

“The Darfur Situation”

Intervention by Erik Arnsted, Danish United Nations Association
at the meeting with Mende Nazer
Saturday November 8th in Eigtveds Pakhus, Copenhagen

I shall begin my presentation by mentioning the concept of

The Responsibility to Protect – R2P

At the 2005 UN General Assembly World Summit, world leaders committed themselves to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The world leaders also committed themselves to take collective action, should peaceful means be inadequate and national authorities failed to protect their populations from these crimes.

The question is whether this concept of Responsibility to Protect should be used in Darfur against the Sudanese Government. Whether the UN should exercise a humanitarian intervention in Darfur to protect the population against its own Government..

In 2006 when providing a peacekeeping mission to Darfur, the Security Council once again recognized the importance of R2P and re-asserted its commitment to the principles of this doctrine.

The Responsibility to Protect has not yet been operationalized, but all the elements are there for a decision on implementing it on Darfur.

The question is: Will it be possible; - would it be wise to do it in the present situation?
At any case impunity for such crimes as genocide, crimes against humanity and war crimes should not be put on sale!

I will let the question remain open, and return to it at the end of my presentation.

Background

Since 2003 up to 300.000 people have died and at least 2.7 million displaced from their homes due to the fighting between rebels, Government forces and allied Janjaweed militiamen,

Since January 2008 more than 230.000 civilians have been forced to flee violence, at a rate of 1.000 per day. Most of them have fled to overcrowded camps.

On November 6th the Special Representative in Darfur reported that the conflict in Darfur is now spilling over into neighbouring eastern Chad where Sudanese escaping the Darfur conflict comprise the majority of the estimated 315.000 refugees in that area.

The overall situation

The situation in Darfur seen from a UN point of view is dominated by several major problems:

- The Government and the parties continue to pursue a military solution to the conflict. Aerial bombardments and military offensives continue. , Banditry and rape are still prevalent.
- The Government does not comply with its obligations under international human rights and humanitarian law, in particular with regard to the protection of civilians.
 - o To mention a few incidents:
 - Government attack on Kalma camp on August 25th. 33 killed, 108 injured.
 - Government military campaign in Northern Darfur 6th and 7th September with air strikes and ground operations.
 - Combined Government and militia launched on 13th and 14th September major offensive into Eastern Jebel Marra.
 - Tribal conflict in Southern Darfur with up to 150 casualties.
- The Government, militia and rebel groups continue to limit the free movement of the peacekeepers and to put up obstacles to the UN peace operations.
 - UNAMID has increasingly become the target of banditry and armed attacks.
 - Among peacekeepers 17 casualties have occurred.
- The humanitarian situation is deteriorating
 - Attacks on humanitarian agencies continues to climb. Because of this targeted violence two major NGOs assisting more than 500.000 civilians in Northern Darfur were forced to suspend their activities.
 - The global food crisis resulted in 150% increase of the price of staple food items against same period last year. At the same time crop failures in many important agricultural areas of the region means that the reliance upon relief assistance in 2008 is perhaps at its greatest.
- Only little progress has been made in the implementation of the Darfur Peace Agreement, but
 - The arrival of Joint Chief Mediator Bassolé now provides an opportunity to revitalize the political process.
 - Qatar has offered to plan for a reconciliation conference to end the conflict in Darfur.
- The African Union – United Nations Hybrid Peace Operation – UNAMID is short of troops and material.
 - UNAMID is mandated for 20.000 troops and 6.500 policemen.
 - The troops should have been fully deployed at the end of October 2007.
 - UNAMID will reach only 65% of its mandated strength at the end of 2008.
- There are severe problems and lack of cooperation on the Governments side in connection with the indictments of The International Criminal Court for crimes against humanity, war crimes and genocide.
 - o *Background*
 - In August 2004 the Secretary-General dispatched Louise Arbour, the High Commissioner for Human Rights to Darfur to assess the human rights situation.

