

CHAPTER IV

THE FAILURE OF AFRICAN UNION TO SOLVE DARFUR CRISIS

Chapter IV will describe about the analysis and status of the topic which is the reason behind The African Union (AU) that autonomously cannot resolving the Darfur crisis. describe three peace agreements from AU itself and the UN in order to solving the Darfur crisis.

A. The Role of African Union in Darfur Crisis

As a regional organization, the challenges facing the African Union are very heavy, both internally and externally in the region. In comparison with regional organizations in Asia, for example, it was clear that the African Union has failed to determine influence or presence in the international world. There are several factors associated with the development of regionalism in Africa. Factors include the geography of Africa dominated by the arid desert region, technology, and human resources, less educated, and the large number of crimes such as human rights violations, terrorism and other problems Internally. These conditions make developed countries reluctant to invest or invest in Africa. This, of course, affects the growth of African countries themselves, at least the role of foreign (developed) parties in the African region, so globalization will also be difficult to reach the country.

The security condition in Darfur since outbreak of the ethnic conflict on February 2003 is even more alarming. Thousands of people died, millions were homeless, and even they have to flee to safe areas. In addition, civilians are still haunted by fear and

have no security assurances. According to Human Rights Watch, about 1.6 million people in Darfur in 2003 were homeless and about 200,000 civilians were fleeing to neighboring countries such as Chad and the Central African Republic. Refugees in countries bordering Darfur fear violence because the Janjaweed often cross the border and attack the Darfur refugee camp (Straus, 2005).

Also, Scott Straus stated that the mortality rates of African tribes reach more than ten thousand people in a year, indicating their genocidal practices. If the condition is left behind without any supervision, it will appear a tragedy such as that experienced by Rwanda. Terrible conditions in Darfur are absolutely attracting international society, especially the African Union, and are provoking a response from the international community. The UN Security Council even passed a resolution that ended the war with the clear measures of the Sudan. The African Union has called on the Sudanese government to accept the presence of foreign institutions in order to finishing the conflict. The prolonged conflict in Darfur is drawing the attention of the international community and is designated as the worst at the beginning of the millennium. Negotiations began, especially when the escalation of the conflict reached its climax. The peace process found a number of dynamic and complex barriers to recall the case of Darfur is not a simple tragedy.

At the moment, the Darfur conflict is evolve from a mainly two way strife between the central government (including the Janjaweed) and rebels to a more complicated clash involving various rebel factions. Since mid-2006, the number of rebel groups in

Darfur has risen into 15 percent. Also, the expansion of the conflict to neighboring countries such as Chad and Central African Republic (CAR) has further compounded the problem. There were several peace agreements established by the African Union with the support from the international institutions such as Comprehensive Peace Agreement, The Darfur Peace Agreement, and The Doha-Darfur Goodwill Agreement.

1. Comprehensive Peace Agreement

The Comprehensive Peace Agreement (CPA), also known as the “Naivasha Agreement”, is a set of protocols signed between government of Sudan and the Sudan People’s Liberation Movement (SPLM) – Sudan People’s Liberation Army (SPLA) on January 9th, 2005, with support from the Intergovernmental Authority on Development (IGAD) as consortium of donor countries. The major motive of the CPA agreement was to end the second Sudanese civil war, advancing democratic governance countrywide and sharing of oil revenues. The agreement further set a schedule according to which Southern Sudan was to have a referendum on its independence in 2011 (Pantuliano, 2007).

The CPA agreement encompassed eight protocols: (1) the Machakos protocol on board principles of government and governance, (2) the protocol on power sharing, (3) the protocol on wealth sharing, (4) the protocol on the resolution of conflict in the Abyei area, (5) the protocol on the resolution of conflict in Southern Kordofan and the Blue Nile States, (6) the agreement on security arrangements, (7) the permanent ceasefire and security arrangements implementation modalities and appendices, and

(8) the implementation of modalities and global implementation matrix and appendices (Waal A. D., 2007). With all its great intentions, the CPA had combined results. The switchover into democratic government system in the North Sudan has still not occurred because President Omar al-Bashir continues to push to the North to be inside under Sharia Law. Unfortunately, the CPA was not fully implemented by both parties. Sudan started to lose seek after national solidarity and monetary success when genuine political minimization of the fridge ended up noticeably ordinary. This socially furthermore, provincially forced minimization brought about financial grievances that tragically still proceed until 2014.

