HUMANITARIAN IRRESPONSIBILITY AND THE R2P DOCTRINE: A CASE STUDY OF DARFUR

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ABSTRACT

In light of past humanitarian crises and devastating UN missteps, this paper explores the 'Responsibility to Protect' doctrine and its misapplication and subsequent failure to protect the civilians of Darfur against the first genocide of the 21st century. This paper chronicles the evolution of UN peacekeeping, highlighting the 1993 Somalian debacle and humanitarian catastrophes of Rwanda and Bosnia provided as a means to showcase how political stalemate and delayed military deployment altered the institutional consciousness of the UN and allowed for unnecessary death and displacement. After outlining the 'sovereignty as responsibility' approach, the case of Darfur is presented to demonstrate how a feeble international response and a failure to apply the tenets of responsibility allowed the crisis to stagnate. Although a number of obstacles prevented meaningful political action, the responsibility argument remains sound, with proponents stressing the necessity of correcting conceptual misunderstandings to make the doctrine operational.

DEDICATION

This paper is dedicated to the people of Darfur, whose unwavering spirit stands defiant in the face of genocide. It is my sincere hope that academic pursuits coupled with international activism will contribute to the end of death and displacement in the region.

ACKNOWLEDGEMENTS

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INTRODUCTION

The contemporary security climate is a humanitarian arena governed by a normative legal framework. Security enhancing institutions like the United Nations are regulated by embedded norms that not only guarantee the rights of sovereign states are protected, but also human rights are upheld and civilians shielded from harm. While written to establish durable peace and security in an uncertain political environment, the normative legal framework of the UN is inherently flawed as states have the ability to hide behind their sovereignty when gross human rights violations or mass atrocity crimes are being committed within their borders. Whether particular governments are implicit in conflict and violence or simply unwilling or incapable to take action to avert it, there exists the potential for large-scale loss of life to occur leaving the UN helpless to norms that they created in the name of global order being used against them for destructive ends.

After the humanitarian tragedies in Rwanda, Bosnia and Kosovo, the UN challenged the international community to devise a normative guideline to ensure that atrocities of this level could never again plague the institution. What emerged was the *Responsibility to Protect,* a framework that turned the definition of sovereignty on its head from being equated with inviolable jurisdiction and non-intervention in the internal matters of the state to the responsibility of a nation to protect the lives of its people and promote their welfare. The *Responsibility to Protect* espoused the necessity of prevention to avert crimes of genocidal intent,

reaction, including coercive military intervention if required, to halt mass atrocities in progress and the process of reconciliation and rebuilding after violence has occurred. These overarching principles accompanied by threshold and precautionary criteria designed to ensure reaction was warranted sought to eradicate the occurrence of genocide and large-scale ethnic cleansing- a framework that reached consensus at the 2005 World Summit.

While the *Responsibility to Protect* doctrine offered a means to establish durable peace and security and avert future acts of genocide, the merits of this framework were to remain largely rhetorical as a number of interconnected obstacles prevented it from being applied. The evolution of United Nations peacekeeping norms highlights the ways in which the global security climate has transformed since the end of World War II and how the UN has repeatedly altered the scope of its stance on humanitarian intervention to respond to complex emergencies. Exploring the era of truce supervision monitoring and a non-aggressive physical presence to multidimensional peace enforcement operations in the post Cold War environment, UN peacekeeping policy has been developed along a trajectory affected by history, the changing nature of conflict and international politics. The complicated relationships among the members of the Security Council coupled with incongruent foreign policy, political agendas and lack of political will have led to humanitarian inaction in the security debacles of Rwanda and Bosnia.

This paper discusses the ways in which the evolution of peacekeeping norms, especially the events of Somalia in 1993, help to establish a political

climate that would disregard the merits of the *Responsibility to Protect* and allow for inaction in Darfur- the first genocide of the twenty-first century. A detailed examination of the concept of responsibility as well as the unfolding genocide in Sudan from 2003 are explored, drawing attention to the role of the Sudanese government as war entrepreneurs, Khartoum's economic relationship with China and key UN missteps in halting large-scale ethnic cleansing and forced displacement. Although the *Responsibility to Protect* doctrine continues to have immense potential to halt or avert genocide and ethnic cleansing, obstacles to effective implementation including military and logistical problems, economic ties with China and its use of the veto, the blowback from 9/11 and the growing identity crisis in the humanitarian sphere prevented the UN from applying it to the context in Darfur. After an examination of such impediments to the application of the responsibility framework are explored, conceptual misunderstandings are highlighted stressing the need for maintained consensus of the 2005 World Summit Outcome Document, protecting the integrity of the concept and capacity-building to ensure institutional preparedness. While the principles of the *Responsibility to Protect* have failed the people of Darfur, largely due to its delayed and incomplete application, the doctrine remains both functional and relevant in the contemporary security climate and has the potential to prevent or put a stop to similar humanitarian crises that will inevitably plague the UN and call the institution to action.

CHAPTER ONE:
THE EVOLUTION OF PEACEKEEPING

Peacekeeping is a term whose definition becomes increasingly multifaceted as the global security climate becomes more complex. As a collective term, peacekeeping covers a wide range of interventions from traditional peacekeeping to peace enforcement, peace making, peace building and humanitarian operations.[1] Such activities are undertaken as a means to establish and maintain conditions of lasting peace in regions divided by conflict. Depending upon the severity of the clash, cessation of conflict can be achieved through traditional peaceful means including negotiation and mediation or through the more contemporary use of force.

The evolution of peacekeeping can be traced back to different origins with its most significant roots attached to the establishment of the United Nations in 1945. After the devastation caused by the Second World War, representatives from fifty counties met to draw up the United Nations Charter in an effort to create conditions for durable international peace and security. In addition to security goals, the UN operates to "develop friendly relations among nations, to cooperate in solving international economic, social, cultural and humanitarian problems, to promote respect for human rights and fundamental freedoms, and

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[1] Charlotte Watkins, "Provincial Reconstruction Teams (PRT's): An Analysis of their Contribution to Security in Afghanistan," Oxford Brookes University, http://www.institute-for-afghan-studies.org/Contributions/Projects/Watkins-PRTs/chapter_1.htm.

to be a centre for harmonizing the actions of nations in attaining these ends." [2]

Since its inception, the UN aided by the Security Council, the General Assembly and the Secretary General has been called upon to prevent disputes from escalating into violent conflict, to persuade warring groups to negotiate instead of taking up arms and to restore peace when hostilities do erupt.

The history of UN intervention began with what is often termed the first generation of peacekeeping in 1948 when the Security Council authorized a truce supervision mission (UNTSO) to monitor the Armistice Agreement that had been signed between Israel and bordering Arab populations. This initial mission led by military observers known widely as "blue helmets" or "blue berets" due to their recognizable headgear, was merely an exercise in monitoring to ensure ceasefires were maintained and isolated incidents of violence were quashed after the partition of Palestine was endorsed by the General Assembly to make way for a Jewish state. [3]

This preliminary foray into international peacekeeping symbolized the beginning of the UN's mission into the pacifist settlement of disputes, although its definition continued to remain vague and undefined in international law. The term peacekeeping was and continues to be excluded from the United Nations Charter, suggesting that such activity was never contemplated during the drafting of articles in the mid 1940's. In the absence of clear articulation, peacekeeping defies formal definitions. Dag Hammarskjold, the second UN Secretary General

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[2] United Nations, "Basic Facts about the United Nations: Organization," UN, http://www.un.org/aboutun/basicfacts/unorg.htm.

[3] United Nations, "Middle East UNTSO Background," UN, http://www.un.org/Depts/dpko/missions/untso/background.html.

referred to it as "belonging to chapter six and a half of the Charter, placing it between traditional methods of resolving disputes peacefully, such as negotiation and mediation under Chapter VI and more forceful action as authorized under Chapter VII." [4]

While the exact definition of peacekeeping remained ambiguous in the United Nations Charter, peace operations continued to be guided by principles designed to maintain the integrity of the UN's international security mandate. To ensure that UN actions maintained credibility within the international community, peacekeeping operations emphasized the necessity of the consent of parties involved, neutral reporting, non-involvement in political processes and a non-aggressive physical presence.[5] Operational tenets stressed impartiality and minimal use of force (unless in self defence), which allowed the UN to become the premiere authority of security enhancing institutions in the post WWII era.

The era of traditional peacekeeping was essentially designed to respond to inter-state conflicts by means of stationing unarmed or lightly armed UN forces to create a buffer zone between hostile parties as a means to advance political negotiations. These operations initially took place in the Cold War environment, wherein superpowers avoided direct conflict due to the delicate balance of nuclear power often resulting instead in the onset of proxy wars in developing states. This nuclear war aversion strategy created what 'realist' scholars term the Long Peace, as the major powers had the effect of enhancing security bolstered

[4] United Nations, "Peacekeeping," UN, http://www.un.org/Depts/dpko/dpko/index.asp.

[5] Norrie MacQueen, Peacekeeping and the International System (New York: Routledge, 2006), 67.

by mutual nuclear deterrence thus limiting the need for formal peacekeeping.[6]

Peace operations during the Cold War period were generally benign in nature,

employed mainly as a deterrent applied to "placate and refrigerate the conflict

environment to allow formal negotiations to take place." [7]

After missions in both Palestine and Kashmir (UNMOGIP, 1948), the UN's

peacekeeping efforts were advanced in scale in 1956 with the onset of the crisis

in the Suez Canal. After a three-way attack on Egypt by Britain, France and

Israel as a direct result of the Egyptian government proposing to nationalize the

canal, the UN were urged to deploy the United Nations Emergency Force

(UNEF) to maintain the fragile peace that had emerged from the short, but

volatile conflict. UNEF represented a departure from previous missions in that it

provided UN observers with a practical framework with which to organize future

peacekeeping operations. While UNEF did have a number of unique features

that would not necessarily be present in future emergencies, the General

Assembly and Secretary General Hammarskjold identified "certain basic

principles and rules which would provide an adaptable framework for later

operations," in the 1958 Summary Study of UNEF which focused on the broad

principles of voluntarism, neutrality and non-enforcement. [8]

As a means to achieve durable peace, UNEF was an operation that met

traditional peacekeeping ideals. Unlike the definition of 'collective security' as

outlined in Chapter VII of the UN Charter which stresses the need for an imposed

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[6] Human Security Centre, *Human Security Report 2005: War and Peace in the 21st Century*, (New York: Oxford University Press, 2005), 3.

[7] Oliver P. Richmond, *Maintaining Order, Making Peace*, (Hampshire, NY: Palgrave, 2002), 44.

[8] MacQueen, *Peacekeeping*, 75.

military presence by all member states after an act of aggression, UNEF deflated

the Suez canal crisis by means of interposition and observation, with full host

state consent and lightly armed policing and moral force. This preventative

peacekeeping model proposed by Hammarskjold helped to maintain the positive

momentum created by UNEF that was needed to entrench peacekeeping in the

institutional consciousness of the UN. While UNEF was considered the largest

and most involved peacekeeping operation to date, it can be considered a first

generation mission because it faced few complicated or difficult situations.[9]

UNEF was able to aptly succeed due to its straightforward, limited and clearly

defined objectives, elements of peacekeeping that are urgently needed in the

resolution of current complex emergencies, but are unable to be applied due to

the multidimensional nature of the contemporary international security climate.

