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Improvement on the Commission?: The UN Human Rights Council’s Inaction on Darfur

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Abstract: The UN Human Rights Council was established in 2006 to overcome the perceived politicisation of its predecessor, the UN Human Rights Commission. This article provides initial observations of its work, based on heretofore unpublished accounts of its proceedings. Using the example of Council inaction on Darfur, evidence is examined to confirm initial fears that the Council would fail to avoid the politicisation that had undermined the Commission. A major cause of the Council’s inaction on Darfur was the collective determination of politically allied states to shift attention away from Sudan and to weaken any resolution that might be passed. This article examines the Council’s discussions, both centring on Sudan and its general debates, in order to ascertain the positions taken by the main regional groups. The article highlights the tactics used by supporters of the Sudanese government to ensure weakened action. Keywords: Darfur, Human Rights, Human Rights Council, International Human Rights, International Law, Sudan, United Nations

0. Introduction

The human rights crisis in Sudan, and specifically in Darfur, has been brought to the attention of the Human Rights Council (the Council) at every session since it began work in 2006. In 2005 the UN Commission on Human Rights appointed Sima Samar as Special Rapporteur on Sudan.¹ Samar has reported on the situation to the Council since its creation. Despite her efforts, and those of individual states during various debates, no progress has been made. This article examines the Council’s inaction, in

order to evaluate initial concerns that the body would fail to overcome the
politicisation that had plagued its predecessor, the Human Rights Commission.²

Non-governmental organisations (NGOs) with a broad range of mandates –
including such politically diverse groups as Human Rights Watch,³ Nord-Sud XXI,⁴
and UN Watch⁵ - documented the gross and systemic violations perpetrated by all
parties to the conflict. The Council regularly discussed the situation in Darfur and
passed resolutions calling for action. Qualified experts called for implementation of
the Council’s resolutions and recommendations. The facts on the ground nevertheless
showed little improvement.

The Council’s inaction resulted from regional alliances and factional in-fighting.

This article begins by examining the regional and political ties that affected the
Council’s discussions, focussing on the two main groups at the Council which
supported the Sudanese government – The African Group and The Organisation of the
Islamic Conference (OIC). Individual States’ comments during discussions are cited
to illustrate the influence of those groups on other States, as well as their effect on the
Council as a whole. Discussions from Council Sessions will be used to show the
strength and breadth of concern about Darfur. Statements by members of the African
Group and the OIC will be compared with those of Western States, and members of
other regional groups. Council resolutions and decisions, alongside the discussions

englishwr2k8/docs/2008/01/31/sudan17759.htm (last visited 27 August 2009).
⁴ UN Watch, ‘UN Watch Action on Darfur’, http://www.unwatch.org/site/c.bdKKISNqEmG/b.2607541/
k.5D6E/UN_Watch_Action_on_Darfur/apps/nl/newsletter3.asp (last visited 27 August 2009).
they generated, will be used to examine the effects of political tactics upon the weakening or blocking of Council intervention in the region.

1. Background Positions within the Political and Regional Alliances

Political alliances within the UN often result in tactical voting on the wording and passing of resolutions and official statements. At the Human Rights Council, those alliances have dominated discussions on specific situations, such as the situation in Darfur. The alliances are used, either expressly or tacitly, to coerce States from other regional groups into action or silence, undermining the Council’s ability to intervene.

Alliances arise out of membership allotments. African and Asian States hold thirteen seats each. Eastern European States hold six seats. Latin American and Caribbean States (GRULAC) hold eight seats. Western European and Other States hold seven seats. States often hold membership of more than one regional or political alliance. For example, Egypt is a member of both the African Group and the OIC. Slovakia is a member of the Eastern European Group and the European Union.

Those alliances fundamentally structure any debates in the Council. Discussions following expert reports and general debates on agenda items tend to begin with representatives of the main alliances stating a general position that is universal or predominant among its members. General positions are then followed by pronouncements by individual State members, expressly or tacitly referring back to the broader positions of one or more of the allied blocks. Concerned countries, non-member States, and observers are given the opportunity to give statements where appropriate, which often follow the trend of regional or political alliances.

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6 ‘Other States’ refers to non-European, Western States, such as Canada (membership 2006-2009).


8 Membership 2008-2011.
The alliances’ members follow crucially different patterns during discussions on Sudan. Individual States from the OIC, Arab Group and African Group tended to make statements, even where they all-but echoed that made by the Group’s chair. The other main regional groups tended to allow their elected chair to speak on their behalf in discussions on Darfur unless there was something specific which the individual member wished to add. Therefore, many discussions lacked balance due to the large amount of statements by members of the African Group and the OIC compared with other States and their alliances. Before pinpointing specific arguments raised in the individual sessions, it is crucial to examine the general tendencies of the various blocks. That will allow the analysis, in Section 2, to focus on blocks’ and individual states’ specific positions.

1.1 The African Group as a Regional Group

Representatives of the African Group, followed by representatives of individual African States, generally supported the Sudanese government. They constantly insisted that Sudan was doing everything possible to curb human rights violations and to bring perpetrators to justice. The Group’s repeated expressions of solidarity with Sudan was accompanied by calls for international assistance, but their refusal to ascribe any state responsibility to Sudan hindered the Council’s ability to take action. Not only did the Group as a whole stand up for Sudan, but the vast majority of its individual members took similar positions during discussions and votes, even to the point of expressing obviously untenable positions.

In March 2007, for example, during a discussion about the Council-mandated Mission to Sudan, which the government had blocked from entering the country, the Tunisian delegate stated, ‘Sudan continues to express its readiness to cooperate with
There were instances of African States breaking regional alliances, but they were rare and unpredictable. The only African states to condemn Sudan were those directly harmed by the conflict, and those with stronger democratic regimes, such as Botswana and Zambia.

1.2 The OIC as an Alliance


12 According to the Human Rights Committee, for example, “The Committee welcomes the establishment . . . of the Zambian Human Rights Commission, with the mandate to promote and protect human rights” ‘Concluding observations of the Human Rights Committee: Zambia’, 23 July 2007, CCPR/C/ZMB/CO/3/CRP.1; According to the Foreign and Commonwealth Office, “Human rights are improving in Zambia. Although never particularly bad by regional standards, there were repressive policies associated with UNIP’s one-party rule, and in response to alleged attempts to overthrow both UNIP and MMD governments. President Mwanawasa has notably commuted the death sentences given to the 1997 coup plotters and indicated his opposition to judicial execution.”, Foreign and Commonwealth Office, ‘Country Profile: Zambia’, http://www.fco.gov.uk/en/about-the-fco/country-profiles/sub-saharan-africa/zambia (last visited 27 August 2009).
The OIC is the largest alliance of States within the UN. It calls itself ‘the collective voice of the Muslim world’. In 2006, 17 Council States were OIC members. Three of them, Algeria, Saudi Arabia and Azerbaijan, respectively, chaired the regional groups for Africa, Asia, and Eastern Europe. These OIC members almost invariably aligned themselves with the African Group’s opinion on Sudan. Peggy Hicks, Global Advocacy Director of Human Rights Watch commented, ‘The OIC’s mantra has been that the council should work cooperatively with abusive governments rather than condemn them. Since states tend to fear the airing of their own dirty laundry, many have bought into this argument.’

The OIC had many members making statements during almost all discussions—in contrast, again, to members of other blocks who were less inclined to repeat already-stated collective positions. When Sudan was brought to the Council’s attention, the OIC, like the African Group, emphasised its collective position by using large numbers of similar statements by individual States. The size and geographical diversity of its membership gave the OIC significant weight in the Council when deploying that tactic. The impact of this alliance was especially apparent in the juxtaposition between Asian States belonging to the OIC, which therefore gave regular statements supporting Sudan, and other members of the Asian Group which did not often support nor criticise the regime.

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As we shall see in Section 3, members of the OIC often blocked, or significantly weakened, action from being taken on Sudan. The OIC often used discussions on Darfur to raise unrelated issues, thus diverting time and focus away from the region.

1.3 Other Groups and Alliances

GRULAC States did voice the need to deal with the crisis in Sudan, but in ways that were neither internally nor mutually consistent. During different debates, an individual State which had previously expressed support for Sudan may subsequently be found to be silent, or even to criticise the regime. The GRULAC States also lacked uniformity in the positions taken within any given debate. There were some regional exceptions which always supported Sudan, most notably Cuba. The only countries consistently condemning Sudan and the atrocities taking place in Darfur were those belonging to the Western Group, albeit with the EU taking a more moderate approach than States such as Canada and Australia.

There were a few States which were undeterred by the OIC’s tactics. Canada, the Netherlands, the United Kingdom, and Switzerland, among others, were notable for both their condemnation of the situation in Darfur and their calls for action. Members of the Asian Group and GRULAC, and at times the EU, often remained silent or even deferred to the OIC’s position in discussions, wishing to appear neutral rather than offend the OIC. Hicks, perhaps unduly idealistic about the repercussions of states’ positions in the Council, strongly criticised the docility of such States towards the OIC, saying that these countries,

…need to know that if they side with the Pakistans and Algerias 
[respectively chairs of the OIC and African Group at this time] of the

16 Switzerland joined the United Nations in 2002, thus allowing it to become a member of UN bodies
Council to block efforts to address situations like Darfur, their conduct in Geneva will be made known, and they will pay a price both back home and in their international reputation.\textsuperscript{17}

2. Reports of Mandate Holders and General Discussions

The disparity of opinions expressed by various members gives an insight into why so little action was ultimately taken. This Section will examine comments made by the groups and states that played the strongest roles in the discussions: Sudan, Canada, and the Chairs of the African Group, the OIC and the EU. Any exceptional comments made by other States during these discussions will also be documented.

2.1 The Second Session

The Second Session\textsuperscript{18} opened with both the UN Secretary-General Kofi Annan\textsuperscript{19} and the High Commissioner for Human Rights Louise Arbour both drawing attention to Darfur. Arbour spoke about the further deterioration of the humanitarian situation despite the Darfur Peace Agreement.\textsuperscript{20} She also noted Sudan’s refusal to allow UN

\textsuperscript{17} Hicks, supra n.15.

\textsuperscript{18} 2\textsuperscript{nd} Session (First Part)18 September-6 October 2006, (Resumed) 27-29 November 2006.

\textsuperscript{19} “You [the Council] were rightly concerned with the situation in the Middle East, I feel confident that you will draw the same attention to other situations. At this time, I feel I must draw your attention on issue on Darfur” Kofi Annan UN Secretary-General, 18 September 2006.

\textsuperscript{20} Negotiated in Abuja, Nigeria in May 2006 and signed by the government and one faction of the opposition armed groups. Amnesty reported, “A Darfur Peace Agreement (DPA) was signed in May by the government and one faction of the Sudan Liberation Army (SLA) led by Minni Minawi. Other armed opposition groups, including the SLA and the Justice and Equality Movement, refused to sign. Most displaced people opposed the agreement, which was felt to lack guarantees for safe return and compensation. In demonstrations which turned into riots in many camps for the displaced, there were deaths, including of police officers, and numerous arrests. Some
peacekeeping troops into the region, and the insufficient mechanisms for dealing with human rights violations. The inclusion of Darfur in these speeches set the tone for the session, with a number of mandate holders’ reports raising concerns about this region. Walter Kalin, the Representative of the Secretary-General on human rights of internally displaced persons expressed ‘grave concerns’ regarding Darfur, especially with regard to the internally displaced persons hoping to return to Darfur. Yakin Ertuk, the Special Rapporteur on violence against women spoke of a lack of improvement since the Comprehensive Peace Agreement (CPA) of 2005. Jean Ziegler, the Special Rapporteur on the right to food spoke about the ‘millions of displaced people [in Western Sudan and Darfur who were] seriously and constantly

individuals and groups later signed the peace agreement. Under the DPA’s terms, Minni Minawi was appointed Senior Assistant to the President.” Amnesty International Report 2007 pp. 243-244.