2. The Darfur Peace Agreement (DPA)

The government of Sudan and the leader of the Darfur rebel group SPLA/M, Minni Minawi, entered into a peace agreement called, The Darfur Peace Agreement with the help of the African Union on May 5th, 2006. Two other rebel groups, the Justice and Equality Movement (JEM) and the SPLA/M faction of Abdel Wahid, turned down the agreement. Abdel Wahid believes that the establishment of SPLA/M creates the effective implementation of security arrangements, also he believes that DPA had failed to provide political representation or adequately provide the victims' indemnification. But on the other side, the DPA was later supported by the UN with the adoption of Resolution 1679. The DPA itself have three basic protocols on power sharing, wealth sharing, and security arrangements, combined with the Darfur-Darfur

Dialogue and Consultation (DDD-C). according to the Article 31 of Darfur Peace Agreement, it is stated that,

“The Darfur-Darfur Dialogue and Consultation (DDD-C) shall be a conference in which representatives of all Darfurian stakeholders can meet to discuss the challenges of restoring peace to their land, overcoming the divisions between communities, and resolving the existing problems to build a common future.” (Union, Darfur Peace Agreement, 2006)

a. Power-Sharing

The major rationale which built the power-sharing mixture was to rectify the years of political marginalization experienced by the Darfur people. The DPA handed out four principles in allocating power. First, adopted democratic processes which allowed the people to choose their leaders in free and fair elections. Second, the Darfur rebel groups are the fourth highest position in the Sudanese government. Third, the DPA gave the rebel movements more power inside the Darfur region before the elections. Fourth, the DPA provided for the referendum on the status of Darfur by 2010.

b. Wealth-Sharing

The wealth sharing protocol of the DPA was created by peace negotiator in order to create unbiased wealth distribution throughout Sudan with special attention given to ‘aftermath’ area. The wealth-sharing protocol focus on three areas to consider rebuilding of war-affected areas, returning of land rights, and resettlement and compensation of victims.

c. Security Arrangements

The security arrangements provided for an armistice compromise around 72 hours after conclude the DPA. That protocol carried in six phases. First, Military disengagement means the conflicting parties were limited to their areas to handling the buffer zones and created to separate the parties in conflicting location. Second, the transfer zones were to be designed for the parties in order to gather and limit their forces and their weaponry. Three, involved limited weapons control by forcing the conflicting parties in order to keep their arsenal in their designated areas for AMIS (African Mission In Sudan) to inspect. Four, assembly the movement for disarmament and demobilization for the Janjaweed. Five, providing the integration of the former militias into the Sudan Armed Forces (SAF) and other government security groups also social and economic reintegration of the movements. Six involved completion of the social and economic reintegration of former fighters who like to go back into civilian life and completion reforming the security institutions (Taber, 2008).

However, the DPA brought several violences in Darfur. The security aspect in Darfur significantly getting worst in the next time. One thing are missing from the DPA was a systematic form of justice and accountability. Nevertheless, the DPA provided for the creation of the Darfur-Darfur Dialogue and Consultation (DDD-C). the vision of the DDD-C was to supply more inclusive opportunity for the portion of Darfur society, particularly who those not at the peace negotiations, to address political,

socioeconomic, and other issues outside the scope of the negotiations and to mobilize support for the DPA. In the other side, as just one rebel faction signed the DPA and it was not accepted by the majority of Darfur society, the DDD-C could not enhance DPA implementation.