The model envisaged by Secretary General Hammarskjold after the

success of UNEF was in many ways idealistic, as future UN missions rarely

conformed to this framework due to situational differences. Despite the

contextual shortcomings of the peacekeeping model, the UN continued to have

operational success in states like Lebanon (UNOGIL, 1958), West New Guinea

(UNSF, 1962) and Cyprus (UNFICYP, 1964), who similarly encountered

challenges related to the transition to independence as colonial history came to a

close. Although the UN experienced success in these specific cases, the July

1960 peacekeeping operation in the Congo (ONUC, 1960) proved to be a more

complex and dangerous mission.

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[9] MacQueen, *Peacekeeping,* 77.

The idea of peacekeepers fitting into the neat definition of neutral buffers between hostile parties with the use of force limited to immediate self-defence became meaningless when the UN encountered the crisis in the Congo. As the era of colonialization wound down, the Congo witnessed the withdrawal of Belgian governing power. After an international chorus of disapproval demanded Belgium hand over state control to the Congolese, a multilayered emergency surfaced that combined a range of conflicts between different ethnic and regional groups. In this unstable atmosphere fuelled by widespread inequalities as a result of resource exploitation, an underpaid and mutinying military and a crumbling post-independence government, the UN were forced to step in to prevent the crisis from spiralling further out of control. [10]

While the intentions of the UN were clearly to deploy lightly armed troops as it had in the past to maintain stability as a means for political negotiations to take place, the multidimensional crisis in the Congo was the first peacekeeping operation that experienced failure. The challenges faced by ONUC were many including an ambiguous mandate, an ideological division between Congolese political elites that separated these men into opposing Cold War blocs (effectively eliminating the prospects for consensus in the Security Council), high profile political killings, violent resource-hungry mercenaries and the accidental death of Secretary General Hammarskjold. With the eventual implementation of a more robust mandate and military action to end the violent and insatiable greed of

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[10] MacQueen, *Peacekeeping,* 84-86.

strong men, the UN was able to stabilize the situation in 1964. [11] Although the experience of ONUC in the Congo ended in success it reflected the shortcomings of the proposed peacekeeping template, illustrating the difficulties of maintaining peace in potential civil war environments and further blurring the definition between peacekeeping and peace enforcement.

From the mid 1960's until the late 1980's, the UN engaged in a handful of peacekeeping missions mainly in the Middle East due to its status as a 'permitted area' during the Cold War.[12] As east-west tensions rose, the superpowers came to a tacit agreement about regions that were off limits to multilateral intervention due to each side's interest in retaining national control over regions of significance. For example, the Soviet Union's sphere of national influence laid claim on Eastern Europe and Latin America, making UN intervention in those areas a non-option. Because of these restrictions the UN had no choice but to focus its efforts on regions that had no standing in the bipolar contest including the Middle East, sub-Saharan Africa, South Asia and the Pacific. In this way, "the boundaries of those areas 'available' to peacekeeping were, to an extent, elastic. In periods when east-west tension was high, the permitted area contracted, but when the superpowers were able to take a more distanced view of events in the international system, it expanded." [13]

The UN's intervention in Lebanon (UNIFIL, 1978) was the last peacekeeping operation that was deployed before the end of the Cold War. In

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[11] MacQueen, *Peacekeeping,* 89-91.
[12] Macqueen, *Peacekeeping,* 112.
[13] Ibid., 112.

the decade between this mission and its successors, Moscow and Washington continued to fund proxy wars in the developing world and kept UN peacekeeping efforts at a virtual standstill. By the late 1980's Cold War tensions began to subside and the historic rift in the Security Council petered out, creating space for a new institutional environment and liberating the UN from its restrictive bipolar limitations. The end of the east-west conflict marked the rebirth of peacekeeping and "freed from the paralyzing stasis of Cold War geopolitics, the Security Council initiated an unprecedented, though sometimes inchoate, explosion of international activism designed to stop ongoing wars and prevent new ones." [14]

The post Cold War reinvigoration of peacekeeping gave the UN the freedom to implement a more robust international security agenda, which consequently increased the number of military forces deployed and corresponding budgetary demands. From 1987 to 1994, "the Security Council quadrupled the number of resolutions it issued, tripled the peacekeeping operations it authorized and increased from one to seven per year the number of economic sanctions it imposed. Military forces deployed in peacekeeping operations increased from fewer than ten thousand to more than seventy thousand. The annual peacekeeping budget accordingly skyrocketed from $230 million to $3.6 billion in the same period." [15]

With superpower rivalries having faded into obscurity, the UN was able to intervene in all political and geographical regions- a necessary action considering

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[14] Andrew Mack, "Peace on Earth? Increasingly,Yes," *Washington Post*, December 28, 2005, A21.

[15] Michael W. Doyle and Nicholas Sambanis, *Making War and Building Peace: United Nations Peace Operations.* (Princeton: Princeton University Press, 2006), 16.

that superpowers had become disinterested with safeguarding Cold War spheres

of influence after tensions had subsided. The removal of superpower influences

"had the effect of lifting the lid on some volatile regional mixes. In the 1990's,

therefore, not only was there more opportunity for peacekeeping, there was more

demand for it as well." [16] The disintegration of the former Yugoslavia and

resultant demise of superpower spheres of influence, especially in Africa, altered

the theoretical rules in which traditional or 'old' wars had been waged. 'Old' wars

refer to idealized conflicts that were fought in Europe from the late eighteenth

century to the middle of the twentieth century between states who used

uniformed armed forces to settle disputes on the battlefield. 'Old' wars as Charles

Tilly has argued were linked to the rise of the modern nation-state and essentially

acted as a primitive form of state building. [17] Conversely, 'new' wars are those

fought in the context of the disintegration of states, typically authoritarian regimes

strained under the impact of globalization. Such conflicts are fought by "networks

of state and non-state actors, often without uniforms...where battles are rare and

where most violence is directed against civilians as a consequence of counter-

insurgency tactics or ethnic cleansing." [18] In the environment of 'new' wars, the

UN faced stateless terrain, where in a number of selected cases looting, pillaging

and illegal trading ran rampant and the construction of new sectarian identities

(religious, ethnic, tribal) contributed to societal breakdown and mass violence.

'New' wars often had the effect of blurring the distinction between combatants

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[16] MacQueen, *Peacekeeping,* 129.

[17] Charles Tilly, *Coercion, Capital and European States* (Oxford: Blackwell, 1990): 67.

[18] Mary Kaldor, *Human Security: Reflections on Globalization and Intervention* (Cambridge: Polity Press, 2007): 3.

and non-combatants, creating complex emergencies that would require a multidimensional response.

In the three years between 1988 and 1991, a series of new missions were established in areas that previously would have been unthinkable during the Cold War. Although largely observer based operations, missions were deployed in locations including Afghanistan, the Gulf and Latin America to address stagnating conflicts that had previously been core interests of the superpowers and thus off limits to United Nations intervention. [19] Aside from the upsurge in the amount of new peacekeeping missions, the UN also became involved in the betterment of the process as a whole. This new optimism for sustainable international peace and security led to the request at the January 1992 Security Council Summit for a conceptual framework of new peacekeeping ideals. Secretary General Boutros Boutros-Ghali stepped up to the challenge creating *An Agenda for Peace*, an ambitious document that stressed preventative diplomacy to avert conflict before it became violent.

The *Agenda* emphasized four central and inter-connected roles that Boutros-Ghali hoped the UN would play including peace making (designed to bring hostile parties to the negotiations table), peacekeeping (monitoring truce agreements) and the new principles of peace enforcement (authorization to act with or without host state consent in order to ensure compliance with ceasefire agreements under Chapter VII) and post conflict reconstruction (to foster economic and social cooperation between formerly warring parties to create the

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[19] MacQueen, *Peacekeeping,* 159.

foundation for durable peace). [20] In essence, Boutros-Ghali advanced

peacekeeping to a new multidimensional plateau wherein the UN would have to

employ a more comprehensive approach than ever before. This new doctrine

was tailored to suit the onslaught of modern conflict environments, namely

challenging intrastate violence, which required an armed military presence to

enforce peaceful outcomes. *An Agenda for Peace* sped up the evolution of UN

peacekeeping, moving beyond traditional methods of mediation and host state

consented monitoring to the comprehensive use of force by air land or sea under

Charter article 42 to achieve desired results. [21]

While the UN has had laudable success with such contemporary

multidimensional peace operations as those in Namibia (UNTAG, 1989), El

Salvador (ONUSAL, 1991), Cambodia (UNTAC, 1992), Mozambique (ONUMOZ,

1992) and Eastern Slavonia (UNTAES, 1996), it will be remembered most for its

failures, most notably in Somalia, Rwanda, Bosnia and now Darfur. Each of

these cases exemplifies the challenges of adequately establishing peace in civil

war environments plagued by ancient ethnic hatreds and political weakness

associated with the aesthetic of 'new wars' that lead to humanitarian disasters.

The UN's experience in Somalia was one that would alter the course of

peacekeeping and prevent humanitarian intervention where it was needed most.

The UN operation in Somalia (UNOSOM, 1992) stemmed from the brutal

civil conflict between the head of state Siad Barre and clan-based rebel groups

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[20] Boutros Boutros- Ghali, "Agenda for Peace: Report of the Secretary-General," UN document, http://www.un.org/Docs/SG/agpeace.html.

[21] Doyle and Sambanis, *Making War,* 16.

led by Mohamed Farah Aideed, who used hunger and the control of food as a weapon. The UN soon began to feel the pressure to take action after the 'CNN effect' beamed Somali horrors into western homes creating mounting international pressure. [22] When the United Nations UNOSOM force was beset with countless operational difficulties related to the violent rebels and stateless terrain, the United States sent UNITAF to quite simply stabilize the conflict and gain the support of the international press by providing aid to the hungry. Images of delivering food to the starving masses were not enough to win over international audiences as Aideed ordered his militia's to attack UN peacekeepers claiming he was fighting the world's last superpower intent on neocolonialist ends. [23]

After militia attacks, Aideed became the main enemy of the US and the following day, the Security Council (after insistent urging from the Americans) passed a resolution calling for 'all necessary measures' to be taken to bring the perpetrators of the attacks to 'trial and punishment.' [24] From this point the situation only worsened as militia gunshots brought down two American Black Hawk helicopters in October of 1993 resulting in a messy rescue mission with over 1000 Somali casualties and eighteen Americans dead. This incident quickly prompted the US to abandon their hunt for Aideed and leave Somalia in no better state than they had found it. The failure of both UNOSOM and UNITAF was

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[22] Cori Elizabeth Dauber, "The Shot Seen 'Round the World: The Impact of the Images of Mogadishu on American Military Operations," *Rhetoric and Public Affairs 4,* no. 4 (2001): 664.
[23] MacQueen, *Peacekeeping,* 217.

[24] United Nations, "Somalia-UNOSOM II: Resolutions of the Security Council," UN document S/RES/837, http://www.un.org/Depts/dpko/dpko/co_mission/unosom2res.html.

mainly in their inability to disarm the militias and the ambiguous nature of mission objectives and means implemented to achieve such objectives. [25]

Although there were only eighteen American casualties in the Somalian crisis, those deaths would have devastating consequences for hundreds of thousands of innocent lives in the humanitarian disasters in Rwanda and Bosnia. The UN's delayed engagement in Rwanda sheds light upon the profound ways in which the failures in Somalia affected the institutional outlook on peacekeeping. Having current and accurate updates given to UN officials almost daily from Canadian General Romeo Dallaire, both the Security Council and General Assembly knew of growing Hutu genocidal tendencies against Hutu moderates and the Tutsi minority and yet failed to alter their mandate and enhance resources. Once the upsurge of violent mass murder was underway, the UN showed no enthusiasm for a greater level of commitment and fell short of acting decisively to prevent 800 000 unnecessary deaths. [26]

While the international community watched on in helpless dismay, the Clinton administration passed PDD25 titled 'Policy of Reforming Multilateral Peace Operations', which limited future support for peace operations to only those that involved direct US interests. [27] In addition to effectively losing American military support, the UN was also committed to other large-scale ventures in Western Sahara, Angola and Mozambique, which collectively were

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[25] Dauber, *The Shot Seen 'Round the World,* 665.

