Mukesh Kapila was right to speak out about Darfur, of that we have no doubt. The UN system failed to ensure a smooth transition at a critical time, because of a lack of planning, because — once sensible suggestions for his replacement were made — of a lack of political pressure by Member States through the Security Council, and because of the intransigence of the Government of the Sudan. (Paragraph 40)

Towards effective humanitarian relief

23. If, as seems certain, the IDPs are unable to return home this spring in time to plant crops, continuing food aid will still be needed this year to feed 3 or perhaps 4 million people, nomadic Arabs as well as African sedentary farmers. There is an extremely serious risk of famine. Having arrived late in the day, the humanitarian community must not now turn its back on Darfur. (Paragraph 41)
24. There is strong case for initiating an inter-governmental review of the humanitarian response, along the lines of that which took place after Rwanda, led perhaps by an African country. The UK Government should consider supporting such a review. (Paragraph 43)
25. There may be value in having a system of graded warnings which, depending on the level of warning, require mandatory action by governments. (Paragraph 44)
26. The international community needs to establish ways of working which deliver humanitarian aid when it is needed, but which do not institutionalise artificial and unhelpful divisions between humanitarian relief, reconstruction and development. (Paragraph 45)
27. We endorse strongly the suggestions made by the Secretary of State for International Development for reforming the international humanitarian system, particularly as regards funding and giving UN-OCHA a stronger role in coordination. More broadly, we share his concern that there are no clear means of holding humanitarian donors and agencies to account. In the absence of accountability, the provision of humanitarian relief will be slow to improve. (Paragraph 46)
28. The suffering of Darfur's millions is not the result of a natural disaster. It is not solely a "humanitarian crisis". It is a political, human rights and humanitarian crisis, and — as the UN Security Council has confirmed — a crisis which threatens international peace and security. Every opportunity should be taken to make this clear. Unless the causes as well as the symptoms of the crisis in Darfur are dealt with, and the

humanitarian response is able to proceed in a secure context — with political progress being made — no amount of money will resolve the crisis. (Paragraph 47)

29. Humanitarian aid is not a substitute for political pressure, and, if necessary, military action, to enhance security. The humanitarian community must not be made a scapegoat for the international community's failure to respond adequately to Darfur on the political level. (Paragraph 48)

Providing protection and security by exerting political pressure?

Sequencing and the prioritisation of the North-South peace process

30. The evidence shows that the international community — including the UK chose to treat the CPA and Darfur sequentially, with the priority given to securing the North-South peace through the CPA, in the hope that it would in turn provide a template for peace in Darfur. Governments, including our own, felt that highlighting events in Darfur, and pressurising the Sudanese government in relation to Darfur, might throw the CPA peace process off-track. (Paragraph 52)
31. Governments, including our own, failed to speak out about Darfur at an early stage; failed to get the UN Security Council to adopt a Resolution about Darfur until July 2004; failed to put concerted pressure on the Sudanese government to allow humanitarian access; and failed to make the government take seriously its responsibilities for protecting the people of Darfur and for complying with its ceasefire commitments and legal obligations. (Paragraph 54)
32. On the ground, the catalogue of diplomatic failures had serious repercussions. In early 2004, with the international community prioritising the CPA process, the Government of the Sudan unleashed its deadly and totally disproportionate counter-insurgency strategy. It was given a window of opportunity, and — with its room for manoeuvre soon to be reduced by the entry into power of the SPLM — a reason to take it quickly. If Darfur had not been sidelined, there is no doubt that events would have turned out differently. (Paragraph 54)
33. It certainly would have been wrong to let the chance of securing the North-South peace, and perhaps a template for a wider peace, slip away. But prioritising the CPA ran counter to the needs of the people of Darfur for protection, security and humanitarian assistance. When the conflict in Darfur escalated in early 2004, this much was crystal clear. (Paragraph 56)
34. The international community did not need to make such a choice, and — by emphasising one set of issues (the CPA) rather than the other (Darfur) — was playing into the hands of the Sudanese government (Paragraph 56)
35. The international community could have pushed harder on Darfur without risking the CPA negotiations. A more holistic approach would not, it seems to us, have prevented the signing of the CPA (it may have delayed it by a few months, but as the North-South peace had already been established, this would have been at no great practical cost), and it would certainly have prevented the crisis in Darfur getting as

bad as it did. In the simple terms of balancing likely costs and benefits, prioritising the CPA was misguided. A more holistic approach was possible, and, in terms of likely impact, was preferable. (Paragraph 56)

36. We believe that the UK Government has had honourable intentions throughout; but mistakes were made. Strategies for dealing with governments to move dual peace-processes forward will be needed again. Lessons must be learnt. In its response to our report, we invite the Government — not solely DFID — to outline the lessons which have been learnt about sequencing and prioritisation as a result of the experience of Darfur. (Paragraph 58)

The role of the African Union: African-led solutions for African problems?