3. The Doha-Darfur Goodwill Agreement

On February 17th, 2009, Qatar, supported by the United Nations and the African Union, established the joint operation Doha-Darfur Goodwill Agreement with several rebels group and also the Justice Equality Movement (JEM) finally signed a goodwill agreement and a trust agreement to resolve the Darfur crisis in Doha, the capital city of Qatar. According to Sudan Tribune news website, the result after the establishment of The Doha-Darfur Goodwill Agreement create those following points which were agreed by both the Sudanese government and JEM,

- a. Give the peace process a strategic priority among other issues to settle the Darfur Conflict.
- b. Agree to adopt a systematic approach which addresses the source of causes for the clash and realizes a lasting welfare in the country.
- c. Agree to take all obligatory measurement to create a conducive environment for reaching a lasting settlement of the conflict, including (1) Forbear from all kinds of harassment of IDPs, (2) Guarantee the smooth and unobstructed flow of relief assistance to the needy people without any obstacles, (3) Commit to exchange prisoners and release imprisoned, convicted, detained, and arrested persons in

relation to the conflict between them with a view to building confidence and accelerating the peace process. The State of Qatar and the AU-UN Joint Chief Mediator will maintain contacts with both parties to work out a timeline for concluding the release of the above mentioned.

- d. Work towards an early framework agreement that leads to a termination of hostilities and lay down the basis for elaborated issues.
- e. Execute to follow the agreement systematically within serious conversation to accomplish the conflict in the shortest possible time, not to exceed three months.
- f. Guarantee to remain engaged in the peace process and preserve representatives in Doha to prepare a framework agreement for the final talks (Text: Goodwill and Confidence-building Agreement to Resolve Darfur Conflict, 2009).

The Doha Goodwill Agreement was accepted by the UN and other international actors. Unfortunately, just right five months after the signature, seems like The Doha Goodwill Agreement failing below the expectations of the Darfur people and the international society. The infiltration of the agreement could be seen in that the JEM refused to take part in Doha process to protest the eviction at least 13 aid groups that had ensured sensitive funding of the Law Enforcement activities in the area. Khartoum blames the foreign NGOs of cooperation with the International Criminal Court (ICC), the JEM said that the expulsion of the aid groups breaches the Doha agreement that directly provides for facilitating several humanitarian action in the region. After that, many other violations of the agreement were committed by both sides.

B. The African Union and International Response

Nick Grono in African Affairs journal entitled *Darfur: The International Community's Failure to Protect* (2006) stated that the lead international actor on Darfur has been the African Union (AU). The AU has done as much as they can within the framework of its limited resources and mandate. The African Mission in Sudan (AMIS) was established in 2004 consist of some 60 monitors and 300 troops to protect them. Under UN Security Council Resolution 1564, practically AMIS mandate to go out and protect civilians. In reality, the AMIS due to its weak mandate, they can only protect civilians when they are being attacked in its presence, and only if it feels it has enough troops to intervene. AMIS was the only external force in Darfur region until the arrival of the AU and UN.

The AU has failed in the resolution of the crisis through AMIS. It simply extended its timeframe for months without interfering without changing its ineffective mandate in order to protect the civilians and made no certainty for more African troops to come with greater mobility and arsenal on the ground to stabilize the situation. Even though, the AU strategy for dealing with the Darfur crisis has collapsed (Grono, 2006).

There are many factors responsible for the indigent performance of the AMIS mission in Darfur:

- a. The African states are at the middle of the problems. The states are directly and indirectly responsible for the challenges Africa is facing. This expression underlines that weak state organs like AMIS are the root causes of most

problems. Weak state institutions, less of democratic implementation, and not strict behavior from their governments and officials, as well as unjust policies, cause, trigger or accelerate the welfare challenges in Africa.