[26] Human Rights Watch, "Leave None to Tell the Story: Genocide in Action," HRW, http://www.hrw.org/reports/1999/rwanda/.

[27] Michael G. MacKinnon, *The Evolution of US Peacekeeping Policy Under Clinton: A Fairweather Friend?* (London: Frank Cass, 1999), 125-39.

becoming unsustainable. With the lack of political will and expensive and hazardous operations already in progress in other troubled states, the UN was able to deny support not only to the people of Rwanda but also to the Muslims of Bosnia who endured an array of crimes against humanity during the three year regional conflict which killed approximately 97, 000 and especially during the Srebrenica massacre in July of 1995 which killed over 8000. [28] While during the Rwandan genocide, UN forces "had neither the military capacity nor the mandate to control events…in Bosnia, UNPROFOR was directly mandated to protect the safe areas. The events of July 1995 were, in short, a low point for the entire peacekeeping project and arguably the most disgraceful chapter in the history of the United Nations to date." [29] The UN promised the world would "never again" bear witness to genocide, pledging to protect the lives of the innocent from future humanitarian crises. [30]

From the days of traditional peacekeeping efforts to the necessity of aggressive peace enforcement in the context of 'new' wars, the UN has faced challenges that conceptual frameworks and lessons learned cannot resolve. The debacles in Somalia and Bosnia stressed the practical limitations of peace enforcement missions and "forced a radical re-thinking of when and where the UN should get involved. Disingenuously, US President Bill Clinton told the General Assembly that they needed to learn when to say 'no'. Many came to

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[28] United Nations, "Report of the Secretary-General pursuant to General Assembly resolution 53/35: The Fall of Srebrenica," UN document, http://www.un.org/peace/srebrenica.pdf.

[29] MacQueen, Peacekeeping, 168.

[30] United Nations, "Lessons from Rwanda, " UN Programme Site, http://www.un.org/preventgenocide/rwanda/neveragain.shtml.

believe the UN was not well suited to mounting effective peace operations." [31]

The firestorm of criticism directed at the UN in the mid 1990's forced a re-evaluation of peace enforcement policy, famously led by Boutros-Ghali in his 1995 *Supplement to an Agenda for Peace*, which called for a retrenchment of an over-extended and comprehensive approach to peacekeeping. [32]

The devastating consequences of post Cold War peacekeeping ventures demanded a new set of operational strategies that could guide the UN through future conflicts of the twenty-first century. After a high level panel investigation was set in motion by Secretary General Kofi Annan to determine the weaknesses of UN peacekeeping policy, the *Report of the Panel on United Nations Peacekeeping Operations* commonly called the *Brahimi Report* was published in 2000. This report chaired by UN under Secretary General and former Algerian foreign minister Lakhdar Brahimi, moved past the broad post Cold War prescriptions of Boutros-Ghali to assess precise and technical problems with UN peacekeeping efforts of the 1990's and provide specific recommendations.

To answer concerns of clashes that have not resulted in victory for any side Brahimi offered conflict prevention, a partial return to Hammarskjold's preventative diplomacy. Prevention, the report stated, "is clearly more preferable for those who would otherwise suffer the consequences of war, and is less costly for the international community than military action, emergency humanitarian

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[31] Doyle & Sambanis, *Making War*, 17.
[32] Ibid., 18.

relief or reconstruction after a war has run its course." [33] Brahimi argued that this

strategy of prevention must be based upon integration of the UN with

international actors, including NATO and regional organizations like the

European Union. Specifically, the UN should engage itself in "the more frequent

use of fact finding missions to areas of tension." [34] Although Brahimi

acknowledged the value of inter-agency cooperation, he felt that such joint efforts

were only applicable to conflict prevention and post conflict peace building

operations due to the unevenly distributed military resources and capabilities

around the world, which left the peacekeeping project firmly in the hands of the

UN.

In addition to the centrality of conflict prevention, the Brahimi Report

maintained the absolute importance of the consent of host states in

peacekeeping operations, but noted "consent may be manipulated in many ways

by the local parties." [35] Because consent does have the ability to be manipulated,

Brahimi recommended a new robustness in the use of force, proposing the

deployment of troops in ninety days or less. Thus, he urged that mandates

should not be rigid, but rather authorized to become more comprehensive as the

security situation of a conflict deteriorates, allowing UN forces to adequately

defend themselves and those under their protection. Along with the consent of

parties and the degree of force permissible in peacekeeping, the Brahimi Report

urged the UN to demand and confirm that 'certain minimum standards' were

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[33] United Nations, "Report of the Panel on United Nations Peace Operations," UN document
A/55/305, http://www.un.org/peace/reports/peace_operations/.

[34] Ibid., http://www.un.org/peace/reports/peace_operations/.

[35] Ibid., http://www.un.org/peace/reports/peace_operations/.

present in peace agreements. To this end Brahimi called for UN 'advisor observers' to be present during negotiations. [36]

Although a more robust approach to the use of force was emphasized, the imposition of blanket mandates to protect all civilians in all situations was identified as an impractical course of action. Learning from the lessons of the Congo in the 1960's, mandates were to become less ambiguous, but not overly ambitious and simply unachievable as the mandates implemented in the mid 1990's. While the critical importance of properly formulated and realistic mandates were stressed as essential to the peacekeeping process, the *Brahimi Report* made an important distinction between impartiality and neutrality due to the humanitarian disasters in Rwanda and Srebrenica. Therefore, impartiality must:

> Mean adherence to the principles of the Charter and to the objectives of a mandate...Such impartiality is not the same as neutrality or equal treatment of all parties in all cases for all time, which can amount to a policy of appeasement. In some cases, local parties consist not of moral equals but of obvious aggressors and victims, and peacekeepers may not only be operationally justified in using force but morally compelled to do so. [37]

Because shame and guilt would haunt the future actions of the UN, the institution continued to face criticism despite attempts to improve peacekeeping procedure. Even a mandate that preached the use of all necessary means to protect the innocent would meet condemnation, as it had the potential to threaten the safety of UN soldiers on the ground and create tension between member

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[36] Ibid., http://www.un.org/peace/reports/peace_operations/.
[37] Ibid., http://www.un.org/peace/reports/peace_operations/.

states that contribute more troops or funds than other states. Albeit, the hands of the UN were tied as new peacekeeping operations were deployed into volatile regions in Africa, Eastern Europe and South East Asia, with hopes for increased operational success.

Essentially the Brahimi panel was commissioned to look forward, but could not do so without looking to the past. Its central task was to "propose ways and means of sustaining the peacekeeping efforts of the United Nations in the new century after the problems and pressures it had been subjected to in the last decade of the old one. But a reading of the report has the effect of underlining the long narrative of peacekeeping, one which, although given a new tone by the end of the Cold War, begins many decades earlier." [38] Peacekeeping where there is no peace to keep is an issue that initially emerged during the Congo crisis and resurfaced in the post Cold War environment of the 1990's. Thus, the evolution of peacekeeping is not wholly about the changing nature of conflict as it is about the approaches the UN chooses to implement in order to resolve such conflict. While it is significant to realize that national security policies and the incongruent politics of the members of the Security Council have led to institutional failure within the United Nations, the institution as a whole has a long road to travel before it can effectively and efficiently resolve violent conflict on stateless terrain.

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[38] MacQueen, *Peacekeeping,* 245.

CHAPTER TWO:
THE RESPONSIBILITY TO PROTECT: THE END
OF GENOCIDE?

After the Brahimi Report was published in 2000, the debate on

intervention continued as new conflicts materialized in different regions around

the world, leaving the international community in a political and moral quagmire

in determining how to adequately respond. Despite shameful operational failures

in a number of states, the evolution of peacekeeping demonstrates the continued

efforts of the UN to stabilize the international system and promote the welfare

and livelihood of citizens in sovereign nations through humanitarian intervention.

Such efforts however, can hit political roadblocks when the Security Council is

divided or UN member states lack the political will to act. When faced with the

potential for humanitarian tragedy, as the UN was in 1999 with the impending

genocide of ethnic Albanians in Kosovo, the international community feared

another case of inaction, as the Security Council would surely be blocked by one

or more vetoes. Fortunately, NATO launched a 'humanitarian war' outside its

traditional operational capacity and without UN authorization to engage in a

robust peace enforcement mission. [39]

Although NATO acted in defence of a basic and shared human

conscience, its actions exposed normative legal inconsistencies as they operated

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[39] Albrecht Schnabel and Ramesh Thakur, eds., *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action and International Citizenship* (Tokyo: United Nations University Press, 2000), 43.

outside of international law and violated the UN's authority as the only

institutional body accepted to validate such operations. The justification for a

"collective defence organization bypassing the international organization in order

to wage an offensive war remains problematic, and the precedent that was set

remains deeply troubling to many observers and countries for having posed a

fundamental challenge to the normative architecture of world order." [40] The

dilemma can be summarized as follows:

> To respect sovereignty all the time is to risk being complicit in
> humanitarian tragedies sometimes. To argue that the UN Security
> Council must give its consent to international intervention for
> humanitarian purposes is to risk policy paralysis by handing over
> the agenda either to the passivity and apathy of the Security
> Council as a whole or to its most obstructionist member, including
> any one of the five permanent members (P-5) determined to use
> the veto clause. To use force without UN authorization is to violate
> international law and undermine world order based on the centrality
> of the UN as the custodian of world conscience and the Security
> Council as the guardian of world peace. [41]

After the negative experiences in Somalia, Rwanda and Bosnia and the

newest security debacle in Kosovo, the UN was acutely aware of the

predicament surrounding vetoes and the possibility of further humanitarian

inaction. To procure a solution to such problems Secretary General Kofi Annan

challenged member states to come up with an approach to avoid future obstacles

to human security. Responding to the challenge, Canadian foreign minister Lloyd

Axworthy established the International Commission on Intervention and State

Sovereignty (ICISS) as a means to address the intervention dilemma. The report

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[40] Ramesh Thakur, "Intervention, Sovereignty and the Responsibility to Protect: Experiences of the ICISS," *Security Dialogue* 33, no. 3 (2002): 324.