37. We unreservedly welcome the AU's involvement in Darfur, for two reasons. First, the AU's involvement signals a new commitment by African countries to take responsibility for dealing with the problems of their neighbours, a commitment which will in time do much to enhance the world's ability to deal with crises and conflict. Second, and more importantly, the AU was and remains the only entity willing to involve itself so fully in trying to tackle the crisis and protect the people of Darfur (Paragraph 59)
38. In the case of Darfur, the UK Government's rhetoric of "African-led solutions for African problems" is rather simplistic; many countries have had a role in the evolution of Sudan's problems. But nevertheless, HMG deserves a great deal of credit for its support of the AU. (Paragraph 60)
39. If the Abuja talks are to make progress on a political solution, sustained international pressure on the Government of the Sudan and the rebels will be needed, along with a clear vision of a desirable outcome. But it would be better to wait a month or two and get it right, than resume negotiations now, only to see them fall apart next week. (Paragraph 63)
40. Evidence suggests that the AU Mission in Darfur has had a positive impact on security. Through prompt and objective monitoring and reporting on ceasefire violations, and by making its presence felt, the AU has both enhanced accountability for violations and prevented violations from taking place. However, comprehensive data on ceasefire violations — how frequent they are, who is responsible for them, and what the trends are — does not seem readily available. The AU should make such information public. (Paragraph 66)
41. The AU, at the level of its Peace and Security Council, and on the ground in Darfur, needs to ensure that the mandate is clear, and clearly understood by all parties. Further, it is not clear that the mandate will be sufficient, even if the AU Mission works right at the limit of its civilian protection mandate. (Paragraph 67)
42. Decisions about mandate are for the AU's Peace and Security Council to make, in consultation with the wider international community. However, if security does not improve in Darfur within weeks, and if large-scale killing continues, then the mandate of the AU must be revised to enable it to use force to protect civilians, and to disarm militias. As a first next-step, the AU should do more pro-actively to police

the no-fly zone, agreed to by the parties as part of the 9 November Security Protocol. The AU must also be provided with the logistical and technical support to enable it to fulfil its mandate. (Paragraph 67)

43. The speed of deployment, hindered by a lack of planning capacity at AU headquarters and by inefficient contractors, has been unacceptable. During our visit, some were keen to emphasise that the AU Mission was deploying more quickly than would a UN mission. This may be correct, but it offers little comfort to the people of Darfur. The UN and its Member States, alongside regional organisations such as the AU, urgently need to find ways of deploying troops more quickly. (Paragraph 68)
44. The AU Mission is in the best position to know how many troops are required to fulfil a particular mandate. Their views must be given much weight: by the AU's Peace and Security Council; by the members of the AU who have accepted a role in bringing peace and security to Africa; and by the UK, the EU and others who are in a position to respond to requests for assistance. Those African countries who have provided troops and police to the AU can be proud of their contributions as can the troops on the ground. They embody Africa's commitment to African solutions for African problems. (Paragraph 69)
45. The international community must apply sustained pressure on the Sudanese government, so that Janjaweed are not absorbed into the police, and the policing element of the AU Mission must be strengthened. (Paragraph 70)
46. Helping the AU Mission, and bringing pressure to bear on the Government of the Sudan, to improve policing, is a matter of considerable urgency; the UK and the EU must do more to provide support, more quickly. As discussions continue, and action follows, attention must also be given to ensuring that there are sufficient numbers of women police officers and civilian specialists so that reports of violence against women and girls can be dealt with appropriately. (Paragraph 71)
47. The inclusion in ceasefire-monitoring and verification missions of representatives of the Sudanese government and of the rebel groups does much to ensure that the AU Mission is trusted as being impartial. This, we were told, is also the case for the JMC in the Nuba Mountains. But it is not difficult to come up with solutions which allow for this but which do not inhibit the monitors' effectiveness: don't tell the parties' representatives exactly where the monitoring mission is going; and, don't let them carry satellite phones. (Paragraph 72)
48. The AU Mission should share its reports on ceasefire violations widely, without having to secure the consent of the parties. Access to reports should be unrestricted and immediate for UN agencies, including UN-OHCHR. Serious consideration should also be given to the inclusion of a human rights monitor, a nurse, and a child protection officer, on monitoring missions. Concerns about their security are not insuperable. Adopting this proposal would: enable the monitoring of human rights violations and enhance the chances of people being brought to justice for human rights violations; enable the provision to rape victims of emergency contraceptives, and drugs to reduce the likelihood of HIV transmission; and ensure that the needs of child victims of atrocities — a neglected group in the crisis — are better met. If the

international community is serious about protecting the civilians of Darfur, such measures are essential. (Paragraph 73)

