Human Rights in Conflict Situations: A Critical Analysis of the Role of Human Rights Organisations (HROs) In Darfur, Sudan

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By

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Dedication

This dissertation is dedicated to the loving memory of my late father Capt Joseph Taban Nehemiah, who like all the marginalised people in the Sudan, not least the people of Darfur – the subject of this dissertation – have been over the years systematically murdered in cold blood by the very government that should have protected them. Daddy, we your children and family, left wondering for the last seventeen years – without apology or acknowledgement - why you should have been taken away from us, will always cherish and remember the last moment of tears of bye we shared minutes before we parted January 1992, unaware that that would be our last bye. We love you and miss you everyday, Daddy!
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Abstract

For almost over five years, the dire human rights situation in Darfur continues to cast huge shadows over the conscience of the international community. The people of Darfur have suffered untold human rights violations and abuses. They continue to live with uncertainty of possibility of life in a secured environment, as the government that is supposed to protect them is the same one that is responsible for the violations of their rights. Their ordeal continues to capture the attention of the international community but with no significant change to their circumstances. The efforts of the international community, United Nations and international human rights groups who continue to advocate ending the precarious situation, have yielded little tangible results up to date.

Using Darfur as a case study, this study examines the concept of human rights in conflict situations, critically analysing the role of the Human Rights Organisation (HROs) and the difficulties human rights organisations face while operating in war theatres. This study, while acknowledging the prominent role of human rights organisations at awareness creation and lobbying to policy makers, seeks to explore why, gauging from the intervention of organisations working in Darfur, there has been not much change in the human rights situation. One question, which this study seeks to address, is whether the presences of these organisations make any tangible impact on the lives of the people affected by the conflict in Darfur.
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List of Abbreviations

AI  Amnest International
AMIS African Mission in Sudan
AU African Union
CPA Comprehensive Peace Agreement
DPA Darfur Peace Agreement
GBV Gender Based Violence
GoS Government of Sudan
GoNU Government of National Unity
HROs Human Rights Organisations
HRW Human Rights Watch
ICRC International Committee of the Red Cross
IDPs Internally Displaced Persons
ICG International Crisis Group
JEM Justice and Equality Movement
HAC Humanitarian Aid Commission
NISS National Intelligence and Security Services
MSF Medicines sans Frontiers
NGO(s) Non Governmental Organisations
OCHA Office of the coordination of Humanitarian Affairs
OHCHR Office of the High Commissioner for Human rights
SC Security Council
SOAT Sudan Organisation Against Torture
SLA/A Sudan Liberation Army/Movement
SPLA/M Sudan People’s Liberation Army/movement
UN United Nations
UNHCR United Nations High Commissioner for Refugees
UNMIS United Nations Mission in Sudan
UNMIS/HRU United Nations Mission in Sudan Human Rights Unit
Chapter One: Introduction

1.1 Introduction

This study seeks to critically analyse the effectiveness of the human rights organisations (HROs) in their attempt to protect human rights in Darfur, Sudan. HRO is used as a catch-all phrase to refer to International Human Rights Organisations, local human rights organisation and the UN human rights presence in Darfur. The study will also narrow in to analysis and takes case studies of the UN human rights and international human rights Non Governmental Organisations (NGOs). The study will cover the period when the conflict escalated in 2003.

Human rights violations in Sudan especially in the western Darfur region of Sudan started to attract the attention of the international community following the outbreak of the conflict in 2003 owing to the escalation of the violent conflict that led to massive displacements, unlawful killing, deaths as a result of hunger or disease, or indiscriminate attacks on civilians by the warring parties, arbitrary arrests and detentions, sexual violence including rape, abductions and general human suffering.

The absence, inadequacies of the legal or institutional base for protection of human rights has led to the culture of impunity, not only in Darfur, but in the various parts of Sudan where various conflicts have been raging. The study discusses how with the presence of UN human rights and advocacy role of international humans NGOs, local human rights NGOs, the problems of human rights abuses and violations still persist and particularly examines the aims of human rights organisations which engage in
advocacy and awareness raising of the prevailing human rights situation. Perhaps it could be argued that the direct improvement in the human rights situation may come first from organisations with a protection mandate example the International Committee of the Red Cross (ICRC) (Steiner and Alston 2000) and in the case of Darfur the African Union and UN peace keeping mission (UNAMID).

1.2 Statement of the Problem

In peace time, human rights organizations will usually promote human rights through various means including advocacy, capacity building, awareness and sensitization, various legal means such as public interest cases, lobbying governments and international organisations. In conflict situations, the government, the principal protector of individual human rights is either non-existent or is often one of the human rights violators and a party to the conflict. This means that the institutions that would ordinarily be lobbied to protect human rights are non-existent and even when they are in existence non functional or under control of the government that is a party to the conflict. Violence and insecurity prevents human rights defenders/organisations from accessing victims of human rights violations. What therefore is the role of HROs in a conflict situation? How can HROs make an impact in situations of conflict where law and order has broken down and there is nobody to hold accountable for human rights violations? How can HROs operate amidst all the violence yet they don’t have a military force? In the case of Darfur, western Sudan, this study will describe the human rights situation and the difficulty of human rights work and seek to answer the question what role, if any, can HROs play in conflict situation. The study is therefore about the work and operations of UN, human rights component, human rights organisations, in the conflict and an analysis of the impact of their work on the human rights situation. The study will seek to show that even in conflict situations, HROs can play a big role of documenting and exposing the violations to the international community and lobbying international bodies and powerful countries to act to stop the violations. The study will also seek to show that the presence of human rights organisations in a conflict scene
also adequately helps to contribute in the legal education, offering services that states are not willing to accord. For example though amidst difficulties, HROs have offered legal aid for victims of human rights violations, awareness rising through network of volunteers in various committees that are affected by the conflict. For example though amidst difficulties, Sudan Organisation Against Torture (SOAT), Sudan and UK based HRO has offered legal aid for victims of human rights violations, contributes in awareness rising through network of volunteers in various committees that are affected by the conflict.

1.3 The Aim and Objectives of the Study

1.3.1 Aim
To explore how Human Rights Organizations (HROs) effectively function to promote and protect the Human rights values and concerns in the Darfur region. In achieving this, the study aims to examine the work and operations of HROs organizations in Darfur.

1.3.2 Objectives

1.3.2.1 Specific objectives
The research will seek to identify the weaknesses and challenges that impede (or prevent) the effective operation of the HROs to deal with the crisis

- To identify specific challenges facing human rights work in a situation of conflict, the gaps of human rights protection in conflict
- To explore ways in which the challenges of human rights protection in conflict situations can be examined.
- The study will list the prevalent types of human rights violations occurring in the context of the conflict and explain and discuss the potential responses given by human rights organisations.
1.4 Research Question

This study, therefore, using Darfur in the Sudan as the case study seeks to ask the following questions; what role, if any, can HROs play in a conflict situation?

- Can local, international human rights organizations and the UN as an intergovernmental body all play a significant role in the circumstances?
- Can the UN and human rights NGOs work make a difference in the life of the ordinary people?

1.5 Research Methodology

The proposed method of study is mainly through the analyses of second hand data. The bulk of the information for the study has been gathered largely from secondary sources: published books, official reports, journal articles, newspapers magazines and ‘grey literature’. A primary source of data will be my experience and notes from the two years period of time spent working in Western Darfur, Sudan. Some information is also gathered from documents produced by United Nations Mission in Sudan (UNMIS), United Nations High Commissioner for Refugees (UNHCR) and from United Nations Office of High Commissioner for Human Rights (UNOHCHR).

As part of the study, an informal meeting was organised with Sudan and UK base human rights organisation, SOAT. The meeting took place at their office premises in London. It was important to have informal meeting with this particular organisation because it did help the study in understanding its roles and function as it operated both in the Sudan and the UK. The Study through email communication was able to get some information from UN human rights staff in Darfur.

The study initially had intended to conduct informal meetings with Africa desk members of international human rights organisation. The difficulty that the study encountered was the unsuccessful attempt to secure informal meetings or even phone
interview with Africa desk staff of other human rights organisations in the UK. I contacted other two human rights organisations through emails and phones to set appointments for informal meetings with their Africa desk staff. However, after several attempts, the plan did not materialise, so, the study reviewed literature available about the work of HROs, using text books, information and reports that have been published on Darfur Sudan on their websites and other internet website.

The study faced challenges of lack of empirical data on the impact of human rights work in Darfur Sudan and the difficulty of assessing the impact of human rights work on the affected population as it is not easy to see the immediate impact. The majority of literature on Darfur conflict in Sudan, describe, do analysis on the human rights and humanitarian situation and thus limited literature on the impact of their work. The study faces the challenge of its inability to interact with the people in whose names human rights organisation advocate for human rights protection and promotion in Darfur.