- b. The ignorance states and an less balanced in resource allocation to non-state actors negatively result in non-state actors dictating state organs in the normal mandates of states. NGOs and international actors train highly skilled professionals to the loss of state services resulting on faint performance of legitimacy for states.
- c. African Mission in Sudan (AMIS) moving forward to face serious challenges in recruiting and resisting the Sudan society because of appearance in security, health risks, and threats in Darfur.
- d. AMIS is also facing a difficult time to finish rebels groups in Darfur for the reason that some of them have opposed the participation with Khartoum.
- e. Most obviously, the African Union's monetary and military resources are severely limited: AMIS has lack of sufficed soldiers from the beginning of its operation and has remained unable to fulfill even the authorized level.

The UN Security Council has taken more aggressive intervention on the legal front. First, the UNSC established an International Commission of Inquiry. After an investigation, the Commission concluded 'the international offenses such as crimes against human being and war crimes that have been committed in Darfur may be not tolerated anymore'. Destruction of villages, enforced disappearances, killing of

civilians, torture, indiscriminate attacks, and several violations against humanity spotted by the Commission throughout Darfur. Confronted with these findings, the Security Council then referred the situation in Darfur to the International Criminal Court (ICC) for further investigation. The ICC started the investigation into Darfur for three months. Luis Moreno Ocampo on June 2006 gave a report to the Security Council and collected several evidences of large-scale massacres, thousands of 'slow deaths' from forced displacement and destruction of food stocks. The challenge now for the prosecutor is to overcome Khartoum's obstruction and bring to justice those most responsible for those atrocities (Grono, 2006).

Nick Grono in African Affairs journal entitled *Darfur: The International Community's Failure to Protect* (2006) also stated that the United Nations Security Council (UNSC) passed Resolution 1593 in 2005 and referred the Darfur situation to the International Criminal Court (ICC). After their investigation in April 2007, the ICC issued to arrest the government minister, Ahmed Harun and Janjaweed commander, Ali Kushyab. In the next two years, precisely on March 2009, the ICC issued arrest warrants for the President of Sudan, Omar al-Bashir, as well. President Omar al-Bashir is accused by the ICC prosecution of war crimes and crimes against humanity for masterminding Sudanese government's violence that results in more than 30,000 casualties in Darfur since 2003. Khartoum refused to accept the ICC decision and stated that since it has not ratified the Rome Statute of the ICC, it was not a party to the Statute and was under the obligation to abide by the decision.

The most recent and revealing response to the ICC decision has come from the head of the National Security and Intelligence Service of Sudan, the Saleh Abdullah Gosh. Gosh warned ICC's supporters with the action of Islamic fundamentalism in the country. According to Associated Press when having interview with Saleh Abdullah Gosh,

“If they (ICC supporters) press us to return to our past position (as Islamic fundamentalists), we will no doubt return, and if they want us to return into hardliners anew, that is a simple thing to do. And we are capable of doing it.”
(Associated Press, 2009)

Another setback the ICC decision has received is the response of the African Union. On their 13th summit, the African Union stated that it was ending cooperation with the ICC for charging President Omar al-Bashir with war crimes. Moreover, the ICC decision has resulted in the eviction and harsh treatment of international NGOs. A large number of humanitarian organization and UN-related organizations are facing difficulties in carrying out their activities in Darfur. Many of humanitarian organizations already push the evacuation of their personnel to avoid more deaths in Darfur (Grono, 2006).

In November 2006, the UN and the AU agreed on three steps for an action plan for Darfur called UN Darfur Plan. The first step is involving UN provision of logistical and technical support for the African Mission in Sudan (AMIS). The second step is involving the deployment of 3,000 UN peacekeepers, including gunship helicopters in the Sudan. And the last step is involved the “heavy support package” that required the deployment of a 20,000 strong hybrid AU-UN force. The first and second steps were

failed to accomplish their task of containing the crisis. Then, the UN went into the third step and replaced AMIS with the deployment of a joint African Union Nations peace support mission (UNAMID) on January 1st, 2008. UNAMID was deployed in Darfur through the UN Security Council Resolution 1769 in July 2007 (Grono, 2006).