49. The UK and the EU have been particularly generous with financial support for the AU, but as Hilary Benn acknowledged — and the Commission for Africa reiterated in its recommendation that donors provide fifty percent of the AU's peacekeeping requirements — there is a need to find a mechanism that will allow funding to support AU peace support operations on a more consistent and long-term basis. (Paragraph 74)
50. Following the UK's lead, other donors should make vehicles available to the AU Mission on request, and satellite intelligence and help with radar to monitor the no-fly zone must be provided. The UK Government should take the lead on this, working with its partners in the EU and the USA. (Paragraph 74)
51. The UK should second technical experts to the AU in Addis Ababa to provide the support which the AU requires. Political support to the AU is crucial too; the UK Government and others must publicise and condemn the ceasefire violations which the AU confirms, and ensure that the AU Peace and Security Council and the UN Security Council use the evidence collected by the AU Mission to hold the parties to account, and to ensure that consequences follow. (Paragraph 74)
52. Providing military assistance to the AU is an option which should not be closed off. On the contrary, it should be explored without delay. Policy should be based on the analysis of options and their attendant risks. Military intervention entails risks, but it is risky too for the international community to fail in its responsibility to protect the people of Darfur. (Paragraph 76)
53. What concerns us most about the international community's delegation of responsibility to the AU is: first, that there seems little sense of urgency; and second, that the support which the international community provides to the AU Mission, does not seem to be based on a strategy in which the risks attendant to different options are assessed. Complex challenges are best tackled on the basis of a clear strategy; muddling through, or waiting and seeing, rarely works. Starting from the basis that protecting the people of Darfur, and holding the parties to account for ceasefire violations is the goal, we must have clear answers to the following questions:
 - How is the effectiveness of the AU Mission being assessed, on what basis, and by whom?
 - What level of insecurity would signal that the AU Mission — working in a context largely beyond its control — was not being effective?
 - How many months does the AU Mission have to demonstrate its effectiveness?
 - If the AU Mission proves unable to fulfil its mandate effectively — monitoring and reporting on the ceasefire, and providing civilian protection — what are the next steps to ensure its success, who will ensure that they are taken, and when? (Paragraph 77)

54. Fulfilling the responsibility to protect includes persuading others to fulfil their responsibilities too. The UK Government should be engaging with members of the AU and specifically the AU Peace and Security Council, in order to protect better the people of Darfur. (Paragraph 79)
55. If the AU is to play its role in helping Africa to a peaceful, secure and more prosperous future, then its Member States must be prepared to make clear, through action as well as words, that sovereignty does not give states the right to commit gross human rights violations and war crimes against their citizens. African countries too have a responsibility to protect, as the AU's mandate affirms. Nevertheless, the fact that African countries have a responsibility to protect, and that the AU is increasingly willing to take on that responsibility, does not absolve others of their responsibilities. Countries beyond Africa share the responsibility for the success of the AU Mission, and for protecting the people of Darfur. If Africa needs assistance to protect the people of Darfur, then richer countries should step in. The AU's involvement is extremely welcome, but it must not become an excuse for inaction on the part of others (Paragraph 80)

The UN Security Council: Maintaining international peace and security?

56. The Government of the Sudan will not comply with resolutions which it considers counter to its interests unless there is sustained and concerted international pressure, with consequences of non-compliance spelt out clearly. (Paragraph 87)
57. Disarming the Janjaweed is important in itself, but it also illustrates the failure of the UN Security Council on Darfur. To be effective, demands must: be well-defined; be ambitious but achievable; include mechanisms for monitoring compliance; specify a timetable; and spell out the consequences which will flow from non-compliance. (Paragraph 87)
58. It is a scandal that interests in oil and arms exports can prevent the Security Council from acting firmly on behalf of the international community to protect the people of Darfur. It shames those countries which, fuelling the crisis in Sudan, are happy to turn a blind-eye to crimes no less serious and heinous than genocide. And it demonstrates the impotence of the international community to act to prevent such crimes and to fulfil its responsibility to protect. (Paragraph 89)
59. The International Criminal Court (ICC) — a court which 44 African countries have signed up for — must be the venue in which those responsible for atrocities in Darfur are brought to justice. It was set up to deal with such cases. (Paragraph 90)
60. The ICC is the only venue that will provide reliable, timely, cost-effective justice. The UK Government, which claims to enjoy a privileged relationship with the USA, must stand firm on this; to state that the ICC is HMG's "clear preference" is not firm enough. The UK Government, in concert with its EU partners, has to persuade the USA that its commitment to stopping the conflict in Darfur, and bringing those responsible to account, is best served in this instance by pragmatism. The USA should make clear that it will not veto an ICC referral from the UN Security Council. This would do much to re-establish the transatlantic unity which is vital if the

international community is to fulfil its responsibility to protect the people of Darfur. (Paragraph 91)