[41] Ibid., 325.

produced by the ICISS and co-chaired by Gareth Evans and Mohamed Sahnoun in December of 2001 was titled *The Responsibility to Protect* (R2P), and dealt with the issue of the normative consensus on intervention. The report replaced such consensus with the idea of state authorities at the national level and the Security Council at an international level being entrusted with the responsibility to protect civilians from mass atrocity crimes. The report was attempting to alter the view of humanitarian intervention from the notion of a right or a duty to the responsibility of sovereign states in an attempt to generate the political will to avoid future Rwandas. [42]

The current debate about humanitarian intervention has evolved greatly since the creation of the UN in 1945. This development, aided by stronger norms and mechanisms to protect human rights has implications for state sovereignty. Sovereignty is more than just the legal identity of a state in international law, but also recognition of a nation's "equal worth and dignity, a protection of unique identities and national freedom and an affirmation of the right to shape and determine their own destiny. In recognition of this, the principle that all states are equally sovereign under international law was established as a cornerstone of the UN Charter (Article 2.1)." [43] Such equality under international law is a concept, which provides order and stability to the global system, but also guarantees the norm of non-intervention between sovereign states. The obligation to respect other states sovereignty under Article 2.7 of the UN Charter,

[42] International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect*, (Ottawa, Ontario: International Development Research Centre, 2001), 7.
[43] ICISS, *The Responsibility*, 7, 1.32.

empowers internationally recognized nations "to exercise exclusive and total jurisdiction within its territorial borders. Other states have the corresponding duty not to intervene in the internal affairs of a sovereign state. If that duty is violated, the victim state has the further right to defend its territorial integrity and political independence." [44] In light of rules of jurisdiction, *The Responsibility to Protect* thus re-characterizes sovereignty as state control to sovereignty as responsibility in both internal and external duties.

In recognizing sovereignty as responsibility, the R2P doctrine implies that the primary duty of a state is to ensure the protection of its people and to promote their welfare. Due in part to the ever-expanding discourse and global impact of human rights norms, sovereign states are obliged to halt or avert serious suffering, harm or injury to its citizens as a result of civil war, insurgency, repression or state failure. If the state in question is unwilling or unable to fulfill these obligations or if they themselves are the perpetrators of violence, the principle of non-intervention under the UN Charter becomes void to the international responsibility of outside states to protect. [45] Under the 'responsibility to protect' framework, the UN would be obligated to reject the sanctity of national borders as a means to ensure human rights are maintained protecting groups from mass killing, women from systematic rape and children from starvation, if not by the state then by the broader international community.

The ICISS purposefully avoided language of the 'right or duty to intervene' as it was thought to invite an intrinsically confrontational tone unlike the term

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[44] ICISS, *The Responsibility,* 12, 2.8.
[45] Ibid., 17, 2.29.

'responsibility' which implies a moral and judicious approach to intervention. [46] The 'responsibility to protect' principle thus calls for intervention for human protection in a variety of forms, utilizing military involvement only in extreme cases. The report itself was initially designed not as an interventionist strategy, but a three pronged approach to respond to humanitarian crises. The 'responsibility to protect' is not simply a reactionary principle, as its single most important dimension is that of prevention.

Within the R2P principle lays a commitment to prevention, which urges the international community to close the gap between rhetorical support and tangible obligation. Because the failure to prevent violent conflict is not simply a local or national affair and can have global costs and consequences, encouraging strong support from the international community is not only indispensable, but in their own interests due to underlying fears of spillover into other regions and the potential for future terrorist attacks. For the effective prevention of conflict, the R2P framework contends that the Security Council and regional actors with intimate local knowledge need to address early warning signs of emerging tensions. [47] The UN itself is also responsible for uncovering the root causes of conflict including political, economic, legal and military issues that plague particular states. If and when the causes of conflict are unearthed, the UN has the power to undertake direct political and diplomatic actions such as dialogue and problem solving workshops or conversely travel and asset restrictions on

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[46] Ibid., 13, 2.14.
[47] Ibid., 21, 3.11.

targeted persons, the suspension of organization membership, or naming and shaming to avert future violence.

Economic direct prevention involves both positive and negative inducements including the promise of new funding or favorable trade terms, or more coercive measures like trade and financial sanctions, withdrawal of investment, the curtailment of aid or restrictions on income generating activities like oil or diamonds. The UN can also utilize military action in the form of arms embargos and the cessation of military and training programs to force compliance with international norms. The most contemporary direct prevention strategy is of a legal nature wherein specialist tribunals or the International Criminal Court undertakes actions of mediation, arbitration and adjudication and have the jurisdiction to punish perpetrators of war crimes and crimes against humanity. [48] Underlying all of the specifics is the need for the international community to change its basic mindset from a 'culture of reaction' to a 'culture of prevention,' a task that is long overdue. [49]

While the 'responsibility to protect' implies above all else the necessity of action when situations call for the security of endangered populations, this option can only be employed when all other preventative measures have been exhausted. As with preventative approaches, reactionary measures should utilize less intrusive options before coercive actions are applied. Measures short of peace enforcement operations as outlined above sometimes do not result in desired outcomes, forcing the international community to make the decision to

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[48] Ibid., 24.
[49] Ibid., 27, 3.24.

intervene. The 'responsibility to react' can only be commenced in extreme and exceptional cases, wherein "violence which so genuinely shock[s] the conscience of mankind or which present[s] such a clear and present danger to international security." [50] Therefore, only in exceptional cases of human risk can coercive military action cross sovereign borders justified by six unambiguous criteria. While there is no universally accepted single list, the ICISS identified the right authority, just cause, right intention, last resort, proportional means and reasonable prospects as necessary elements for intervention- criteria that were compiled to make the Security Council more effective in averting humanitarian crises. [51]

The right authority refers to the authority of the UN Security Council to deal promptly with requests to intervene, seeking adequate verification of evidence and refraining from applying veto power unless direct state interests are involved. If the Security Council rejects a proposal or fails to act in a reasonable timeframe, alternative actions are to pose the issue to the General Assembly in an Emergency Special Session under the 'Uniting for Peace' procedure or to propose action within the area of jurisdiction to regional or sub-regional organizations under chapter VIII of the Charter after authorization by the Security Council. The Security Council should take into account that "if it fails to discharge its responsibility to protect in conscience-shocking situations crying out for action, concerned states may not rule out other means to meet the gravity and urgency

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[50] Ibid., 31, 4.13.
[51] Ibid., 32, 4.16.

of that situation- and that the stature and credibility of the United Nations may suffer thereby." [52]

The just cause threshold ensures that military intervention is only carried out in extreme or exceptional cases. To be warranted, the ICISS contends that there are two broad sets of circumstances that allow for coercive action, namely "large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or large scale 'ethnic cleansing,' actual or apprehended, whether carried out by killing, forces expulsion, acts of terror or rape." [53] If either or both of these conditions are satisfied and credible evidence obtained by UN organs and agencies, reliable international organizations and NGO's and on occasion the media, military personnel will be authorized to intervene.

Other precautionary criteria for intervention include the right intention, dependent on motives to avert human suffering, the last resort, after every diplomatic and non-military avenue has been explored, proportional means, which ensure the planned scale, duration and intensity of the operation will meet the minimum standards necessary to secure the mission objectives and reasonable prospects, which ensure there is a reasonable chance for success in averting humanitarian crisis. If these criteria are met and intervention is authorized, the operation must meet operational principles, which include:

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[52] International Crisis Group, "The Responsibility to Protect," ICG, http://www.crisisgroup.org/home/index.cfm?id=4521.
[53] ICISS, *The Responsibility*, 32, 4.19.

- Clear objectives, clear and unambiguous mandate at all times and resources to match.
- Common military approach among involved partners, unity of command, clear and unequivocal communications and chain of command.
- Acceptance of limitations, incrementalism and gradualism in the application of force, the objective being protection of a population, not defeat of a state.
- Rules of engagement, which fit the operational concept; are precise; reflect the principle of proportionality and involve total adherence to international humanitarian law.
- Acceptance that force protection cannot become the principle objective.
- Maximum possible coordination with humanitarian organizations. [54]

While prevention is considered the single most important dimension of the 'responsibility to protect', if coercive reactionary measures are undertaken to halt or avert the worsening of humanitarian crises, the ICISS offers a final measure in the 'responsibility to rebuild.' This obligation ensures a full assistance with recovery, reconstruction, reconciliation and addressing root causes of conflict. The report recognizes the need for a multidimensional approach to post-intervention peace building stressing that "true reconciliation is best generated by ground level reconstruction efforts, where former armed adversaries join hands in rebuilding their community or creating reasonable living and job conditions at new settlements." [55] Thus lasting reconciliation efforts must be conscious of the need to encourage such cooperation.

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[54] International Crisis Group, *The Responsibility,*
http://www.crisisgroup.org/home/index.cfm?id=4521.
[55] ICISS, *The Responsibility,* 39, 5.4.

After the 2001 publication of the *Responsibility to Protect,* the report was met with enthusiasm from a wide range of governments, but only on a declaratory level. Over the next two years, little progress was made in implementing key recommendations of the report amongst the members of the General Assembly and the Security Council who did not endorse the principle of responsibility or adopt the threshold and precautionary criteria. In addition to the lack of formal UN support, the P-5 were disinterested in limiting veto power or offering a greater role to the members of the General Assembly as it risked undermining the Charter and their own freedom. [56] Supporters of the report argued that those who justified the 2003 war in Iraq as a humanitarian intervention limited the progress of the 'responsibility to protect' in the eyes of the UN. It was feared by many countries that the R2P concept would be used a justification for unauthorized military intervention. The worry was that "the misuse of humanitarian arguments by America and especially the UK would reinforce long-standing suspicions on the part of many Southern states that a doctrine of humanitarian intervention would be a weapon used by the strong against the weak." [57]

The first factor to significantly alter the normative consensus of the responsibility framework emerged from Kofi Annan's decision to convene a UN high-level panel on Threats, Challenges and Change in 2004. Titled "A More Secured World: Our Shared Responsibility", the report documenting the panel

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[56] Nicholas J. Wheeler, "A Victory for Common Humanity? The Responsibility to Protect after the 2005 World Summit," (Toronto, Canada: Paper presented to a conference on 'The UN at 60: Celebration or Wake?', Faculty of Law University of Toronto, October 7, 2005), 4.

[57] Ibid., 4.

was the first UN record to formally recognize 'the responsibility to protect' as an

emerging security norm. In light of humanitarian tragedies of the past, the panel

sought to shift the focus away from the legal rights of sovereign states towards

the responsibilities to their people. The panel further commented on the

inconsistency and ineffectiveness of the Security Council in averting severe

violent conflicts and the need to address future threats to international peace and

security before formally endorsing 'the responsibility to protect' as a collective

obligation to at-risk populations. What is innovative of the panel report is the

proposition that the Security Council has not only the authority, but also the

responsibility to deploy coercive military interventions, to prevent humanitarian

crises from worsening. [58] While the P-5 recognized the merits of the

'responsibility to protect' principle, states including Russia, China and the US

refused to discuss the precautionary criteria, as they feared it would allow

powerful states to circumvent their own authority and work against national

interests, forcing them to deploy troops to areas not in their direct sphere of

influence. [59]

After the support of the high-level panel was attained, the 'responsibility to

protect' was further endorsed by Secretary General Kofi Annan in his agenda to

renew the UN, titled "In Larger Freedom," a 2005 report handed to the heads of

state and government attending the World Summit later that year. While

admitting he was well aware of the sensitivities that accompanied this framework,

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[58] United Nations, "A More Secure World: Our Shared Responsibility," UN document A/59/565, http://www.un.org/secureworld/report.pdf.

[59] Gareth Evans, "The United Nations: Vision, Reality and Reform," International Crisis Group, http://www.crisisgroup.org/home/index.cfm?id=3647&l=1.

