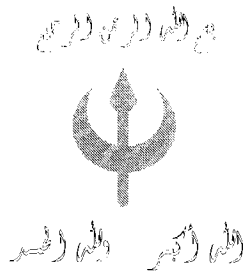


National Umma Party

Headquarters, Omdurman



حزب الأمة القومي

المركز العام - أم درمان

Umma Party Memorandum to the AU Darfur Panel

1st April 2009

To H.E. Thabo Mbeki, President of AU Darfur Panel, and the Honorable members of the Panel,

You are most welcome in Sudan. We in Umma National Party (UNP) highly appreciate your efforts to find a just and sustainable resolution of the present Sudanese crises.

We shall address the situation in an introduction and four main chapters:

Introduction

The Nifasha Peace Agreement –finalized in 2005- was the main basis which described the current political system and the new Constitution in Sudan.

The Nifasha Agreement realized certain achievements, namely, cease fire between Government of Sudan and the SPLA, Protocols of Power and Wealth Sharing, self determination for the South, a program for democratic transformation, and so on. The benefits which the Agreement specified for the South were blessed by all political opinion in Sudan. However, there were several reservations about it, namely:

- It assumed that the country's problems are only North/South to the neglect of North/North, and South/ South problems.
- It assumed that the GOS represented the whole North, and the SPLM represented the whole South to the neglect of other political forces in the North and the South.
- It was described as Comprehensive Peace Agreement at a time when other war fronts were active in Sudan.
- It laid a precedent for power and wealth sharing and prevented the emulation of that precedent in the settlement of other regional disputes.

That is the main reason why what was on offer for the Darfur armed parties was far below expectations and only half of the two Darfurian parties was prepared to sign the Darfur Peace Agreement.

In fact, matters in Darfur worsened as a result of the Agreement. The Eastern Front Peace Agreement faired no better.

Chapter One: How the Darfur crisis Developed?

Darfurian particularities stem from the following facts:



- (A) *Darfur* was an independent Monarchy until 1875. It became part of the Mahdist State, but resumed its independent status after the end of that State in 1899. It continued as an independent Sultanate until 1916 when the then colonial administration clashed with the last Sultan of *Darfur* because of his support for the Ottoman Sultanate during the First World War (1914-1918). So *Darfur* joined the modern Sudan two decades after its creation by the colonial administration (1899-1916).
- (B) Tribal assertiveness is more pronounced in *Darfur* than the rest of Sudan. This fact explains the prevalence of tribal conflicts in the region. Twenty two tribes engaged in conflict and in the period just before the current crisis, (1924-2003), thirty nine tribal reconciliation conferences were held.
- (C) Resource based conflicts: The Northern parts of *Darfur* suffered from drought in the early eighties of last century. Some Northern tribes, therefore, migrated southwards. Many Camel owning tribes migrated towards *Jebel Marra* in central *Darfur*. Many *Zagawa* tribesmen migrated to Southern *Darfur*. The lands of *Jebel Marra* area are well supplied with water all the year round. They are owned by *Fur* tribes Peoples, who cultivate them. A conflict ensued between the owner cultivators and the immigrant pastoralists. In Southern *Darfur* a conflict ensued between the land owners -Rizigat Arabs- and the immigrant *Zagawa* tribes' peoples.
- (D) The region witnessed the phenomenon of armed robbery perpetuated by:
- Some *Zagawa* tribesmen, who have suffered from the drought.
 - Some Arab tribesmen, who suffered from the drought.
 - Chadian tribes peoples, who have resorted to armed robbery to sustain themselves in troubled times.
 - The fall off from border wars particularly the Libya/Chad war, which led to much loose armory and the use of fire arms for private gain. The Sudan remained neutral between the Libyan Chadian combatants, but the conflict affected Sudan's National Security.
 - Some tribal non-Sudanese elements crossed the borders and engaged in armed robbery.

These four types of problems may be described as the traditional *Darfur* problems.



The problems created by the new 1989 Regime are:

Before the new Regime, *Darfur* had a social immunity system, which was depended upon by the previous central Governments to contain local conflicts. However, the new regime realized that *Darfurian* society was hostile to it and supported the opposition Umma Party. Therefore, they planned to push the people of *Darfur* to their support in the following ways:

A) To increase the administrative units and man them by their own political officers to act as administrators, political agents and security officers. There were nine provinces in Sudan. They increased them to twenty six and called them States. The one Region of *Darfur* was divided into three States. The districts in Sudan were nineteen, they were increased to 674. Although these measures increased the administrative expenditures to a great extent, they provided employment for the political cadres of the ruling party and a means to win the support of others by offering them Government employment.

The system of Native administration, which as a means of indirect rule served the country well, was forced to join the ruling party, which automatically decreased their influence as no more than Government officials.

Land tenure was administrated by tribal chiefs over sixteen tribal territories (HAWAKEER). They were 'Nationalized' to be under direct central government authority. The government then proceeded to give rights to immigrant minority tribes to gain their support.

Forcing people to join the ruling party did not eliminate political competition.

The contenders for office simply used tribal and ethnic labels for their political ambitions.