- In October 2004 the Secretary-General established a *Commission of Inquiry* to determine whether acts of genocide had occurred in Darfur.
 - The Commission concluded that the Government Forces and allied militia had conducted indiscriminate attacks, including
 - killing of civilians,
 - torture,
 - enforced disappearances,
 - destruction of villages,
 - rape, and other forms of sexual violence,
 - pillaging and
 - forced displacement.
 - The Security Council in resolution 1593 (2005) referred the situation in Darfur to the International Criminal Court (ICC) and ordered Sudan to cooperate with the Court's investigators.
 - In May 2007 the ICC issued arrest warrants for crimes against humanity and war crimes against a Minister of State and a Janjaweed commander both being criminal responsible in relation to a huge number of crimes against humanity and war crimes,
 - The Security Council has urged the Government of Sudan and all other parties to the conflict to cooperate fully with the Court in order to put an end to impunity for the crimes committed in Darfur.
- An arrest warrant against the President of Sudan may completely change the political landscape and have serious consequences on the peace process in Sudan and Darfur.
- In July 2008 the ICC Prosecutor presented evidence showing that the Sudanese President Omar Hassan Ahmad AL-BASHIR bears criminal responsibility in relation to genocide, crimes against humanity and war crimes in Darfur. The Prosecution has requested an arrest warrant
 - The Security Council in a dramatic meeting 31st July 2008 extended the mandate of UNAMID for a further 12 months. The debate was heavily influenced by the situation after the Prosecutor's request for arrest warrant and by the fact that
 - according to article 16 in the Statute of the ICC it is in the power of the Security Council to defer the investigation or prosecution at the ICC for a period of 12 months..
 - The Peace and Security Council of the African Union has requested such a deferral as being indispensable for the consolidation of the progress in the peace process. China, Russia, Burkina Faso, Libya, Vietnam and Indonesia, supported the African position, and in his statement the representative of Libya even said that two thirds of the international community supported it.
 - The ICC has given the prosecutors November 17th as dead-line for submitting additional information related to their request for an arrest warrant.
 - And in a few weeks the ICC is expected to present a new case for the indictment of some rebel commanders accused of attacking peacekeepers in Darfur.

The possible indictment of President Omar Al-Bashir by the International Criminal Court has had no immediate impact on the security situation in the Sudan or in Darfur,

- The President has tried to show good will. He has
 - tasked a committee to develop the Sudan's diplomatic and legal position to this crisis,

- appointed a special prosecutor to investigate allegations of human rights committed in Darfur since 2003.
- launched the “Sudan People’s Initiative” which seeks to form a national position on resolving the Darfur crisis by reaching out to all political parties.

On October 15th it was reported that the Government of Sudan has detained the indicted Janjaweed commander Ali-Khushayb.

Treats against the UN

- Senior Sudan Government officials have issued public warnings of possible serious consequences for the UN’s peace operations in Sudan and Darfur, UNMIS and UNAMID, if the President is indeed indicted.
- The UN Secretary General and his Special Representative received similar warnings,
- The UN Assistant Secretary-General for Peacekeeping a few days ago told the U.N. Security Council that an arrest warrant for Sudan's President could trigger an uncontrolled reaction and have serious security and other implications for them.

The UN reactions to the threats

The question is whether the UN Security Council should bargain on the possible indictment against President Al-Bashir and request the International Criminal Court to defer the investigation, hoping that the Sudanese authorities in return will change its attitude and cooperate with the UN. I hope they will not.

The Secretary General has stressed that the ICC is an independent institution, and the United Nations respect the independence of the judicial process.

The Secretary General also reiterated that the UN will respect the independence of the judicial process and remain committed to implementing the UNMIS and UNAMID mandates in support of the peace process in the Sudan and Darfur.

In my opinion and certainly in the opinion of the Danish UN Association the UN should use *The Responsibility to Protect – R2P* and consider a humanitarian intervention in Sudan. Otherwise the tragedy in Darfur will be never ending.

Latest news

The International Herald Tribune on October 26th quoted China’s special envoy to Darfur for stating that after meetings in France, Britain and the United States he is seeking a “softer landing” to the prosecution process at the ICC.