Annan insisted that he believed in the approach and the international community

must embrace and act on it if necessary, emphasizing the transparency and unity

he thought that agreement on the precautionary principles would bring to the

Security Council [60]

The *Responsibility to Protect* finally emerged as an international peace

and security norm when it was formally recognized in the September 2005 World

Summit Outcome Document. In the 60th session of the UN General Assembly,

the heads of state and government came to a consensus regarding the principle

of the 'responsibility to protect' populations against genocide, war crimes, ethnic

cleansing and crimes against humanity. Article 138 and 139 of the Outcome

Document demonstrate the formal commitment of member states to uphold

binding tenets of human rights and protect endangered populations when their

governments are unwilling or unable to do so. [61]

Given the depth of the argument regarding Iraq and the issues of

sovereignty and the use of force, it is remarkable that UN member states were

able to reach consensus at the 2005 World Summit. This consensus was a

product of four intersecting factors including "the approach taken by the

Canadian government and ICISS commission to sell the concept, its adoption by

the High-Level Panel on Threats, Challenges and Change (HLP), and

subsequently, Kofi Annan in his program for renewing the UN, the emergence of

an African consensus, and the advocacy of a high-level US report on UN reform

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[60] United Nations, "In Larger Freedom: Towards Security and Development for all," UN document A/59/2005, http://www.un.org/largerfreedom/contents.htm.

[61] United Nations, "2005 World Summit Outcome," UN document A/RES/60/1, http://www.un.org/summit2005/documents.html.

written by George Mitchell and Newt Gingrich." [62] Regardless of the fact that the

Canadian government chose to downplay discussion of limiting of the veto and

set the threshold for action high to appease the concerns of the P-5, Kofi Annan's

enthusiasm, the AU consensus or the change in the American position due to

terrorism concerns in stateless regions, the 'responsibility to protect' was formally

recognized in 2005, paving the way for the UN to ultimately perform the peace

and security role they were initially designed for. [63]

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[62] Alex J. Bellamy, "Whither the Responsibility to Protect? Humanitarian Intervention and the
2005 World Summit," *Ethics and International Affairs* 20, no. 2 (2006): 153.
[63] Ibid., 161-63.

CHAPTER THREE:
DARFUR: ANOTHER HUMANITARIAN BLUNDER

With the formal endorsement of the *Responsibility to Protect* framework by the General Assembly and Security Council, it seemed as though international security norms had finally embraced the necessity of the protection of human rights as articulated by the UN Charter. Although consensus was reached at the 2005 World Summit on the matter of intervention to halt or avert mass atrocity crimes, another humanitarian tragedy was already underway in Africa's largest state. The most contemporary crisis in Sudan, a region plagued by longstanding ethnic and regional division, began as a simmering low intensity conflict that would emerge as the most devastating humanitarian emergency since Rwanda in the mid 1990's. Despite the promises of 'never again', the first genocide of the twenty-first century had begun, spreading mass chaos, gruesome violence and deplorable political inaction to the West corner of Sudan- Darfur: a name that would become synonymous with humanitarian tragedy.

The African nation of Sudan is a state divided by a complex mosaic of between forty and ninety ethnic and regional groupings, generally divided as Arab or non-Arab (African). Unlike the West, Sudanese communities do not typically categorize themselves simply according to physical characteristics. Sudanese popular notions of phenotype are not fixed and are instead associated with a host of practices including religion, economic activities, material conditions

and other cultural practices. This demonstrates the fluidity of racial boundaries in Sudan, and the ways in which people that may be classed as blacks could also pass as Arabs, and vice versa depending upon certain cultural factors that each group identifies with. For example, religion particularly Islam, is taken by those who self-identify as Arab and the more learned in Islamic theology the more Arab a person becomes. [64] Despite the apparent fluidity of race, relations between groups have been tumultuous at best, resulting in prolonged violence in the region. Now on the verge of disintegration, both literally in terms of an intense north-south division and figuratively in terms of the state lacking legitimacy in the eyes of its citizens, Sudan is a nation defined by chaos.

The tensions between the self-identified categories of Arab and non-Arab are highly politicized and complex, having intensified since colonial independence from Britain in 1956. After the British reluctantly granted Sudan independence, the divisions that they had created between the developed north and the neglected south, east and west during their period of rule exacerbated ethnic animosity. The Arab population benefited from this arrangement as they inherited the fertile and natural resource rich land along the Nile near Khartoum as well as political power, which they have retained to this day. This pattern of structural inequality and underdevelopment created a lasting resentment between groups, and paired with economic hardship and environmental

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[64] Jok Madut Jok, *Sudan: Race, Religion, and Violence* (Oxford, England: Oneworld Publications, 2007), 3.

degradation resulting in crop failure and mass starvation led to two separate civil wars. [65]

After the first peace agreement was signed in 1972, conflict was reignited in 1983 with the discovery of oil in the north and an imposed government shift towards radical Islam. From the late 1980's onward, Sudan was a breeding ground for conflict in its support for Islamic fundamentalism, wherein the state harbored known terrorists including Osama bin Laden and allowed Libya's Colonel al Gaddafi to use Sudan as a training ground to fight his war in Chad, spreading Arab supremacism and further igniting ethnic tensions. After a devastating famine in the 1980's, years of violent attacks and forced expulsion by government sponsored militias and religious persecution, the marginalized peoples of Sudan were granted a fragile return to order with the 2005 signing of the Comprehensive Peace Agreement (CPA). [66]

While the CPA of 2005 created an impetus towards national stability, it came at a time in Sudan's volatile history when another conflict was erupting in the western region of Darfur. The UN first received reports of a burgeoning crisis in Darfur in the summer of 2003 from British UN humanitarian coordinator for Sudan, Mukesh Kapila. When Kapila first arrived in Sudan his focus was not upon Darfur, but the south of Sudan who had endured a bloody 21-year civil war between the Islamic government in Khartoum and a largely animist Christian population in the south, who by 2003 were engaged in peace negotiations. This

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[65] Jok, *Sudan,* 43.

[66] Julie Flint and Alex de Waal, *Darfur: A Short History of a Long War* (London: Zed Books, 2005), 13.

came at a time when a largely unexploited oil reserve, untouched due to American sanctions during the second civil war, was discovered near Khartoum bringing prosperity to the north as well as Sudan's main trading partner China. This newfound oil wealth in Khartoum would set the stage for a new civil war fuelled by massive resentment from regions of Sudan, Darfur included, that were fundamentally underdeveloped compared to the middle-income economic status of the north. [67]

By late January of 2003, national inequalities came to a head as many non-Arabs of Darfur joined rebel groups to claim a share of Khartoum's new oil wealth. Inspired by the Sudan People's Liberation Army (SPLA) who opposed the government in the second civil war, two new factions emerged- the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM) and had some early victories against Khartoum including attacks on garrisons and a joint attack in April on an airbase that reduced several government planes and helicopters to ashes. Facing further disintegration of the state, the government in Khartoum led by President Omar Al Bashir launched a violent and heavy-handed counterattack upon the rebels, "manipulating ethnic tensions that had flared up in Darfur around access to increasingly scarce land and water resources, unleashing the Janjaweed to attack communities they claimed had links to the rebels." [68]

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[67] *On Our Watch,* "2003: Darfur becomes a Burgeoning Crisis," online documentary, directed by Neil Docherty (Boston: PBS/Frontline/WGBH Educational Foundation, 2007), http://www.pbs.org/wgbh/pages/frontline/darfur/.
[68] Flint & de Waal, *Darfur,* 71-73.

The government-backed Janjaweed militias, known as devils on horseback, were deployed to attack all non-Arab populations living in the rural areas of Darfur, focusing upon the marginalized groups of the Fur, Zaghawa and Messalit. Utilizing ancient ethnic grievances regarding scarce resources that had existed for centuries between African tribes who farmed the land and nomadic Arab herdsmen, Khartoum set the militias loose to engage in horrific mass killings, the systematic rape of women, looting and the burning of villages to a degree never witnessed anywhere in Muslim regions of Sudan in recorded history. [69] The Janjaweed, comprised of poor Arab herders are in effect, "camel born Cossacks, young men who are very happy to be used as warriors, many of who are bandits, now simply sanctioned and armed by the government." [70] The Janjaweed proved to be the ideal means to eliminate rebels and civilians alike, as they were cost-effective, supporting themselves through looting and the seizure of lands. [71] Although Khartoum was quick to announce that local economic rivalries and political divisions triggered the "tribal" based attacks of the Janjaweed, this proxy militia was provided with modern weaponry and air support by Khartoum to ensure violence was executed effectively. Government of Sudan (GOS) troops were deployed alongside local Arab militias to make certain all black African civilians were killed or had fled local villages, before assisting in the complete destruction of the defenseless rural communities. Determined to defeat

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[69] Jok, *Sudan,* 21.

[70] *On Our Watch,* "2003: Darfur becomes a Burgeoning Crisis."

[71] Jok, *Sudan,* 34.

the SLM and JEM, the GOS engaged in gruesome acts of violence at the cost of the civilian population. [72]

The stories of Janjaweed brutality coupled with GOS reinforcement and unrelenting aerial bombardment soon reached the UN offices in Khartoum, alerting Mukesh Kapila to the early warning signs of what seemed to a growing humanitarian crisis sponsored by the Sudanese government. After confronting Khartoum about the reported atrocities and receiving nothing but denials, Kapila turned to foreign ministries in the west to put political pressure on the Sudanese government to stop the Janjaweed, but was met with skepticism, disbelief and an unwillingness to act as a result of lack of political will. [73] Undeterred, Kapila wrote dozens of memos to high-ranking UN officials and other international bodies calling for action. A March 22, 2004 memo describes, "ethnic cleansing," "systematic forced displacement," and "large scale armed violence and incidents of murder, rape, torture and abduction directed specifically against populations of black African tribal origin." These atrocities demonstrated a high level of organization and estimated a total of "110, 000 refugees and 600, 000-700, 000 internally displaced people" at the time the memo was composed. [74]

With hesitation from the UN due in part to the fear that intervention into Darfur would unhinge the fragile peace negotiations that were underway to end the North-South civil war, no action was taken to halt a genocide already in

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[72] US Department of State, "Ethnic Cleansing in Darfur: A New Front Opens in Sudan's Bloody War," US Department of State, http://www.state.gov/p/af/rls/rm/32316.htm.

[73] Neil Docherty, "On Our Watch- Chronology: Four Years of Failure," PBS/Frontline/WGBH Educational Foundation, http://www.pbs.org/wgbh/pages/frontline/darfur/etc/cron.html.

[74] Mukesh Kapila, "Sudan: Ethnic Cleansing in Darfur," UN document RCHC/SUD/Note 39, http://www.pbs.org/wgbh/pages/frontline/darfur/etc/memo.html.

progress. Kapila has argued that negotiations were intentionally put on hold until the fighting in Darfur had settled and Khartoum could find a "lasting solution", leaving the black African civilians without international protection from a bloodthirsty proxy militia. According to James Traub, a journalist with the New York Times, who was allowed into Darfur in early February of 2004, "there could be no more doubt about the scale or nature of the atrocities. Aerial photographs showed villages burning across the region, a staff member had seen Janjaweed fighters rape 120 women one by one, others had seen government helicopters drop off reinforcements and pick up wounded militia." [75]

The early months of 2004 saw extreme brutality not seen since Rwanda in 1994. It seemed that history would repeat itself as the UN stood by. Frustrated by the lack of response from the UN, Kapila went public and announced to BBC Radio 4 that the crisis in Darfur was "more than just a conflict. It is an organized attempt to do away with a group of people. This is ethnic cleansing, this is the world's greatest humanitarian crisis and [I] don't know why the world is not doing more about it." [76] One month later marked the ten-year anniversary of the Rwandan genocide to which Kofi Annan urged the international community to be prepared to take swift and appropriate action on a continuum of steps, alluding to possible military intervention. [77] The African Union (AU) stepped up to this challenge in May 2004 after the signing of the N'djamena Humanitarian

[75] Docherty, *Chronology,* http://www.pbs.org/wgbh/pages/frontline/darfur/etc/cron.html.