In light of the continued failure or willingness [of the Sudanese government] to hold perpetrators to account, states must give support to the International Criminal Court and remind Sudan that its cooperation is not optional, it is a Chapter 7 decision of the Security Council.” Louise Arbour, High Commissioner for Human Rights, 2nd Session, 18 September 2006.

Oral intervention of Mr Walter Kalin, 2nd Session, 19 September 2006. These concerns are reflected by Amnesty, which reported, “On 16 August, without prior warning, bulldozers began to demolish homes in Dar al-Salam, an IDP settlement 43km south of Khartoum housing some 12,000 internally displaced persons. Many had fled droughts and famine in Darfur in the 1980s. Armed police and Special Forces used violence and tear gas against residents, and carried out arrests. Four people died, including a child, and many were injured.” Amnesty International Report 2007 p.245.

Oral intervention of Yakin Ertuk, 2nd Session, 20 September 2006. This can be evidenced in Amnesty’s reporting, for example, “Janjawid accompanying the armed forces offensive in North Darfur in September captured five girls and women aged between 13 and 23 in the village of Tarmakera, south of Kulkul. They were reportedly raped and severely beaten before being released the following day.” Amnesty International Report 2007 p.244.

The Comprehensive Peace Agreement 2005 between the government and the Sudan People’s Liberation Army.
undernourished’. Radhika Coomaraswamy, the Special Rapporteur on children in armed conflict expressed concern about violations of children's rights in Sudan, especially in regard to non-state actors closely associated with the state who recruit children. The focus on Sudan by these mandate holders shows the breadth of the crisis and its far-reaching effects in terms of human rights.

Due to the gravity of the situation, the Council heard a report about the region from Sima Samar, the UN-appointed Special Rapporteur on Sudan. Her report covered three missions to Sudan that had been conducted during 2005 and 2006. Despite the Interim National Constitution and the CPA creating a framework for human rights, Samar observed, ‘the government has failed in its responsibility to protect its civilians.’ According to Samar, rape and sexual violence were continuing in Darfur and ‘the authorities have often failed to bring the perpetrators to justice.’ Her recommendations included investigation of human rights violations, governmental cooperation with the International Criminal Court, protection of civilians by the African Union mission, and for the international community to support human rights facilities and inclusive dialogue.

28 A transitional legal framework entered into in July 2005, after the CPA ended decades of conflict between Khartoum and Southern Sudan. The Interim National Constitution changed the legal and governance system in Sudan, as well as providing a comprehensive Bill of Rights.
29 Samar, supra n.27.
30 Id.
2.1.1 Sudan

Sudan always exercised its right of reply when Darfur was brought to the Council’s attention. It argued, for example, ‘The policy of the Sudanese government is to offer unlimited cooperation with institutions of the international community and with human rights institutions.’ The comments also included Sudan asking for assistance, e.g., ‘We need support, especially financial support, from the international community. We would require 200 billion dollars to settle the problem in Darfur.’

The Sudanese delegate questioned the legitimacy of mandate holders’ reports, saying ‘the Special Rapporteur said that regarding Sudan you relied on reliable information. What kind of information is that? Why does the [Sudanese] government not have this information?’ Sudan further questioned the motives of the international focus on Darfur;

In Sudan there are many investigators from human rights institutions, especially in Darfur . . . . There are many reports on this within the UN framework . . . . I leave it to you to understand the real motivation of some States to continuously put pressure on Sudan . . . . This is just making the situation more difficult for the victims.

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31 Sudanese delegate, 2nd Session, 27 September 2006, in response to Samar, Special Rapporteur on Sudan
34 Sudanese delegate, supra n.31.
It also reminded the Council of its founding principles and the need for impartiality, saying ‘the Human Rights Council should have no politicization . . . selectivity . . . or double standards.’

2.1.2 The African Group

Algeria, on behalf of the African Group, pointed out that Samar’s report had been written six months before the Peace Agreement of June 2006 since which time improvements had occurred, a point which it felt Samar had unfairly overlooked. It should be noted, however, that Algeria’s assertion that Sudan was dealing with, rather than contributing to, the human rights situation contradicted the Amnesty International Annual Reports 2007 at that time, that merely a month prior to this 2006 Session, government-backed attacks had occurred in the region. Algeria nevertheless insisted that Council action should be limited to material and institutional support for the Sudanese government: ‘The international community at large, and donor countries in particular, [must] provide financial and technical assistance to Sudan.’

2.1.3 The OIC

Pakistan, on behalf of the OIC, expressly associated itself with the African Group’s statement on 27 September 2006, reiterating that the groundwork had been built for the implementation of human rights in Darfur as well as ‘commend[ing] the Sudanese

35 Id.
36 ‘In August government forces launched a major offensive in North Darfur and Jebel Marra, which was accompanied by Janjawid raids on villages.” Amnesty International Report 2007, p.242.
government for its efforts . . . and for its international cooperation.’ The OIC called on the international community to assist the Sudanese government, stating ‘justice and human rights should be absolute priorities . . . . We have to support this . . . to strengthen the Sudanese government . . . and provide moral support and technical assistance.’ The OIC’s support for the Sudanese government’s efforts can be contrasted with Amnesty’s reports of government offensives at this time.

2.1.4 The EU

The EU’s position was markedly different to the African Group and OIC, especially in how it viewed the Sudanese government’s role in the conflict. For example, in response to the High Commissioner, the EU said that it was ‘alarmed by the new fighting in Darfur; especially the systematic bombings of villages. It is the responsibility of the government to protect its own citizens and to held perpetrators accountable . . . . Do not forget the lessons learned in Rwanda.’

A similar position was later repeated when Finland, speaking on behalf of the EU, expressed ‘strong support for Ms Sima Samar’s mandate’ and asked for her opinion on the best way to protect civilians. Samar’s warning that further deterioration

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39 Id.
40 “The Government does its part to achieve reconciliation…It is a nightmare to disarm people in Darfur because there are so many small arms…. Sudan also cooperates with the Security Council… All parties must come to the negotiation table like the Special Rapporteur suggests”, Pakistani delegate, 2nd Session, 27 September 2006, in response to Samar, Special Rapporteur on Sudan.
41 “After a massive troop build-up in Darfur in August, the government launched an offensive against areas controlled by those groups in North Darfur and Jebel Marra. Government aircraft indiscriminately or directly bombed civilians.” Amnesty International Annual Report 2007 p.244.
would be likely if steps were not taken was noted, and the view expressed by Finland that ‘these fears have become reality.’ The EU emphasised that ‘the Human Rights Council cannot remain silent about the killings and violations in Darfur.’

2.1.5 Canada

Whilst Canada acknowledged the government’s efforts, it spoke at greater length of the increase in violence and the need for international intervention, for example,

we are deeply concerned about the situation in Sudan…some two million people have been displaced . . . .We welcome the efforts of the UN, the EU and the government of Sudan . . . . Despite the Peace Agreement, there is more and more violence, also towards aid workers. We call on all parties to immediately cease violence towards civilians and aid workers and to enable the UN mission in Darfur.

Canada questioned the most effective ways for assistance to be provided to the civilians in Darfur, for example asking whether the High Commissioner thought that ‘monitoring the situation [in Darfur] makes a difference?’ as well as questioning whether ‘there is anything the Council can do to assist you in this regard?’

Canada voiced concerns about protection of women in the region, saying ‘Canada sees that there is an increase in violence, despite of the peace agreement . . . . Internally displaced women are particularly vulnerable . . . . Sudanese police failed to

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45 Canadian delegate, 2nd Session, 18 September 2006, in response to the High Commissioner.
act with due diligence.’ Canada asked Samar ‘how can the OHCHR and international community assist Sudan to protect women?’ 46

2.1.6 Other States

Whilst many States spoke about Sudan, one country’s comments on the situation were unique. China spoke of the challenges presented by poverty which, in its opinion, significantly contributed to the human rights situation within Sudan 47 before praising the government’s ‘efforts to protect and promote human rights’.

Towards the end of the Session, the President postponed all proposed resolutions and decisions due to delay caused by informal consultations. It is interesting to note that whilst members of GRULAC had remained somewhat passive during the discussions on Sudan, several of these same States criticised the Council for not taking any substantive decisions at this Session, especially in relation to Darfur. For example, Uruguay pointed out that ‘any gap on substantive issues is a lack of protection for victims’. 48

2.2 The Third Session

The Third Session 49 opened with the High Commissioner’s overview of missions. This overview spoke of the crisis in Darfur, noting that it had ‘spilled over’ 50 into

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46 Canadian delegate, 2\textsuperscript{nd} Session, 27 September 2006, in response to Samar, Special Rapporteur on Sudan.

47 “Sudan is…struggling with poverty and diseases. The Council should take into account the special difficulties which the government of Sudan faces.” Chinese delegate, 2\textsuperscript{nd} Session, 27 September 2006, in response to Samar, Special Rapporteur on Sudan.

48 Uruguay delegate, 2\textsuperscript{nd} Session, 6 October 2006, general discussion on other issues, initiatives, and decisions.

49 29 November-8 December 2006.

50 Oral intervention of Louise Arbour, 3\textsuperscript{rd} Session, 29 November 2006.
Chad and Central African Republic, and that attacks on villages, killings, displacement and rape had continued with up to two million people now displaced, alongside other ‘horrific levels of violations’. OHCHR also documented attacks by government-sponsored militia. The High Commissioner reported that up to four million people were in need of aid, urging the international community to ensure cessation of human rights violations.

This Session saw calls for a Special Session to be convened on Darfur, primarily from Western and GRULAC States. It was later announced that the Special Session on Darfur would occur immediately after the regular Session. Discussions focused on the need for the Special Session and the way it would be conducted.

2.2.1 Sudan

Sudan’s response to the High Commissioner’s report followed similar patterns to its comments in the previous Session. It alleged that there was an ‘intentional campaign to offer false information on the situation’, and that the ‘Resolution of the Council

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51 An escalation reported by Amnesty, “Attacks across the border resumed in October, in which some 500 civilians were unlawfully killed, many more were raped, thousands were driven from their homes, and villages were destroyed” Amnesty International Report 2007 p.244.

52 For example, Amnesty reported, “In November at least 50 civilians were killed, including 21 children under 10, when Janjawid attacked eight villages and an IDP camp in Jebel Moon in West Darfur. AMIS forces arrived the day after the attack. The Governor of West Darfur promised an inquiry but no findings had been made public by the end of 2006.” Amnesty International Report 2007 p.244.

53 “The Chief Prosecutor said [at this time] that the office had documented killings and massacres and there is a lot of information indicating deaths, destruction of food stocks and livestock which has deprived citizens of their means of survival.” Louise Arbour, High Commissioner for Human Rights, 3rd Session, 29 November 2006.

54 Including; the Netherlands, Ecuador, Poland, Australia, Chile, Sweden, and Norway, 29 November 2006.

55 Oral statement of Luis Alfonso de Alba, President of the Council, 3rd Session, 30 November 2006.

56 Sudanese delegate, 3rd Session, 29 November 2006, in response to the High Commissioner.
was based on false information’.  Sudan further emphasised this by saying ‘there are repeated attempts to spread false information in regard to rape . . . it was said that dozens of cases took place . . . we proved that rumours spread by some NGOs are not true’. Having made such accusations, Sudan invited ‘the High Commissioner and the OHCHR to come to Darfur to see what the situation looks like.’

During discussions regarding convening a Special Session on Darfur, Sudan again alleged that it was being singled out and treated unfairly, for example saying ‘there are violations in many parts of the world . . . the question of Darfur is different to other situations, because it is highly and heavily politicized . . . we were not able to change this.’

