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## Africa Action Talking Points on How to Stop Genocide in Darfur, Sudan

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Nothing short of an international intervention will stop the genocide in Darfur. Africa Action calls on the U.S. to do everything necessary to secure the deployment of a United Nations (UN) peacekeeping force, authorized by UN Security Council Resolution 1706, to stop the genocide and protect civilians and humanitarian efforts in Darfur.

### 1. What is Genocide?

The **international legal definition of the crime of genocide** is found in Articles II and III of the 1948 Convention on the Prevention and Punishment of Genocide. Article II describes the two elements that constitute the crime of genocide:

- (i) The mental element, meaning the "**intent** to destroy, in whole or in part, a national, ethnic, racial or religious group, as such", and
- (ii) The physical element, which includes **five types of violence** described in sections [a] through [e] as follows: [a] Killing members of the group; [b] Causing serious bodily or mental harm to members of the group; [c] Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; [d] Imposing measures intended to prevent births within the group; [e] Forcibly transferring children of the group to another group.

### 2. What is Happening in Darfur is Genocide

(i) **Genocidal Intent:** The intent of the Sudanese government to destroy, in whole or in part, three African ethnic communities (the Fur, Zaghawa and Massaleit), is clear from at least four categories of evidence: [a] Documentary evidence; [b] Legal inference based upon the systematic perpetration of culpable acts directed against specific targeted groups; [c] Testimony of witnesses who are survivors of the genocide; and [d] Government efforts to eliminate all traces of mass graves.

[a] Documentary evidence: Sudanese government documents obtained by Human Rights Watch make clear government intent through its actions of arming, equipping and transporting Arab militias to destroy targeted groups. In violation of UN Security Council Resolutions, the government has withheld other documents requested by the UN, such as flight logs for aircraft used by the government in Darfur, as well as the minutes of meetings of government security officials on Darfur. Such documents would likely provide further documentary evidence of genocidal intent. According to

The New York Times on February 23, 2005, African Union observers have also uncovered a document indicating a policy of genocide on the part of the government.

**[b]** International legal precedent (from the International Criminal Tribunals for Rwanda and the former Yugoslavia) holds that genocidal intent can be inferred from the context of the perpetration of culpable acts when they are systematically directed against a group. For more than three years, the government of Sudan has established a pattern of atrocities including mass killings and rapes, bombings, burning and pillaging villages, and destruction of water wells and crops, systematically directed against the targeted groups.

**[c]** The testimony of survivors of genocide in Darfur consistently reports that the perpetrators of the atrocities frequently and clearly stated their intent to destroy these groups as part of a broader government-inspired effort. Attackers' statements, such as "we will kill all the black," are documented in an International Criminal Court report from June 2006.

**[d]** According to witnesses and documentary evidence, the government of Sudan has sought to erase all trace of large mass graves of executed civilians in Darfur. It has prevented researchers from obtaining forensic evidence from such sites.

**(ii) Genocidal Actions:** In Darfur during the past three years, the physical acts of violence that have been systematically directed against the targeted groups have included all five categories of violence listed in the Genocide Convention. **These acts have resulted in the deaths of nearly 500,000 people<sup>1</sup>:**

*The following letters correspond to the five categories of genocidal violence listed under the legal definition of genocide at the beginning of this document:*

**[a]** more than 200,000 people have been killed by government forces and militias from 2003 to the present time, and the killing continues, particularly as the government now masses its armed forces for escalated attacks in Darfur;

**[b]** bodily and mental harm has been inflicted upon thousands of women and young girls raped by soldiers and militias.

**[c]** at least an additional 200,000 lives have been lost through the deliberate destruction of homes, crops and water resources and the physical displacement of more than two million people which have resulted in conditions of famine and disease epidemics;

**[d]** the killing of pregnant women; and

**[e]** the use of rape as a weapon of genocide as many perpetrators have stated that their intent is to change the ethnic identity of the child conceived by rape.

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<sup>1</sup> Accurate estimates of the death toll in Darfur have been difficult to ascertain because of obstruction on the part of the Sudanese government and because of UN unwillingness to offer an official estimate. The best regular estimates of mortality rates in Darfur have been provided by Prof. Eric Reeves of Smith College (among others), who makes use of extensive data and scientific formulae for projecting death rates in comparable conditions. (<http://www.sudanreeves.org/>). The Coalition for International Justice also released a report in April 2005, confirming that the death toll in Darfur was then close to 400,000.