1.6 Justification for the Study

The study seeks to examine the human rights situation in Darfur, Sudan and the role of HROs working both in Sudan with their offices there and those outside Sudan but engaged in doing advocacy on the human rights situation. The study will further identify some challenges faced by UN human rights work and international human rights NGOs in the course of their work especially with the IDP and the population generally affected by the conflict. Due to the raging conflicts in different parts of Sudan - the south, east, and currently the Darfur region, human rights violations such as indiscriminate killing of civilians, extra judicial executions, unlawful detentions, violence against women and general human suffering have been prevalent and dominated discussion. The study in adopting the role of HROs seeks to understand the extent to which they have been able to contribute to the human rights situation in Darfur.
1.7 Overview of the Chapters

The dissertation is divided into five chapters. Chapter one consists of the Introduction, statement of the problem, aims and objectives, research questions, research methodology and limitations of the study, literature review and general introduction of what the paper is about. Chapter two includes discussion on historical background to the Darfur crisis conflict, and where it stands now. Chapter three discusses the UN human rights component and their activities in Darfur, the various interventions by the UN in Darfur. Chapter four is about NGOs and human rights in Darfur- This chapter talks about the international human rights NGOs operation in and outside of Darfur, their activities and challenges. The chapter discusses the relation between the UN, INGOs and human rights NGOs in the field and the followed by recommendations. Chapter five consists of Conclusions

1.8 Literature Overview

1.8.1 Human Rights Situation in Darfur

It is worth noting that as early as 1993; the history of human rights violations has been documented in Sudan. The United Nations through the UN Special Rapporteur on Sudan documented gross human rights violations occurring in the context of an ongoing-armed conflict in southern Sudan. Thus, the abuse and violations of human rights have been prevalent in Sudan even before the outbreak of the Darfur conflict (1994, UN economic and social Council on Human Rights: 1994:29). This was manifested in the suppression of press freedom, arbitrary arrests and detentions, lack of the independence of the judiciary due to the control of the executive, persecution of political opponents of the ruling party or those who hold divergent views from that of the state (Human Rights Watch, 1994). It is worth noting that similar human rights violations were occurring in the western region of Sudan in Darfur.
Summerfield (1999) observes that violence orchestrated on people who live and work does not distinguish between combatants and civilians. Exemplary brutality is often systematically used as a means of control of whole populations especially in the camps where abductions, extra-judicial executions, torture, sexual violence, crimes against women and children took place. However, Summerfield fell short of interventions strategies necessary to adopt in such a situation.

In May 2004, the Office of the High Commissioner for Human Rights (OHCHR) produced a report summing up that “the mission identified disturbing patterns of massive human rights violations in Darfur perpetrated by the Government of Sudan and its proxy militia, many of which may constitute war crimes and/or crimes against humanity.” (UN Economic and Social Council, Commission on Human Rights 2004:39). The report noted that the mission had found convincing evidence of massive and systematic attacks on civilians (comprising killings, rape, pillage, destruction of property) targeting certain groups pointing to intent on the part of the Sudanese government to subjugate certain sections of the population. But again, to the present date, the human rights situation in Darfur has not changed much even with the concerted efforts of the HROs, UN and different other agencies.

In 2004, the UN, in an effort to contain the human rights situation in Darfur, instituted an international commission of inquiry to investigate the reports of human rights violations and abuses in the context of the Darfur conflict. This commission was authorized by the UN Security Council pursuant to1564 (2004) Security Council resolution. The commission proceeded with its findings and published its final report concluding that the Government of Sudan (GoS), its proxy militias were responsible for violation of International Human Rights Law and international Humanitarian Law.

Similarly, the rebel groups Sudan Liberation Army (SLA) and Justice and Equality Movement (JEM) were found responsible for acts or omission amongst others of war crimes and crimes against humanity (International Commission of Inquiry Report
It can be thus argued that it was on the basis of this report that was submitted to the Security Council that led to the referral of the situation in Darfur to the International Criminal court of justice by the Security Council as a way of attempting to address the issue of impunity in the Darfur conflict (Washburn and Panyesena 2005). Washburn and Panyesean argue that despite the referral of the situation in Darfur to the ICC, violence in Darfur continued with the destruction of villages and displacements. They however, held the significance of the referral as a positive move from the Security Council to begin acting against impunity.

The institution of the commission of inquiry to investigate the situation in Darfur was vital in exposing the gross human rights violations that took place during the eruption of the conflict in 2003. Despite that attempt of the inquiry, it developed later as the international community attention was focus and devoted more on the north-south conflict that last for a period of twenty one years. The international community viewed attention to Darfur as a secondary priority (House of Commons International development Committee Darfur Sudan 2004-5). That then created the opportunity for the GoS and its proxy militias to increase violence on the population of Darfur in the absence of international witness. Most international agencies in Sudan then where getting ready for the reconstruction phase on the event that peace agreement was signed between the negotiating parties (Flint and De Waal 2008, Williams and Bellamy 2005).

The Security Council has issued numerous resolutions pertaining to the conflict in Darfur, many of which have not been honoured by the GoS. In 2004, the UN Security Council requested Sudan to disarm the militias and being a signatory to the DPA, it was under the obligation to do so (Sudan Organisation Against Torture 2005-6). The failure of the government to disarm its proxy militia resulted in increased displacement and suffering of the afflicted population in Darfur because the militia were using the weapons to wage attacks on civilians leading to further human rights atrocities.
In the context of the Sudan, it is right to argue that the existence of numerous Human rights organisations can be said to be a reflection of the failure of the state to protect its citizens from abuses or violations. Human rights violations in a conflict situation or peace time is brought as a result of inability or in some cases the unwillingness of the state or government to offer protection to her citizens. The presence of HROs becomes appropriate to expose government excesses. As Lomo (1996) notes, HROs are there to check the unsuccessful state protection of the human rights of the population and they are value driven organisations and hence strive to achieve their aims and objectives unlike governments that are characterised with bureaucracies in making prompt decisions.

On the other hand Wainaina (2006) underscores the prominence of organisations like ICRC in conflict zones and situation whose core mandate in protection enhances in caring for victims of the conflicts. Other humanitarian agencies such as Oxfam, MSF, CARE have also stepped up involvement in conflict situation not only in offering relief but also help in denouncing atrocities in conflict and advocated for conflict prevention.

Wiseberg (1991) on the other hand discusses that most human rights organisations are reactive and only respond when they are confronted with during a crisis. Looking at the situation in Darfur, there have been scholarly arguments about the delay in responding to the human rights situation and humanitarian situation. The international deployment of human rights monitors in Darfur took place after the joint communiqué between the UN and the GoS in 2004 a year after the conflict started in 2003. Wiseberg (1991) recommends that monitoring of human rights situation be continuous and not only active in situations of crisis.

Henkin, (2000) discusses the emergence of UN Peace keeping missions incorporating human rights components in their programmes in the 1990(s). Henkin underscores the significance of the human rights work in helping in the protection and promotion of human rights and helping in the capacity building of institutions recovering from
conflict situation. Henkin however, highlighted the short comings of the UN missions in their capacity to handle grave human rights situation that overwhelmed the capacity of the human rights component.

Henkin (2000) suggests fundamental recommendations that urge the UN to improve on its institutional capacity to handle huge magnitude of human rights problems. However, Henkin did not propose a strategy that the UN could adopt in improving its human rights work. Each intervention of UN human rights component in another country is face with different dynamic or challenge. The situation in Darfur is further complicated by its big size lacking considerable infrastructure to accommodate wide coverage of human rights work.

Henkin however, acknowledges that the presence of the human rights components in UN missions helps in monitoring human rights compliance and the presence of human rights monitors act as deterrence to would be human rights violators. On the other hand, Darcy reasons that presence is not only useful for its deterrence but also as part of the process of providing testimony and also witnessing the kind of abuses and violations that happened to the population. The presence in his view must reflect continuity. It is however imperative to know that presence without actions or possible improvement to the human rights or humanitarian situation can be treated with a lot of resistance from the local population who experience the magnitude of the problem.

1.8.2 Human Rights Observation versus Protection

The adoption of rights language to articulate the situation in Darfur attracted discussion questioning whether it was a rights problem as Bonwick (2004) asked whether the situation in Darfur presented human rights crisis. He argues that the situation in Darfur was not about human rights crisis as proclaimed by the human rights bodies but rather was the issue of safety. He further stated that it was questionable whether the people in
Darfur view their problems from a right’s perspective or were rather primarily concerned with issues of safety.