Sudan’s attempts to present a positive image included assuring the Council that the ‘[peace] agreement has led to very positive developments’, and asserting that ‘those responsible [for attacks] are those who have not signed the peace agreement’.

Sudan again showed its ties with the African Union, saying,

The African Union has stated, and it is the most credible, that the security situation has improved . . . [there have been] improved levels of nutrition . . . internally displaced persons have better access to water than others in Darfur . . . [there has been] improvement in the rates of child deaths . . . [and has been] tribal reconciliation.

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57 *Id.*
58 *Id.*
59 *Id.*
60 Sudanese delegate, 1 December 2006, general discussion on other issues
61 *Id.*
62 Sudanese delegate, supra n.56.
63 *Id.*
This information contradicted independent NGO reports from this time.\(^6^4\)

### 2.2.2 The African Group

Following the High Commissioner’s speech, the sole focus of the African Group’s statement was to complain that five paragraphs of the aforementioned speech had been dedicated to Darfur as compared with one paragraph on Iraq. The High Commissioner was accused of bias and selectivity,\(^6^5\) and the worsening of the Sudanese crisis was blamed on the ‘politicisation’ of the situation. Algeria, on behalf of the African Group, asserted that the Sudanese government was co-operating with the ICC, and that security was improving in the region; developments which Algeria said were yet to be recognised by the Council or the OHCHR - which the African Group alleged was unfair\(^6^6\) and biased against the government.\(^6^7\)

The African Group and its members mostly remained silent during the calls for a Special Session on Darfur. However, Algeria did strongly oppose Canada’s

\(^6^4\) For example, Amnesty reported that “The Gereida region was insecure throughout 2006, with scores of villages destroyed in attacks by Janjawid or other armed groups. Some 80,000 people fled the camp for Internally Displaced Persons (IDP) in Gereida after fighting between forces of the SLA Minawi faction and the Justice and Equality Movement in October.” Amnesty International Report 2007, p.244.

\(^6^5\) In fact, the High Commissioner said in her response that the reason for doing so was due to the situation in Iraq having been the subject of 8 reports between 2004-2006. This was a direct result of the Human Rights Office within the UN Assistance Mission in Iraq being established in 2004. For reports see, United Nations Human Rights: Office of the High Commissioner for Human Rights, ‘UNAMI Human Rights Reports’, in Countries: Iraq, http://www.ohchr.org/EN/Countries/MENARegion/Pages/UNAMIHRReports.aspx (last visited 27 August 2009).

\(^6^6\) “The meeting on the 12\(^{th}\) of November welcomed information that the security situation in Sudan is improving… encouraged by outcome of high level consultation on the 16\(^{th}\) of November….”, Algerian delegate, 3\(^{rd}\), 29 November 2006, in response to the High Commissioner.

\(^6^7\) “The alleged links between the government and the militias referred to by the High Commissioner have yet to be documented in an objective way”, Algerian delegate, 3\(^{rd}\) Session, 29 November 2006, in response to the High Commissioner.
proposals regarding the Special Session, alleging that strict procedural rules would hinder the Council in terms of addressing substantive issues in a flexible manner. It went on to state, ‘The Council must make sure that we do replicate the model of the three previous sessions . . . [to] avoid the impression that there is selectivity, politicization and a particular desire to attack a particular State that is a member of the African Group.’

2.2.3 The OIC

The OIC and its individual members also remained silent during both the discussion of the High Commissioner’s report and the calls for a Special Session. This was at least partially due to the High Commissioner’s speech mentioning the situation in the Occupied Palestinian Territories, which subsequently became the focus of almost all OIC members’ statements.

2.2.4 The EU

Finland spoke on behalf of the EU, condemning the situation in Darfur and calling on the Council to convene a Special Session and to take action. It declared,

Acts of violence against vulnerable groups in Darfur, especially against children, must stop. Ethnically targeted violence against women and children, especially against internally displaced persons, must stop . . . put an end to impunity . . . [the Council must] exercise responsibility to adequately address the situation in Darfur.

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68 Algerian delegate, Organisational Meeting, 7 December 2006.
69 See, for example, the delegates of Pakistan, Morocco, Bahrain, Bangladesh, Tunisia, and others, 3rd Session, 29 November 2006.
70 Finnish delegate, 3rd Session, 1 December 2006, general discussion on other issues.
The EU did not explicitly criticise the Sudanese government, although some of its members did do so in their individual statements.\textsuperscript{71}

\textbf{2.2.5 Canada}

Canada argued that setting procedural rules would enable the Special Session to be as effective as possible. It suggested that 4 working days should pass between the end of the regular Session and the beginning of the Special Session, thus ensuring adequate preparation time for all delegations. Canada asked the OHCHR to provide background information on Darfur from a variety of different UN sources. After these proposals were opposed by a number of States,\textsuperscript{72} Canada explained that the aim was not to restrict nor set limits and that its suggestions would merely be guidelines in terms of ground rules. Canada expressed the hope that the Council's work be directed towards making changes on the ground, and that it should not become a political chamber.

\textbf{2.2.6 Other States}

During the discussions on 29 November the Council was urged by a number of States not to focus all of its attention on one region alone. Australia reiterated that ‘there are more situations than just the Middle East that have to be addressed [by the Council]’,\textsuperscript{73} the United Kingdom called for equal attention to be paid to the crisis in

\textsuperscript{71} For example, “[e]ven if all parties are guilty of serious breaches of international law, responsibility lies with the government”, Swedish delegate, 3\textsuperscript{rd} Session, 29 November 2006, in response to the High Commissioner.

\textsuperscript{72} See discussion regarding convening a Special Session on Darfur, including: Algeria’s objections, 3\textsuperscript{rd} Session, 30 November 2006; Cuba opposed Canada’s proposal, arguing that the session was of such urgency that it could not wait for another 4 working days to pass, 3\textsuperscript{rd} Session 30 November 2006; The Philippines said that the 9 proposed procedural points were excessive, 3\textsuperscript{rd} Session, 30 November 2006; Brazil concurred, saying that such a “heavy instrument” was unnecessary, 3\textsuperscript{rd} Session, 30 November 2006.

\textsuperscript{73} Australian delegate, 3\textsuperscript{rd} Session, 29 November 2006, in response to the High Commissioner.
Darfur as the Council had already devoted to the Middle East, and Chile also called on the Council to ‘not forget that human rights are universal’.  

2.3 Special Session on Darfur

The Special Session on Darfur took place over two days, with a general discussion on the opening day of the Session followed by NGO statements and a vote on the Resolution (see section x) on the second day. The Session opened with a video address by the Secretary-General and a speech by the High Commissioner, both of which deplored the conditions in Darfur and called on the Council to send a clear message to the victims that change would occur. Representatives of a number of agencies delivered statements, including Jan Egeland - the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator - who accused the government of Sudan of ‘allowing more freedom to those committing atrocities than those there to protect.’ Several elements of UNICEF’s intervention directly contradicted claims made by Sudan at the Session, especially with regard to malnutrition, food insecurity, and violence against women and children.

NGO contributions at the Special Session followed similar patterns to the regional alliances. Human Rights Watch spoke about the failures of the

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74 Chilean delegate, 3rd Session, 29 November 2006, in response to the High Commissioner.
75 12-13 December 2006.
76 Secretary-General Kofi Anan, Address to the Human Rights Council, 4th Special Session, 12 December 2006.
78 See, for example, UNHCR statement, 4th Special Session, 12 December 2006.
79 Written statement of Jan Egeland, read by the representative of OCHA, 4th Special Session, 12 December 2006.
81 NGO statements were given on 13 December 2006.
government of Sudan, accusing it of arming the militias and denying the factual records on the ground. Amnesty\textsuperscript{83} read testimony sent from an individual in Darfur, while Nord Sud XXI\textsuperscript{84} brought a Darfuri as their speaker and criticised the OIC for denying the facts of Sudan’s participation in the ongoing violations. The Lutheran World Federation\textsuperscript{85} made neutral comments and did not criticise Sudan, whilst the


\textsuperscript{84} Nord Sud XXI is an NGO which “strives to support the work of the United Nations in the fields of human rights and development by providing a voice for concerns of individuals in the southern hemisphere” and is strongly anti-war. Its founders include Mr. Ahmed Ben Bella, the first President of Algeria, Mr. Nelson Mandela, the first President of South Africa after apartheid, and Mr. Ramsey Clark, a former US Attorney General and leading human rights lawyer. See, generally, Nord-Sud XXI, ‘Darfur’, \url{http://nordsud21.ch/Darfour.htm} (last visited 27 August 2009).

\textsuperscript{85} The Lutheran World Federation provides relief and education in developing countries. See, generally, The Lutheran World Federation, \url{http://www.lutheranworld.org/} (last visited 27 August 2009).
Union des Juristes Arabes\textsuperscript{86} and Tupaj Amaru\textsuperscript{87} moved the focus away from Darfur and onto Israel,\textsuperscript{88} which bore striking similarities to tactics used by the OIC.\textsuperscript{89}

2.3.1 Sudan

Sudan’s comments\textsuperscript{90} were divided into three categories; its efforts to curb human rights violations and calls for assistance to continue to do so, the inaccuracy of reporting on Darfur, and the alleged bias and politicisation against the government.

Sudan cited numerous statistics, many of which it claimed had been documented by the African Union, as proof that the conflict in Darfur was ‘tribal struggles’ that the ‘government is aware of and settling through agreements’. It asserted that it was actively working to protect its citizens, and that rebel groups which hadn’t signed the

\textsuperscript{86} ‘The Union of Arab Jurists, founded in 1975, is an international organization that aims to bring together associations of practicing lawyers and other members of the legal community in the Arab world to promote the rule of law.’ See, generally, Arab Inter-Parliamentary Union, [http://www.arab-ipu.org/english/](http://www.arab-ipu.org/english/) (last visited 27 August 2009).

\textsuperscript{87} Tupaj Amaru is an NGO which advocates for the rights of indigenous populations of the Americas known for its anti-West stance. It had its consultative status suspended for a year in 2004 when at the “fifty-ninth session of the Commission on Human Rights in 2003, two representatives of the organization had rushed towards [USA’s] delegation carrying a large cylindrical object, had unfurled a banner and had chanted anti-American slogans.” See, generally, Tupaj Amaru, [http://www.pusinsuyu.com/english/html/tupaj_amaru_english.html](http://www.pusinsuyu.com/english/html/tupaj_amaru_english.html) (last visited 27 August 2009).

\textsuperscript{88} Union des Juristes Arabes suggested that international interests in Darfur were due to oil, minerals and colonial intentions, and said that the West didn’t really want democracy because “it responded to democracy in Palestine with a siege against the Palestinian people.”

Tupaj Amaru said that the solution to the crisis in Darfur required the political will of the government of Iran – which gives some indication of their desire to echo Iran’s focus on Israel at this Session - and that Western powers were solely responsible for the conflict in Darfur.

\textsuperscript{89} See section 4.2 (below), especially the contributions of Iran and Palestine.

\textsuperscript{90} All comments made by the Sudanese delegate, 4\textsuperscript{th} Special Session, 12 December 2006.
Darfur Peace Agreement were committing atrocities such as recruiting children, raping women and mass killings.

Sudan repeatedly alleged that information presented to the Council, and also apparent in the Western media, was inaccurate. Sudan accused Western states of attempting ‘to undermine the dignity and sovereignty of weak states.’ It questioned the motives of some States who called for the Special Session, alleging that this was a tactic to divert attention away from atrocities being committed by the West in Iraq and elsewhere.91 Sudan emphasised its regional alliances, emphasising that ‘we have chosen to belong to the African community, the Arab community, and the Islamic community’, and having done so Sudan expressed the differences it saw between Western and other States, saying ‘we distinguish between genuine concerns for human rights, and ideological and political drives pushed by countries and organisations that control power, wealth and media.’