B) Graduates of secondary education who could not proceed to higher education and graduates of universities who could not find employment have become so numerous especially after the Regime set up tens of new universities without sufficient resources, but with an ability to issue low quality degrees (the institutions which issue BA degrees now in Sudan number 78). This army of unemployed graduates simply swelled the ranks of discontent and either joined the armed protest movements, or sought and found resettlement as expatriate refugees.

C) The Islamicist party which organized the 1989 coup d'état used to criticize the Democratic government for not conducting the War against the Southern army robustly enough. They organized demonstrations under the slogans of the uprising of the mosques, the uprising of the



Quran, the guards of Sudanese Security, and so on. These were their attempts to mobilize public opinion in favor of a *Jihadist* spirit. When their party usurped power through the coup d'etat, they declared that the anti-insurrection actions of their government is a *Jihad* against nonbelievers and they proceeded to militarize the country in a pervasive way. They created a widespread culture of violence. The prevalence of the culture of violence in a society full of unsettled conflicts encouraged many political activists to form armed political groups:

- Some tribes used arms as a means of livelihood.
 - Some groups among the Nomadic Arab tribes formed militant parties to attack and intimidate the settled cultivators to make room for their herds. They acquired the name *Jingaweed* which means armed "ginnis" on horseback. They targeted *Fur*, and *Masalit* settled tribes.
 - Some youths belonging to the targeted Groups saw how their kinsmen were attacked, and concluded that the government was failing to protect the victims. They formed armed political groups directed against the central government they called themselves *Darfur* liberation movement, and then Sudan liberation Army and Sudan liberation Movement (SLA/M) later another movement called itself Justice and Equality Movement (JEM). Since then several armed groups with different labels emerged. They now number in tens. The emergence of armed political parties with ethnic roots and supported by internal and external alliances, is a new phenomenon in Sudanese politics - unprecedented.
- D) The control of public affairs by one despotic party, and the denial of freedoms are a recipe for corruption because of the absence of participation, accountability, transparency and the rule of law. Corruption is the other side of the coin of dictatorship. Society in *Darfur* was shaken by the prevalence of corruption especially: The Western Highway. Sudanese regions are given sugar quotas. The people of *Darfur* were made to donate half their sugar quotas to finance the building of the western high-way. The cost of the high way was estimated as US \$240 Millions. The value of donated sugar was US \$ 36 Millions per year. The government promised to supply the rest of the budget. Nothing materialized, and the corruption scandal remained to haunt the Regime.



- E) The Regime governing the Sudan established itself by the force of arms and turned government into financial and political benefits. This pattern set an example to others to do the same. The leaders of the coup encouraged this pattern by saying: 'We have gained our position by force, whoever wants to govern, will have to over power us'. They also said referring to negotiations with political groups: we do so only with those who are armed. The policies of the Sudanese Regime, as described above, have led to the emergence of tribal and ethnic political groups. The prevalence of the culture of violence encouraged them all to espouse it. Externally, the policies of the Regime, especially during its first ten years, formed lobbies against it: Christian, Zionist, anti-slavery, Human right, lobbies in many countries. They have branded the Sudanese regime as a supporter of terrorism and a violator of Human and Religious rights. They formed a wide umbrella to help its victims. They offered moral and material support for all who opposed the Regime. This type of hostile umbrella was an unprecedented phenomenon in Sudan's external relations.
- F) At that stage, the external policies of the Regime were expansionist, as articulated by the Islamic Arab popular congress which was a replica of Stalin's Third International, under Islamicist banners (1993). Such expansionist policies rallied Sudan's neighbors and other countries against it. It is true that the Regime abandoned many of its old external policies, especially in the lead up to the peace Agreement with the South. However, the external hostile umbrella preserved being articulated by many interest groups. When the Regime embarked upon its *Darfurian* transgressions, the hostile umbrella was ready to embrace the *Darfurian* cause.
- G) There are several tribal and ethnic differences in *DARFUR*. However they were relatively moderate. Many of the non-Arab tribes have Arab sub-sections including the Fur, the *Zagawa*, and the *Masalit*. The tribal leaders of all the tribes were linked with intermarriages. Therefore, interethnic relations were relatively cordial: *ALDIEN* is the capital of the largest ARAB tribe in *DARFUR*- the *Rizigat*. In (1986) it elected a *Zagawa* member of Parliament – Ahmed Abdel Gadir Habib. The Governor of *DARFUR*



until June (1989) was from Fur: Dr. *Tigani Sessi*. He was nominated by the 34 *Umma* Members of Parliament who were Arab and non-Arab. That was the situation until (1989).

Since then, the situation changed. The ideology of the late Dr. *John Garang* emphasized that the divide in Sudan is not North/South, but Arab/African. Therefore, his party proceeded to identify with the non-Arab (African) ethnic groups in *DARFUR*. Many in the governing Regime identified with Arab ethnic groups. The power politics between the Sudanese Peoples liberation Movement (SPLM) and the National Congress Party (NCP) deepened the ethnic schism in *DARFUR*. The SPLM provided the *DARFUR* armed parties with an example to follow, and offered them moral and material support.