61. We support the use of sanctions. Well-designed sanctions that target key individuals within the regime, through travel bans and asset freezes, will send a strong message that the international community has had enough of the Sudanese government's non-compliance and murderous policies in Darfur. We applaud the UK Government for the firm line it is now taking on sanctions. In addition, the UN arms embargo, which applies to non-governmental entities, should be extended to cover the Government of the Sudan, with an effective monitoring mechanism established. (Paragraph 92)
62. There is little purpose in diplomatic energy being wasted on a Resolution which achieves consensus on the Security Council but nothing for Darfur. The USA and the UK should force a vote on a Resolution which extends the arms embargo, imposes targeted sanctions, makes clear demands, and outlines what further sanctions — to include oil sanctions — will follow in the event of non-compliance. A failed Resolution which exposes the “blocking” states would be better than the current stalemate, a stalemate which adds weight to the recommendation of the UN High-level panel that Member States should come to an agreement not to use the veto, except in circumstances where vital interests are genuinely at stake, and also to the proposal that indicative voting, to reveal countries' positions on proposed actions, be adopted. (Paragraph 93)
63. The international community's major failing has been its failure to intervene at an early stage. Waiting has allowed the crisis to grow, and a larger crisis requires stronger, more intrusive, intervention. Stronger and more intrusive intervention — especially military intervention — may, on the one hand make consensus hard to achieve, and on the other, demand the agreement of the UN Security Council. Without consensus, legally-authorized action is hard to take. And so the cycle continues. The lesson is clear: do not wait to intervene — work hard for a consensus for early, non-military, intervention. (Paragraph 94)
64. Some simple guidelines for dealing with regimes like the Sudanese government are: do not trust what they say; demand hard evidence to back up what they say they have done; establish clear benchmarks and timetables against which their actions can be judged; and, specify what consequences will flow, and when, if the government fails to meet its commitments. Dealing with the rebels has its own problems too, with a lack of clarity as regards their organisation and their demands at the top of the list. Efforts must be made to engage with the rebels, not least to identify their demands. (Paragraph 95)
65. The application of political pressure through different channels is the right approach, but it must be better coordinated. The AU, the UN, and its international partners must work from a coordinated strategic plan, with roles and responsibilities made clear. (Paragraph 96)
66. The “responsibility to protect” is an emerging legal norm, but as yet it has no firm legal basis. As a result, a shared responsibility to protect risks degenerating into a

game of passing the buck and avoiding responsibilities. When everyone is responsible for collective security, it might be that no-one will take responsibility. To put it differently, when the Prime Minister says that in a situation similar to Rwanda in 1994, “we would have a moral duty to act”, who precisely is the “we”, and what action would be required? Despite the commendable efforts of the UK and others to promote the notion of the “responsibility to protect”, and what it terms the “doctrine of humanitarian intervention”, regrettably, there are no clear answers. There may be a shared responsibility to protect, but the mechanisms of accountability, to ensure that responsibilities are shouldered, are lacking. (Paragraph 97)

67. If the UN Security Council fails to act on Darfur, it will once more find its position undermined, in two ways. First, many will conclude that the workings of the UN Security Council do not promote the responsibility to protect. And second, if frustrated Member States act successfully outside the authority of the Security Council, many will conclude that the UN is not necessary. (Paragraph 100)
68. Those who do not wish to see the UN authorise military interventions for humanitarian purposes, for fear that they might be abused, have legitimate concerns. They should however, consider the following: if such interventions are left to “coalitions of the willing”, acting without UN-authorisation, then they will be more open to abuse, will be more likely to be driven by national interests, and will be less responsive to humanitarian need. For those of us who believe that membership of the international community requires that countries adhere to certain minimum standards of behaviour, and who regard the UN — flawed as it is — as the best hope of achieving collective security and sustainable development, this would be nothing short of disastrous. Global social justice — in relation to peace, security, development, and the environment — requires an effective and accountable UN. (Paragraph 100)

The responsibility for development

Governance and political change: Institutions for peace?

69. We do not accept that there is a trade-off, or choice to be made, between justice and peace. If the aim is a sustainable peace, then justice and accountability are required. Political negotiations with those responsible for crimes against humanity are hardly a sound basis for a sustainable peace. (Paragraph 104)
70. The UK Government and others must work alongside the SPLM and the Khartoum regime to help them to prepare for governing Sudan. The parties seem committed to implementing the CPA. Their goal, and that of the international community, must be to ensure that the nature of politics in Sudan is transformed so that when the South votes on secession in six years’ time, the decision is respected by all. (Paragraph 106)
71. With a comparative advantage in supporting judicial reform and good governance, the UK has an important role to play in Sudan. We look forward to hearing more about DFID’s plans. (Paragraph 108)

72. It is not clear whether there will be another round of the Libyan-hosted tribal reconciliation talks. It is important that the relationship between any such talks and the Abuja peace process is clear. Stakeholders such as the UK should — whilst being careful to remain neutral — offer support to such initiatives. Attention must also be given to the establishment of a Land Commission for Darfur, to determine a fair formula for access to land. (Paragraph 110)

Development and livelihoods: Incentives for peace?

73. Sudan's international partners, including the UK, must insist that all oil-related transactions — payments by outside companies, as well as flows of finance within Sudan — are published in line with the highest international standards of transparency. Specifically, they should comply at least with the guidelines promoted by the Extractive Industries Transparency Initiative and consult openly with civil society. A full, independent audit of the state oil company should also be carried out, and the results published. (Paragraph 112)
74. The UK Government should make its financial support to the Government of the Sudan conditional on a substantial and rapid decline in military spending, and encourage other donors to do likewise. (Paragraph 112)
75. The humanitarian response must be integrated with plans for longer-term development. Working with the new Government of the Sudan, donors including the UK should consider how Reconstruction and Development Funds, such as those provided for in the CPA, might be used to support the rebuilding of livelihoods in Darfur. And, whilst the focus of livelihood rehabilitation will be on agriculture and related activities, the looming threat of HIV/AIDS must not be forgotten. (Paragraph 114)