Alongside alleging that the West and the media were partial and unfair, Sudan accused the High Commissioner of being ‘clearly biased’, citing her focus on Sudan at the 3rd Session as evidence, before saying ‘the High Commissioner has adopted an unprofessional position . . . [she] is partial to opinions of certain countries.’

2.3.2 The African Group

Algeria, on behalf of the African Group, supported Sudan’s assertions. It criticised the Western media for trying to ‘undermine the sovereignty of an African government’,92 later emphasising this position by stating, ‘We are gathered to make an objective

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91 “[the West] seeks to divert attention from cities air bombard ed where every morning more than 400 people die. Also attempts to divert attention from agony of people under occupation, detainees under secret detention, here in Europe, without anyone doing anything about it.” Sudanese delegate, 4th Special Session, 12 December 2006.

92 All comments made by the Algerian delegate, 4th Special Session, 12 December 2006.
diagnosis for an appropriate road map. We must be driven by facts obtained on the
ground, not simply by media-driven interpretations as a heavy-handed response aimed
at naming and shaming an African government.’

Algeria also expressed the opinion that the Special Session was being used for
political purposes, including diverting attention away from Iraq, for example saying,
‘human rights protection was more needed in Africa than any other continent during
the slave trade . . . . Today, [the human rights situation in Africa] pales in comparison
with Iraq [where there are] hundreds of thousands of deaths’.

The African Union alleged that facts had been misrepresented to the Council,
saying,

[there have been] far-reaching propaganda campaigns where human
rights situations are politicised . . . . Thus, one major first-world
NGO calls this an “apocalyptic conflict where an Arab government
with its militia attacks non-Arab tribes” . . . . [However] the
Chairman of Commission of the African Union says that the
situation is “improving slightly in some parts while deteriorating in
others”.

Algeria spoke of the need to ‘find out first-hand what the facts really are’ in order for
innovative solutions rather than ‘just maintaining the status quo’, something which the
African Group stressed was ‘not an option’.

2.3.3 The OIC

Pakistan, on behalf of the OIC, commended the Sudanese government for its
cooperation, its efforts and the information provided, even asserting that ‘no
government has been more forthcoming than Sudan’. It said that other parties to the conflict bore responsibility for the violence and atrocities, and called for further funds and assistance in the region. The OIC called for the outcomes of the Session to ‘not be one-sided’ against the Sudanese government.

The OIC shifted the focus from Darfur and onto the Middle East. Pakistan criticised Kofi Annan, alleging that his call for the Council to address problems outside of the Middle East was a ‘tit for tat’ approach. Pakistan enquired why the Secretary-General had not spoken at the previous Special Sessions, at one point asking ‘were the situations in Gaza or Lebanon not worthy of a message from the Secretary-General?’

2.3.4 The EU

The EU reiterated some points which had already been presented to the Council. It spoke of a ‘grave crisis’, of which the ‘magnitude is profoundly shocking’, before citing numbers including ‘more than 200,000 dead’ and ‘2 million who have left their homes’. Finland, speaking on its behalf, called on the Council to act by saying ‘an assessment mission should be sent to Darfur…including the Special Rapporteur… the mission should build on OHCHR experience, and recommendations should be given to Sudan on how to implement proposals’.

The EU did not explicitly criticise Sudan, but did express the need for the Sudanese government to take action to change the situation in Darfur. It emphasised that ‘the cooperation of the government of Sudan is essential . . . . We call on Sudan

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93 All comments made by the Pakistani delegate, 4th Special Session, 12 December 2006.

94 All comments made by the Finnish delegate, 4th Special Session, 12 December 2006.
to cooperate with follow-up mechanisms . . . We appeal to all of you to cooperate [on behalf of] the people of Darfur’.

2.3.5 Canada

Canada emphasised why the Special Session had been convened, noting that ‘it is high time that the Council acts in accordance with its mandate’ of promoting and protecting human rights.\(^95\) It said of the international community’s duties,

we are here to signal that we haven’t forgotten the people of Darfur . . . to show that the international community is ready to act . . . the international community must do all that it can to provide protection . . . the international community must do the monitoring, provide technical assistance for human rights education.

When speaking about solutions for the situation, Canada expressed ‘support [for] the decision for an independent human rights assessment mission with suitable expertise to provide recommendations on practical short-term actions to improve the situation.’ Canada further said that ‘[we are here] to remind the government of Sudan that it has primary responsibility to protect this region’, before calling on ‘all parties to implement recommendations . . . and resolutions.’

2.3.6 Other States

Zambia, once again, took a different position to the African Group, speaking out forcefully against ‘burying our heads in the ground’.\(^96\) It accused other African

\(^95\) Canadian delegate, 4th Special Session, 12 December 2006.

\(^96\) Zambian delegate, 4th Special Session, 12 December 2006.
governments of previously taking an ostrich approach to the atrocities in Rwanda and of again doing so regarding Darfur. Zambia criticised other African states for being quick to call for UN action outside of Africa, but being much slower to respond to problems occurring within their continent. On the other hand, despite its democratic tendencies, South Africa’s statement neither criticised Sudan nor departed from the African Group’s sentiments.

The Netherlands notably spoke particularly strongly, repeatedly blaming the Sudanese government for the violations in Darfur as well as accusing it of lying to the Council. Some GRULAC states spoke strongly in support of the High Commissioner, especially after many of the OIC countries had strongly criticised her, and Armenia opined that doubting UN sources’ credibility was akin to ‘questioning the integrity of the UN’.

2.4 The Fourth Session

Despite institution building being the primary focus of the Fourth Session, Darfur was extensively discussed during the High Level Segment and was raised critically as an example of non-implementation of Council Decisions. Darfur was also spoken about in response to reports by the Representative of the Secretary-General on Internally Displaced Persons (Walter Kalin) and the Council-appointed Special

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97 Dutch delegate, 4th Special Session, 12 December 2006.
98 See, for example, Uruguayan and Argentine delegates, 4th Special Session, 12 December 2006.
99 Armenian delegate, 4th Special Session, 12 December 2006.
100 12-30 March 2007.
101 See, eg; Lithuanian delegate, 4th Session, 14 March 2008, High Level Segment.
102 See, eg, Canadian delegate, 4th Session, 21 March 2007, in response to Kalin, Representative of the Secretary-General on Internally Displaced Persons.
Rapporteur on Violence against Women\textsuperscript{103} (Yakin Erturk), as well as in the High Commissioner’s report\textsuperscript{104} which noted increased levels of violence. States, NGOs, and agencies called for increased international presence, stressing the necessity of such action in order for civilians to be best protected.

Similar themes were apparent in the report of the Mission to Sudan which spoke of the ‘pattern of counter insurgency by the government and the Janjawid militia’,\textsuperscript{105} and described grave and systematic human rights abuses. The report noted that ‘the region is a stranger to the rule of law’ and that as the ‘conflict continues, abuse feeds on abuse’.\textsuperscript{106} It strongly condemned human rights violations, calling on the international community to ‘take urgent action to ensure effective protection [of civilians]’.\textsuperscript{107} Its recommendations included; the deployment of a UN peacekeeping force, independent monitoring of the situation, and international prosecution of Sudanese war criminals – none of which had previously been implemented effectively.

\subsection*{2.4.1 Sudan}

Sudan repeated its usual pattern of comments in responding to the issues raised at this session. It again spoke of its willingness to protect human rights and its efforts to do so, for example saying ‘we showed unprecedented cooperation and flexibility, and believed that would be sufficient to help the international community help us to

\textsuperscript{103} See, eg, Maltese delegate, 4\textsuperscript{th} Session, 22 March 2007, in response to Ertuk, Special Rapporteur on Violence Against Women.

\textsuperscript{104} Oral intervention of High Commissioner Louise Arbour, 4\textsuperscript{th} Session, 14 March 2007.

\textsuperscript{105} Oral intervention of Jody Williams on behalf of the Mission to Sudan, 4\textsuperscript{th} Session, 16 March 2007.

\textsuperscript{106} \textit{Id.}

\textsuperscript{107} \textit{Id.}
achieve peace.108 These comments were made despite the fact that it had denied entry to the Mission on Sudan, an incident over which Sudan protested innocence by claiming that it merely denied a visa to one member of the mission.

Sudan also spoke about the Council’s ‘ politicisation’ of the situation, on one occasion urging the Council not to repeat the ‘politically-motivated naming and shaming’ of its predecessor,109 and on another speaking about how the Council was created ‘to move away from selectivity and double standards [yet] today we witness a conspiracy against Sudan for political objectives’.110

Sudan again expressed reservations about the impartiality of various UN employees, in particular questioning the neutrality of the fact-finding mission.111 It also queried the impartiality of the OHCHR, specifically questioning the validity of the recommendation for an international presence in the region.112 Sudan condemned the ‘faulty report’113 of the Mission to Sudan, as well as alleging that various findings of the mission were either exaggerated or false.114

2.4.2 The African Group

The African Group refused to accept the legitimacy of the Mission because it had not entered Sudan, and because its report was written whilst the Mission was in

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110 Sudanese delegate, supra n.108.

111 “…reservations towards the head of the [fact-finding] mission. That person was from a country known for having a hostile position regarding Sudan. The subsequent behaviour of the mission’s head confirmed that our fears were correct…” Sudanese delegate, 4th Session, 13 March 2008, High Level Segment.


113 Sudanese delegate, supra n.108.

114 Id.
neighbouring countries. It opined ‘the assessment is incomplete and the needs of Sudan were never fulfilled.’

Despite expressing concerns about ‘the gravity of the situation’, Algeria said that there had been ‘progress in the situation of human rights in Darfur’. The African Group reiterated its support for the government, saying ‘we welcome the commitment of Sudan’s government to cooperate with international support . . . [and] continuing to permit humanitarian support for people in Darfur.’

2.4.3 The OIC

Pakistan agreed with the African Group’s positions, saying that the OIC was ‘unable to comment on the substance of the report’ of the Mission due to it not having entered Sudan in order to fulfil its mandate. It further opined that ‘the concept of the responsibility to protect was not reflected’ by the Mission, and that its report ‘has multiple political and security dimensions that go beyond its mandate.’ The OIC expressed support for Sudan in this respect, saying,

The government was asked to continue and intensify its cooperation…the Council must build on that . . . there should be no selectivity and targeting…the interests of the Sudanese people are not served by a list of recommendations. The situation can only be improved by the government of Sudan and the assistance of the international community.

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115 Algerian delegate, 4th Session, 16 March 2007, in response to Williams, representative of Mission to Sudan.

116 Id.


118 Id.
2.4.4 The EU

The EU criticised Sudan for its role in denying the Mission access to the country. It reminded the Council that the Special Session had been held ‘because of the extreme seriousness of the human rights situation in Darfur’¹¹⁹ and that ‘the government of Sudan welcomed the Decisions’ made at that session. The EU said that this made it even more regrettable that ‘the government did not extend that cooperation to the Mission’.

Germany further set out the EU’s position on this issue, saying ‘the legitimacy of the mission is not in question, because it fulfilled its mandate and provided a good report’. The report’s findings were emphasised, including that government troops were committing violations in Darfur. It used the report to call for further action to be taken by the government, the Council and the international community to cease the ongoing human rights violations.

2.4.5 Canada

Canada voiced support for the Mission and its report, and also expressed strong concerns about the Sudanese government, for example saying ‘Canada had welcomed the commitment by the government to cooperate . . . but regrets that the mission was not allowed into Sudan’.¹²⁰

After expressing concerns about the ongoing violations, Canada stated that ‘the international community must act when a country is unwilling or unable to do so’, before saying ‘we call on the government of Sudan to abide by its obligations under

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¹¹⁹ German delegate, 4th Session, 16 March 2007, in response to Williams, representative of Mission to Sudan.