- H) The ruling Party in Sudan, the NCP was very eager to gain the support of *DARFUR*. They reckoned that *DARFUR* is a potential source of support for their *Islamicist* program. Since the time of the Sultanate of *DARFUR*, it was known for its *ISLAMIC* zeal. The support which *DARFUR* gave to the *MAHDIIST* Cause was exceptional. Sultan *Ali Dinar*, the last Sultan of *DARFUR* sided with the *Ottoman Khalifate* during the First World War, for religious reasons. Such religious zeal prompted the NCP to recruit *DARFUR* in their support. They failed in that but got some limited support. When the NCP broke into two parties in (2000), the Cadres of Arab origin largely went with the NCP, the cadres of "African" origin sided with the breakaway Popular Congress (PC). They later formed JEM.
- I) The SPLM continued its efforts to recruit "African" support in the Northern Sudan. They forged an alliance with the SIM/A.
- J) The tensions between the Sudan Government and its neighbors translated into alliances between some of the neighbors and this or that of Sudanese rebel groups to cause greater pressures against the Sudan Government.

Those ten factors (from 'A' to 'J') have prepared *DARFUR* for violent political protest movements against the central Government, at the same time; the Regime's policies weakened the Region's politico-social immunity system.

Regime's Mistakes

When the Regime faced the *DARFURIAN* insurrection they committed several mistakes, they are:-



First Mistake: Unnecessary Violence: The number of those who carried arms against the Government in the *Gabal Mara* area was limited. The then Governor of North *DARFUR* region, General *Ibrahim Suleiman*, convened an extraordinary conference in *AL-FASHIR*, to which he invited a broad spectrum of *DARFURIAN* intellectuals, politicians, and tribesmen under the title *AL-FASHIR* Consultation Conference (in 25/3/2003). That conference issued certain recommendations as a political response to the crisis. The central Government rejected them. The Government felt that they have given away too much in the North/ South negotiations, and that they needed to beef up the prowess of the Government to deter others from emulating the SPLM's example, They also thought, that the International Community were so pleased with them that they will not risk the fate of the Peace Agreement because of the Government's policies in DAFUR, initially, even some International actors gave them the promise of: end with Peace in the South and *Darfur* will be regarded as an internal issue, as would be mentioned later. So when some Government posts were attacked, the response was to teach the rebels a lesson.

"There will be no negotiations, no compromise, no prisoners and no wounded, the matter must be finished in two weeks". The armed groups responded by attacking *AL FASHIR* airport in April (2003), destroying the Air Force planes parked in it and capturing its commander. It was clear that the Armed Forces of Sudan had no stomach for another Civil war. The protesters even addressed the soldiers as supporters in a common cause.

Second Mistake: Use of *JINJAWEEED*: The Regime refrained from dealing with the matter as a potential National problem, and so inviting broad consultations about what is to be done?

The Regime sought to resort to the support of tribes from the opposite ethnic divide, the culprit tribes being the *Fur* the *Zagawa* and the *Masalit*. The main Arab tribes did not respond to this call, they distanced themselves from the armed conflict and said that they will only fight back if attacked. However, there are many detribalized youth who were recruited as irregular forces supporting the Sudanese Armed Force in their anti - insurrectionary drive. They were the forces which others called "*Jingaweed*" recalling the old description. However, the old *JINGAWEEED* was a private sector group. The later forces were public sector irregular forces in the service of the official anti-insurrectionary policy. The armed rebels were employing a fast hit and run tactic. It was decided that the tribes which were a potential source of support for them should be intimidated to refrain from supporting their armed Kinsmen. They were targeted and accused of hosting the rebels. Resort to this



type of military alliance, and the decision to target soft civilian tribal targets, constitute two basic mistakes. They led to terrorizing the targeted tribes, a measure which created the humanitarian tragedy in *DARFUR*.

In record time, about two millions fled their homes to become internally displaced citizens; hundreds of thousands became refugees in neighboring Chad. The IDPS and the refugees became a living exhibition narrating the tragic stories about war crimes and crimes against humanity. The Human Rights organizations and the satellite channels broadcasted the details.

The third mistake: Failure to tackle the International Folder: for quite some time the Sudan hosted a great deal of International and media presence: Humanitarian relief organizations, Human Rights organizations, groups concerned with the ongoing peace negotiations, agents of the International media. They have heard news about events in *DARFUR* and tuned in to find the facts.

Human Rights watch, Amnesty International, the International Crisis Group and many others discovered the facts and proceeded to unveil them, the International press, the satellite channels and the broadcasting stations, all have given *DARFUR* prime time coverage. Their efforts shocked world's conscience. Even Western Governments which initially downplayed *DARFUR* not to shift the focus away from the North/ South peace process had to heed the mood. An American diplomat in Sudan had once said that *DARFUR* is an internal affair which the Sudan Government should settle i.e. without foreign intervention, had to swallow his words. The U.S Government told the Sudan Government that the issue of *DARFUR* becomes US priority. Although the Sudan Government had lost the public relations battle over *DARFUR*, they continued to downplay it, and to claim that the extent of atrocities, and the numbers of displaced people and of casualties were greatly exaggerated. They claimed that the whole issue was a conspiracy against the Regime. The Sudanese regime failed to realize:

- The importance of the Humanitarian Relief Organizations in shaping International opinion.
- The role of the network of Sudanese especially *DARFURIAN* expatriates in mobilizing *DARFUR* sympathetic sentiment.
- The widespread lobbies which supported the cause of the South in the conflict, and which shifted its focus towards *DARFUR* when the North/ South peace negotiations approached the end.

