

How We Failed Sudan: The Unlearned Lessons on Genocide

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University Honors in International Studies
American University – Spring 2009

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SIS-519-001

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In 1994, the world witnessed the mass killing of hundreds of thousands of Rwanda Tutsis and Hutu political moderates by the Hutu militia. Although 800,000 people were massacred within 100 days, the international community did not intervene, because it failed to recognize the nature of violence as genocide. In the event that world leaders recognized that genocide was unfolding in Rwanda, they would have intervened due to the stipulation of the Genocide Convention. However, this was not the case because politics and personal interests prevailed over the human rights of civilians.

Upon the brutality of these inhuman events, world leaders swore to prevent and stop future genocides by signing conventions and treaties. The concept of “Never Again” was therefore born in the aftermath of Rwanda, as the global community vowed that it would never allow massive killing unfold without intervening. Yet, a decade later, the world community is watching another genocide, this time in Darfur.

In this essay, I discuss the failure of the international community to adequately address the genocide in Darfur. Then, I demonstrate through a comparative analysis between Rwanda and Darfur that world leaders have yet to learn lessons from past genocides, in order to be better prepared for similar incidences. Finally, I recommend policies that could be applied in the event of a genocide.

I. History of the Conflict

The Root causes of the conflict

The Republic of Sudan is located in the northeast region of the African continent, where it is bordered by Egypt to the north; Eritrea and Ethiopia to the east; Kenya and Uganda to the southeast; the Democratic Republic of the Congo and the Central African Republic to the southwest; Chad to the west, and Libya to the northwest. Sudan is considered to be the largest country in the African continent and also the largest country in the Arab world, since it is a member of the Arab league¹.

Darfur, also known as the *Land of the Fur*, is in the western region of the state of Sudan. It is roughly the size of France, and is divided into three states which represent the three different ethnic zones of Darfur: the North, West and South. Northern Darfur is mostly populated by camel nomads, a small minority of whom is Meidab Arabs, but the overwhelming majority is non-Arabs Zaghawa. Western Darfur is populated by non-Arab sedentary farmers: the Fur, Massalit, Daju and Berti; and Southern Darfur is inhabited by cattle and camel nomads: the Baqqara².

Since the colonial era, Sudan has been ideologically divided due to Great Britain's imperial rule in the South and Egypt in the north. The influence of Britain's and Egypt's occupation in Sudan was that each modeled its territory to its image. In the south the British campaigned for a reduced Islamic influence while promoting Christianity and English language, whereas in the North, the Egyptians encouraged the spread of Islamic values. While the foreign occupation of

¹Ed. Markusen, Eric & Totten Samuel. "Genocide in Darfur: Investigating the Atrocities in the Sudan." Routledge, Taylore & Francis Group. New York. 2006.

² Ed. Markusen, Eric & Totten Samuel. "Genocide in Darfur: Investigating the Atrocities in the Sudan." Routledge, Taylore & Francis Group. New York. 2006. P.3

these regions generated an ideological gap between the two, it also resulted in severe disparities in terms of economic growth. In fact, upon the withdrawal of the occupying forces, the South was clearly more developed than Darfur and the rest of the Northern region. These divisions are the root causes of the Sudanese civil war that emerged in the late 1950s as a result of the struggle between Khartoum and the South for wealth, power and identity. It is important to point out that as early as the 1970s, during the period when the first peace agreement between the North and South was signed, Darfur was already neglected and impoverished³. Therefore, the current conflict in Darfur is a continuation of past animosities.

In early 2003, two rebel groups, the Sudan Liberation Movement/Army (SLM/A) formally the Darfur Liberation Front and the Justice and Equality Movement (JEM) began a series of attacks on governmental infrastructures namely, isolated army posts, police checkpoints and convoys. Although poorly organized, the Darfur rebels managed to portray a clear threat to Khartoum while assuming their position as the key actors on the Darfuri political scene⁴.

The rebel attacks emerged as a form of protest against the government of Khartoum which has been historically abiding to marginalizing policies, radical discrimination, exclusion, exploitation and divisiveness⁵. Indeed, the Darfuri population has been under represented and neglected in national politics, in the government and the parliament. Socially, the government of Khartoum has abstained from providing health care, education and other services in the region. Besides failing to invest in development activities in Darfur, Khartoum has exacerbated the economic situation in the region by continuing to extract Darfur's resources. Yet, it refrains from

³ Cheadle, Don & Prendergast, John. "Not On Our Watch: The Mission To End Genocide In Darfur And Beyond." Hyperion. New York. 2007. P.55

⁴ Tanner, Victor. "Darfur 2004: Why? Where from? Where to? The Sudan Open Archive. 27 August 2004. <www.sudanarchive.net> p.11

⁵ Ed. Markusen, Eric & Totten Samuel. "Genocide in Darfur: Investigating the Atrocities in the Sudan." Routledge, Taylore & Francis Group. New York. 2006. P.9

investing in development activities; obstructs foreign development aid and relief operations in order to serve its political and economic interests. Last but not least, the Government of Sudan (GOS) has neglected the police and judiciary system in Darfur, thus allowing banditry and lawlessness to prevail, whereas neglecting to commit to resolving regional conflicts emerging from the historical division in the region and country overall⁶.