¹²⁰ Canadian delegate, 4th Session, 16 March 2007, in response to Williams, representative of Mission to Sudan.
international law . . . We call on the government of Sudan to establish independent, national human rights institutions.\textsuperscript{121}

2.4.6 Other States

Botswana was a notable exception to the general African silence regarding Sudan at the High Level Segment, telling the Council of their peacekeeping contribution, and expressing concern about the ‘suffering of internally displaced persons and refugees’ in the region.\textsuperscript{122} Ghana also broke regional alliances, this time during the discussion on the Mission to Sudan, saying ‘the situation in Sudan needs urgent attention… concerning the promotion and protection of human rights. The report by Jody Williams underlies the need for urgent action’.\textsuperscript{123}

Ireland,\textsuperscript{124} an observer at the Council, expressed grave concerns regarding the situation, saying that the mission’s findings were a ‘badge of shame for the international community’ and ‘urge[d] the Council to act consensually to adopt the conclusions of the mission’. They were careful to point out that they had ‘no strategic interest in Sudan’ nor ‘[any] motive to stand up for Darfur’ other than the desire to ‘promote human rights’. This was a direct reference to an earlier accusation that the Western interest in this region was motivated by oil.\textsuperscript{125}

2.5 The Fifth Session

\textsuperscript{121} Id.

\textsuperscript{122} Botswana delegate, 4\textsuperscript{th} Session, 13 March 2007, High Level Segment.

\textsuperscript{123} Ghana delegate, 4\textsuperscript{th} Session, 16 March 2007, in response to Williams, representative of Mission to Sudan.

\textsuperscript{124} Irish Minister for Human Rights, 4\textsuperscript{th} Session, 14 March 2007, High Level Segment.

\textsuperscript{125} Palestinian delegate, 4\textsuperscript{th} Session, 16 March 2007, in response to Williams, representative of Mission to Sudan.
The situation in Darfur was raised at the Fifth Session\textsuperscript{126} by the Special Rapporteur on the Right to Food\textsuperscript{127} and the Independent Expert on Extreme Poverty.\textsuperscript{128} The Special Rapporteur on Sudan\textsuperscript{129} presented a report and made a number of recommendations. Darfur was also mentioned during the report on the situation in Israel and the Occupied Palestinian Territories in terms of the universality of human rights, with the head of the mission\textsuperscript{130} saying ‘it is important that this Council has sought to investigate the situation in Darfur’.

\textbf{2.5.1 Sudan}

Sudan denounced the Special Rapporteur on Food’s report, asserting that there were factual inaccuracies, and stating that humanitarian food aid was being blocked by those parties to the conflict who had not signed the Peace Agreement.\textsuperscript{131} Sudan also blamed militia groups - especially the Janjawid - for causing the problems set out in the session. It strongly denied any governmental responsibility for the social exclusion and the impeding of Darfuris’ ability ‘to enjoy the essential freedoms in life’.\textsuperscript{132} Sudan again asked for international support, for example saying ‘the government of Sudan asks this Council to call on the United Nations . . . to provide us with aid’.\textsuperscript{133}

\begin{itemize}
 \item \textsuperscript{126} 11-18 June 2007.
 \item \textsuperscript{127} Oral intervention of Jean Ziegler, Special Rapporteur on the Right to Food, 5\textsuperscript{th} Session, 11 June 2007.
 \item \textsuperscript{128} Oral intervention of Arjun Sengupta, Independent Expert on Extreme Poverty, 5\textsuperscript{th} Session, 11 June 2007.
 \item \textsuperscript{129} Oral intervention of Sima Samar, Special Rapporteur on Sudan, 5\textsuperscript{th} Session, 13 June 2007.
 \item \textsuperscript{130} Oral intervention of Desmond Tutu, Mission to Israel and the Occupied Palestinian Territories, 5\textsuperscript{th} Session, 13 June 2007.
 \item \textsuperscript{131} Sudanese delegate, 5\textsuperscript{th} Session, 11 June 2007, in response to Ziegler, Special Rapporteur on the Right to Food.
 \item \textsuperscript{132} Arjun Sengupta, Independent Expert on Extreme Poverty, 5\textsuperscript{th} Session, 11 June 2007.
 \item \textsuperscript{133} Sudanese delegate, supra n.131.
\end{itemize}
Sudan reiterated their ‘commitment to cooperate with the Council and the Group of Experts’, emphasising their alleged efforts to improve the situation in the region before again requesting assistance in doing so, expressing that ‘the United Nations and the international community must render support to Sudan for an action plan to deal with Darfur’.\footnote{Sudanese delegate, 5\textsuperscript{th} Session, 13 June 2007, in response to Samar, Special Rapporteur on Sudan.}

\subsection*{2.5.2 The African Group}
Algeria repeated the usual support for the Sudanese government, and praised its efforts and cooperation, for example by saying ‘the dialogue between Sudan and the Group of Experts was open and frank’.\footnote{Algerian delegate, 5\textsuperscript{th} Session, 13 June 2007, in response to Samar, Special Rapporteur on Sudan.} The African Group supported the recommendations made by the Group of Experts, and expressed that, thus far, it had been successful, saying,

\begin{quote}
We particularly [welcome] the consultation that went on between the Group of Experts and the regional groups . . . . This Group made a selection of various recommendations that fall within responsibility of this council…They also established a timeframe in terms of short and long term action . . . . The African group has been involved in addressing Darfur at the level of the Council . . . . I am confident that we will achieve yet another consensus in terms of this very delicate issue . . . . What is important is the consensus on the ground.\footnote{Id.}
\end{quote}
Furthermore, in picking up on comments by Desmond Tutu, the African Group said, ‘today I have the pleasure of knowing that we have moved forward in Darfur…I just pray and hope that the progress we are making continues’.  

2.5.3 The OIC

Pakistan also had a positive view of the Group of Experts and Sudan’s cooperation with it, saying,

The work in this area shows how cooperation leads to results . . . .

The government of Sudan has worked well with the UN to implement the existing resolutions . . . . We support the recommendation that the experts continue their work for another fixed period of time . . . . We appreciate having a focal point to coordinate assistance to Sudan.  

2.5.4 The EU

Germany, on behalf of the EU, questioned the usefulness of the report, saying; that the members of the Council ‘all know of the problems in Darfur’, and that rather than giving new recommendations the Council should be trying to ensure that existing ones are implemented. The EU’s position was that ‘it is essential that we actually change the situation on the ground . . . because as we consider the report, the violence goes on’.  

\[\text{\textsuperscript{137}}\text{Id.}\]

\[\text{\textsuperscript{138}}\text{Pakistani delegate, 5th Session, 13 June 2007, in response to Samar, Special Rapporteur on Sudan.}\]

\[\text{\textsuperscript{139}}\text{German delegate, 5th Session, 13 June 2007, in response to Samar, Special Rapporteur on Sudan.}\]
Germany response to Ziegler’s\textsuperscript{140} report condemned the Sudanese government for its role, and criticised the lack of access to food in Darfur as well as the use of food and water as a political tool in the region.\textsuperscript{141}

\textbf{2.5.5 Canada}

Canada expressed a more positive view of Samar’s report than that of the EU, saying;

We welcome the report . . . . We believe after this report that the government of Sudan can now show its commitment to human rights . . . . We welcome the dialogue that has taken place between Sudan and the international community, and we note that all parties, including rebel groups and regional neighbours, should be involved.\textsuperscript{142}

However, Canada did speak of the ongoing violations in Darfur and the need to deal with this situation, saying that ‘since March 2007, there has been tremendous sexual violence in Darfur . . . . Humanitarian assistance is compromised by all parties to the conflict . . . . We call on all parties to bring the violence to an immediate halt’.\textsuperscript{143}

Whilst noting some improvements, Canada reiterated its usual position that the international community ‘needs to do better to help the people of Darfur . . . . We can start by implementing these recommendations’.\textsuperscript{144}

\textbf{2.5.6 Other States}

\textsuperscript{140} Supra n.127

\textsuperscript{141} German delegate, 5\textsuperscript{th} Session, 12 June 2007, in response to Ziegler, Special Rapporteur on the Right to Food.

\textsuperscript{142} Canadian delegate, 5\textsuperscript{th} Session, 13 June 2007, in response to Samar, Special Rapporteur on Sudan.

\textsuperscript{143} \textit{Id.}

\textsuperscript{144} \textit{Id.}
Most countries used the discussions to reiterate their previous positions on the situation, but there were a few statements of particular interest. Central African Republic, a neighbour of Sudan affected by the conflict, broke regional trends in condemning the situation, Darfur, after the two world wars, is the worst humanitarian disaster the world has witnessed. It is a shame for all mankind. Failing to have dealt with Darfur has encouraged the abuse of human rights around the world. We must stop this catastrophe and protect the fundamental rights that the people of Sudan are entitled to.\textsuperscript{145}

The United States called for sanctions to be imposed against Sudan\textsuperscript{146} in order to encourage the government to fulfil its international obligations and cooperate fully.

China again expressed the opinion that poverty was the fundamental problem in Darfur, saying that the economic and social issues which contributed to the situation had to be addressed.\textsuperscript{147} Syria brought up the politicisation of the conflict, declaring that,

[alongside] other countries, we are concerned with the politicisation of the situation in Darfur with external parties exploiting the

\textsuperscript{145} Central African Republic delegate, 5\textsuperscript{th} Session, 13 June 2007, in response to Samar, Special Rapporteur on Sudan.

\textsuperscript{146} “This Council has yet to adequately address the human rights violations in Sudan. The targeting of women and children remain a grave concern…The US has imposed sanctions on Sudan to bring about a peaceful resolution to this conflict. We wish to end the suffering of millions of Sudanese. We would welcome other countries to join us. At the Security Council the US is working on a resolution to widen sanctions against Sudan. We call on Sudan to disarm the Janjaweed, demonstrate commitment to peace, cease aerial bombardments, stop obstructions and allow peacekeepers and humanitarian workers access to internally displaced persons’ camps.” American delegate, 5\textsuperscript{th} Session, 13 June 2007, in response to Samar, Special Rapporteur on Sudan.

\textsuperscript{147} “The fundamental problem is poverty…we must address the economic and social issues that contribute [to the conflict]”. Chinese delegate, 5\textsuperscript{th} Session, 13 June 2007, in response to Samar, Special Rapporteur on Sudan.
situation to achieve their own objectives, particularly in oil. There
will be no improvement until there is an end to external
interference.  

2.6 The Sixth Session

Having postponed its follow-up at the Fifth Session, the Council heard an update from
the Group of Experts during the Sixth Session. The government of Sudan was
urged to co-operate with the group and to implement its recommendations, and the
situation in Darfur was, again, raised a number of times during general debates at this
Session. The first day of the resumed Sixth Session coincided with the 60th
anniversary of the Universal Declaration on Human Rights. The report of the High
Commissioner spoke of ‘grave violations’ in Sudan since September, saying that
‘more needs to be done by the government in Khartoum and the international
community to ensure protection for civilians’, and that the ‘rule of law needs to be
strengthened, especially in Darfur where lawlessness abounds’.