Shared responsibilities, accountability and effective partnerships

76. Donors must be generous, immediately and at the donors' conference in Oslo from April 11–12. The needs are immediate, and will be long-term; the support should be too. We expect the UK Government, which has worked tirelessly in support of the CPA, to provide generous and immediate financial support. It should also persuade its European partners to invest in the Sudanese peace. (Paragraph 116)
77. The Government of Southern Sudan must be provided with the resources it needs to become a partner for peace and development, and to invest in the human development of its citizens. But the provision of debt relief and of funds which would primarily benefit the National Congress Party — the Khartoum regime responsible for the crisis in Darfur — must be conditional on resolving the crisis in Darfur. The conditions to be met must be clearly benchmarked, the timetables for meeting them spelt out, and the consequences which flow from meeting or not meeting commitments must be specified. The UK Government should take the lead on this, ensuring that donors speak with one voice at Oslo. (Paragraph 117)
78. If the international community is to fulfil its shared responsibility to protect, then we must all fulfil our responsibilities, and hold others to account for fulfilling theirs. The

UK Government has, on the whole, responded well to Darfur. The international community must fulfil its responsibility to protect the people of Darfur, now. Attacked by the government which is meant to protect them, the people of Darfur, who we have collectively and demonstrably failed, deserve no less. Action is needed now. (Paragraph 119)

List of acronyms

AI	Amnesty International
AU	African Union
CPA	Comprehensive Peace Agreement
DRDC	Darfur Relief and Documentation Centre
EC	European Commission
ECHO	European Commission Directorate-General for Humanitarian Aid
GoS	Government of the Sudan
HRW	Human Rights Watch
ICC	International Criminal Court
ICG	International Crisis Group
ICID	International Commission of Inquiry on Darfur
IDPs	Internally-Displaced Persons
IGAD	Inter-Governmental Authority on Development
IOM	International Organization for Migration
JEM	Justice and Equality Movement
MSF	Médecins Sans Frontières
SLA/M	Sudanese Liberation Army/Movement
SPLA/M	Sudanese People's Liberation Army/Movement
UNDSS	UN Department of Safety and Security
UNHCR	Office of the UN High Commissioner for Refugees
UN-OCHA	UN – Office for the Coordination of Humanitarian Affairs
UN-OHCHR	Office of the UN High Commissioner for Human Rights
WFP	World Food Programme
WHO	World Health Organization

Formal minutes

Wednesday 16 March 2005

Members present:

Tony Baldry, in the Chair

John Barrett
Hugh Bayley

Mr John Bercow
Mr Tony Colman

The Committee deliberated.

Draft Report (Darfur, Sudan: The responsibility to protect), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs entitled 'Summary' read and postponed.

Paragraphs 1 to 119 read and agreed to.

Postponed paragraphs entitled 'Summary' read again and agreed to.

Resolved, That the Report be the Fifth Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the Executive Summary of the report of the International Commission of Inquiry on Darfur be appended to the Report—(*The Chairman*).

Ordered, That the provisions of Standing Order 134 (Select committees (reports)) be applied to the Report.

Several papers were ordered to be reported to the House.

[Adjourned till Wednesday 23 March at 2.30pm]

Appendix: ICID Executive Summary

International Commission of Inquiry on Darfur

Report to the Secretary-General of the United Nations

Executive Summary

Acting under Chapter VII of the United Nations Charter, on 18 September 2004 the Security Council adopted resolution 1564 requesting, *inter alia*, that the Secretary-General ‘rapidly establish an international commission of inquiry in order immediately to investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable’.

In October 2004, the Secretary General appointed Antonio Cassese (Chairperson), Mohamed Fayek, Hina Jilani, Dumisa Ntsebeza and Therese Striggner-Scott as members of the Commission and requested that they report back on their findings within three months. The Commission was supported in its work by a Secretariat headed by an Executive Director, Ms. Mona Rishmawi, as well as a legal research team and an investigative team composed of investigators, forensic experts, military analysts, and investigators specializing in gender violence, all appointed by the Office of the United Nations High Commissioner for Human Rights. The Commission assembled in Geneva and began its work on 25 October 2004.

In order to discharge its mandate, the Commission endeavoured to fulfil four key tasks: (1) to investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties; (2) to determine whether or not acts of genocide have occurred; (3) to identify the perpetrators of violations of international humanitarian law and human rights law in Darfur; and (4) to suggest means of ensuring that those responsible for such violations are held accountable. While the Commission considered all events relevant to the current conflict in Darfur, it focused in particular on incidents that occurred between February 2003 and mid-January 2005.

The Commission engaged in a regular dialogue with the Government of the Sudan throughout its mandate, in particular through meetings in Geneva and in the Sudan, as well as through the work of its investigative team. The Commission visited the Sudan from 7–21 November 2004 and 9–16 January 2005, including travel to the three Darfur States. The investigative team remained in Darfur from November 2004 through January 2005. During its presence in the Sudan, the Commission held extensive meetings with representatives of the Government, the Governors of the Darfur States and other senior officials in the capital and at provincial and local levels, members of the armed forces and police, leaders of rebel forces, tribal leaders, internally displaced persons, victims and witnesses of violations, NGOs and United Nations representatives.