[76] BBC News, "Mass rape Atrocity in West Sudan," March 19, 2004, http://news.bbc.co.uk/2/hi/africa/3549325.stm.

[77] United Nations, "Risk of Genocide Remains Shockingly Real: Secretary-General tells Human Rights Commission as he launches Action Plan to Prevent Genocide," UN press release, SG/SM/9245, http://www.un.org/News/Press/docs/2004/sgsm9245.doc.htm.

Ceasefire Agreement between Khartoum and Sudanese rebel movements, deploying 150 AMIS troops to maintain the fragile promise of peace. [78] Although the AU had taken the first tangible steps towards improved human security in the region, the situation would continue to deteriorate without a strong UN presence.

With many nations unwilling to criticize the Sudanese government due to economic ties or similar problems with the suppression of intrastate rebellion, including Algeria, Pakistan, China and Russia, the Darfur question did not reach the Security Council until July 2004, wherein four resolutions were passed that proposed measures from sanctions and arms embargoes to the disarmament of the Janjaweed to cease the violence. [79] While the UN continued to exhibit a political unwillingness to act, the US was making strides in pushing for meaningful action in Sudan advancing an inquiry to investigate reported atrocities, but was sidelined due to its breach of international law in the invasion of Iraq. Even after US Secretary of State Colin Powell testified to the US Senate Foreign Relations Committee stating, "genocide has been committed in Darfur and the government of Sudan and the Janjaweed bear responsibility and that genocide may still be occurring," [80] the UN recognized his claims but simply continued to pass unproductive resolutions to which Khartoum ignored and suffered no consequences. 2004 was a year that ended in stalemate and tragedy, with another one million civilians displaced, fleeing to neighboring Chad

[78]African Union, "African Union Mission in the Sudan," AU, http://www.amis-sudan.org/index.html.

[79] Neil Docherty, "On Our Watch- Chronology: Four Years of Failure," PBS/Frontline/WGBH Educational Foundation, http://www.pbs.org/wgbh/pages/frontline/darfur/etc/cron.html.

[80] US Department of State, "The Crisis in Darfur: Secretary Colin L. Powell Testimony before the Senate Foreign Relations Committee," US Department of State, http://www.state.gov/secretary/former/powell/remarks/36042.htm.

and at minimum 6,000 killed every month according to the most conservative UN estimates. [81]

The government of Sudan counted on support or at the very least unwillingness to act against them from powerful allies in neighboring African countries, Islamic nations, as well as Russia and China, which allowed them to act so truculently in the face of UN resolutions. The political reality of the situation was that the UN was unable to reach a consensus and lacked the political will to take meaningful action to stop the genocide in Darfur. While 2005 brought with it a peace agreement ending the North-South civil war; the UN International Commission on the Inquiry on Darfur released a 176-page report concluding that genocide was not occurring, but that the government, rebels and militias were complicit in mass human rights violations. The report recommended the case of Darfur to the chief prosecutor of the International Criminal Court (ICC) Luis Moreno Ocampo, to identify the central perpetrators of crimes against humanity and assess appropriate punishment. [82]

The referral of the situation in Darfur to the ICC under UN Resolution 1593 imposed a binding legal obligation of Sudan to cooperate with the Court and led to two formal indictments against Sudanese government minister Ahmad Harun and Janjaweed militia leader Ali Kushayb, charging them with fifty-one counts of war crimes and crimes against humanity for their leading roles in a series of attacks in 2003-2004 ranging from murder, persecution, torture, rape and forcible

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[81] Docherty, *Chronology,* http://www.pbs.org/wgbh/pages/frontline/darfur/etc/cron.html.

[82] United Nations, "Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General," UN document, http://www.un.org/News/dh/sudan/com_inq_darfur.pdf.

displacement. However, in flagrant defiance of the Court, Khartoum refused to

hand over the men after arrest warrants had been issued, even promoting Harun

to State Minister for Humanitarian Affairs in 2007, making him responsible for the

welfare of the victims of his alleged crimes and key liaison to peacekeeping

forces. [83]

2005 also saw seven UN Resolutions passed with measures ranging from

travel bans and asset freezes on a handful of individuals implicated in the

violence and the deployment of UNMIS, a UN peace support operation to assist

the under-funded and under-equipped AU mission, increasing troops to

approximately 7000. [84] While the security situation remained dismal, Darfur

advocates in the international community grew hopeful as the bold *Responsibility*

to Protect doctrine was adopted by the Security Council and General Assembly

at the 2005 World Summit, signaling the end of states hiding being sovereignty

when mass atrocities were being committed inside their borders.

Entering the third year of the conflict in Darfur, 2006 proved to be another

period of shameful inaction haunted by mass chaos and bloodshed. The growing

refugee crisis in Chad worsened as the Janjaweed crossed the border and

attacked the capital of N'djamena and over sixty other Chadian villages, forcing

the nation to sever diplomatic ties with Sudan. [85] The only positive political

advancement of 2006 was the signing of the Darfur Peace Agreement mediated

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[83] Justice for Darfur Campaign, "Letter to the United Nations Security Council," Human Rights Watch, http://www.hrw.org/english/docs/2008/04/24/darfur18636.htm.

[84] United Nations, "United Nations Mission in Sudan," UN, http://www.unmis.org/english/en-main.htm.

[85] Claire Soares, "Chad Leader Severs Diplomatic Ties with Sudan," *The Independent (London)*, April 15, 2006, http://findarticles.com/p/articles/mi_qn4158/is_20060415/ai_n16166738.

by the AU in Abuja Nigeria, which proposed a comprehensive ceasefire, a power

sharing and wealth sharing arrangement between Khartoum and rebel groups.[86]

This peace agreement however was only a symbolic gesture of goodwill to

appease the international community as the Sudanese continued attacks using

both Janjaweed militias and government forces.

During 2006 the UN continued to pass ineffective resolutions including

Resolution 1674, which did nothing but reaffirm the provisions of the

'responsibility to protect' doctrine [87] and Resolution 1706, which called for the

deployment of UN peacekeepers to increase UNMIS to 20,000 troops, applying

the principle of responsibility to a particular context for the first time. This

resolution would have made a substantial improvement to the deteriorating

security climate in Darfur, but was ineffective by design as China only agreed to

withhold the use of the veto if the resolution included a clause that Khartoum

must "invite the consent of the Government of National Unity for [this]

deployment" meaning troops could only enter Sudan if the government agreed.[88]

Predictably, the war entrepreneurs in Khartoum did not authorize deployment

and the political stalemate continued.

In 2007 the violence persisted demonstrating immense disregard from the

Sudanese government towards sanctions placed upon them by the UN. As

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[86] Ibid., "Darfur Peace Agreement," http://www.unmis.org/english/dpa.htm.

[87] United Nations, "Security Council Resolution 1674," UN resolution S/RES/1674,
http://daccessdds.un.org/doc/UNDOC/GEN/N06/331/99/PDF/N0633199.pdf?OpenEle
ment.

[88] United Nations, "Security Council Resolution 1706," UN resolution S/RES/1706,
http://daccessdds.un.org/doc/UNDOC/GEN/N06/484/64/PDF/N0648464.pdf?OpenEle
ment.

cross-border raids in Chad killed four hundred in March and April, displacing

approximately 8,000 more, the New York Times released confidential UN

material indicting that "the government of Sudan [was] flying arms and heavy

military equipment into Darfur in violation of Security Council Resolutions and

painting Sudanese military planes white to disguise them as United Nations or

African Union aircraft," demonstrating the use of debilitating aerial bombardment

by Khartoum on a defenseless civilian population. [89]

While human security did not improve on the ground, 2007 proved to be a

year marked by the growth of grassroots movements designed to pressure the

international community to take decisive action. Movements including the US-

based Save Darfur Coalition made up of Jewish groups, evangelical Christians

and anti-genocide and humanitarian organizations, spent their fifteen million

dollar budget to publicize the conflict and lobby for political change. The

movement's contribution to end the genocide in Darfur has resulted in

persuading 54 universities, 20 states and 9 cities to restrict their investments in

Sudan and the Chinese oil companies that operate there. [90] Other activist groups

have finally found a way to command the attention of China in the targeting of the

Beijing Olympic Games, which has been labeled as the "Genocide Olympics" in

an effort to shame the Chinese government for their support of the violence in

Darfur. [91]

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[89] Warren Hoge, "Sudan Flying Arms to Darfur, Panel Reports," The New York Times, http://www.nytimes.com/2007/04/18/world/africa/18sudan.html?_r=1&oref=slogin.

[90] Docherty, Chronology, http://www.pbs.org/wgbh/pages/frontline/darfur/etc/cron.html.

[91] J. Stephen Morrison, "Will Darfur Steal the Olympic Spotlight?," The Washington Quarterly 31, no. 3 (2008): 184-85.

The public pressure generated from a number of grassroots movements and UN member state insistence particularly from the US, whose efforts to tighten sanctions and implement an international arms embargo contributed to the advancement of change. After over four years of efforts, the UN Security Council would unanimously pass Resolution 1769, authorizing the deployment of 26, 000 UN peacekeepers to protect the civilians of Darfur. On July 31, 2007 UNAMID, a joint AU/UN force would take the first steps to what should have been the end of a needless and preventable conflict, but instead faltered due to challenges related to deployment of troops and gaps in equipment and logistical support, which have allowed the force to be repeatedly attacked and resulted in the stealing of countless shipments of foreign aid. [92] As the violence on the ground continues with over 300, 000 dead and 2.5 million displaced, the UN must face political and military hurdles to ensure the 'responsibility to protect' the civilians of Darfur is carried out or risk not only the consequences of failure and shame, but international outcry for an institution that can ensure lasting global peace and security. [93]

[92] Jerry Fowler and John Prendergast, "Keeping Our Word: Fulfilling the Mandate to Protect Civilians in Darfur," Enough Project, http://www.enoughproject.org/reports/sudan_darfur_civilians_June_2008.

[93] Save Darfur, "The Genocide in Darfur: Briefing Paper," Save Darfur Coalition, http://www.savedarfur.org/pages/background/.

CHAPTER FOUR:
OBSTACLES TO R2P IMPLEMENTATION

The *Responsibility to Protect* doctrine was a document designed to prevent nations from hiding behind their sovereignty when mass atrocity crimes are being committed within their borders. The case Darfur was the first context with which the UN could operationalize the responsibility framework but faced a myriad of barriers to successful implementation. These obstacles including military and logistical problems, China's role in Sudan, the blowback from 9/11 and the growing identity crisis in the humanitarian sphere prevented the UN from utilizing the recommendations of the ICISS. Instead of employing every possible normative mechanism in its genocide aversion arsenal to ensure the promise of "never again" was a political reality, the UN succumbed to complications that led the institution down the path of "here we go again."