At the resumed Sixth Session, the Chair of the Group of Experts presented its
final report. The Group stressed Sudan’s ‘primary duty to respect human rights and

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153 Id.
155 ‘Final report on the situation of human rights in Darfur prepared by the United Nations Experts Group on
Darfur’, A/HRC/6/19.
to comply with international obligations’, and expressed continuing concerns about lack of governmental action. The Sudanese government’s ‘cooperative behaviour’ in certain regards was noted, but Samar then opined,

   In terms of substance, not much impact has occurred [since the Group of Experts was set up] . . . . A lot of the recommendations made could have been implemented in a few months with minimal cost [but this has not occurred] . . . . The Group remains concerned that efforts have not led to improvement of the human rights situation in Darfur.\textsuperscript{156}

2.6.1 Sudan

In a statement on Human Rights Day, Sudan described the situation in Darfur as ‘a difficult period in Sudan’s history.’\textsuperscript{157} However, it reiterated its commitment to improving the situation, assuring the Council that ‘no efforts have been spared by Sudan to ensure human rights in the country’.\textsuperscript{158}

   Sudan continued to take this position during the Session, alleging its firm commitment to the implementation of resolutions and trying to convince the Council that it had recently undertaken activities complying with the recommendations. Similarly, Sudan’s response to the High Commissioner asserted that the regime ‘respects all conventions of human rights’ before alleging that the government ‘promotes human rights protection [in Darfur]’.\textsuperscript{159}

\textsuperscript{156} Supra n.154.

\textsuperscript{157} Sudanese delegate, 6\textsuperscript{th} Session, 10 December 2007, general discussion on ‘Human Rights Day’.

\textsuperscript{158} Sudanese delegate, 6\textsuperscript{th} Session, 11 December 2007, in response to Samar, Chair of Group of Experts.

\textsuperscript{159} Sudanese delegate, 6\textsuperscript{th} Session, 11 December 2007, in response to the High Commissioner.
Sudan responded to Samar’s report in a similar manner, again trying to assure the Council of its ‘cooperation with the Human Rights Council, Special Rapporteur and Group of Experts [which] has given the fledgling Council the chance of credibility.’ These comments were made despite reports of worsening conditions and ongoing violations at this time.

Sudan also repeated others of its typical positions, for example calling on the Council to ensure that it did not have ‘double standards or selectivity when it comes to protecting vulnerable groups and promoting human rights’.

Sudan also repeated its request for assistance: Whilst arguing that ‘the situation in Darfur is improving’, Sudan accepted that ‘many factors exert influence on the situation’ and asked the international community ‘to help us try to find solutions’.

2.6.2 The African Group

The African Group spoke about the ‘positive developments and improvements’ in Darfur and attributed these to ‘the strong will of the government of Sudan to improve the situation’.

Egypt, again, commended ‘the high level of cooperation shown by the government of Sudan’.

At the resumed Session, Egypt repeated this position, saying,

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160 Sudanese delegate supra n.158.

161 For example, Amnesty said; “As a result of attacks, particularly by government and paramilitary groups, some 280,000 people were displaced bringing the number of displaced in Darfur to more than 2,387,000.” Amnesty International Report 2008.

162 Sudanese delegate supra n.158.

163 Sudanese delegate supra n.159.

164 Egyptian delegate, 6th Session, 24 September 2007, in response to Kalin, on behalf of the Group of Experts.

165 Id.
We had hoped that the High Commissioner would acknowledge the efforts of the Sudanese government to improve the situation on the ground, as noted by the Expert Group on Darfur. The Sudanese authorities have taken tangible steps to improve the situation on the ground.166

Egypt asserted that the international community ‘has failed to truly assist’ Sudan and the Darfur region, a position which ignored the Sudanese government’s resistance to various initiatives and Recommendations. Egypt also asserted that the ‘international community and agencies must assist Sudan’.167 These requests were reiterated, with the African Group saying, ‘[w]e call on the OHCHR to continue to provide technical support . . . and we call on the international community to help provide the resources needed to improve the situation’.168

2.6.3 The OIC

The OIC expressly aligned itself with the African Group’s statements on Sudan at this Session. It did not comment extensively on Sudan, expressing the wish to avoid mentioning specific countries during general discussions because of the need to then ‘talk about all the issues’.169

The sole position which the OIC expressed regarding Sudan was to state its ongoing support for the government. Pakistan focussed its comments on the international assistance necessary to enable the government to further deal with the

166 Egyptian delegate, 6th Session, 11 December 2007, in response to the High Commissioner.

167 Egyptian delegate supra n.164.

168 Egyptian delegate supra n.166.

situation in Darfur, for example saying that ‘the Sudanese government’s efforts need concrete support from the international community’. 170

2.6.4 The EU

In response to the Group of Experts, the EU welcomed the ‘great cooperation of the government of Sudan’. However, unlike the African Group, the EU expressed concerns about the continuing situation of human rights in Sudan, saying ‘we urge Sudan to demonstrate its willingness to fight violations of human rights in Darfur and to combat impunity’. 171 Similarly, after the High Commissioner’s report, Portugal voiced the EU’s ‘grave concern over human rights abuses in Darfur’ before calling for an ‘end to impunity’ and for perpetrators to be brought to justice. 172

This acknowledgement of the government’s efforts alongside condemnation of the situation and calls for further changes was repeated after the Group of Experts’ report in December. In this statement, Portugal again urged the Sudanese government to end the human rights violations in Darfur and to fulfil its international obligations. 173

2.6.5 Canada

Canada again took a stronger position than the EU regarding the Sudanese government and the situation in Darfur. Canada spoke of its ‘ongoing concern’ about the continued violence and documented various violations. 174 Canada also expressed

that it was ‘appalled’ at the appointment of Ahmad Mohammed Harun as co-chairman of a national committee charged with addressing human rights violations in Darfur.\textsuperscript{175} The Council was informed that Harun had been formally charged with crimes by the International Criminal Court\textsuperscript{176} and that his appointment ‘casts doubt’ on the government of Sudan’s commitment to improve the human rights situation in Darfur.

In December, Canada stressed that improvements on the ground would only occur if the Group of Expert’s recommendations were implemented. It criticised the government for saying much and doing little, stating ‘we are concerned that the failure to implement many of the recommendations shows that there is rhetoric, but little concrete action’.\textsuperscript{177}

### 2.6.6 Other States

Zambia again broke regional alliances, urging the Sudanese government to cooperate with the Council and the international community in order to ‘improve the human rights situation on the ground’. In expressing its concerns, Zambia said that ‘attacks still continue, which is of great concern because the people of Darfur should be able to have their lives return to normal, and to close the chapter on this issue’.\textsuperscript{178}

Algeria retained its regional alliances despite no longer chairing the African Group. Having congratulated Sudan for its ‘excellent cooperation’, it expressed deep


\textsuperscript{176} See, for example, “In February, the Prosecutor of the International Criminal Court (ICC) presented evidence of war crimes and crimes against humanity in Darfur to the ICC Pre-Trial Chamber against Ahmad Muhammad Harun, former Minister of State for the Interior then Minister of State for Humanitarian Affairs, and Janjawid militia leader Ali Mohammad Ali Abdel-Rahman (Ali Kushayb).” Amnesty International Report 2008.

\textsuperscript{177} Canadian delegate, 6\textsuperscript{th} Session, 11 December 2007, in response to Samar, Chair of Group of Experts.

\textsuperscript{178} Zambian delegate, 6\textsuperscript{th} Session, 11 December 2007, in response to Samar, Chair of the Group of Experts.
alarm at the ‘exaggerated disinformation’ on Darfur, saying that the situation received disproportionate coverage in the media.\textsuperscript{179} Algeria then used an African Group and OIC tactic, shifting the focus away from this region by opining that the Council should instead be discussing the situations in Iraq and Palestine which ‘require specific attention’.\textsuperscript{180}

The USA, an observer State, denounced the poor human rights records in a number of countries including Sudan, and again questioned the relevancy of a body which ignores ongoing human rights abuses.\textsuperscript{181}

\subsection*{2.7 The Seventh Session}

The beginning of the Seventh Session\textsuperscript{182} saw a number of Western states raising the situation in Darfur during the High Level Segment.\textsuperscript{183} The High Commissioner noted the continued and escalating violence in West Darfur during her presentation of the OHCHR Annual Report.\textsuperscript{184} Western States again spoke about Darfur during the general debate on Agenda Item 4.\textsuperscript{185} The report of the Special Rapporteur on Sudan

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\textsuperscript{179} Algerian delegate, 6\textsuperscript{th} Session, 11 December 2007, in response to Samar, Chair of the Group of Experts.
\textsuperscript{180} This despite the Council passing 9 resolutions on Israel as compared with 3 non-condemnatory resolutions on Sudan during the first year of the Council.
\textsuperscript{181} “This council is becoming less and less relevant to the situations that human rights defenders face because it continues to ignore the oppressing situations in many countries”, USA delegate, 6\textsuperscript{th} Session, 24 September 2007, in response to Kalin on behalf of the Group of Experts.
\textsuperscript{182} 3-28 March 2008.
\textsuperscript{183} Including oral interventions of: Switzerland’s Micheline Calmy-Ray, Luxembourg’s Vice Prime Minister Jen Asselborn, and France’s State Secretary for Foreign Affairs and Human Rights Rama Yade, all; 6\textsuperscript{th} Session, 3 March 2008, High Level Segment.
\textsuperscript{184} Oral intervention of High Commissioner, Louise Arbour, 7\textsuperscript{th} Session, 7 March 2008.
\textsuperscript{185} Including delegates of: the Netherlands, Switzerland, Ireland, and Australia, all; 7\textsuperscript{th} Session, 14 March 2008, general debate on Agenda Item 4.
\end{flushleft}
condemned the ‘culture of impunity’ in Sudan, and voiced concerns about the
‘persistent violence, military force, and the government’s failure to protect citizens’ in Darfur.\textsuperscript{186}

\subsection*{2.7.1 Sudan}

Sudan again followed its usual pattern of assuring the Council that the government would ‘continue to cooperate with the Group of Experts and the Special Rapporteur on Sudan’.\textsuperscript{187} It spoke of improvements to the situation in Darfur and initiatives taken by the government, then calling on all parties to the conflict to do the same. Similarly, Sudan’s response to the High Commissioner’s report was to assert that the situation in West Darfur was under control, saying that the government had ‘already put forward the peaceful solution in its right, appropriate way’.\textsuperscript{188}

Sudan took another of its usual positions in alleging that there were factual inaccuracies in the Special Rapporteur on Sudan’s report, saying ‘we believe that the facts of the report are not represented by the facts [on the ground]’.\textsuperscript{189} Sudan said that, in fact, positive improvements had been achieved in the region.

During the High Level Segment, Sudan attempted to shift the focus from its own crisis onto the situation in Israel and the Occupied Palestinian Territories, declaring that,

the entire world is watching with sadness the massacres in the OPT . . . we strongly condemn Israeli aggressions. We call on the Human Rights Council to protect the innocent civilians and children

\begin{thebibliography}{9}
\bibitem{186} Oral intervention of Samar, Special Rapporteur on Sudan, 7\textsuperscript{th} Session, 17 March 2008.
\bibitem{187} Sudanese Minister of Justice, 7\textsuperscript{th} Session, 3 March 2008, High Level Segment.
\bibitem{188} Sudanese delegate, 7\textsuperscript{th} Session, 7 March 2008, response to the High Commissioner.
\bibitem{189} Sudanese delegate, 7\textsuperscript{th} Session, 17 March 2008, in response to Samar, Special Rapporteur on Sudan.
\end{thebibliography}
and women who are being killed on a daily basis and in cold blood.\textsuperscript{190}

It could be argued that this was Sudan’s way of showing their allegiance with the OIC and the Arab Group, as well as diverting attention from the humanitarian crisis on its own soil.