These factors destroyed the credibility of the Sudanese regime. The regime did nothing proportionate to turn the tide.



International Intervention over *DARFUR*

In the case of *DARFUR*, international public opinion took the initiative, then States, and then the UN.

The secretary General of the UN visited Khartoum and *DARFUR* in July (2004). He visited the camps of IDPs, and the refugees. At the end of his visit he signed with the Sudan Government a four points' Agreement (in 3/7/2004):

- That the Government will comply with the terms of the cease fire agreement with the armed groups which was signed in April (2004).
- That it will facilitate the requirements of the Humanitarian Relief Organizations.
- That it will protect the civilians.
- That it will disarm the *Jingaweed* within three months.

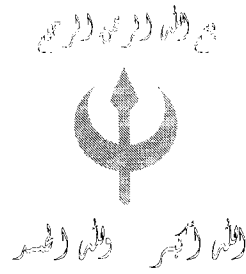
The terms of this agreement were incorporated in UNSC resolution 1556. This Agreement was not preceded by any preparations. The driving motivations for it were: The secretary General's eagerness to satisfy public opinion that he did something substantial for *DARFUR*, and the Sudan Government's eagerness to improve its image. Any serious preparation would have shown that the fourth point was beyond the Government's capability.

I asked a UN official how they accepted such nonsense? He said we were surprised by the Government's commitment, but it was up to them to decide!

It was later decided that the responsibilities which the Sudan Government could not do, namely, the protection of civilians and the disarmament of the irregular forces; will be undertaken by African Union Forces. The Security and Peace Council of the African Union delegated its President, *ALFA OMAR KONARI* to draw a plan for the formation and responsibilities of this African force. The plan was endorsed by the UN in Resolution 1564 to charge the African Union with responsibilities which the Sudan Government could not handle.

It became clear that the Sudan Government had no strategy in the matter.

So we find that some Government officials accept resolutions 1556 and 1564, another official rejects them, a third official describes them as a virtual declaration of war against the Sudan. Such lack of direction appeared when the High Commission for Refugees visited the Sudan and suggested a Regional Government for *DARFUR*. An official accepted it. Another official rejected that. Again it was suggested that UN should be responsible for security in *DARFUR*. An idea endorsed by one official and rejected by another. There is a lack of strategy, and specific policy to deal with the UN over *DARFUR*.



The Arab league has shown the same short sightedness in dealing with ARAB problems. They say we support Sudan, meaning support the Government of Sudan. Instead the league should be able to advise the Government how to reach out to the opposition, and how to deal with the Security Council in ways which serve the National interests of Sudan.

Umma Party's Attempts to resolve the crisis:

The *Umma* Party, which has wide support in *Darfur*, and which was deliberately forced to take no part in the solution of the problem, has nonetheless made persistent efforts to point towards what should be done:

In June (2002) we called for a meeting of all the *DARFURIANS* across the political board, we stated that what was brewing in *DARFUR* was a serious crisis which requires a concerted National effort to resolve it. Members of the NCP who attended the meeting were skeptical and declared that the Government was alone capable of resolving the matter. However, we proceeded to set up a National forum for *DARFUR*. Three times we dispatched delegations to the three Regions of *Darfur* to advise the people not to engage in the armed conflict, and to declare that we believe there are substantial legitimate demands for *Darfur* which we will use political and civil pressure to realize.

On March (2003) we actually formed a *Darfur* National Forum to act as a work force to advocate for a political solution, and to follow up upon Humanitarian Relief efforts. Then we organized a workshop to spell out what needs to be done. Since then the terms for an Agreement were established. The Government even responded in June (2004) to our initiative and signed a roadmap to address the problem of *Darfur* with us. But, they proceeded to apply their partisan policies to the neglect of that road map. We then proceeded to advocate our case for *Darfur*, on (22/8/2004) we sent a letter to president *Obasango* of Nigeria, as the then Mediator, suggesting the basis for the solution. We proceeded to advocate the terms of settlement in conferences and press interviews. Our prescription then was as follows:

- Confidence building measures which begin by changing all the administrative setup in *Darfur* because they have become part of the problem; to appoint a National commission to investigate the atrocities to hold the culprits accountable and to compensate the victims and to form a National Council to coordinate relief activities.
- To convene a National Conference to be attended by all the political parties, all the parties to the armed conflict all representatives of *Darfur* Civil society, and representatives of the



Darfurian Diaspora and tribal chiefs. That conference was to discuss a six points Agenda, namely; political, economic, administrative, security, tribal and social services. The conference was to be held in an agreeable venue with our neighbors and the International Community attending as observers.