The Commission submitted a full report on its findings to the Secretary-General on 25 January 2005. The report describes the terms of reference, methodology, approach and activities of the Commission and its investigative team. It also provides an overview of the historical and social background to the conflict in Darfur. The report then addresses in detail the four key tasks referred to above, namely the Commission's findings in relation to: i) violations of international human rights and humanitarian law by all parties; ii) whether or not acts of genocide have taken place; iii) the identification of perpetrators; and iv) accountability mechanisms. These four sections are briefly summarized below.

I. Violations of international human rights law and international humanitarian law

In accordance with its mandate to 'investigate reports of violations of human rights law and international humanitarian law', the Commission carefully examined reports from different sources including Governments, inter-governmental organizations, United Nations bodies and mechanisms, as well as non-governmental organizations.

The Commission took as the starting point for its work two irrefutable facts regarding the situation in Darfur. Firstly, according to United Nations estimates there are 1,65 million internally displaced persons in Darfur, and more than 200,000 refugees from Darfur in neighbouring Chad. Secondly, there has been large-scale destruction of villages throughout the three states of Darfur. The Commission conducted independent investigations to establish additional facts and gathered extensive information on multiple incidents of violations affecting villages, towns and other locations across North, South and West Darfur. The conclusions of the Commission are based on the evaluation of the facts gathered or verified through its investigations.

Based on a thorough analysis of the information gathered in the course of its investigations, the Commission established that the Government of the Sudan and the Janjaweed are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law. In particular, the Commission found that Government forces and militias conducted indiscriminate attacks, including killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement, throughout Darfur. These acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity. The extensive destruction and displacement have resulted in a loss of livelihood and means of survival for countless women, men and children. In addition to the large scale attacks, many people have been arrested and detained, and many have been held *incommunicado* for prolonged periods and tortured. The vast majority of the victims of all of these violations have been from the Fur, Zaghawa, Massalit, Jebel, Aranga and other so-called 'African' tribes.

In their discussions with the Commission, Government of the Sudan officials stated that any attacks carried out by Government armed forces in Darfur were for counter-insurgency purposes and were conducted on the basis of military imperatives. However, it is clear from the Commission's findings that most attacks were deliberately and indiscriminately directed against civilians. Moreover even if rebels, or persons supporting rebels, were present in some

of the villages – which the Commission considers likely in only a very small number of instances — the attackers did not take precautions to enable civilians to leave the villages or otherwise be shielded from attack. Even where rebels may have been present in villages, the impact of the attacks on civilians shows that the use of military force was manifestly disproportionate to any threat posed by the rebels.

The Commission is particularly alarmed that attacks on villages, killing of civilians, rape, pillaging and forced displacement have continued during the course of the Commission's mandate. The Commission considers that action must be taken urgently to end these violations.

While the Commission did not find a systematic or a widespread pattern to these violations, it found credible evidence that rebel forces, namely members of the SLA and JEM, also are responsible for serious violations of international human rights and humanitarian law which may amount to war crimes. In particular, these violations include cases of murder of civilians and pillage.

II. Have acts of genocide occurred?

The Commission concluded that the Government of the Sudan has not pursued a policy of genocide. Arguably, two elements of genocide might be deduced from the gross violations of human rights perpetrated by Government forces and the militias under their control. These two elements are, first, the *actus reus* consisting of killing, or causing serious bodily or mental harm, or deliberately inflicting conditions of life likely to bring about physical destruction; and, second, on the basis of a subjective standard, the existence of a protected group being targeted by the authors of criminal conduct. However, the crucial element of genocidal intent appears to be missing, at least as far as the central Government authorities are concerned. Generally speaking the policy of attacking, killing and forcibly displacing members of some tribes does not evince a specific intent to annihilate, in whole or in part, a group distinguished on racial, ethnic, national or religious grounds. Rather, it would seem that those who planned and organized attacks on villages pursued the intent to drive the victims from their homes, primarily for purposes of counter-insurgency warfare.

The Commission does recognise that in some instances individuals, including Government officials, may commit acts with genocidal intent. Whether this was the case in Darfur, however, is a determination that only a competent court can make on a case by case basis.

The conclusion that no genocidal policy has been pursued and implemented in Darfur by the Government authorities, directly or through the militias under their control, should not be taken in any way as detracting from the gravity of the crimes perpetrated in that region. International offences such as the crimes against humanity and war crimes that have been committed in Darfur may be no less serious and heinous than genocide.

III. Identification of perpetrators

The Commission has collected reliable and consistent elements which indicate the responsibility of some individuals for serious violations of international human rights law and international humanitarian law, including crimes against humanity or war crimes, in

Darfur. In order to identify perpetrators, the Commission decided that there must be ‘a reliable body of material consistent with other verified circumstances, which tends to show that a person may reasonably be suspected of being involved in the commission of a crime.’ The Commission therefore makes an assessment of likely suspects, rather than a final judgment as to criminal guilt.