### **3. The Humanitarian Crisis**

- **Genocide in Darfur has created the worst humanitarian crisis in the world.** As the violence worsens, recent estimates from the UN, compiled by Eric Reeves, place the number of conflict-affected people in Darfur and eastern Chad at almost 4.5 million. Some 4 million people are now reliant on humanitarian aid for food, shelter and health care, an increase of hundreds of thousands in the past six months.
- The growing number of people dying each month could rise significantly if humanitarian operations continue to be obstructed by violence. In November 2006, rampant violence forced UN Under-Secretary for Humanitarian Affairs Jan Egeland to cut short a visit to Darfur. Referring to the continuing decline in security, he warned, **“We are playing with a powder keg; it could get infinitely worse.”** A continued collapse of aid operations would jeopardize hundreds of thousands of lives in Darfur.
- **The Khartoum government cannot be trusted to address the humanitarian crisis.** Across the region, government tactics such as import restrictions on fuel and routine harassment of aid workers, stand in the way of effective relief efforts. The Norwegian Refugee Council, an agency providing humanitarian support to almost 300,000 people, closed its operations in Darfur in November 2006, citing “frequent disruption” of its work by Khartoum. It joins the growing number of humanitarian organizations that have been forced to suspend their operations because of the government’s obstruction.
- **Security is Essential for Humanitarian Efforts:** Adequate humanitarian assistance cannot be provided to vulnerable and displaced groups in Darfur without military protection. This reality is particularly evident as relief workers are increasingly targeted, forcing restrictions in aid operations and emergency evacuations of international staff.

### **4. The U.S. Acknowledges Genocide, But Fails to Take Necessary Action**

- **The U.S. is the only government to have publicly acknowledged that what is happening in Darfur constitutes genocide.** On September 9, 2004, then-Secretary of State Colin Powell declared that, “genocide has been committed in Darfur, and that the government of Sudan and the Janjawid bear responsibility.” The White House issued a statement the same day confirming this determination.
- At the same time as he acknowledged that genocide was being carried out in Darfur, Powell also defied logic, stating, **“no new action is dictated by this determination.”**
- **President Bush has failed to prioritize the genocide in Darfur.** His stated concern has not been matched by concrete actions to stop the genocide and provide protection to the people of Darfur. While the U.S. emphasizes its support for an international peacekeeping force for Darfur, it has failed to use its leverage with the Sudanese government to overcome its objections and pave the way for such a force.

- Recently appointed U.S. Special Envoy for Sudan, Andrew Natsios, has engaged in discussions with Khartoum and with other international stakeholders, but has yet to overcome the obstacles to the deployment of a UN peacekeeping force to Darfur. It is unclear what the U.S. strategy is in the coming weeks to break the current deadlock on Darfur, as strong words have not been matched by new action from the administration that can stop the genocide and protect the people of Darfur.
- U.S. policy towards Sudan is marked by **three competing policy priorities: (1) support for the newly formed government of national unity as part of the North-South peace process, (2) intelligence-sharing with the Sudanese government as part of the so-called 'war on terror', and (3) ending the genocide in Darfur.** The inability of the U.S. to stand firm on a clear message of action against genocide has undermined the international response on Darfur.
- The U.S. has a clear **moral and legal obligation to prevent and punish genocide** as a signatory to the Convention on the Prevention & Punishment of the Crime of Genocide.
- The U.S. has provided generous humanitarian aid in Darfur, and it has engaged in efforts to support the peace process. But its actions remain wholly inadequate in response to genocide, and it has failed to articulate or pursue a successful strategy to protect people in Darfur.

## **5. The UN Acknowledges Crimes Against Humanity, But Fails to Protect**

- **The United Nations' International Commission of Inquiry on Darfur** delivered its report to UN Secretary-General Annan in January 2005. The report found that the Sudanese government has committed major crimes under international law, including a pattern of mass killings, rape, pillage and forced displacement and that these constitute **war crimes and crimes against humanity.**
- Although the report provided ample evidence of genocidal intent and actions on the part of the Sudanese government, the commission **concluded that it did not find a government policy of genocide in Darfur.** This harkens back to the time of the genocide in Rwanda in 1994, when the international community dodged the term "genocide" to avoid the obligations that such a serious charge would invoke.
- The first conclusion of the report states that the people of Darfur "have been living a nightmare of violence and abuse" and that **"they need protection,"** but the report fails to recommend any measures to provide such protection. **Subsequent monthly reports by the Secretary-General on the crisis in Darfur emphasize the protection needs of the people of Darfur and the growing violence they face.**
- **The passage of UN Security Council Resolution 1706 in August 2006 marked an important step, authorizing more than 20,000 UN peacekeepers for Darfur.** But the deployment of this force has been stalled in the face of Sudanese government opposition, and the situation on the ground continues to deteriorate as Khartoum unleashes new forces to attacks civilians in Darfur. The members of the UN have

continued to allow the Sudanese government to dictate the terms of the international response to this crisis and have recently shown a disturbing willingness to abandon the implementation of Resolution 1706.