Human rights concepts and principles underscore importance in humanitarian or relief situations. Darcy (1997) notes that human rights concepts have been advance to allow the supply to relief provision in situations where people affected by conflict, distress or disaster have been deprived of assistance and relief agencies have been prevented from accessing the population that is in dire need of assistance i.e. that people in distress situation have a right to basic needs such as food, shelter, water and medical assistance.

Burkey (1993) suggests that in terms of external assistance, people existing in situation of absolute suffering need immediate relief in order to survive. This is in form of clean air, and water, adequate and balanced food, physical and mental rest, good shelter and health. However, in Darfur, the government, the UN and humanitarian organisations, have often given humanitarian assistance to IDPs, but these have not sufficiently led to the full realization of their rights or improved their lives. The displaced communities continue to witness egregious human rights violations in the hands of the state that supposedly has the mandate to protect or uphold their human rights situation.

Darcy (1997) in his writings further makes the link between human rights and humanitarian assistance by stating (1997:4) “Relief assistance can be described in terms of the fulfilment of certain claims that human rights make on us. This may be different type of activity at preventing the abuse or denial of human rights; but they are clearly related”. Darcy sums it up by stating that it is therefore of importance for humanitarian workers to have knowledge of human rights while carrying their work as claiming access to deliver relief or aid is human rights advocacy strategy to allow people whose rights are trampled upon by fighting forces. Therefore, humanitarian community can assert these rights by putting forward human rights case.
Woudenberg (2005) further argues and cites a case in point in a town in Democratic Republic of Congo (DRC) where the population affected by the conflict rejected relief aid or food aid and instead demanded attention to the halting of the prevailing precarious human rights problems as opposed to consistent provision of relief with no apparent end to continues human rights abuses meted on them. Woudenberg (2005) presents the idea that human rights and humanitarian assistance during conflict should work closely together. In this, her argument is that incorporating human rights advocacy in the work of humanitarian agencies would accord them the opportunity to talk to the warring parties in one voice.

On the other hand, it is worth noting that the positive attributes from human rights organisations have been acknowledge in the areas of awareness creation, ability to shade light on the plight of victims or those suffering as result of the conflict and exerting pressure on governments to stick to their obligation under international human rights law and humanitarian law (Smith, 2006; Cingranell and Richards: 2001)

1.8.3 Challenges Facing Human Rights Organisations

On the other hand Darcy (1997:10) rightly observes that the work of the UN and regional human rights bodies is essential in the that “They provide a more or less effective mechanism for scrutinising states’ performance against their international legal obligations. The sanctions against their failures are largely politically determined. For the most part, it is unrealistic to expect urgent protection issues to be dealt with effectively through these bodies”. The UN in its function is inhibited with bureaucracy in decision taking making. More often, decisions are not deliberated upon immediately before further consultations are carried out in their headquarter offices in Geneva or New York. There have been numerous Security Council resolutions on Sudan but due to the weak enforcement mechanism of the UN, not much has been achieved. Several HROs continue to stage their criticism on the failure of the Security Council to take any firm action against Sudan while attacks are still inflicted on innocent civilians in Darfur
Sudan (OneWorld Foundation International 2008). This then presents challenges for those human rights monitors based at the field to deal with some urgent matters creating the impression that human rights work does not provide tangible results especially in conflict or abusive environment where there is lot of desperation from the affected population who yearn for immediate results of human rights work. Given that human rights work involves advocacy, the results are not often seen instantly other than gradually or it is not like treating a sick person or providing food for IDP (Welch 2001).

However, much as tangible results of human rights work is not achieved instantly, it is important to note that the work of human rights field offices, the analysis of the human rights situation and reporting help in the standard setting of the organisation (Darcy 1997).

The study concludes and argues that despite the apparent comprehensive intervention in the Darfur region that includes the UN Security council resolutions and their practical applications; the humanitarian and logistical support in which both National and International bodies are actively involved, the human rights record still remains one of grave concern and in any case very worrying by the day. The question that comes to mind is that, have these organisations used the appropriate strategy to respond to the human rights situation in Darfur. The continued existence of armed conflict in Darfur negatively impinged on the protection and promotion of human rights as the masses continue to suffer from untold suffering such as murder, abductions, rape and uncertainty of their life despite the concerted efforts of the humanitarian organisations amidst challenges.
Chapter Two: Historical Background

2.1 Brief Background to the Conflict in the Sudan

Sudan is a country with a long history of civil wars that have particularly emerged after 1956 independence from the joined administration of the Anglo-Egyptian rule. One of the outstanding challenges that Sudan has endured since obtaining independence from the Anglo-Egyptian rule in 1956 has been the prevalence of armed conflicts. The notorious and longest civil war was the twenty years civil war that raged between the South of Sudan and the North government of National Congress Party (NCP). From the 1972-1983, there was relative peace. However, this peace did not last long as a civil war erupted in 1983 in the south of Sudan fronted by Sudan Liberation Movement/Army (SPLM/A) against the GoS. Thereafter, the country did not experience period of peace until the signing of the comprehensive peace agreement (CPA) January 5, 2005 between GoS and the SPLM/A which ushered in some semblance of peace (International Crisis Group January 2006). The eastern region was in conflict but recently signed peace agreement with the government in 2006 and thus ceased hostility against the government. Despite the signing of the peace agreements as mentioned above, the entire country has not been able to realise this peace owing to the conflict in Darfur region. The different conflicts in Sudan have been raging for many years causing massive displacement of people to neighbouring countries as well as within some parts of Sudan, causing flagrant human rights violations in the hands of both state and non-state actors (Human Rights Watch 1994).
2.2 Background to the Darfur Conflict

Darfur region is the size of France and it lies in the western part of Sudan with an estimated population of five million. The region is divided in to three states of the North, South and West (U S Departure of State 2004). Prior to Sudan attaining independence in 1956, Darfur was an enclave with a strong kingdom that traded with her neighbours to run its territory effectively. However, in 1916, the Anglo-Egyptian administration annexed it to Sudan (Flint and De Waal 2008).

Darfur, being the land of many ethnic groups, they often distinguish themselves as ethnic ‘Africans’ or ‘Arabs’. De Waal (2004) contends that racial or religious difference between the African and Arabs did not exist in Darfur. Everyone in Darfur was black and belonged to Islamic religion and all the communities stayed in harmony. Whenever, there were internal despites, they were resolved amicably using tribal adjudication systems.

Flint and De Waal (2008) traces the origins of the conflict in western region of Sudan Darfur to the pre independence era. They argued that much of Darfur’s conflict originated from marginalisation of the Darfuri people both ‘Arabs’ and ‘Africans’, under development of the region, economic neglect and political exclusion by the central government in the North. According to the authors the above mentioned factors created the ripe ground for future eruption of the conflict which resulted to massive human rights violations.

Ibrahim (1998) concurs with Flint and De Waal and contends that underdevelopment attributed to the insurrection in Darfur as the two key rebel groups took arms against the central government to assert their rights to be included in the political arena and development of their region that had lagged behind for many years. He further argues that gauging from the demands of the rebels making demands of wealth sharing in the
negotiation for peace agreement could be to the reason for the development of the Darfur region

The successive regimes in Sudan design a strategy of creating militia or paramilitary groups that were subsequently used to fight alongside the regular army. This has often resulted to the government arming one tribe against the other. This lead to the process that accounted for the eventual evolution of the of Janjaweed militias that have taken a centre stage in the GoS counterinsurgency strategy to fight the rebel incursions and their activities resulting to human rights atrocities as civilian are most often caught between the warring parties. The creation of these militia groups facilitated the culture of militarization in the Sudanese society. The so called African tribes that have dominated the rebel groups now knowing that the government was arming the Janjaweed decided to also form militia groups equipped with arm or weapons to protect their hegemony. Since these militias were always ready to fight in case of insurgencies, they involvement in conflicts have widely caused gross human rights atrocities (Salih 2005).

These numerous conflicts have hindered economic, political and social development of the country especially in the areas where the conflicts actively took place. Libya and Chad, neighbours to Darfur have also played role in the conflicts in Darfur and subsequent human rights violations. Libya in its agenda of controlling Chad strategized to use Darfur as a base to lounge attacks (International Commission of Inquiry on Darfur 2005).