The ideas fell on deaf-ears as far as the Regime is concerned. Therefore the Umma Party declared that the regime is not prepared to resolve *Darfur*.

We proceeded to mobilize National and International support for our ideas.

The Regime's Attempts for Solution

The 2004 *Darfur* Committee: To twist the wind away from our initiative, the Regime did appoint a committee in February (2004) and called it a National body. It was no more than a partisan body dominated by the ruling party.

The 2004 Tribal Conference: On September 2004 the government convened a tribal conference to address the crisis. Such tribal conferences were effective in the past. However, they are no longer effective because:

- The tribal chiefs have been forced to join the ruling party and so they lost their clout.
- The armed movements are manned by politicized detribalized elements that do not recognize the authority of the tribal chiefs.
- Also there are parties with links to the groups engaged in the conflict who use their links in the power struggle in Khartoum.
- Some of Sudan's neighbors pull strings to influence some of the conflicting parties.
- There are also factors related to a three cornered cold war between USA, France, and China.

Therefore, the old pattern of tribal conferences is no longer viable.

Cease-fire Agreements: On April 2004, the Government signed a cease fire Agreement with the parties of the conflict. However, all Cease-fire Agreements have failed because there is no political accord. In all these encounters the Government delegation gives priority to the cessation of hostilities whereas the armed parties give priority to a political settlement.

Peace Negotiations: Mediation efforts ultimately succeeded in holding peace negotiations in *ABUJA* in May 2006. Although our party was continuously kept out of these deliberations, the chief Government negotiator, the late *Magzoub Al Khalifa*, visited me to ask for advice as he was proceeding to *ABUJA*. I said to him as a 'politician' I should not help you; but as a patriot I should. There are three requirements which if you comply with, you will reach



a viable Agreement which gain wide National support including our own support. What are they, he asked? I replied:

- In the case of the Region one or three, and in the issue of representing *Darfur* in the presidency, and in the case of the Tribal land tenure, and in the issue of the borders of *Darfur* with the other regions of Sudan, you must restore the status quo ante, i.e., the situation as it existed in June 1989.
- In the case of the internally displaced people and the refugees, they are entitled to individual and communal compensation. They must be voluntarily repatriated to their homes, and their security there guaranteed.
- In the issue of shares in power and wealth, the same formula applied in the Agreement with the South should prevail, i.e., shares proportional to the size of population.

He responded by saying that this is not acceptable because it counters the Regime's fundamental policies, and it runs counter to the *Nivasha* peace Agreement. I said to him you may keep your sacred cows, but you will not get an Agreement.

They were encouraged by the U.S mediators to keep their sacred cows and that International and African pressure will force the armed factions to concur. Mr. Robert Zolek championed that promise. It was a false promise. After all the arm twisting and threats, an Agreement which was designed to be signed by two parties with the Government was signed by only half a party on May 2006.

Since then things got worse in all aspects. The half a party, which signed the Agreement was promised to own all the benefits designed for the full two parties. A promise which could not be fulfilled leading to its frustration and exposure to break up in factions.

There were great efforts to get the non-signatories to sign. However, they refused and proceeded to organize a front of resistance. They managed to carry the insurrection eastwards to *KORDOFAN*. The Sudan Government believes that unless neighboring *CHAD* forms a pincer siege of *Darfur* armed parties, the insurrection cannot be contained because, the perpetrators can always seek sanctuary in *CHAD*.

Attempts to destabilize the Chadian Regime and put in place a friendly Government failed. The last one being mounted in February 2008.

However, these attempts have provoked Libya which opposes any attempts to meddle in Chad behind their backs. A concerted counter attack against Khartoum was mounted by JEM which was supported by Chad, Libya, and



Eritrea. They fully armed and financed the attack on Khartoum on 10th May 2008.

So the *Darfur* problem has turned, among other things, into a duel for Regime change between Khartoum and *N'Djamena*. To add to the complexity of the situation, the armed factions have continued to divide amoeba-like to reach more than twenty. To add more to the complexity, the three best known armed leaders, namely, *Meni Arkoy Menawi*, *Abdel Wahid Mohammad Nur*, and *Khalil Ibrahim* have each allied himself with a Government and taken an irreconcilable position: *Meni* insists on being the only beneficiary of the Abuja Agreement and demanding the Sudan Government to fulfill its promises. *Khalil* integrated his position with the Chad regime and he insists upon being sole spokesman for *Darfur*. *Abdel Wahid* took the unprecedented step of linking with *Israel* and claiming to be the sole spokesperson too. All attempts to get out of the impasse in Abuja, in *Sirt*, in *Tanzania*, have failed.

Recent Initiatives

Of late, two further initiatives; one National and one Regional have appeared.

The Latest National initiative:

After the September 2007 crisis between the NCP and the SPLM, they decided to open up dialogue with the other political parties which they have previously systematically locked out of the political process. Negotiations between the Umma party and the NCP led to an agreement of National Accord. Its terms are to guarantee basic freedoms, to develop the peace Agreement to be owned nationally, to settle *Darfur* by responding positively to the legitimate demands of the *Darfurians*, to hold free and fair General Elections, and to convene an all party National Conference to agree upon a National Program and upon a national mechanism to implement that program. The invasion of Khartoum, plus the looming Qatari initiative for *Darfur* gave the issue of *Darfur* added impetus. This precipitated the so-called Sudanese people initiative.