\textbf{2.7.2 The African Group}

The African Group reiterated its ‘appreciation’ for the ‘government of Sudan’ in its efforts and cooperation, citing the Special Rapporteur’s activities across the country as evidence of ‘Sudan’s willingness to comply with the United Nations’. Its speech focussed on the ‘cooperative spirit that has gone on in regards to Sudan’, expressing the hope that this would continue.\textsuperscript{191}

\textbf{2.7.3 The OIC}

Pakistan expressed similar sentiments to the African Group, saying; ‘the Special Rapporteur acknowledged the progress of the Sudanese government . . . they are noteworthy and must be encouraged . . . We appreciate the consistent efforts of the Sudanese government’.\textsuperscript{192}

The OIC also called for further assistance to the region, saying ‘the government requires international support without political qualifications’, a position reiterated in its later calls for ‘support without political criteria’.

\textbf{2.7.4 The EU}

\textsuperscript{190} Sudanese Minister of Justice, 7\textsuperscript{th} Session, 3 March 2008, High Level Segment.

\textsuperscript{191} Egyptian delegate, 7\textsuperscript{th} Session, 17 March 2008, in response to Samar, Special Rapporteur on Sudan.

\textsuperscript{192} Pakistani delegate, 7\textsuperscript{th} Session, 17 March 2008, in response to Samar, Special Rapporteur on Sudan.
During the general debate on Agenda Item 3, the EU deplored the ‘many instances of 
discrimination against lesbian, gay, bisexual and transgender people in Sudan’ as 
well as condemning the renewal of violence in West Darfur. Concerns were also 
raised after the Special Rapporteur on Sudan’s report, with Slovenia asking what 
could be done - amongst other things - to ensure access to humanitarian aid, to bring 
perpetrators to justice, to halt the violence against women, and to protect journalists. 
The EU criticised the Sudanese government for failing to adequately address these 
issues.

2.7.5 Canada

Canada said relatively little in relation to Sudan at this Session. Its primary focus was 
to question the SR on Sudan about the best ways to change the situation on the ground 
in Darfur. In particular, Canada asked ‘how can we [the Council] assist the Special 
Rapporteur to carry out the recommendations in your report?’

2.7.6 Other States

Cuba repeated its previous opinion that ‘all of these scourges were caused by 
colonialism’, although it neither expanded upon nor explained this position. Other 
individual States and Observer Missions commending the Sudanese government at 
this Session included; Palestine, Algeria, Pakistan (on behalf of the OIC), South 
Korea, Saudia Arabia, Cuba, China, Russia, and Zimbabwe.

The UK voiced the strongest condemnation of Sudan, saying ‘the situation has 
not fundamentally changed, including the indiscriminate killing on both sides. The

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193 Slovenian delegate, 7th Session, 13 March 2007, general debate on Agenda Item 3.
Special Rapporteur’s reports remain the same from one year to the next and we call on the Sudanese government to address this issue’. 196

3. Resolutions and Decisions of the Council Regarding Darfur

As a result of the reports given and the discussions at the Council, a number of Resolutions and Decisions were passed regarding Darfur, many of which included recommendations for how to improve the situation. The African Group and the OIC ensured that these contained weaker language than the Western states would have preferred. However, in order for them to be passed the weakened language prevailed. This affected the impact of these resolutions and decisions on the ground, which was often lacking. This point was made repeatedly by individual states and the Special Rapporteur when calling for recommendations to be implemented. A number of factors contributed to the lack of change in Darfur, not least the Sudanese government’s unwillingness to allow UN forces to operate within Darfur; a matter in which the African Group colluded by blocking Council efforts to encourage or coerce the government to do so.

3.1 Decision on Darfur

The Second Session produced a Decision on Darfur 197 which called on all parties to sign and adhere to the Darfur Peace Agreement 198 and to cease violations of international humanitarian law. 199 It reminded the international community of its obligations, calling on States to honour their promises of assistance.

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198 Darfur Peace Agreement signed in Abuja.
After weeks of delay due to informal consultations, the draft Decision was presented by Algeria, on behalf of the African Group. The EU, unhappy with what it perceived to be too weak a draft, proposed revisions in a separate Draft. One difference was whether ‘the’ or ‘a’ should precede ‘report’ in the text of the Decision, which would determine whether to require a specific follow-up report. The African Group deemed this ‘extremely sensitive’, saying ‘one of the reasons why the Commission was not successful was because of the naming and shaming [of States].’ It argued that this issue directly related to the principle of non-selectivity. The African Group strenuously disagreed with the EU’s position that the ‘situation of Darfur really requires special reporting.’

This difference of opinion on a seemingly technical matter actually struck at the heart of the issue of how the Council would attempt to avoid the pitfalls of its predecessor; that is, the issue of whether country-specific focus could – or even should - occur in certain circumstances. Whilst it was agreed that the Council should generally avoid politicisation and selectivity, the question was whether this should apply during a humanitarian crisis such as the one in Darfur.

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200 Despite ongoing escalation of violence in Darfur at this time, as reported by Amnesty, for example, “November at least 50 civilians were killed, including 21 children under 10, when Janjawid attacked eight villages and an IDP camp in Jebel Moon in West Darfur. AMIS forces arrived the day after the attack.” Amnesty International Report 2007 p.244.

201 ‘Darfur’, A/HRC/2/L.44.


204 Algerian delegate, 2nd Session, 28 November 2006.

205 A founding principle of the Council was non-selectivity, GA Res. 60/251, para. 4, U.N. Doc. A/RES/60/251.

The EU also raised substantive issues, especially in relation to impunity. It argued that nothing would change through monitoring, and rather the text needed to include places of detention for perpetrators. Canada voiced support for the proposed amendments, stating that, whilst Algeria’s efforts were appreciated, they ‘fail[ed] to address essential issues’. There was support for Canada’s position that ‘people in Darfur should not wait for another six months until the Council meets again.’ However, the African Group did not share the concern that the situation in Darfur was deteriorating, instead talking about recent positive developments in the region.

The EU expressed ‘deep disappointment’ at the defeat of its tabled amendments, as the Draft Resolution was said to not adequately address the deteriorating situation. The UK further expanded on this statement, saying ‘it is hard to imagine a situation where it would be more appropriate for the Council to act’.

### 3.2 Decision on the Situation of Human Rights in Darfur

At the Special Session on Darfur the Council adopted, by consensus, a Decision put forward by the President which created a High Level Mission to Sudan. This Decision neither condemned Sudan nor used the word ‘violation,’ thus making it weaker than the Western states would have liked. The Decision allowed for the composition of the five members of the Mission to Sudan to be selected by the President, although it did specify that the SR on Sudan would also be a part of the

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207 Canadian delegate, 2nd Session, 28 November 2006.


Mission. Sudan expressed its hope that the President would use ‘wisdom and neutrality’ in picking the members of the mission.

Algeria spoke before the vote, and 19 other Council members\(^{211}\) spoke afterwards, all lauding the Council for its cooperation, compromise, and congenial approach, with some making it clear that they saw the consensus as proving the legitimacy of the Council.\(^{212}\) The United Kingdom reiterated its hope that the Council use this constructive spirit to move its focus away from being solely on the Middle East, and the President invited Council members to ‘maintain this spirit when we deal with other situations.’ Cuba said that one of the best things about the calling of this resolution was that it left aside ‘inflammatory language’ and the desire to impose ‘unnecessary condemnation’, despite the fact that Cuba does not possess a whiter-than-white record in this regard.

### 3.3 Resolution on the Follow-Up to Decision S-4/101

At the Fourth Session a Resolution\(^{213}\) was adopted, by consensus, following-up the Decision from the Special Session. It was written and co-sponsored by the EU and the African Group. Germany, on behalf of the EU, said that its adoption showed that ‘the Human Rights Council does not close its eyes to the suffering of the people of Darfur.’ It further said that ‘this [Resolution] is not about political games, diplomatic manoeuvres [but is] solely about the realisation of human rights.’\(^{214}\)

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\(^{211}\) 7 OIC countries, 5 EU countries, 4 GRULAC (including Cuba), and India, Russia, China, and Zambia.

\(^{212}\) Including India, China, Saudi Arabia and Tunisia.


\(^{214}\) German delegate, 4\(^{th}\) Session, 30 March 2007.
Algeria, on behalf of the African Group, emphasised the importance of consensus on this ‘very complex and politically charged subject’, noting that achieving consensus had been placed above the need to wholly satisfy all members in the drafting of the Resolution. They expressed hope that the text would ‘advance the situation of victims on the ground’ in Darfur.\(^{215}\)

### 3.4 Resolution on the Group of Experts

Having seen relatively little improvement in Darfur as a result of the work of the Group of Experts,\(^{216}\) the Fifth Session saw the EU and the African Group jointly table\(^{217}\) a Draft Resolution following up Resolution 4/8 on Darfur.\(^{218}\) They proposed a six-month extension of the Special Rapporteur on Sudan’s and the Group of Experts’ mandates. However, despite the extension being passed, the Group of Experts’ work

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\(^{215}\) Algerian delegate, 4\(^{th}\) Session, 30 March 2007.

\(^{216}\) For example, see Amnesty’s report, “In March the Council convened a group of experts to pursue previous recommendations made by UN human rights bodies on Darfur. The Sudanese government-appointed Human Rights Advisory Council responded to these recommendations but according to the report presented to the Council in November, few of the recommendations were implemented.” Amnesty International Report 2008.

\(^{217}\) Consideration of all Resolutions and Decisions were postponed at this Session, see A/HRC/DEC/5/102.

was not finished, nor their recommendations implemented, by the end of the year,\textsuperscript{219} and the Council chose to not extend their mandate further at the following session.\textsuperscript{220}

3.5 Resolutions on the Mandate of the SR

The review of the mandate of the Special Rapporteur on Sudan occurred at the resumed Sixth Session.\textsuperscript{221} The EU expressed its ‘strong support of the mandate and the excellent work of the Special Rapporteur’, and it opined that ‘the Special Rapporteur can play a very important role on combating impunity, but it is the responsibility of Sudan to respect and ensure human rights’.\textsuperscript{222} The EU hoped that ‘the renewal of the mandate will be adopted by consensus’,\textsuperscript{223} a position supported by other Western States.\textsuperscript{224}

The African Group argued that, bearing in mind that Sudan would be subject to Universal Periodic Review,\textsuperscript{225} the mandate should be eliminated.\textsuperscript{226} Sudan said that ‘there is a politicisation that led to the dismantling of the Commission which has

\textsuperscript{219} ‘In December the Council urged Sudan to implement all outstanding recommendations identified by the group of experts on Darfur’, Amnesty International Report 2008.


\textsuperscript{221} 13 December 2007.

\textsuperscript{222} Portuguese delegate, 6\textsuperscript{th} Session, 13 December 2007.

\textsuperscript{223} Id.

\textsuperscript{224} For example, the US said that “the council cannot ignore the on going crisis in Sudan…[We] fully support the renewal of the mandate and resist all efforts to weaken it”, US delegate, 6\textsuperscript{th} Session, 14 December 2007.

\textsuperscript{225} Universal Periodic Review applies to all UN member states.

\textsuperscript{226} This position was supported by states such as Cuba and Russia, which said that the Special Rapporteur on Sudan would only be effective if it was adopted with the consent of the Sudanese authorities, 6\textsuperscript{th} Session, 14 December 2007.
started once again to infiltrate the work of this Council’ and called on the SR ‘to reflect very carefully on the information provided by the Sudanese authorities’.\textsuperscript{227}

The Resolution on the Mandate of the Special Rapporteur on the Situation of Human Rights in the Sudan\textsuperscript{228} was submitted by Egypt - despite their ‘assessment that country-specific mandates are instructive and have limited impact’\textsuperscript{229} and was passed by consensus.