Military and Logistical Complications with UNAMID

UNAMID, the UN-AU hybrid mission approved to protect the civilians of Darfur is a stunted operation complicated by a number of interrelated factors related to Sudanese government obstructions, missing resources and bureaucratic hurdles at the UN. As a result of deployment difficulties and critical gaps in equipment and logistical support, UNAMID currently faces operational challenges exacerbated by the recent attack by Darfurian rebels on Khartoum and the worsening violence in Darfur, the destruction of the politically important

and oil rich town of Abyei by Sudanese government troops and allied militias, the faltering of the Comprehensive Peace Agreement which ended the decades long war between the north and south and an ongoing proxy war between Chad and Sudan. [94] These interconnected challenges have diminished the capacity of UNAMID to effectively provide protection to civilians. UNAMID however, remains an operation that has the capability to establish a stable security environment if coupled with full deployment and an inclusive peace agreement mindful of the multidimensional crises in Darfur.

Despite having only sent a few hundred of the 17, 000 troops authorized to deploy, UNAMID has made great strides in building the confidence and security of civilians in IDP and refugee camps. This hybrid force however, cannot fulfill its mandate while facing bureaucratic hurdles thrown at them by Khartoum. The Sudanese government consented to UNAMID so long as troops were predominately African and had no mandate to disarm the Janjaweed. Although published in October 2007, Khartoum has still not approved the list of nations contributing troops, making ambiguous statements about allowing additional battalions and ejecting a senior UNAMID official due to his nationality (British) and aggressive stance on fulfilling the mandate. The Sudanese government continues to refuse the allocation of lands necessary to construct bases, barracks and other facilities, restricts flight privileges limiting response capability

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[94] Fowler and Prendergast, "Keeping Our Word," http://www.enoughproject.org/reports/sudan_darfur_civilians_June_2008.

and monitoring efforts and detains or refuses to provide adequate security for equipment slowing its movement and leaving it open to banditry. [95]

Aside from Khartoum's obstructions, UNAMID is also at a disadvantage due to missing resources and bureaucratic hurdles at the UN. UNAMID cannot improve security in Darfur without the capability of unrestricted travel, communications, intelligence gathering and rapid response to emergencies. To meet these needs the mission urgently needs eighteen medium transport helicopters, four more tactical helicopters, aerial reconnaissance, a number of medium and heavy transport trucks, additional engineers to build and expand installations necessary for troop deployment and multi-role logistical support units that are critical to the deployment and sustainability of infantry battalions. [96] In addition to missing resources, the UN's Department of Peacekeeping Operations (DPKO) faces bureaucratic challenges as the government of Sudan has banned US companies from doing business with the peacekeeping force in Darfur, affecting vital services such as meals, water and vehicle maintenance. Without a contract for sustainment services and logistical support, a number of battalions will be unable to deploy or for those currently in the field it will limit how far they can venture from their bases. [97]

China's Role in Sudan

As one of the fastest growing nations in the world, China is a business-minded state with political prestige, belonging to the elite P-5 of the UN Security

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[95] Ibid., http://www.enoughproject.org/reports/sudan_darfur_civilians_June_2008.
[96] Ibid., http://www.enoughproject.org/reports/sudan_darfur_civilians_June_2008.
[97] Ibid., http://www.enoughproject.org/reports/sudan_darfur_civilians_June_2008.

Council. China's relationship with Sudan is based upon the African country's largely unexploited oil reserve, an asset to a nation with a bottomless need for energy resources. Sudan acts as one of China's premiere sources of offshore oil production, with more than eight billion dollars invested in fourteen projects. [98] As the Chinese economy consumes petroleum at an ever-expanding rate at over ten percent growth per year, the mercantile relationship between these two nations grows stronger. While Sudan only refines about 100,000 barrels of crude oil per day, its scope for future development has been deemed profitable, paving the way for a large-scale investment and a sizeable Chinese presence in Khartoum from oil industry officials to businessmen from private companies. [99] As a largely underdeveloped country, plagued by the economic consequences of past sanctions placed upon them by the US stemming from issues related to the 21-year civil war between the north and the south, the government of Sudan has no intentions of jeopardizing this profitable relationship. China-Sudan relations however, are not one-sided, as the Chinese covertly trade oil for modern weaponry in Sudan, which the government subsequently uses to quash rebellion and commit war crimes. [100]

As the complex emergency in Darfur unfolded, China as a financier and diplomatic ally of Sudan intervened at key moments in UN political processes aimed at halting the genocide. Although China joined the consensus approving

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[98] International Crisis Group, "China's Thirst for Oil," ICG, http://www.crisisgroup.org/library/documents/asia/153_china_s_thirst_for_oil.pdf.

[99] *On Our Watch*, "Interview: James Traub," http://www.pbs.org/wgbh/pages/frontline/darfur/interviews/traub.html.

[100] Sudan Tribune, "China Sells Arms to Sudan," February 15, 2008, http://www.sudantribune.com/spip.php?article25992.

the *Responsibility to Protect* doctrine at the 2005 World Summit, their acceptance

was rhetorical believing that sovereignty was inviolable after centuries of foreign

invasion. Because the Chinese "think that almost any form of infringement of

sovereignty is unacceptable, history, ideology, and commercial self-interest all

converged to give China all the arguments it felt it needed to protect Sudan." [101]

While China shielded the Sudanese government from countless UN Resolutions

by utilizing the veto, choosing to abstain or including clauses that would allow

Sudan to opt for non-consent to multilateral intervention, they unanimously voted

for UNAMID to bolster existing peacekeeping forces in 2007. Whether political

pressure from the international community touting the "Genocide Olympics" or

the realization that long-term stability in the region would be advantageous for oil

production, China eventually backed down allowing troops to protect the civilians

of Darfur. [102]

The 9/11 Blowback

Since the September 11 attacks and resultant US-led 'war on terror' in

Afghanistan and especially Iraq, there has been a paradigm change in

international relations and increasing suspicion of the West's humanitarian

justifications simply masking neo-imperial motives. Many believed US and UK

intervention to be a Trojan horse that revolved around the containment of

terrorism in Islamic nations and the attainment of oil. Such accusations stem from

the fact the US and UK legitimized the war in Iraq on humanitarian grounds after

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[101] *On Our Watch*, "Interview: James Traub,"
    http://www.pbs.org/wgbh/pages/frontline/darfur/interviews/traub.html.
[102] Morrison, "Will Darfur Steal the Olympic Spotlight?," 186.

they had unsuccessfully addressed the Security Council months earlier to authorize action on the basis of self-defence and the presence of weapons of mass destruction. [103]

The utilization of humanitarian justifications was largely rejected because it was clearly not America's primary motivation, evident in the coalition's adoption of strategies that would cause harm to civilian populations including the use of cluster munitions and its failure to plan sufficiently for post-war reconstruction. Such rationalizations for unauthorized intervention left a negative taste in the mouths of the international community regarding not only pro-interventionist stances, including the 'responsibility to protect' doctrine, but also undermined the credibility of the US and UK as norm carriers.[104] Because these nations abused the normative framework for intervention, unauthorized by the Security Council and for self-serving purposes, their reputation in the world forum was tarnished.

Not only was the reputation of the coalition damaged, so to were interventionist arguments, even those that sought to protect human rights. The international community wanted no attachment to multilateral operations not authorized by the Security Council, which had the potential to undermine state sovereignty. The Bush Doctrine contaminated the idea of legitimate intervention, reinforcing fears of US dominance and renewing the principle of non-intervention.

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[103] Paul D. Williams and Alex J. Bellamy, "The Responsibility to Protect and the Crisis in Darfur," *Security Dialogue* 36, no. 1 (2005): 36.

[104] Alex J. Bellamy, "Responsibility o Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq," *Ethics and International Affairs* 19, no. 2 (2005): 32.

[105] The potential of the *Responsibility to Protect* principle in Darfur was further rendered ineffective when Tony Blair retroactively applied the framework to the situation in Iraq stating "[we] surely have a duty and a right to prevent the threat materializing, and [we] surely have a responsibility to act when a nation's people are subjected to a regime like Saddam's." [106] While the *Responsibility to Protect* is one thing, "military intervention for preventive war is quite another. The world requires capabilities to come to the rescue of vulnerable peoples, not fuzzy applications of legitimate concepts to obfuscate more sinister motivations." [107]

While many political theorists have suggested that Darfur was less important than the 'war on terror' or military intervention would jeopardize the Comprehensive Peace Agreement negotiated to end the north-south civil war, [108] others contend that the "sun has set" on the humanitarian intervention agenda. Thomas Weiss, the ICISS' director of research argues that the US and UN's political will to act in humanitarian crises has "evaporated" due their current obsession with Afghanistan, Iraq and the 'war on terror.' [109] His position points to the role of the distracted state inasmuch as it highlights the fact that the American and British militaries are overstretched and potentially unable to be of substantial use to humanitarian emergencies like the stagnating crisis in Darfur. Although the United States and Britain may be too enmeshed in Iraq and

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[105] T.G. Weiss, "Halting Genocide: Rhetoric Versus Reality," *Genocide Studies and Prevention* 2, no.1 (2007): 19.

[106] Tony Blair, "Speech given by the Prime Minister in Sedgefield, Justifying Military Action in Iraq and Warning of the Continued Threat of Global Terrorism," *Guardian Unlimited,* March 5, 2004, http://www.guardian.co.uk/politics/2004/mar/05/iraq.iraq.

[107] Weiss, "Halting Genocide," 20.

[108] Williams and Bellamy, "The Responsibility to Protect," 38.

[109] T.G. Weiss, "The sunset of Humanitarian Intervention? The Responsibility to Protect in a Unipolar Era," *Security Dialogue* 35, no. 2 (2004): 141.

Afghanistan to focus on efforts to halt genocide in Sudan, UNAMID is has a

desperate need for military might that coalition forces are historically recognized

for. The reality is that for the UN to fulfill its mandate in Darfur, America and to a

lesser extent Britain have to be onboard to contribute airlift capacity, military

expertise and technology- a decision that undoubtedly will have to wait until the

2008 US presidential election. [110]

A Humanitarian Identity Crisis

Since the end of the Cold War, the UN has confronted unimaginable

challenges, some that made the institution seem heroic and others that highlight

shameful cowardice and inaction. Twenty years of daunting humanitarian crises

have forced members of the UN and international agencies to re-examine what

they do and how they do it. In the contemporary security climate, "questions that

were once essentially answered or were asked rhetorically with ready-made

replies, are now open for honest debate. The most gut-wrenching recognition

that well-intentioned humanitarian action can lead to negative consequences has

forced humanitarian organizations to measure their effectiveness." [111] This

presents a dilemma to ongoing complex emergencies, as members of the UN

and other humanitarian bodies disagree about intervention and action, leaving

states like Darfur to hang in the balance.

A philosophical divergence has separated the 'classicists', who uphold the

traditional principles of neutrality, impartiality and consent, and the 'solidarists',

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[110] Weiss, "Halting Genocide," 21.
[111] Ibid., 23.

who side with selected victims, publicly confront hostile governments and refuse to respect the sovereignty of states when met with genocide opting for military force. In the face of the viciousness and unpredictability of 'new wars', the disagreement between groups results in indecision and thus inaction. Such collective action problems only fragment the humanitarian system further and prevent decisive action with respect to military intervention as a means to halt genocide. [112] While it is essential that the UN and other humanitarian bodies engage in debate to promote the growth of intervention policy in the theoretical sphere, when the international community does reach consensus, as it did at the 2005 World Summit in regards to the R2P doctrine, member states must honour such developments and act accordingly to halt or avert humanitarian crises to the best of their abilities.

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[112] Ibid., 25,.