A meeting of several political parties was held in the district of KENANA in the period 16-20 October 2008. The meeting formed seven committees to address the different *Darfur* problems. However, the Umma Party introduced a resolution which was unanimously adopted to give priority to *Darfur*, but not to neglect the other issues of the National Accord.

The seven committees reported their recommendations to plenary meeting in Khartoum. The recommendations were acceptable as only partial responses to the *Darfurian* demands. A representative of the Umma Party read out what amounted to an elaboration to address all the *Darfurian* demands. Some in the NCP rejected the additions, but ultimately a resolution was unanimously



carried to accept the Umma Party additions. That was on the 10th of November 2008.

However, when the resolutions of the Sudanese people's initiative were read out in the final session of the encounter, the Umma additions have mysteriously disappeared. Although the conference only discussed whether *Darfur* should remain divided into three regions or its unity restored, it was declared that two additional states will be established. The whole exercise is, therefore, futile. What emerged cannot by any credible sense be described as the Sudanese Peoples initiative on *Darfur*.

The Qatari Initiative:

So far, this initiative received Arab league, African union and international blessings.

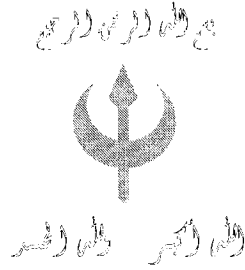
However, it is not clear yet whether it will avoid the pitfalls which led to the failure of all previous attempts, they are:

- (A) They rush into arranging meetings before they make a proper diagnosis of the situation. Such a comprehensive diagnosis cannot be avoided if we are to describe the right prescription.
- (B) They come shackled with the ceilings of the *NIVASIA* and the *ABUJA* agreements. Such ceilings preclude any serious positive response to the legitimate demands of *Darfur*.
- (C) They assume that stakeholders in *Darfur* are the ruling party and the armed parties. They are all rebels and there is a legitimate representation of *Darfur*. An Agreement between the combatants is necessary but not sufficient.
- (D) Attempts to unite the armed factions are hopeless because they have been scattered by personal, ethnic, and other factors which tend to make them more and more factious. However, there is now a clear *Darfur* Agenda which could unite them in aim if not unite their ranks.
- (E) No meaningful Agreement could be reached without the involvement of all Sudan's neighbors.

It seems that before the Qatari initiative gets underway, a Qatari based organization, the Arab Democratic Foundation, is embarking upon a conference to act as a think-tank for the initiative. The conference is holding its sessions now in Doha.

This is a proper start because it could help avoid the pitfalls which derailed all previous attempts.

Some people are not interested in resolving the *Darfur* crisis because they see it as a lever for regime change in the Sudan. Regime change in the Sudan could and should come as soft not crash landing, because crash landing, even



if it is possible, given Sudan's present circumstances will lead to *SOMALI* scenario for the Sudan. The country now hosts more than fifty armed factions. The ruling party, which may through soft power be overpowered, will in other circumstances be able to fight for its interests. The mushroom growth of armed contenders will not allow a meaningful process of political evolution to develop. In the circumstances *DARFUR* has suffered so much that its tormented peoples must be allowed to come back from hell.

Chapter Two: Resolution of the Darfur crisis

The following declaration of principles is the way forward:

1. As far as the unity of the region, the participation in the presidency, the region's borders, and the issue of land tenure, the status quo ante 30th June 1989 should be restored.
2. To mete out accountability, SC. Resolutions 1591 and 1593 should be implemented.
3. A mechanism for transitional justice should be established.
4. Individual and community compensations for the victims should be supplied.
5. The status of the region to be genuinely federal with constitutional guarantees for its powers. Meanwhile, a transitional administration with non-partisan i.e. technocrats credentials should be established.
6. To acknowledge the principle that the region's share in power and wealth will be according to population size.
7. All national institutions will be restructured to guarantee their reflection of the composition of the Sudanese population.
8. to give the Agreement an all-*Darfur* legitimacy, an all-*Darfur* Conference should be convened to endorse it
9. A National Conference to be held to give the Accord National legitimacy, and to resolve to apply its basic principles to the other regions of Sudan.
10. A Regional Conference involving Sudan and all its neighbors to be held to reach a regional security pact which will chart the rights and duties of all to establish Regional Security and cooperation between all members.

Chapter Three: The ICC and Sudan:

Principal Positions towards the ICC: Our position as Umma Party, since the nineties of last century was supportive of the creation of the International Criminal Court as a mechanism to mete out the justice in crimes which National laws do not criminalize and/or national circumstances do not permit.



GOS Position: Likewise, the Sudan Government participated in a Human Rights conference in (1993) in Vienna, the conference issued three recommendations one of which called for the establishment of an International Criminal Court.