In adaptation with the Security Council mandate, the UNAMID pledged to have 26,000 military forces, police, and civilian personnel, making it the largest peacekeeping mission in the world. This joint operation was authorized under Chapter 7 to protect civilians. The UNAMID mandate embraced the similar duties as the AMIS which are promoting the re-establishment of confidence, deterring violence, providing security through patrolling, and deploying police forces in areas where internally displaced persons (IDPs) are placed. Twenty-two months after the implementation of Resolution 1769, the UN has disappointed the outflank Darfur society. The UNAMID is failing in execute its mandate and is unable to guarantee anything with its current or predictable strength and capabilities. There has been no improvement the security aspect in Darfur since the UN took over the mission on January 1st, 2008 from AMIS.

C. Proving of The Failure of African Union Solving The Darfur Crisis

The failure of African Union in solving the Darfur crisis are the first is, The African Union have a small support from another international institutions in order to solve Darfur stalemate because AU is limited by objective factors that are outside the responsibility of the African countries. This indicates that the level

of regional awareness of African countries is still limited by national interests more than the main common interest as an entity in such a huge area.

The statement above is proved by the Doha-Darfur Goodwill Agreement. On 17 February 2009, Qatar, in cooperation with the United Nations and the African Union, established the Doha-Darfur Goodwill Agreement with several rebels group and also the Justice Equality Movement (JEM) finally signed a goodwill agreement and a trust agreement to resolve the Darfur crisis in Doha, the capital city of Qatar.

The Doha Goodwill Agreement was welcomed and agreed by the UN and other international actors. Unfortunately, five months after the signature seems like The Doha Goodwill Agreement failing the expectations of the Darfur people and the international community. The breaching of the agreement proven that the JEM refused to participate in the Doha process to protest the expulsion of 13 aid groups that had ensured sensitive funding of the Law Enforcement activities in the area. Khartoum blames the foreign NGOs of cooperation with the International Criminal Court (ICC), the JEM said that the expulsion of the aid groups breaches the Doha agreement that provides directly for facilitating humanitarian action in the region. Later, many other violations of the agreement were committed by both sides.

The second is the African Union (AU) has been admirably engaged in the Darfur crisis but has ultimately proven ineffective, hindered by *poor resource* and *weak political experiences*. In reality, *the African Mission in Sudan (AMIS) due to its weak mandate*, they can only protect the civilians when they are being attacked in its

presence, and only if it feels it has enough troops to intervene. AMIS was the only external force in Darfur region until the arrival of the AU and UN. The AU has failed in the resolution of the crisis through AMIS. It simply extended its timeframe for months without interfering without changing its ineffective mandate in order to protect the civilians and made no certainty for more African troops to come with greater mobility and arsenal on the ground to stabilize the situation. Even though, the AU strategy for dealing with the Darfur crisis has collapsed.

The third hypothesis is the African Union Law Enforcement is considered *failed* due to genocide causing serious bodily or mental harm and inflicting on each target group conditions of life bring into physical destruction. It can be inferred from the above statement The UN Security Council has taken more aggressive action on the legal front. First, it established an International Commission of Inquiry. After an investigation, the Commission concluded ‘the international offenses such as crimes against humanity and war crimes that have been committed in Darfur may be no less serious and heinous than genocide’. *Destruction of villages, enforced disappearances, killing of civilians, torture, indiscriminate attacks, and several violations against humanity spotted by the Commission throughout Darfur.* Confronted with these findings, the Security Council then referred the situation in Darfur to the International Criminal Court (ICC) for further investigation. The ICC started the investigation into Darfur for three months. Luis Moreno Ocampo on June 2006 gave a report to the Security Council and collected several evidence of large-scale massacres, thousands of ‘slow deaths’ from forced

displacement and destruction of food stocks. The challenge now for the prosecutor is to overcome Khartoum's obstruction and bring to justice those most responsible for those atrocities (Grono, 2006).