CHAPTER FIVE:
MAKING THE RESPONSIBILITY TO PROTECT OPERATIONAL

The failure to effectively implement the principles of the 'responsibility to protect' in Darfur to halt a genocide already six years underway was a humanitarian blunder that followed in the tragic missteps of previous UN peace operations. While UNAMID has faced serious challenges in fulfilling its mandate to protect the civilians of Darfur, it should not be attributed to the conceptual failure of the doctrine itself. Political and situational obstacles have hindered a framework that continues to have immense potential to prevent and avert future mass atrocity crimes. In the same way that it took an extended period of time for states to come to the realization that sovereignty is not a license to kill, so to will the normative process concerning the 'responsibility to protect' require a maturation process to demonstrate to the world its inherent logic, merit and aptitude in ensuring human rights are upheld.

The *Responsibility to Protect* has faced a multitude of challenges in its first years of existence including issues related to the lack of political will and institutional preparedness, forcing the delay and incomplete application of the concept. These challenges have emerged partially due to general misunderstandings about the framework that have the effect of making it seem either too broad or too narrow in scope. Not fully grasping its intended principles has led to an international backlash wherein opponents equate the framework

with neo-imperialist motives and unauthorized military intervention. While the intentions of the 'responsibility to protect' are quite clearly to prevent future human suffering in the form of large scale loss of life with genocidal intent, proponents will be unsuccessful in winning genuine universal consensus and operational efficacy until conceptual roadblocks are bypassed.

The first of these conceptual obstacles relates to the doctrine as being seen too narrowly, in that all actions are based upon non-consensual military intervention. On the contrary, the 'responsibility to protect' emphasizes prevention, supporting states that are struggling with situations, which have the potential to deteriorate to a point where genocide or other atrocity crimes are imminent. The best way to make this point is through the examination of case studies where preventative measures were taken but the exercise was not labelled as the 'responsibility to protect'. Burundi provides an excellent example of a state close to catastrophe, that while still fragile, did not follow the path of Rwanda before it because of international efforts including political negotiations conducted by Nelson Mandela, the early deployment of South African peacekeeping troops and the nations recommendation to be one of the first cases taken up by the Peace Building Commission. [113] This case study demonstrates how preventative efforts can avert violent complex emergencies without the deployment of a coercive military presence- an ideal example of R2P at work without its conceptual label.

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[113] Gareth Evans, "Preventing Mass Atrocities, Making the Responsibility to Protect a Reality," International Crisis Group, http://www.crisisgroup.org/home/index.cfm?id=5116&l=1.

The second conceptual obstacle blocking normative consensus and operational success is that of the 'responsibility to protect' having too wide a scope, leading many to believe that the doctrine proposes protection of everyone from everything, a cure for every conflict, that justifies coercive military action in every case. While it may be tempting to address humanitarian concerns like HIV/AIDS or the proliferation of small arms and nuclear weapons, lumping the framework into too broad a category only dilutes its content and utility, reducing the potential of necessary support to those facing mass atrocity situations. In this way, the principles of the 'responsibility to protect' do not apply to every case of human rights violations, simply protecting innocents from the horrors of large-scale killing, ethnic cleansing or genocide. Burundi in the early 1990's is again acts as an example as well as the current humanitarian debacle in Iraq (which only adhered to R2P constraints after the coalition invasion). [114]

The 'responsibility to protect' also does not always justify coercive military action where large-scale loss of life or ethnic cleansing is present, judged buy the six precautionary criteria. Only if all threshold criteria are met will the international community intervene to halt a conflict, a guideline still not approved by the Security Council due to concerns of being restricted in the decision to use force and encouraging unnecessary coercive means. [115] In order to give the 'responsibility to protect' framework the recognition it deserves, the Security Council must accept precautionary criteria, realizing that its implementation was

[114] Gareth Evans, "Delivering on the Responsibility to Protect: Four Misunderstandings, Three Challenges, and How to Overcome Them," International Crisis Group, http://www.crisisgroup.org/home/index.cfm?id=5190&l=1.

[115] Ibid., http://www.crisisgroup.org/home/index.cfm?id=5190&l=1.

not designed to undermine freedom or authority and conceptual misunderstandings must be made cogent clarifying the limits of military action, to emphasize the value of the doctrine in the humanitarian sphere. It is essential to reinforce the notion that the R2P framework is not just another name for humanitarian intervention, recognizing the centrality of preventive responses whether political, diplomatic, legal, or in the security sector but falling short of coercive military action.

Another conceptual concern of the international community is that R2P only applies to weak states with few international allies and never the strong. Many argued against apparent double standards, criticizing the reality that interventions may not be mounted in every case where justification is present due to the international status of particular states in the world forum. While it may be true that proposing military action against a Permanent Five member or other major power would be a non-option due to the use of the veto or strength of a nations armed force, no country however powerful is immune to peer group pressure. The example of the Australian-led intervention to protect the people of Timor-Leste in 1999 demonstrates the influence of international diplomatic pressure against an important regional power resulting in the calming of a burgeoning humanitarian crisis. [116]

In order for operational capacity and international acceptance of the 'responsibility to protect' doctrine to be fully realized, Gareth Evans, co-chair of the ICISS' report, identifies a number of key tasks for successful implementation.

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[116] Gareth Evans, "The Responsibility to Protect: An Idea Whose Time Has Come…And Gone?," International Crisis Group, http://www.crisisgroup.org/home/index.cfm?id=5407&l=1.

Firstly, the international community must maintain the consensus that they achieved at the 2005 World Summit. Whether withdrawing support due to concern over conceptual misuse, ideological ties to neo-colonial motives, or embarrassment about their own behaviour, proponents of R2P are responsible for reiterating to policymakers the intended definition of the concept, what circumstances warrant its attention and what means it will employ to ensure success. Without a clear conceptual identity, the integrity of the doctrine will be rendered ineffective and at risk populations exposed. It is thus, essential to protect the integrity of the framework to highlight not only its focus on prevention, but also the clear criteria necessary to invoke its protection, clarifying the limits of military action and reinforcing situations where the use of coercive measures can and cannot be used consistent with precautionary principles. [117]

Evans stresses the need to build capacity within international institutions, governments and regional organizations to ensure the right civilian and military resources are readily available and possess the necessary capabilities to ensure swift and effective results. Integral to capacity building is stronger early warning coordination and response capability. Because impending genocide is almost always preceded by violations of human rights, the newly formed Human Rights Council (2006) or another humanitarian intergovernmental body should monitor and respond to both acute and chronic human rights situations as well as implement the newly designed Universal Periodic Review (UPR) mechanism to

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[117] Gareth Evans, "The Responsibility to Protect: Creating and Implementing a New International Norm," International Crisis Group, http://www.crisisgroup.org/home/index.cfm?id=5036&l=1.

examine the human rights record of different nations including the P-5. [118]

Alongside early warning capabilities, effective and available diplomatic capacity is needed to mediate such situations. Factors of influence, proximity and information should dictate the premiere activators of the 'responsibility' norm, making the P-5 of the Security Council, relevant regional organizations nearer to the crisis epicentre and institutions with credible information at the forefront of mediations to employ preventative measures. [119]

Evans also points to a need for a repertoire of meticulously scrutinized sanctions measures, able to be immediately applied and effectively monitored- a measure that would have immensely altered the outcome of the crisis in Darfur, limiting the power of a defiant government. It is within the international community's arsenal to effectively deter perpetrators of mass atrocity crimes and hold them to account. This method proves most effective when those responsible are held accountable either by ad hoc tribunals or the International Criminal Court, who has the universal jurisdiction to indict war criminals and try them at The Hague. Such measures send a clear message that war criminals are longer shielded by sovereignty. [120]

To build institutional capacity a full range of civilian personnel on permanent standby for effective policing as well as new rules of engagement and training to face the largely unexplored conflict environment of 'new wars' are

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[118] Human Rights Council, "Universal Periodic Review," UN Human Rights, http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRmain.aspx.

[119] Louise Arbour, "The Responsibility to Protect as a Duty of Care in International Law and Practice," *Review of International Studies* 34, no.3 (2008): 456.

[120] Ibid., 457.

needed. The appropriate force configuration lies somewhere between traditional warfare (defeat the enemy) and peacekeeping operations (monitoring, self defence and the protection of civilians), a middle ground that the UN has not come to terms with. Finally, Evans stresses the necessity of mechanisms and strategies to generate political will, involving mobilization at two levels. To ensure an effective political response, it is suggested to employ a top-down approach "to persuade key officials in key governments, regional organizations and international institutions, including the UN Security Council, to take the necessary action" and a bottom-up method "to ensure that the voices of ordinary concerned citizens are heard in the corridors of power, using all the resources and physical and moral energy of civil society organizations around the world." [121] While the persuasion of bottom-up groups to take action would be effortless, persuading the UN Security Council has proven difficult in the past, calling for a more coercive course of action. Under the International Court of Justice's analysis, failure to act to avert genocide or crimes against humanity when national interests are not involved should carry legal consequences. The 'responsibility to protect' doctrine may force a reassessment of not only the consequences of the use of the veto, but inaction generally. [122]

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[121] Evans, "Creating and Implementing a New International Norm,"
    http://www.crisisgroup.org/home/index.cfm?id=5036&l=1.
[122] Arbour, "Duty of Care in International Law and Practice," 453.

CONCLUSION: THE RESPONSIBILITY TO PROTECT AND DARFUR: A WAY FORWARD

In a world fueled by cynicism and national interests, guided by realpolitik and political agendas, ideas created to better humanity have the potential to be neglected and misused. Ideas however remain significant in their ability to alter perceptions and change the world around us. The *Responsibility to Protect* is a concept that was created to enhance international humanitarian norms, ensuring that innocent people would never again have to endure the horrors of security disasters like Rwanda, Bosnia or Kosovo. Then there was Darfur. While the evolution of peacekeeping highlights the faults of the United Nations, it must be remembered that there existed no institutional rulebook for how to effectively manage conflict in stateless terrain. With the lifting of bipolar constraints at the end of the Cold War, the UN faced a number of multidimensional conflicts in an assortment of divergent locations that each demanded immediate attention. Although intentions were good, the UN was not adept at managing multiple peace operations, allowing national self interests and international foreign policy get in the way of saving lives and enhancing durable peace and security.

The emergence of the 'responsibility to protect' offered the UN a means for redemption; a way to make sure 'never again' became a political reality. Regrettably for the credibility of the UN and the civilians of Darfur, it was recognized too late. Shamed once again by a genocide it had the capacity to

avert, the UN now had the blood of an additional 300, 000 deaths on their hands accompanied by the misery of the millions displaced. While there were clear obstacles to the effective implementation of the 'responsibility to protect' principle, there was not enough political will within the UN's institutional consciousness to take decisive action to avert large-scale loss of life.

Despite reprehensible inaction, all is not lost. The stagnating genocide continues in Darfur and with a resolution to deploy peacekeepers already passed, the UN can choose to let principles of responsibility guide them to end the chaos in Sudan and resultant proxy war in Chad. By addressing obstacles, righting the misconceptions of the doctrine itself and taking immediate action to fulfil UNAMID's mandate, the UN can redeem themselves and the future of peacekeeping. With the threat of the Chinese veto lessened and the recent indictment of President Bashir by the International Criminal Court, a flicker of hope has shed light upon the humanitarian worth of responsibility and opportunity for peace in Sudan. Because the international community is now taking the doctrine seriously, not only does Darfur have a chance to be pulled from desperation, but other nations may avoid the same fate and be stabilized through the prevention of conflict. Although 'never again' proved to be a misleading assurance, if principles of responsibility are wholly integrated into the operational language of the UN, the institution may be able to tout 'responsibility means never again having to say your sorry'.

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