The Security Council passed Resolutions to establish special courts to try the crimes committed in Yugoslavia (1993) and another for Rwanda (1994). They were both supported by the Government of Sudan.

In the period between (1995) and (1998) and so as to implement the Vienna recommendations, the Government of Sudan (GoS) participated in the discussions to establish the ICC.

On 15th June, and 17th July (1998), (GoS) participated in the conference in Rome to set up the court. The conference appointed a drafting committee of 25 countries. Sudan was represented by two senior members: *Awad Alhasan Alnur*, and *Abdalla Ahmed Mahadi*.

The result of the final voting to set up the court was 120 States for it including Sudan, 21 States abstained and seven States opposed: USA, China, Israel, Iraq and others.

On (8/9/2000) Sudan signed the Statute of Rome.

On (22/12/2004), a seminar was organized in Khartoum jointly by the Geneva Human Rights Institute, and the International Alliance in Support of the ICC, and the Sudanese Bar Association, I attended the seminar which recommended that the Sudan ratify the Statute of Rome. The then minister of justice of (GoS) was present, and he endorsed the recommendation.

The ICC in Sudan

After an extensive visit to *Darfur* region in June(2004), we the Umma Party declared that there are war crimes and crimes against humanity in *Darfur* and that we should appoint a neutral commission to investigate and bring the criminals to justice, and compensate the victims. Failing that, we said that the international community will be obliged to intervene. This warning was ignored.

As expected on 18th September 2004, the SC passed Resolution 1564 to form a committee to investigate the *Darfur* crimes. They visited *Darfur* and presented their findings to the Security Council on 31st January 2005. On 31st March 2005, the SC passed Resolution 1593 to transfer the *Darfur* crimes to the ICC.

The Sudan Government initiated a parallel process. Its title betrays an inadequate commission: "commission to investigate alleged Human Rights crimes committed by the armed factions in *Darfur*" i.e. it dose not include the



abuses of officials who in Sudanese law have immunity from prosecution in the conduct of their official duties.

Nevertheless, it did report on 8th May 2005. Two months after Resolution 1593 which referred the matter to the ICC.

This parallel process led to investigations and prosecutions of certain individuals, but the credibility of the process is wanting. It appeared not to be a genuine attempt at responsibility to protect, but an effort to avoid the outcome of Resolution 1593.

The International Report on the *Darfur* crimes passed judgment on the lack of independence of the Sudanese judicial system. There is no doubt that the Sudanese Regime did tamper with the judicial system according to its partisan totalitarian control.

The 2007 ICC Indictments

On 6th of June (2005), the prosecutor of the ICC Mr. Luis Moreno Ocampo started his investigation for the court.

In the period 17-24 November, officials of the ICC visited the Sudan, and in (2006) Ocampo himself visited the Sudan and met with some officials who promised cooperation with him, After his investigations he indicted two Sudanese citizens- one of them a minister of State (2007).

The Sudanese Government is aware of article 13(B) which authorizes the Security Council to refer cases to the ICC under chapter seven of the UN charter. It is also aware of articles 27 and 28 which waived immunity in the case of war crimes from officials.

This legislation plus the fact that National laws do not deal with war crimes, and the doubt about the independence of the Sudanese judiciary, are the reasons why the case was referred to the International Criminal Court. However, the ruling party (NCP) rejected Resolution 1593, and rejected the indictment of the two citizens and entered into a slinging match with the prosecutor of the ICC. The indicted minister was even promoted, committing another breach in the eyes of the prosecutor: protecting an accused person.

Indicting the President

On 14th July (2008), the prosecutor raised the level of clash by requesting the pre-trial Chamber to indict the Head of State in Sudan for war crimes. There are many doubts about the propriety of this move, namely, he charged him with genocide, although the International Commission of Investigation stopped short of that; he went public on the matter before the chamber's decision, and he engaged in a quasi political advocacy of his position.

Moreover, events within the administration of his office throw doubts about his judgment.



Anyway, on 4th March 2009, the ICC Pre-Trial Chamber one issued a warrant of arrest for the President.

GOS Current Position

The behavior of the GoS is questionable, they are members of the UN and although the system is replete with double standards, they are the custodians of International Law until the system is reformed, towards greater justice. They systematically downplay the extent of atrocities committed in *DARFUR* and portray the whole matter as conspiracy against the Islamicist Regime.

If the NCP continues with this position especially after the pre-trial chamber issued the indictment to the head of state in Sudan, the country will be in for great trouble. The inevitable scenario is as follows:

(A) The "Government of National Unity" which is a very fragile institution will break up because some of its members- the SPLM and the SLA- will not support the NCP position.

(B) The NCP will enter into confrontation with the UN system which has troops under chapter seven in the Sudan. This confrontation has a wide destructive potential.

(C) Some Sudanese citizens will be so happy with the indictment, others will be so angry, and the two sections of Sudanese society may clash with serious consequences.

(D) Some elements internal and external may use the event for Regime change. Elements in the Regime will resist such change. The ensuing chaos will draw into the country external perpetrators of violence to combat what they see as the designs of the Zionists and the Crusaders.

(E) Established Peace Agreements which are already fragile will suffer. Future Peace negotiations for *DARFUR* will cease.