Those identified as possibly responsible for the above-mentioned violations consist of individual perpetrators, including officials of the Government of Sudan, members of militia forces, members of rebel groups, and certain foreign army officers acting in their personal capacity. Some Government officials, as well as members of militia forces, have also been named as possibly responsible for joint criminal enterprise to commit international crimes. Others are identified for their possible involvement in planning and/or ordering the commission of international crimes, or of aiding and abetting the perpetration of such crimes. The Commission also has identified a number of senior Government officials and military commanders who may be responsible, under the notion of superior (or command) responsibility, for knowingly failing to prevent or repress the perpetration of crimes. Members of rebel groups are named as suspected of participating in a joint criminal enterprise to commit international crimes, and as possibly responsible for knowingly failing to prevent or repress the perpetration of crimes committed by rebels.

The Commission has decided to withhold the names of these persons from the public domain. This decision is based on three main grounds: 1) the importance of the principles of due process and respect for the rights of the suspects; 2) the fact that the Commission has not been vested with investigative or prosecutorial powers; and 3) the vital need to ensure the protection of witnesses from possible harassment or intimidation. The Commission instead will list the names in a sealed file that will be placed in the custody of the UN Secretary-General. The Commission recommends that this file be handed over to a competent Prosecutor (the Prosecutor of the International Criminal Court, according to the Commission’s recommendations), who will use that material as he or she deems fit for his or her investigations. A distinct and very voluminous sealed file, containing all the evidentiary material collected by the Commission, will be handed over to the High Commissioner for Human Rights. This file should be delivered to a competent Prosecutor.

IV. Accountability mechanisms

The Commission strongly recommends that the Security Council immediately refer the situation of Darfur to the International Criminal Court, pursuant to article 13(b) of the ICC Statute. As repeatedly stated by the Security Council, the situation constitutes a threat to international peace and security. Moreover, as the Commission has confirmed, serious violations of international human rights law and humanitarian law by all parties are continuing. The prosecution by the ICC of persons allegedly responsible for the most serious crimes in Darfur would contribute to the restoration of peace in the region.

The alleged crimes that have been documented in Darfur meet the thresholds of the Rome Statute as defined in articles 7 (1), 8 (1) and 8 (f). There is an internal armed conflict in Darfur between the governmental authorities and organized armed groups. A body of reliable information indicates that war crimes may have been committed on a large-scale, at

times even as part of a plan or a policy. There is also a wealth of credible material which suggests that criminal acts were committed as part of widespread or systematic attacks directed against the civilian population, with knowledge of the attacks. In the opinion of the Commission therefore, these may amount to crimes against humanity.

The Sudanese justice system is unable and unwilling to address the situation in Darfur. This system has been significantly weakened during the last decade. Restrictive laws that grant broad powers to the executive have undermined the effectiveness of the judiciary, and many of the laws in force in Sudan today contravene basic human rights standards. Sudanese criminal laws do not adequately proscribe war crimes and crimes against humanity, such as those carried out in Darfur, and the Criminal Procedure Code contains provisions that prevent the effective prosecution of these acts. In addition, many victims informed the Commission that they had little confidence in the impartiality of the Sudanese justice system and its ability to bring to justice the perpetrators of the serious crimes committed in Darfur. In any event, many have feared reprisals in the event that they resort to the national justice system.

The measures taken so far by the Government to address the crisis have been both grossly inadequate and ineffective, which has contributed to the climate of almost total impunity for human rights violations in Darfur. Very few victims have lodged official complaints regarding crimes committed against them or their families, due to a lack of confidence in the justice system. Of the few cases where complaints have been made, most have not been properly pursued. Furthermore, procedural hurdles limit the victims' access to justice. Despite the magnitude of the crisis and its immense impact on civilians in Darfur, the Government informed the Commission of very few cases of individuals who have been prosecuted, or even disciplined, in the context of the current crisis.

The Commission considers that the Security Council must act not only against the perpetrators but also on behalf of the victims. It therefore recommends the establishment of a Compensation Commission designed to grant reparation to the victims of the crimes, whether or not the perpetrators of such crimes have been identified.

It further recommends a number of serious measures to be taken by the Government of the Sudan, in particular (i) ending the impunity for the war crimes and crimes against humanity committed in Darfur; (ii) strengthening the independence and impartiality of the judiciary, and empowering courts to address human rights violations; (iii) granting full and unimpeded access by the International Committee of the Red Cross and United Nations human rights monitors to all those detained in relation to the situation in Darfur; (iv) ensuring the protection of all the victims and witnesses of human rights violations; (v) enhancing the capacity of the Sudanese judiciary through the training of judges, prosecutors and lawyers; (vi) respecting the rights of IDPs and fully implementing the Guiding Principles on Internal Displacement, particularly with regard to facilitating the voluntary return of IDPs in safety and dignity; (vii) fully cooperating with the relevant human rights bodies and mechanisms of the United Nations and the African Union; and (viii) creating, through a broad consultative process, a truth and reconciliation commission once peace is established in Darfur.

The Commission also recommends a number of measures to be taken by other bodies to help break the cycle of impunity. These include the exercise of universal jurisdiction by other

States, re-establishment by the Commission on Human Rights of the mandate of the Special Rapporteur on human rights in Sudan, and public and periodic reports on the human rights situation in Darfur by the High Commissioner for Human Rights.