- Khartoum still has allies on the Security Council, who accept its opposition to a UN peacekeeping mission. China is the single largest investor in Sudan's oil sector, while Russia is Khartoum's major arms supplier. **The Security Council now faces a deadlock in determining how to proceed on Darfur. This deadlock will not be broken without new and strategic diplomatic efforts from the U.S. and other powerful nations.**

## **6. The African Union Cannot Respond Alone**

- The **African Union (AU)-sponsored peace talks** between the Sudanese government and the rebel groups in Abuja, Nigeria, under intense international pressure, culminated in the signing of the Darfur Peace Agreement (DPA) on May 5, 2006. However, only one faction of the main rebel groups and the Sudanese government signed this deal. The cease-fire has had no effect in deterring violence on the ground, and attacks against civilians have increased. Violence is also increasingly spilling across the border into neighboring Chad, as well as into the Central African Republic (CAR).
- **The AU has 7,000 troops on the ground in Darfur, but it has no mandate to protect civilians, and its mission clearly lacks the troop strength, and the financial and logistical support necessary, to stop the ongoing genocide.** As the AU mission has struggled to perform with few resources, it has increasingly come under fire in Darfur, and its credibility among the Darfuri population has plummeted.
- The AU has repeatedly expressed its support for a transition from its current mission to a larger UN peacekeeping force, but the Sudanese government opposes such a transition. The deadline for the expiration of the AU mandate has been repeatedly renewed, recently extending through June 2007 at a meeting of the AU Peace and Security Council. But the status quo cannot provide security on the ground. **There is an urgent need for a transition to a larger and better-equipped international force that can stop the violence and protect the people of Darfur.**
- **Genocide is not an African problem, it is an international problem and, as such, it requires an international response.** The African Union is a young organization (established in 2002) and it is not yet equipped to respond to a crisis of this magnitude. Faced with such a grave challenge, the international community cannot allow the AU to fail, but rather must support, reinforce and expand upon its efforts in Darfur.

## **7. A Robust International Peacekeeping Force is Urgently Needed**

- As the genocide continues in Darfur, **stopping the genocide & protecting the people of Darfur must be the first priority of the international community.** There is a clear international consensus that a robust UN peacekeeping force is needed in Darfur.

- **A peacekeeping intervention would serve four critical purposes:** (1) Stop the killings, rapes and pillaging in Darfur; (2) Provide security to facilitate urgent humanitarian assistance programs; (3) Enforce the cease-fire established by the Darfur Peace Agreement, and (4) ultimately facilitate the voluntary return of displaced people to their land by providing a secure environment.
- In September 2005, member states of the UN affirmed an international “responsibility to protect” civilians from genocide and crimes against humanity. The response to Darfur now tests this principle. **The Sudanese government cannot be granted veto power over the international response to this genocide. The Security Council must act now and deploy a force to Darfur immediately.**
- The African Union troops must be supplemented as soon as possible with an international peacekeeping force of more than 20,000, as authorized in UN Resolution 1706, and with a robust mandate to protect civilians and humanitarian workers in Darfur. Unless the Security Council acts on Resolution 1706, the African Union will continue to be left to bear the brunt of this growing catastrophe, and it will likely be blamed for failing to act sufficiently and in time to save hundreds of thousands of lives.

## **8. What the U.S. Should Do:**

- As the genocide continues in Darfur, **the U.S. must use its leverage with the government of Sudan to overcome its opposition and pave the way for the deployment of an international peacekeeping force for Darfur.**
- **At the UN Security Council, the U.S. must take the lead in ensuring the rapid deployment of a peacekeeping mission to Darfur.** The U.S. must expend the necessary diplomatic capital to overcome any Chinese and Russian objections, and to galvanize international action to protect the people of Darfur.
- Many UN member states remain skeptical about U.S. intentions given its un-sanctioned intervention in Iraq, and Khartoum continues to manipulate these suspicions. **But the U.S. must convince the members of the UN Security Council that the genocide in Darfur requires urgent international action to protect the people of Darfur.**
- **If Khartoum’s consent cannot be achieved, the U.S. must assert leadership in the international community to identify the nature and composition of a peacekeeping force that can implement Resolution 1706 and protect civilians in Darfur.**
- **Twelve years ago, the U.S. blocked UN action as genocide unfolded in Rwanda. Now, the Bush Administration faces growing public pressure for action to stop the genocide in Darfur.** By achieving the deployment of a UN peacekeeping mission in Darfur, the U.S. would demonstrate its commitment to protecting the people of Darfur and fulfill those calls for leadership in the face of the first genocide of the 21<sup>st</sup> century.