The Consequences

Rejection of Resolution 1593 and refusal to deal with the ICC is catastrophic. It leads to the following:

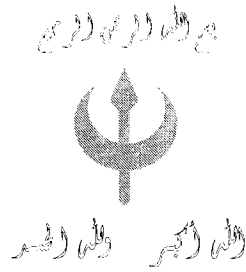
(A) An endorsement of impunity and abdication of the responsibility to Protect (R2P).

(B) Arrest of the development in International Criminal justice and all the welcome reassurance that war criminals will be held accountable.

(C) The possibility that the crisis will be turned into opportunity for reform will disappear.

(D) The leverage potential to raise the seriousness about *DARFUR* and the end of complacency about its predicament will evaporate.

(E) The victims of the war crimes with substantial external support may seek revenge by other means.



Therefore, the Umma Party has eschewed both positions (indicting the current head of state or refusing to deal with the ICC and rejecting resolution 1593). We call for a scenario which accepts resolution 1593 accepts the mandate of the ICC and seeks a program within its statute.

Chapter Four: The Third Way:

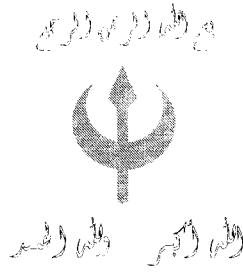
Added to the above mentioned political and legal mistakes, NCP continued its exclusive attitude. After the issuance of the arrest warrant the NCP reacted unilaterally without any participation of or coordination with other political forces including their partner in the government. If NCP insisted to maintain such attitude the consequences will be:

- A sharp political polarization between NCP at one pole and other political forces at the other. This polarization will lead NCP to oppress other. Expulsion of 13 NGOs that deliver 40% of humanitarian relief in Darfur, Abie and Nuba mountains is serious act that endangers our citizens' lives. If they were not complying with Sudanese laws, then why are they awaited till now? If they are expelled because they support the ICC, then this surgical procedure will not be justified.
- A sharp polarization within the government of national unity.
- A sharp regional polarization that lead NCP to the Rejection camp: the camp against the UN Security Council.

As NCP went for a unilateral partisan exclusive position rejecting any involvement of the ICC and rejecting its decision and punishing those who do not support its stand by oppression and expulsion, likewise there are other political forces support the full compliance to the ICC decision, and there are the Darfuri armed groups which offered a policing services to implement the ICC decision and orders. This camp definitely enjoys a regional and international support; they will go for regime change.

We think that the two opposite positions of rejecting the ICC or accepting the Presidents indictment are disastrous. The third way is the only solution: Establishment of a broad Sudanese Front addressing the whole Sudanese political and civil bodies with the following National Agenda:

- The legal response: To call for the establishment of an independent hybrid court composed of qualified Sudanese judges, African judges, and Arab judges, all to deliberate in a special court formed by a special Act. The court will be authorized to apply international criminal law. No for arresting the President. Accountability to be met via that special court, or a formula of transitional justice.



- The political response: focusing on reform to expedite an already planned reform whose particulars are:
 - Settlement of the problem of *Darfur* which would endorse the just demands of the *Darfurians* without any shackles from previous agreements.
 - Guarantee Human Rights and basic freedoms.
 - Review of the current peace agreements to own them nationally.
 - Holding free and fair general elections as a means of soft landing change.
 - Establishment of a genuine National unity Government to implement this National program.

UNP is now calling for a National Front which rejects the NCP unilateral decisions, rejects the utilization of the crisis in the struggle over power, and calls for a National Administration of the crisis which guarantees just and comprehensive peace and true democratic transformation.

We are now running bi-lateral negotiations aiming at convening an urgent summit gathering the NCP, SPLM, NUP, DUP, PCP, East front and SLA (Minni faction), so as to agree on a National Plan to face the crisis. Such a unified National plan will seek blessings of Sudan's neighbors, and the reached agreement should encompass abiding with them on good neighborliness and cooperation on security and developmental issues.

This plan should be supported regionally by the AU, the Arab League and internationally by the UN Security Council.

National Umma Party

جبهة الأمة القومية

جبهة الأمة القومية

Headquarters, Omdurman



المركز العام - أم درمان

والله أكبر والحمد لله

UNP is now calling for a National Front which rejects the NCP unilateral decisions, rejects the utilization of the crisis in the struggle over power, and calls for a National Administration of the crisis which guarantees just and comprehensive peace and true democratic transformation.

We are now running bi-lateral negotiations aiming at convening an urgent summit gathering the NCP, SPLM, NUP, DUP, PCP, East front and SLA (Minni faction), so as to agree on a National Plan to face the crisis. Such a unified National plan will seek blessings of Sudan's neighbors, and the reached agreement should encompass abiding with them on good neighborliness and cooperation on security and developmental issues.

This plan should be supported regionally by the AU, the Arab League and internationally by the UN Security Council.

It is to be noted that part of the National Front members
The Umma Party is convening a
Truth & Reconciliation Commission
as supplemental steps and means
to bring about peace and
stability, in addition to the unity
of the country.