The conflict in Darfur erupted in 2003 when the Sudan Liberation Army/Movement (SLA/M) and Justice and Equality Movement (JEM) took arms and started to attack government installations in Darfur. The composition of the rebel group was from the key tribes of Zaghawa, fur and Massalit. The GoS on its part responded to the counter insurgency with massive offensive on rebel basis although mostly targeting civilians (Amnesty International 2004, Human Rights Watch 2004). Thus within a short span of time, hundreds of civilians were displaced, unlawful killed, women and girls suffered
sexual violence including rape, torture,. The conflict subsequently contributed to the massive displacement which led to creation of Internally Displaced People's Camps (IDPs) while scores of people fled neighbouring Chad.

There continues to be unlawful killings, rapes of women and girls, burning of villages and massive displacements setting the conditions for returns to the IDPs bleak. In May 2006, Darfur Peace Agreement was signed between Government of Sudan and a faction of Sudan Liberation Movement of Minni Minawi (SLM/MM). The agreement was negotiated under the auspice of the African Union. The international community and African Union pressured some of the rebel groups to sign the agreement hurriedly (Mukhtar 2006: Heleta 2008). The other two groups of SLM/A Abdul Wahid and Justice and Equality movement did not sign the agreement as they contended that it did not address their key concerns. Subsequently, there was upsurge in violence after the agreement which lead to further displacement of the population. The precarious situation needs peace but the 2006 DPA unsuccessful attempts did not incorporate the key rebel groups the SLA/Abdel Wahid and JEM who vehemently rejected the document. The post DPA era in 2006 was characterised with increased violence and re-escalation of the conflict resulting from deep fragmentation amongst the rebel ranks/groups that were signatories and non signatories to the DPA splitting along ethnic lines increasing human rights violations and suffering (International Crisis Group 2006). The protracted conflict has created a number of Internally Displaced Persons (IDPs) who have massively suffered human rights abuses and violations in the hands of the warring parties. United Nations reports that more than 200,000 people have been killed in Darfur, Sudan in the past five years and at least 2.2 million others forced to flee their homes.

The nature of the violence today or presently is different in terms of the death toll, there appears to be a decrease compared to the period of 2003 to 2004. This can positively be attributed to the efforts of the international community and humanitarian agencies interventions in Darfur. However, the situation for the IDPs still remains bleak as they
lack security to return to their destroyed villages. Secondly, the devastation caused during the first displacements in 2003 due to the counter insurgency from the government of killing, burning villages or occupation of villages still remains grave (De Waal 2007). The rebel factions that signed the agreement have been implicated in continued violence and according to International Crisis reports, some of the signatory group to the DPA notably the SLA/MM group have been responsible for attacks on African Union, humanitarian agencies, attacks on civilians and violence in the internally displaced camps.

The conflict in Darfur started in 2003 and several reasons explains its explosion. The conflict resulted in to humanitarian and human rights crisis. Many humanitarian and UN agencies have intervened in the situation. The subsequent chapters offer discussion on role of human right organisation in the conflict and explores the various roles undertaken by HROs in responding to the human rights situation.

Chapter Three: The UN Human Rights Component in Darfur

3.1 Introduction

This Chapter will discuss the UN human rights component and their work in Darfur. It will assess the work of UNMIS human rights presence in monitoring, reporting, capacity building and advocacy work. The presence of UNMIS, a civilian component of
human rights meant that human rights protection did not result in the use of military force.

3.2 UN Human Rights in Darfur

In the early 1990s, with increased number of internal conflicts around the world, the UN started getting involved in peace keeping missions and securing field presence in the human rights arena. According to Henkin (2000) earlier human rights field missions were established in El Salvador, Cambodia, Haiti and Rwanda.

The United Nations Mission in Sudan (UNMIS) was established under the authorisation of the Security Council resolution 1590 (2005) as a peace keeping mission to monitor the comprehensive peace agreement (CPA) that was signed on January, 5, 2005 between the Government of Sudan (GoS) and the Sudan People’s Liberation Movement/Army (SPLM/A) bringing to an end the period of twenty one years ‘North-South’ civil conflict. The presence and work of UNMIS/HRU is outlined in the Joint communiqué between the government of Sudan and the Secretary General of the United Nations in 2004 to engage in the protection of human rights in the conflict situation of Darfur. The mandate of the UNMIS/HRU is contained in Security Council resolution 1590 (2005), which among others stipulated the need for the presence of human rights monitors, reporting and carrying out capacity building activities for human rights protection and promotion, continuous monitoring of human rights violations in Darfur. Pursuant to its mandate, UNMIS/HRU established four offices in the Darfur region. The offices where established in El Fashir, Nyala, El Geneina and Zalingei.

The response to the situation in Darfur can be said to have varied and be categorised as humanitarian organisations intervening to save lives and alleviate suffering of the IDP population fleeing from the conflict. The African Union (AU) peacekeepers intervened to monitor ceasefire following peace negotiation in Abuja, Nigeria, under the auspices of the African Union (AU). The UN bodies such as Office for Coordination of
Humanitarian Affairs (OCHA), United Nations High Commissioner for Refugees (UNHCR), United Nations Children’s Fund (UNICEF) and other international NGOs joined the scene to offer humanitarian assistance and protect the people who have encountered gross human rights violation. In August 2004, the Office of the High Commissioner for Human Rights (OHCHR) deployed human rights officers to monitor the human situations (Soux 2008).

Prior to the deployment of human rights officers under the UNMIS human rights mandate, the office of the High commissioner for human rights (OHCHR) had deployed human rights observers in Darfur in August 2004. This group from the initial deployment faced enormous challenges as there were difficulties with access, lack of adequate language assistance to facilitate their work and the problem was exacerbated by lack of cooperation from the government of Sudan (O’Neil 2007:133). In 2005, with formation of UNMIS, through memorandum of understanding between OHCHR and Department of Peace Keeping Operation (DPKO), the human rights work was incorporated in to the mission.

3.3 How UNMIS HRU operates

From the inception of the UN system, its core principles and objectives have been to guarantee respect for human rights. Though this has been the pillar of the UN human rights work Henkin (2000) argues that the UN did not make concerted efforts with its member states to step presence in the field locations in observing violations by member states and enforcing their compliance in following international standards. According to Henkin, field presence of the UN started to gain prominence after the period of the Cold war.

Under the mandate that UNMIS human rights was task with investigating reports of human rights violations of key civil and political rights. This included defending these rights and making recommendations to parties who abuse these rights. According to the
UN Security Council (2005), the UN human rights mission paid special attention to unlawful killing, arbitrary arrests and detentions, sexual violence including rape, attacks on civilians, torture in detentions and the mandate allowed for the mission to access or communicate to victims, witnesses, institutions, conduct investigation or interviews without restriction.

The legal basis on which UNMIS human rights protected these rights would be argued to fall under international law human rights law which Sudan is party to and national legislations. The position under the supreme law of Sudan for the protection of these rights are primarily, The new Interim National Constitution of the Republic of the Sudan (Constitution), which came into effect on 9 June 2005, includes in it a Bill of Rights which recognizes to a great extent all of the fundamental human rights and freedoms. The Bill recognizes that every individual has an “inherent right to life, dignity and the integrity of his or her person, which shall be protected by law.” It also recognizes everyone’s right to liberty and security, to be free from torture or cruel, inhuman or degrading treatment, and to be granted various fair trial guarantees (Interim National Constitution of the Republic of the Sudan, articles 29, 33 and 34). It is also worthy to note that although Darfur is under a declared state of emergency, the new Constitution states that during a state of emergency “there shall be no infringement on the right to life,… sanctity from torture,…or the right to fair trial (Interim National Constitution of the Republic of the Sudan, articles 29, 33 and 34).

In addition to these constitutional guarantees, people in Sudan are protected by the various international human rights treaties that the Government of Sudan is a State Party to, such as the International Covenant on Civil and Political Rights (ICCPR), convention on the rights of the child and the African charter on human and people’s rights. The Constitution and the ICCPR contain provisions on the right to life. They both recognize that the right to life is inherent in every human being; that the right shall be protected by law; and that no one shall be arbitrarily deprived of his or her to life. Under both legal instruments the right to life is non-derogable, though there are certain circumstances in which the State is permitted to deprive an individual of his or her life.
But, as clearly stated in the ICCPR and the Constitution, under no circumstances should the deprivation be “arbitrary”. It can therefore be argued that the GoS, in perpetrating and failing to stop the violations in Darfur, is in breach of its obligations under the Constitution and international legal treaties which Sudan has ratified.

In the conflict context of Darfur, the key function of UN human rights is reflected in its monitoring human rights in Darfur and the violations that it monitored fall under the realm of the discussed legal framework. The monitoring function includes gathering of credible information through site visits of areas within Darfur to investigate human rights violations. It could be argued that the close monitoring by human rights officers of cases of human rights abuses or violations could be a form of deterrence to would be perpetrators of human rights violations and could have to some extend contributed to the reduction or occurrences of abuses (O’Flaherly 2007; Mahony 2002, Darcy 1997).