Witnesses

Monday 29 November 2004

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Dr Suliman Baldo, Africa Program Director, International Crisis Group

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Tuesday 14 December 2004

Ms Maniza Ntekim, Parliamentary Officer, Amnesty International UK, **Mr Steve Crawshaw**, London Director, Human Rights Watch, and **Mr Toby Porter**, Emergencies Director, Save the Children UK, representing the Sudan Advocacy Coalition

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Tuesday 21 December 2004

Rt Hon Hilary Benn MP, Secretary of State for International Development, **Dr Alistair McPhail**, UK Special Representative for Sudan, Foreign and Commonwealth Office, and **Mr Brian Thomson**, former Head of FCO/DFID Sudan Unit

Ev 26

Wednesday 9 February 2005

Mr Jan Egeland, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Co-ordinator, and **Mr Oliver Ulich**, Humanitarian Affairs Officer, UN Office for the Co-ordination of Humanitarian Affairs (OCHA)

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Tuesday 22 February 2005

Dr Mukesh Kapila, Former UN Resident and Humanitarian Co-ordinator for the Sudan

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Wednesday 23 February 2005

Rt Hon Hilary Benn MP, Secretary of State, and **Ms Anna Bewes**, Head of the Sudan Unit, Department for International Development

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List of written evidence

Department for International Development (DFID)	Ev 71; Ev 92; Ev 96
The Aegis Trust	Ev 97
Mark Pallis, All Party Parliamentary Group on the Great Lakes Region and Genocide Prevention	Ev 99
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Associate Parliamentary Group for Sudan	Ev 103
Suliman Baldo, James Morton, Roland Marchal and Alex de Waal	Ev 105
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UN World Food Programme (WFP)	Ev 168 ; Ev 172
Alex Vines, Chatham House	Ev 174

Reports from the International Development Committee since 2001

The Government Responses to International Development Committee reports are listed here in brackets by the HC (or Cm) No. after the report they relate to.

Session 2004–05

First Report	Commission for Africa and Policy Coherence for Development: First do no harm	HC 123
Second Report	Work of the Committee in 2004	HC 326
Third Report	DFID's Bilateral Programme of Assistance to India	HC 124-1 and II
Fourth Report (First Joint Report)	Strategic Export Controls Annual Report for 2003, Licensing Policy and Parliamentary Scrutiny	HC 145

Session 2003–04

First Report	Trade and Development at the WTO: Learning the lessons of Cancún to revive a genuine development round	HC 92-I and II (HC 452)
Second Report	Development Assistance and the Occupied Palestinian Territories	HC 230-I and II (HC 487)
Third Report	International Development Committee: Annual Report 2003	HC 312
Fourth Report	Kenya: DFID's Country Assistance Plan 2004–07 and Progress Towards the Millennium Development Goals	HC 494 (HC 857)
Fifth Report (First Joint Report)	Strategic Export Controls Annual Report for 2002, Licensing Policy and Parliamentary Scrutiny	HC 390 (Cm 6357)
Sixth Report	Migration and Development: How to make migration work for poverty reduction	HC 79-I and II (HC 163, Session 2004–05)
Seventh Report	DFID's Agriculture Policy	HC 602 (HC 1273)
Eighth Report	Department for International Development: Departmental Report 2004	HC 749 (HC 327, Session 2004–05)

Session 2002–03

First Report	Afghanistan: the transition from humanitarian relief to reconstruction and development assistance	HC 84 (HC 621)
Second Report	International Development Committee: Annual Report 2002	HC 331
Third Report	The humanitarian crisis in southern Africa	HC 116-I and -II (HC 690)
Fourth Report	Preparing for the humanitarian consequences of possible military action against Iraq	HC 444-I and -II (HC 561)
Fifth Report (First Joint Report)	The Government's proposals for secondary legislation under the Export Control Act	HC 620 (Cm 5988)

Sixth Report (Second Joint Report)	Strategic Export Controls Annual Report for 2001, Licensing Policy and Parliamentary Scrutiny	HC 474 (<i>Cm 5943</i>)
Seventh Report	Trade and Development at the WTO: Issues for Cancún	HC 400-I and II (<i>HC 1093</i>)
Eighth Report	DFID Departmental Report 2003	HC 825 (<i>HC 231</i> , <i>Session 2003-04</i>)

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First Report	The humanitarian crisis in Afghanistan and the Surrounding Region	HC 300-I and -II (<i>HC 633</i>)
Second Report	The Effectiveness of the Reforms of European Development Assistance	HC 417-I and -II (<i>HC 1027</i>)
Third Report	Global Climate Change and Sustainable Development	HC 519-I and -II (<i>HC 1270</i>)
Fourth Report (First Joint Report)	Strategic Export Controls: Annual Report for 2000, Licensing Policy and Prior Parliamentary Scrutiny	HC 718 (<i>CM 5629</i>)
Fifth Report	Financing for Development: Finding the Money to Eliminate World Poverty	HC 785-I and -II (<i>HC 1269</i>)
Sixth Report	DFID: Departmental Report 2002	HC 964 (<i>HC 357</i> , <i>Session 2002-03</i>)