\textbf{3.6 Resolution on Human Rights in Sudan}

At the Seventh Session\textsuperscript{230} a Resolution on Sudan\textsuperscript{231} was submitted by the African Group and co-sponsored by the UK. The EU joined the consensus, and expressed its belief that the Resolution highlighted the deep concern of the Council. Canada deplored the fact that, again, the Resolution fell short and did not adequately address the situation in Darfur, saying ‘it fails to reflect the recent deterioration of the situation’.\textsuperscript{232}

Canada recalled recent reports showing grave violations of human rights, and therefore regretted that this resolution was not more ‘robust’. Although Canada joined the consensus, it believed that the people of Sudan deserved better. Again, the weakening of the Resolution can be explained by the need to pass it, let alone gain consensus in doing so. However, the result was, once again, a Resolution lacking weight in both language and substance.

\textsuperscript{227} Sudanese delegate, 6\textsuperscript{th} Session, 13 December 2007.
\textsuperscript{228} ‘Resolution on the Mandate of the Special Rapporteur on the Situation of Human Rights in the Sudan’, A/HRC/RES/6/34.
\textsuperscript{229} Egyptian delegate, 6\textsuperscript{th} Session, 13 December 2007.
\textsuperscript{230} 27 March 2008.
\textsuperscript{231} ‘Resolution on the Situation of Human Rights in the Sudan’, A/HRC/RES/7/16.
\textsuperscript{232} Canadian delegate, 7\textsuperscript{th} Session, 27 March 2008.
4. Patterns and Impact of Regional Alliances

The pattern that emerged from the discussions on Darfur was that the Council was split between two sets of Groups and States; those who expressed the opinion that the Sudanese government was cooperating fully and required further international assistance, and those who believed that the government was not doing all that it could and who called on them to comply with its international obligations and improve the situation. The former often resorted to accusing the Council, its mandate holders, or even member states, of ‘politicisation’ in order to block intervening action. The term ‘politicisation’ has become a derisory insult within this body, and a rallying cry against unwanted action proposed by Western states. In this context it was used to accuse Western states and mandate holders of falsifying information and attacking the Sudanese government. However, the reports of NGOs, as well as bodies of the UN, often independently verified the information being called into question.

4.1 The African Group

The opinion was consistently expressed by the African Group that the government was doing all that it could to ensure resolution of the crisis, and that other parties to the conflict were to blame for the crisis. For example, at the Third Session, Algeria said ‘the alleged links between the government and militias referred to by the High Commissioner have yet to be documented in an objective way.’ However, not only had documentation compiled by OHCHR been presented to the Council by the High

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233 For a theoretical examination, see Heinze, supra n.2.

234 See, for example, Amnesty International Annual Reports 2007 and 2008.

235 Algerian delegate, 3rd Session, 29 November 2006.
Commissioner at the beginning of the Session, but it was also verified by independent information from NGOs.\textsuperscript{237}

Individual members of the African Group reiterated the collective position during discussions, even where their opinions contradicted independent evidence. For example, Egypt, a member of both the African Group and the OIC, said ‘we commend Sudan for her cooperation and efforts to disarm militias, despite practical challenges.’\textsuperscript{238} However, Amnesty International contradicted these statements, reporting that ‘a government promise to disarm the Janjawid was broken, as it had been after numerous previous agreements, and none of the agreed commissions was operating by the end of 2006, including the Compensation Commission.’\textsuperscript{239}

The African States which did, at times, break regional alliances in discussing Darfur, were those known to be more benign or democratic than their neighbours.\textsuperscript{240} For example, Zambia said at the Special Session on Darfur that ‘despite the peace agreement, there is a lack of political will of the government of Sudan to protect civilians. . . . The government must care for the welfare of all people regardless of racial or religious background.’\textsuperscript{241} This sentiment was not often expressed by African States, and was buried in the vast amount of statements of support for the Sudanese government from this region.

\footnotesize{\textsuperscript{236} Id.}
\footnotesize{\textsuperscript{237} See, for example, “In August government forces launched a major offensive in North Darfur and Jebel Marra, which was accompanied by Janjawid raids on villages and continued at the end of 2006.” Amnesty International Report 2007 p.242.}
\footnotesize{\textsuperscript{238} Egyptian delegate, 4\textsuperscript{th} Special Session, 12 December 2006.}
\footnotesize{\textsuperscript{239} Amnesty International Annual Report 2007, p.244.}
\footnotesize{\textsuperscript{240} Supra n.11 and n.12.}
\footnotesize{\textsuperscript{241} Zambian delegate, 4\textsuperscript{th} Special Session, 12 December 2006.}
4.2 The OIC

The OIC frequently aligned itself with the African Group’s statements on Sudan. It also employed the tactic of using large numbers of States giving similar comments during discussions in order to emphasise the collective position. At the Second Session, individual States from the OIC expressing confidence in the Sudanese government’s ability and willingness to improve the situation in Darfur included; Bahrain (Chair of the Arab Group), Tunisia, Morocco, Jordan, Malaysia, Senegal, Azerbaijan and Bangladesh. The use of large numbers of States making broadly similar comments in order to emphasise a collective opinion was a tactic which continued to be employed at subsequent Sessions.

The OIC’s attempts to shift focus away from Darfur and onto other regions was especially apparent in terms of Israel and the Occupied Palestinian Territories. The OIC and its members chose to raise issues regarding Israel during discussions on Sudan, despite the fact that the disproportionate focus on this country by the Commission on Human Rights is a major cause of its diminished credibility. At the Special Session on Sudan, for example, the discussion became sidelined by members of the OIC, including the representative of Palestine, who accused Kofi Annan of being partial to the developed world and the High Commissioner of ignoring the occupation of Palestine. Iran later spoke at length about the ‘60-year Holocaust in Palestine’ and accused the Council of ignoring the conflict in this region.

242 More than one quarter of all state-specific Resolutions passed by the Commission on Human Rights were against Israel.

243 See, Report of the Secretary-General, “In larger freedom: towards development, security and human rights for all,” May 23, 2005 (A/59/2005/Add.1); see also, Secretary-General Kofi Annan, Statement at Press Conference, June 15, 2006 where he urged the Council to not focus on Israel alone.

244 Fourth Special Session, 12-13 December 2006.
The attempt to divert attention away from Sudan, where Arab militia were being accused of atrocities, and to shift the focus onto Israel, must be viewed in context of the fact that not only had a Special Session already taken place about Israel a month earlier but that there had also been as a Special Session on Israel four months prior to that. Therefore, the shifting of focus, by OIC members, onto Israel during a Special Session convened on Darfur showed that the undercurrent of selectivity was still apparent within the main UN human rights body. This was something picked up by other States, for example the UK said that ‘when [the Council] focuses on the Israel and Palestine situation without focusing on other issues, some will wonder what this Council is doing’.

4.3 Other Regional Groups

The EU consistently took a fairly neutral approach, commending Sudan’s efforts and cooperation and calling for further assistance, whilst also condemning the human rights situation in Darfur and calling for action in this region. For example, after the Group of Experts’ report at the resumed 6th Session, it said,

The report gives us some encouragement regarding potential positive results of this exercise. It also demonstrates clearly that much still has to be done. We welcome the open and constructive dialogue which has been taking place. However, little, or no, tangible impact

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245 Most notably the Janjaweed militia.

246 3rd Special Session (regarding Israel and the Occupied Palestinian Territories), 15 November 2006.

247 2nd Special Session (regarding the war between Israel and Lebanon), 11 August 2006.

248 Despite the underlying principles of universality, impartiality, objectivity and non-selectivity, amongst others.

249 UK delegate, 2nd Session, 28 November 2006.
has been reported of the few recommendations that have been implemented . . . Lots of recommendations have not been implemented . . . Some displaced persons have returned, but more have been displaced during this time . . . violence has increased . . . the Sudanese government is responsible for protecting its people, and they have not done so . . . We must all help to stop these human rights violations.250

GRULAC members took neither consistent nor uniform positions regarding Sudan and the situation in Darfur. Whilst individual States did, at times, call for action or condemn the government, none did so regularly over the two-year period. Many States remained silent during discussions. Cuba consistently aligned itself with the OIC and African Group’s position, commending the Sudanese government for its efforts and cooperation. This position contradicted comments of other GRULAC members during the same discussions.

Canada, whose statements were often joined by Australia and New Zealand, took a stronger approach than the EU or GRULAC members, consistently condemning the Sudanese government for its role in the situation, and calling for action to be taken and recommendations to be implemented. Canada often questioned mandate holders as to how assistance could best be provided to help the civilians in Darfur. It spoke out against the weakening of Resolutions and Decisions, and was consistent in its calls for the Council to take a proactive approach.

4.4 An Example of the Impact of Regional Alliances

The repercussions for a State taking a stand against the OIC can be seen in its subsequent treatment by the OIC and the African Group. This deterrent undoubtedly played a role in the weakening of the Council’s Resolutions and Decisions. The Resolution passed at the resumed Second Session\(^{251}\) was weaker in its wording than Western States and others had urged.\(^{252}\) The EU’s proposals to strengthen the language, including the use of the words ‘grave concern’, were overwhelmingly defeated by the OIC and African Group. To understand why the weakened text was adopted, it must be examined within the context of an incident occurring during the resumed Session. Canada had been the sole opposing vote against the OIC’s Resolutions on Israel,\(^{253}\) with many Western states choosing to abstain. Ignoring the reasons given for Canada’s ‘no’ votes,\(^{254}\) the OIC showed its displeasure by using its collective weight to pass a last-minute motion postponing three non-controversial Canadian Draft Resolutions.\(^{255}\) The OIC’s flexing of their collective muscle - alongside that of their usual supporters\(^{256}\) - sent a clear message to the Council. Therefore, when it came to the language of the Resolution on Darfur, the Western states stood little chance of being able to convince other countries to stand against the OIC and African Group.

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\(^{251}\) 27 November 2006.

\(^{252}\) See section 3.1 (above).


\(^{254}\) Which included the fact that the resolutions were biased and only addressed the human rights violations of Israel, which contradicted the Council’s principles of non-selectivity, universality and equality.

\(^{255}\) One of which - ‘Effective Implementation of International Instruments on Human Rights’ A/HRC/RES/2/5 - was later negotiated to be presented the following day, and passed by consensus. The other two - Resolution on Freedom of Expression and Opinion (A/HRC/2/L.44) and Resolution on Impunity (A/HRC/2/L.38) - were presented at a different Council Session.

\(^{256}\) Including Cuba, China and Russia.
5. Conclusion

The article has examined the impact of regional alliances on the discussions about Sudan, and the action taken by the Council regarding Darfur. The enormous amount of time devoted to Darfur both in specific and general discussions suggests that the Council knew that attention had to be devoted to this region; arguably making the Council’s lack of action worse in the eyes of the international community, and harming the credibility of this new UN body.

Sudan’s constant downplaying – or, at times, outright denial - of its role in the atrocities being committed in Darfur was consistently strengthened by the comments and actions of the African Group, the OIC and States such as Cuba and China. These comments, alongside the silence of numerous other states, allowed for the Council’s Resolutions and Decisions to be weakened in both language and substance, for recommendations to not be implemented, and for the situation on the ground to continue.

The calls for further assistance for Sudan was a theme apparent within all discussions of Darfur, and one which masked the attempts to block intervention by regional groups. Furthermore, these calls for assistance often came from members of those alliances which were weakening attempts to intervene in Darfur. These calls often tried to blame the international community for the escalating and continuing crisis.

The tactic of ostracising countries which vocalised their disagreement with the OIC’s collective stance (for example, Canada - see section 4.4) was employed to intimidate other non-OIC States and to ensure that they did not speak out against the
alliance’s stance. This contributed significantly to the lack of action on Darfur due to the OIC’s collective position regarding this region.

The behaviour of individual States and regional groups can be explained through political motivations and alliances. However, these explanations cannot be used to justify the consequences; that is, the lack of meaningful action taken which translated into allowing the human rights violations to continue on the ground in Darfur. The support for the Sudanese government ultimately served to undercut the principles and mandate of the Human Rights Council.