States or entities that are involved in human rights violations are often the perpetrators who strive to remain in the dark without external actors witnessing or observing the atrocities that they commit towards their nationals. Having international monitors helps in reporting and putting pressure on the state to comply with its obligations in international law (Maise June 2004).

UNMIS HRU work in the context of Darfur meant engaging with the government at different levels and reminding them of their obligation to ensure that civilians are protected from human rights abuse and the need to ensure that the perpetrators are brought to justice. It therefore, comes as no surprise that the human rights field presence should be perceived as posing constant threat to the government on its dismal human rights record. In doing monitoring work, the tasks of human rights officers engage in investigating and verification of information from various sources includes participation of authorities or rebel groups. It can thus be argued that the process of investigation leads to some form of pressure on authorities or rebel groups especially if the result of
the investigation translates to prosecution or exposing information about perpetrators (Howen 2007:41).

In the monitoring role of UN human rights, they are supposed to have free access to detention facilities and interview detainees in private, monitor the places of detention and ensuring the legality of their custody as per the agreement between the government and the UN. Despite that agreement with the Government, UN security council reports (2006) have highlighted that denial of access to human rights officers in Darfur to access detainees and in some states where they are allowed access, its normally done in a sporadic manner. Lack of access strongly inhibits UNMIS Human Rights Capacity to monitor effectively detention facilities and treatment of inmates while in detention as well as the release of individuals detained in relation to the conflict.

As O’Flaherty (2007:11) argues that monitoring human rights violations tend to pose a number of challenges that are encountered in relation to monitoring mandate of a civilian human rights component. There are a number of vital questions that need to be taken in to considering while monitoring human rights. Monitoring presents the problems of who should be monitored; whose right be monitored; what role the mission holds in terms of monitoring economic, social and cultural rights; and the issue of military peace keepers who violate human rights of the population they are mandated to protect.

UN human rights in Darfur often performed their monitoring in government held areas because of the difficulty of access to rebel held areas thus preventing effective monitoring of rebel held positions and the ability of getting the clear sense of the prevailing human rights situation. This failure to access rebel positions results from access problems or security. The failure to cover all parties responsible for human rights violations does not give a comprehensive coverage of the human rights situation. Besides, the above also puts the issue of the impartiality of the monitors at stake.
In complex humanitarian and emergency situations with the presence of many agencies, there exists duplication and overlaps in their different programs. There tend to be some competition amongst the agencies whose mandates overlap. Within UNMIS, the working relation between the UN Police and human rights presents difficulties because of the overlap of their mandates (Lijn 2008). Proper coordination between the different units of the UNMIS with related mandates would go a long way in improving their working system.

3.3 Reporting

The monitoring role of UNMIS HRU is complemented by reporting all its findings to the HRU based in Khartoum, Capital of Sudan and which transmits the information to Geneva and New York. Reporting on the trends and patterns of human rights violations help to shape policy intervention for the protection needs of the victims. However, within UN mission there are issues of who to share the reports with and what type of report should be shared. The human rights unit decides which report can be presented or shared with government especially for advocacy purposes. Even within UNMIS, it is not normally clear who gets human rights reports. Despite numerous reports produced, the UN does not have a public information programme that promptly get their reports to the media. In contrast their counterparts, international human rights NGOs are powerful in capturing media attention with the issuance of their reports which is usually widely circulated (O’Flaherty 2007).

The UN can make a difference through the release of a report too critical of the governments’ human rights activities and politically embarrass that government and may have impact on it locally, regionally and internationally. However, the UN system is slow and bureaucratic and sometimes its work is limited with the capacity to perform effectively (Darcy 1997).
Despite its short comings, UNMIS HRU through its reporting system which is submitted on daily, weekly, and monthly basis to New York and the Office of the High Commissioner for Human Rights in Geneva has helped bring to the attention of the mission through advocacy the prevalence of human rights violations and organise high level visits to Darfur to influence policy at the country level for human rights protection. There have been visits from the High Commissioner, human rights council and UN special Rapporteurs and more recent visit to Sudan was in July 2008 (United Nations News 2008). As Howen (2007:42) discuses..... an urgent communication or a country visit by an expert special Rapporteur or working group of the Human Rights Council can add incrementally to pressure to stop abuses, can encourage and legitimise civil society and can give resonance at the international level to the findings of the mission on the ground, thereby increasing the likelihood of the authorities being scrutinised both locally and in international political bodies. The UN human rights treaty bodies can sometimes also play role in increasing pressure for change if they are able to consider a report from the government or request specific urgent information.”

It is important to argue that the human rights mission in Darfur reported internally to the UN extensively on human rights violations on the internally displaced and undertook some further investigation of attacks on civilians. In most cases, little or no action is taken by the mission or the headquarters to confront the violations as the UN engages in diplomacy with the state or government. Even if action is taken to address the violations, it’s not timely. The take of the local population on the idea of reporting violations to the UN is that it does not attract immediate attention and action from the UN (Andrew Clapham and Florence Martin 2000).

To get a proper understanding and clear sense of human rights situation across Darfur, there is need to cover the entire region. However, that is sometimes difficult for UNMIS HRU especially when they do not have the capacity to collect adequate information from wide spectrum of the populace in Darfur (O’Flaherty 2007). And added to that is also the problem of security as some areas in Darfur have been designated as ‘no go
zones’ for UN staff or UN assets. In areas where UN lacks access, local human rights activists could provide information. However, in Darfur due to intimidation and harassment of local human rights activities, even those who received human rights trainings fear to supply information for fear of reprisals from parties in the conflict or from warring agents (Human Rights first 2008, SOAT 2004/5, and Human Rights Watch 2006).

3.4 Capacity building

Capacity building is an important component of the work of UNMIS human rights in Darfur. Based on Security Council Resolution 1950, UNMIS human rights have amongst other roles, to contribute to strengthening and support the strength of national institution in the promotion and protection of human rights. In the case of Darfur, due to lack of institutions that promote rule of law, it was very difficult for human rights to cope with the enhancing trainings. Secondly, in Sudan the attitude of the authorities to UN presence is not very positive and thus engaging in human rights training is faced with challenges. However, with collaboration with other UN agencies, UNMIS human rights conducted capacity building on international human rights in Darfur. Critically, analysis of the role of UNMIS HRU in Darfur indicates that it has not taken a lot of instrumental role in getting civil society in to its work and thus falling short of developing or encouraging the culture of human rights promotion in Darfur. In the long run, its capacity to develop human rights institutions will therefore be affected (Lijn 2008).

One could also argue that due to the political environment in Darfur where the government does not trust the work of human rights and humanitarian organisation work has not helped to create a situation where the culture of human rights can be institutionalize with the departure of UNMIS. The political situation is volatile and absence of security in some field locations impacts on the ability of human rights officers to conduct capacity building. In addition, though UNMIS has a monitoring
mandate, it lacks funding for establishing programmes and conducting regular capacity building activities (Lijn 2008).

Human rights capacity building can be conducted during conflict time as human rights promotion however this should be conducted on a low profile. The challenges envisaged in most conflict situations like Darfur are that: national human rights organizations are limited in number and the human rights activists are a key target for government authorities to arbitrary arrest and detain because they are outspoken on the ongoing human rights violations (SOAT 2006). Secondly, due to the insecurity it’s not easy to gather groups of individuals together for capacity building i.e. grouping women or youth might be difficult because families are separated during conflict. In most incidents the affected community is more concerned of their security (right to life and personal integrity) and food and less interested in capacity building, which is a valid argument because you have to live to enjoy all the other human rights. The responsibility of human rights organizations in such cases would be to conduct capacity building with community based organisation, church, religious groups and community leaders using informal methods to convey messages of peace and reconciliation with a human rights perspective. Another challenge would be that the national human rights organizations don’t have the capacity to educate people about their rights and therefore they need to work with International organizations.

To conclude this discussion, it is worth mentioning that the UN human rights could bring or prescribe solutions to the human rights problem prevailing in Darfur. Despite the numerous challenges, to some extend it has been able to make a vital contribution to the human rights understanding to governmental officials and the population affected by the conflict. The UN was able to engage the government at policy level by putting human rights protection on the political agenda through dialogue with the government. The field presence of the human rights monitors impacted on the process of revising legislation that that are not compatible with international standards. The presence of
human rights and humanitarian organisations as mentioned earlier in the discussion helped in deterring would be violators of human rights on population.

3.5 Challenges and impact of the intervention

The work of UNMIS human rights was complicated with upsurge of the human rights violations and abuses when the failed Darfur Peace Agreement created fragmented rebel groups which preceded with violence against the population, limited access, restriction of humanitarian and human rights access due to increase insecurity and the mission was subsequently evacuated from western Darfur as the relations between Chad and Sudan deteriorated with each trading accusations at supporting the different rebel factions involved in two countries. The mission was forced to relocate some non essential staff and same applied to NGOs and the implication was increased violence for the internally displaced with decline in monitoring activities (UN Joint Logistic Centre 2005).

In the case of Darfur Sudan, the major concern that continues to be a challenge to human rights work is the apparent lack of effective legal redress for crimes committed by members of the security forces who are protected by their immunity from prosecution as they continue to arbitrary arrests and detain people suspected to be rebel collaborators without due process of law (UN Security Council 2005).

In the conflict situation of Darfur, UN human rights mission has been working in Darfur as early as 2004. International human rights NGOs on the hand based outside Sudan have also played vital role through advocacy and awareness to highlight the human rights situation in Darfur. They have issued reports and engaged in public campaigns. Therefore, the subsequent chapter will discuss the role of these mentioned bodies in contributing to the human rights work.
Chapter Four: International Human Rights NGOs

4.1 Introduction

This chapter explains and discusses the work that has been performed by international human rights NGOs. These NGOs are particularly advocacy organisations and are based in the UK and the United States. Despite their absence in certain countries or field locations, the effect of their work has contributed to shading light on and drawing the attention of the international community to human rights and humanitarian crisis in Darfur.

4.2 How International Human Rights NGOs operate

The emergences of a wide number of NGOs have lifted the prominence of human rights in contemporary situation. This crusade has been led by scholars, activists who have dedicated their time to point out and make public abuses that have been inflicted on civilians (Smith 2006). Taking the case of Darfur in the Sudan, international human rights NGOs have not maintained a permanent presence in Sudan. Their efforts and work have largely been conducted outside Sudan and directed towards the mobilisation of external actors like the UN, publication of reports on the human rights situation and making recommendations to donor governments.

There are considerable numbers of international Human Rights NGOs that have been active in the conflict situation in the war theatre of Darfur, Sudan. Amnesty International and Human Rights Watch amongst other international human rights
Advocacy groups have been instrumental in denouncing and bringing to light the human rights crisis in Darfur. They have been very active in documenting and creating awareness and publicity about the conflict in Darfur. As observed by Slim (2004), human rights NGOs and humanitarian agencies notably MSF took a lead role in lobbying for the GoS to allow access for humanitarian assistance when the government obstructed relief to the population in Darfur at the peak of the conflict.

Amnesty International (AI) and Human Rights Watch (HRW), the two leading human rights NGOs in the world both continue to release reports on the situation in Darfur. In 2004, both organisations released two reports entitled ‘too many people killed for no reasons’ (2004) by AI and HRW released a report titled ‘Darfur in Flames’ (HRW 2004). These reports highlight the flagrant human rights violations and breach of international humanitarian law by the parties to the Darfur conflict leading to massive displacement and human sufferings. These reports demonstrate the significance of knowing the occurrence of violations or abuses but do not offer a form of protection to the population suffering from the conflict. Closely related to the above is the challenge or effect of how promptly the international community responds to the plight of the civilians affected by the conflict still remains an area of concern. O’Flaherty (2007) states that the reports from the international human rights NGOs are useful for the wide publicity compared to the UN reports but these reports from the human rights NGOs are also sometimes sporadic.

Due to publicity or *naming* and *shaming* it is sometimes difficult to measure change or improvement in state behaviour that leads to decrease in human rights violations or abuses. To some extent, states do take positive move to combat the situation. However, it is important to know that as Welch (2001) notes that the some governments will not acknowledge change in policy or human rights situation to be attributed to the pressure exerted on them by civil society or international bodies. Thus this creates difficulty in ascertaining the impact or effect of HRO work on a particular government or states.
Therefore, it is important to note that advocacy of HROs alone cannot be a single factor to contribute to success of the organisations in changing the human rights situation because of attributes of other factors. Brown (2001) notes that advocacy carried by human rights NGOs such as HRW may not reflect their single efforts as there are other organisations equally involved in the promotion and protection of human rights. This equally makes it difficult to assess the impact of a particular organisational work on prevailing human rights situation.

The international human rights organisation works on Darfur have led to the provision of information about the atrocities happening in Darfur. This information is used for the mobilization of shame. These are all means to embarrass governments or states on their human rights records and attract international attention to exert pressure on the profile of governments (Smith 2006; Lutz et. al. 2003).

The work of international organisations involved in publishing and monitoring of human rights situation are always focal points for alerting the international community to check on states that perpetrate abuses under the cover of sovereignty (Darcy 1997:13). It is intended to alert the international community to bear witness to the massive human rights atrocities in a particular country or state during conflict, disaster or peace time.

The tasks of releasing reports are followed by strong messages of mobilizing intervention. As Steiner and Alston (2000) argue that unlike intergovernmental organisations, international human rights NGOs take swift and decisive move in passing their message across and thus their move and work better than the politically constrained intergovernmental body.

Taking Darfur as the case study, a lot of publicity was carried out by human rights NGOs to highlight the plight of the internally displaced and the general population that
have been affected by the conflict. The crisis was only brought to light when the magnitude of the suffering came to escalation level in 2003. However, publicity alone does not help render solution to human rights situation as Welch (2001) strongly contents that provision of legal aid or services to the victims of human rights abuse and violations could contribute to the impact of human rights work on the population affected by the human rights abuses.

International human rights organisations as Clark (2007) discusses that their work is based on different tactics to engage or pressure governments that fail to halt human rights violations on their people. According to Clark (2007) these NGOs take different forms of action to target these governments. Clark illustrates that these HROs use various methods that includes quite diplomacy, letter writing, lobbying within intergovernmental bodies and publicity to approach governments on their human rights records.

According to Clark (2001:56) “one way to tip the balance of power towards the victims of human rights abuses is by involving a wider international audience through its reports and public campaigning, government records of human rights abuse are transformed from private matters for a sovereign state to matters for international concern”. The nature of governments is that when they know that human rights abuses are occurring in their territories, they would prefer to keep it silent.

Human rights work generally requires the consistent process of checking on the behaviour of states not only states but all parties who are abusive in the case of a conflict setting. This is irrespective of whether the state is a democracy or not and whether the state is in conflict or in non conflict situation. Darcy (1997:9) clearly points out that ‘Human rights are increasing used to judge state behaviour’. Thus the work of HROs is to constantly remind governments to honour or keep their obligations that they locally, regionally and globally engage themselves to. While governments all over the globe have been prompt or quick in signing and ratifying international legal
instruments, they are the same ones that have failed to uphold its compliance with international standards. Thus Lutz et. al. (2003: 175) states that “it’s one thing for a state to uphold human rights and it’s another for it to tolerate policing of its compliance.”

The importance of the work of HROs is in their agenda of pressuring governments to halt human rights violations in short term and in the long run look to establishing global human rights mechanism of accountability in relation to past human rights violations, improvement on rule of law organs within the state structures-police, judiciary and prosecution. (Lutz et. al. 2003: 179). The international human Rights NGOs as one of their strategy place insistence on the prosecution of perpetrators of human rights violations to enforce accountability and end impunity. Taking Darfur as the case study, Amnesty international and Human rights watch have been the lead organisations in pushing for the prosecutions of members of the GoS, the Janjaweed militia and rebels who have been largely identified to be responsible for crimes against humanity and war crimes. Despite the insistence on human rights organisations on prosecution for past crimes against humanity, Smith (2006) contends that the strategy to pursue prosecution for past human rights violations should be applied in relation to the context of a particular conflict or else its impact can lead to more devastation to the civilian population that are yarning for peace or reconciliation.

The International Criminal Court (ICC) could be an effective body to end impunity but as Darcy (1997) notes, if its judgement lacks the political backing then its effect will be not sustained. Citing the case of the ICC intervention in the Ugandan case, Carl (2004) reflects on how the involvement of the ICC in Uganda with LRA case, had become an obstacle in negotiating peace for the people of northern Uganda and the eventual signing of the peace agreement. Carl (2004:1) further argues that “the ICC was being used as another way of defeating the LRA and, in this sense; the intervention becomes an instrument of war. The question was not just of impunity but also one of timing, as it served as a huge disincentive to the LRA to sign up to a ceasefire”. As the peace
negotiation continues to stall, the ICC pronouncements have impacted on the rebels to surrender to the government of Uganda and they continue to cause disturbance in south of Sudan and parts of Democratic Republic of Congo (DRC).

The impact of human rights work is often seen gradually, creating sometimes a sense of frustration amongst the population whose expectations are often high in terms of attaining peace and subsequent return to their cradle land destroyed by the violent conflicts. HROs are confronted with questions of their inability to bring about immediate impact on the prevailing human rights situation. As Larry Minear wrote (cited in Lutz et. al. 2003:173) observes “rights groups….often focus on immediate violations or incidents, paying less need to the systematic causes of abuse. Faced with the need to identify structural remedies, their recommendations have often seemed superficial, perfunctory, and unrealistic. Most probing analysis of how to design and implement projects that address root causes of human rights violations…”

The international community has been persistently criticised by human rights groups for failure to promptly respond to the human rights crisis in Darfur. In situations where the international community responded, most times, it was not appropriate or for the case of UN has been bureaucratic and conducting series of diplomatic negotiations. In the case of Darfur, the publicity put forward by human rights groups or organisations helped to highlight the gravity and magnitude of the situation. On the other hand, observing the level of violence going on and with the dynamics of the conflict, it can be argued that not much has change in terms of civilian safety as unlawful killing, arrests; attacks on civilians continue to feature.

As much as HROs are well respected and well placed and are significant in the role of alerting the international community in the advocacy and awareness creating about human rights situations, sometimes, they have been criticized for unbalanced reporting on different countries (NGO Monitor 2005) and for focusing attention to other countries and producing more reports on those countries where they concentrate their action.
4.3 Challenges for Human Rights NGOs

HROs in their attempts to shade light on devastation or human rights abuses perpetrated by governments, rebels, paramilitaries against individuals or groups, they have been embraced with several challenges. Human rights NGOs despite their efforts to exert pressure on governments to halt abuses against their citizens; they have minimal or no legal strength to enforce their demands. According to Clark (2001:57) “little or no legal, economic, or physical force to wield against a sovereign”. This does not take their continuous and influential stance against governments that disrespect human rights of their citizens. HROs have faced challenges in their work as they try to pin governments down on their human rights records. Most governments especially in Africa invoke the notion of ‘state sovereignty’ or non interference in the internal affairs of the state.

International human rights NGOs also make recommendations to donor countries not to offer aid especially when the human rights records of the receiving state are poor. However, normally, that policy take does not affect the state in question but affects the poor. It is vital to deny aid to a country like Sudan with poor human rights records however, it is unlikely that the government will be affected by the policy to halt aid but rather the impact will squarely fall on the poor (Darcy 1997).

Other challenges relate to the type of violations that human rights NGOs are faced with in contemporary conflicts. Majority of states where human rights violations are occurring would prefer to have it kept silent by blocking means of attracting international criticism. Human rights violations and abuse in violent conflict situation would render the ability of outsiders to access the area and document or monitor human rights impossible (Clark 2001). This presence a bit of a challenge but for the case of Sudan, Darfur, international human rights NGOs such as HRW (2008) have conducted most of their research or fact finding mission through Chad where they gather primary testimonies from victims or witnesses of human rights abuses, through access to Chad refugee camps where Darfur refugees are to collect their testimony.
The development of the internet system has expounded on the dissemination of information to wide audience. The international organisations such as AI and HRW have effectively use this medium to convey their messages through circulation of reports, press releases on prevailing country specific human rights situation and also help in educating the public about human rights issues. Despite its benefit, it helps these organisations to only gather secondary data and short of primarily research which takes them to talk to victims (Wiseberg 2001). In some areas where internet services are not readily available grass root people may not access the information. More so, in areas with repressive government like Sudan, access to internet may be heavily censored or curtailed

Sudan, a country with high records of human rights violations, often denies access to human rights groups to monitor and document human rights violations. The alternative available for international rights NGOs could work in partnership with local human rights groups. However, taking the case of Darfur, GoS, through Humanitarian Aid Commission (HAC), the government organ responsible for regulating the work of INGOs and local NGOs, and National and Intelligence Security Services (NISS), has impeded the work of Sudanese civil society, already very weak, in Darfur. For example, in March 2005, HAC suspended the activities of Sudan Social Development Organisation (SUDO) for nearly one month which it purports was dealing in human rights (Human Rights First 2006; Human Rights Watch: 2006).

On the other hand, Local human rights organisations operate in difficult political situations. Looking at the case of Sudan, Darfur where there has been flagrant interference with the work of local human rights NGOs due to the repressive nature of the regime. The operating space has been narrow for them as the legislation does not permit them carrying out human rights activities (Lutz et. al. 2003). Despite the repressive nature of the conflict and conflict situations, small human rights organisations have continued to render services to the afflicted population especially in
Darfur. SOAT, as was mentioned before offers free legal aid to victims of torture and sexual violence in north and south Darfur and with prospects of opening an office in West Darfur (SOAT 2008)

The situation in Darfur, complicated by the conflict with many rebel splinter groups has led to arbitrary detention of male members of human rights organisations. Abuses and harassment by members of the security apparatus have had a chilling effect on individuals’ willingness to report to human rights NGOs and generally share information with the international community. NISS in particular has also intimidated people from reporting crimes to the police. During the period of the conflict, HAC and NISS have continued to impede and restricted the work of Sudanese NGOs and individual activists working in human rights and other fields. The state authorities in Darfur do not support the work of civil society operating independently without governmental interference (Human Rights Watch 2006). Due to the uncondusive environment, the capacity of domestic human rights NGOs to collaborate or link with international organisations is highly curtailed.

Human rights NGOs direct their concerns to governments on the basis that they are accountable for implementation and upholding human rights standards that also emanated from committing themselves by signing and ratifying international covenants. Winston (2001) notes that this approach may not be applicable in countries undergoing internal conflict, a situation where both government and non state actors like rebels are dually involved in human rights violations. Winton further says that this approach similarly falls short of expectation in failed states with virtually no government structures.

The task and huge challenge that embrace the human rights organisations is the big question of how to respond to grave abuses of human rights violations. These organisations traditionally held powerful tools of documentation and publication to influence government behaviours. Despite there positive success in that arena, in
contemporary situation *bad publicity* has not been adequate in changing state mentality as Winston (2001) argues occurrence of violations have been known by people and governments and what needs to be known is what these organisations can do about it. The international system of human rights enforcement has not been strong enough to combat the prevalence of human rights abuses globally (Lutz et al. 2003). These have been exemplified in the recent genocide in Rwanda, current crisis in Darfur and the ethnic cleaning in Bosnia. The role of human rights NGOs relates to documentation, campaigns, petitions and publicity. All these have not been able to impose military interventions or economic sanctions on Sudan because they do not have the mandate to do so.

4.4 INGOs- and Human Rights organisations relation in the field

Humanitarian and human rights bodies or agencies have different objectives and mandates. The work of humanitarian agencies is primarily the provision of relief for the purpose of saving lives and reducing human suffering. On the other hand human rights organisations are often concerned with the long term judicial results (Lutz et al. 2003).

Humanitarian agencies in the process of performing their tasks, encounter violations which they pass on as information on human rights violations to the mandated organisations, agencies, advocacy groups, and media without putting their informers in danger (Brannon and Martone 2007). However, in humanitarian settings such as Darfur, the passing on of information by NGOs often depend on personal relations between some particular personalities. On the other hand, HROs who most often get involve in Fact Findings again rely on the information provided by NGOs, the local populations,
governments and primarily victims of human rights violation (Brannon and Martone 2007).

It is the case that if agencies other than human rights groups get involved in collecting information on human rights or engaging with the population who have encountered human rights violations, they risk putting the victims in eminent danger of arrests or reprisals by governmental authorities and all parties to the conflict, usually after the departure of these agencies. This again reflects on the issue of mandates - who is doing what and where? It begs the question of whether humanitarian organizations should continue to treat a tortured person without exposing the perpetrator of the said violation. It also raises the issue of whether they should stick to their strict principles of neutrality and continue to witness a horrendous human rights violations or abuses experience by civilians in silence. On the other hand would involvement mean shifting from their traditional mandate or can it be argued that, their actions are being shaped to suit the realities confronting them in their field of work?

An organisation like Medicine Sans Frontières (MSF) founded in 1971, whose mandate relates to offering of emergency medical relief, in recent times however, has featured prominently in human rights work though it continues to maintain the doctrine of neutrality in performing its task of humanitarian work. MSF continues to speak out in public against acts of human rights abuses that they encounter in their work (Steiner and Alston 2000: Lari and Kevliha 2007, Brauman and Tanguy 1998, Scott 2001). In 2005, the government in Sudan arrested and charged the Director of MSF, a humanitarian agency for publishing report titled “Crushing the Burden of Rape”. The report exposed the gravity of massive rapes that were committed against women of Darfur and of which the government was persistently denying. The government reacted vehemently with the threat to expel and close the operations of MSF (OHCHR 2005)

In the Darfur situation, there are practical difference between human rights groups and humanitarian agencies given their mandates. The government body HAC put in place
for regulating the work of humanitarian agencies scrutinize their task and any implied involvement in doing human rights work exposed them to possible expulsion from Sudan or halting of their humanitarian operations (Amnesty International 2006)

In Darfur, the issues of humanitarian access to agencies has been a major area of concern and that is where the international community has been pressing hard the Government in Sudan to comply with her obligations in international law. Brannon and Martone (2007:83) argue that access is normally granted to organisations on the core humanitarian principles of humanity, neutrality, independence and impartiality and non compliance on the above mentioned leads to possible denial of access. Brannon and Martone (2007) defined neutrality as not taking part with any party to the conflict and not speaking about abuses against civilians not involved in the conflict. It is worth noting that one of the key concerns for the non involvement of humanitarian agencies in human rights reporting and monitoring is that it may threaten their neutrality and therefore access to populations. Thus they will be faced with problems of failing to deliver service to vulnerable groups which is the basis of their primary mandate

In general, however, humanitarian organisations or relief organisations stick to their doctrines of non interference or involvement in speaking about human rights violations, which is perceived as a political arena. Yet, they most often than not find themselves confronted with people who have suffered sexual gender based violence involving rape, torture, unlawful killing and horrendous human rights violations. Brannon and Martone (2007:72) suggests there is need for the review of the established legal principles that can not embrace the changes in warfare where casualties are heavily experienced by civilians, women are raped as unlawful killings. These organisations find themselves in dilemma being confronted with human rights violations on people they are charged with the responsibility to offer services for in form of protection and yet they are not supposed to speak or publish any information about the perpetrators of human rights violations or abuses. Yet these same Non-Governmental Organisations (NGOs) have more field experience than HROs and regularly encounter human rights abuses.
Much as humanitarian agencies stick closely to their mandate of not making public statements about human rights, MSF differ by going public on human rights by issuing statements even when it risks expulsion from the country where they are operating. In an event of MSF in Ethiopia critiquing the government for human rights abuses was subsequently expelled (Bell, and Carens 2004). Despite, the role of MSF to speak out, doing it signally does not send a strong message sometimes. Other humanitarian agencies use to advocate for human rights abuses through involvement in organised meetings with high ranking UN officials visiting certain countries and sharing with them their human rights concerns. Due to their accessibility to remote or country site, humanitarian agencies are usually abreast with human rights situations.

4.5 Recommendations

Human rights organisations and the UN should proactively engage the government in repealing or amending laws that infringe fundamental and inherent human rights and recommend new ones in view to improving human rights protection.

The media should continue to intensify the coverage of the events of the conflict in Darfur. This will help bring the issue of Darfur to be well understood in the national, regional and international level. However, the media should not use information as a weapon of propaganda and hatred given the culture of hatred that already exists between the so called Arabs and black Africans in the Darfur conflict.

This study draws a number of recommendations emanating from the discussion of the dissertation. To the UN, especially the office of the OHCHR, the lead agency on human rights implementation body during conflict or peace times should expand its operational capacity especially in the field of access to population where persistent human rights violations continue to rage against the civilians. The extensive field coverage will
provide the opportunity for the UN to conduct capacity building for the country and would be able to enhance the culture of human rights protection even after its departure.

HROs organisations should have early warning systems to identifying countries that are prone to violence or possible human rights abuses. This can be done throw strengthening the network with local human rights activist or organisations dealing with development programmes that most often retain field presence of their non involvement in human rights situations.

Enhance coordination and cooperation amongst various organisations to adopt appropriate strategy to respond to issues of human rights abuses and adopt a holistic approach in handling human rights issues.

In majority of UN missions, proficiency of language has been a major hindrance to facilitating their work especially in countries where English is not commonly used. Therefore, the UN or HROs should as key agenda set a programme for ensuring that its staff members have access to learn the local or official language of that country so that they are able to carry their work effectively and guard against problems associated with translation or distortion of information especially in sensitive matters like human rights particularly in Sudan.

The clarity on the side of the UN is vital in getting the population on the ground understand its mandate and role in promotion and protection of civilians. The resent visit of the special Rappourter highlighted in her report that the expectations of the civilians about what the UN is capable of doing and not doing is high due to lack of clarity on the side of the UN to clearly explain what their mandate entails and what they are capable of doing to the population in Darfur.
Chapter Five: Conclusion

The difficulty of monitoring human rights in Darfur has partly to do with the population who have low levels of education and limited knowledge of where to resort to redress when their rights are violated. On the other hand, those who have attained some educational level in Darfur fear to stand up and assert their rights and access litigation for the pursuit of justice to get remedies for human rights violations suffered by them, because, victims of human rights violations fear political persecution as they lack trust in government institutions such as the judiciary given their lack of independence.

The study has argued in various parts of the discussions that presence or protection by presence is vital in human rights monitoring as it helps reduce the abuses meted on the population. This is because the human rights monitors on the ground are able to engage with authorities due to their regular interface with them while following up on some individual cases. It also to some extent gives confidence to the population that the monitoring effect prevents further violations directed towards them.

The study argues that presence is more effective when action taken to prevent human rights violations is followed internationally and leads to accountability at local, regional or international levels. Presence also is effective if human rights monitors are able to access a wide spectrum of the population affected by the conflict. For the case of Darfur, sometime security imperatives deter the access of human rights monitors to some places. In such cases human rights monitors may have to rely on information collected from primary sources to enable them dialogue with authorities on specific aspects of violations, making it possible to enforce accountability at some level.

Investigation and not keeping silent on human rights issues is to a large extend a move to exert pressure on the parties that are responsible for human rights violations. The study acknowledges that the UN mission advocacy with a field presence often gets
involved more effectively with authorities behind the scene than public advocacy that is done by international human rights organisations. However a more balance view would be to state that human rights NGOs complement the efforts of the UN by promptly releasing reports vital in drawing the attention of the authorities globally.

The study in identifying the weakness of the civil society, the UN and HRO can still strive to get local civil societies on board. This is likely, to pose problems in repressive society or environment like in Darfur. However, there are organisation like SOAT working in partnership with local NGOs such as AMEL centre in North and south Darfur that provide free legal aid and able to conduct capacity building on international human rights and documenting of human rights in conflict settings. In supporting the activities of such organisation, HROs can contribute to tangible results to the population in need.

The study has argued that through awareness creation, the UN and the numerous human rights NGOs and some humanitarian agencies have made a difference in the human rights situation through informing the international community and creating awareness shading light on the horrendous atrocities that are occurring in Darfur on the ground. Their reports have also been used to influence decision making by different stake holders in finding a lasting peace for Darfur. The affected communities also feel some sense of protection emanating from the presence of human rights monitors which could also be said to act as a way of deterrence violators of human rights. The significance that the paper outlined in the works of HROs is the lack of measures in place to avert violent conflicts erupting. Most organisations are reactive as was mention in the body of the essay.

This paper has argued that HROs as member of the civil society have the obligation to bring to the attention of the state and the masses at large through documentation the level and extend of human rights abuses and violations. However, there is still a gap in
terms of how effectively the UN and international human rights organisations can influence the position of the government in Sudan.
The study concludes that in the case of Darfur, HROs have performed fairly well in the area of creating awareness through documentation and reporting on the human rights situation. Despite, this concerted efforts, human rights NGOs and the UN continue to be faced with difficulties of dealing with the GoS which has persistently denied accountability for human rights atrocities committed by GoS and its proxy militia.

HROs make an impact but often not strong enough to prevent further violations. In the Darfur context both international human rights organizations and UN have extensively reported on the prevalent human rights situation. The international community is aware of what is happening in Darfur, unfortunately there is lack of political will both by the Government and some international community partners to see to it that the violators of human rights are brought to book. To have an effective impact of human rights on population, it is of paramount importance to have a government that heed to demands for the protection of civilians. The GoS is in denial of the human rights violations taking place in Darfur and it maintains that the conflict is tribal and an internal matter which does not need international actors. However due to pressure from the international community, UN and African peace keeping mission was established to support in bringing about peace in Darfur. It is though still premature to make conclusion about the capacity of the peace keepers as they continue to grapple with effective civilian protection.


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