Since the Darfur rebels are denied basic rights, they perceive rebellion as a last resort to voicing their concerns, achieving change and their objectives of a united democratic Sudan in which ethnic, cultural, social and political diversity will be embraced. More important, the Darfur, the Darfur rebels intended for the new political system to address the uneven development and marginalization that have plagued the country since its independence⁷. The emergence of the Darfur rebels' employing force to attain their objectives, has also been attributed to the Sudan People's Liberation Movement/ Army, the southern rebels who initiated the tensions with Khartoum, in the south, for similar objectives and succeeded in attracting international attention on their cause⁸.

Considering Khartoum's power struggle with the southern rebels and the imminence of an agreement between the two parties, it is not surprising that the GOS perceived the insurgencies in Darfur as a serious threat that needed to be addressed immediately and effectively before it provoked a snow ball effect⁹. Khartoum's idea of conflict management in Darfur consisted in unleashing its proxy Janjaweed militias on Darfur's rebels. The Janjaweed were mostly recruited from the smaller camel herding tribes (jammala) who, under the colonial administration were not

⁶ Tanner, Victor. "Darfur 2004: Why? Where from? Where to? The Sudan Open Archive. 27 August 2004. <www.sudanarchive.net> p.9-10.

⁷ Ed. Markusen, Eric & Totten Samuel. "Genocide in Darfur: Investigating the Atrocities in the Sudan." Routledge, Taylore & Francis Group. New York. 2006. P.9-10.

⁸ Tanner, Victor. "Darfur 2004: Why? Where from? Where to? The Sudan Open Archive. 27 August 2004. <www.sudanarchive.net> p.11

⁹ Ibis, P.12

allotted land; resulting to a historical conflict and resentment over land disputes with the Darfuri population. Their partaking in the government counter-insurgency was thus perceived by many as a chance to loot and gain access to land¹⁰.

The militias were instructed to “eliminate the rebellion,” a crusade which escalated to a campaign of violence that primarily targeted black African civilians, particularly those belonging to the same tribes as the core rebel recruits. As a result, the counterinsurgency consisted in cooperation between Army forces and militia, in which the government aircraft bombs area prior to the militia attacks that aim for razing villages, raping women, and looting¹¹. The intensity of the combat between the Darfur rebels, the militias and the Army forces has intensified since then. Up to date, they have provoked the internal displacement of an estimated 1.6 million, the exodus of approximately 200,000 refugees and the death of more than 200,000¹².

The Conflict in Darfur: Ethnic or Political?

The situation in Darfur has evolved to be even more intricate over the years, misleading many about the original causes of the conflict, especially Western countries that perceive the conflict in Darfur as an ethnical conflict. However, the conflict in Darfur is a political crisis that has turned tribal locally but retains all its political nature nationally. The conflict initiated as an insurgency against the government to assert the social, economic and political rights of all Darfuris; and even if the rebel groups were composed of the main African tribes in Darfur, this is because these groups are most affected by the discriminatory policies of Khartoum. Their objectives, nonetheless, remain political. Ethnic dynamics became part of the equation with the

¹⁰ Ibis. P.14

¹¹ Straus, Scott. “Darfur and the Genocide Debate.” Foreign Affairs. Jan/Feb 2005, Vol. 84 Issue 1. P. 125

¹² Ibis.

involvement of the Janjaweed who advanced their own agenda of access to the land and water they were denied¹³.

The conflict of Darfur can therefore be identified as two separate conflicts: the first one involving the government and the rebels of the SLA and JEM, which is political in nature; and the second one, a land and loot driven war engaging tribal politics, waged by the militias of the camel-herding Arabs of northern Darfur – with the support of the government – against the African communities¹⁴. Nonetheless, it is critical to keep in mind that the situation in Darfur was initiated by political objectives.

The Peace Process

The peace process in Darfur has been a succession of ceasefires and other Agreements that have been signed and disregarded, leading to undermining the final and fragile Darfur Peace Agreement. The mediation efforts, and first round, initiated in September 2003 was under the leadership of the Chadian president Idriss Déby, following the influx of refugees from Darfur into Chad. In fact, Déby instigated the first foreign-led negotiations over the situation in Darfur in N'Djamena, which led to the N'Djamena Humanitarian Ceasefire Agreement signed in April 8th, 2004. The Humanitarian Ceasefire Agreement was essentially an agreement to a military pause, in order to enable humanitarian access. It also agreed on an initial 45 day ceasefire which led to the implementation of the Ceasefire Commission, and created a team of military observers,

¹³ Tanner, Victor. "Darfur 2004: Why? Where from? Where to? The Sudan Open Archive. 27 August 2004. <www.sudanarchive.net> p.17

¹⁴ Ibis.

with an attached protection force to monitor the ceasefire; the African Union Mission in Sudan (AMIS)¹⁵.

The second round of the mediation efforts were sponsored by the African Union and held in Abuja, Nigeria. They concluded the mediation efforts by signing a protocol regulating humanitarian issues on September 1, 2004, and called on the AU to strengthen the AMIS forces. However, no agreement was reached regarding security issues. The third round of negotiations lasted from October 21 to November 10, 2004. Its objective was to formulate a common Declaration of Principles for a comprehensive peace agreement, but the mediations were unsuccessful to obtaining the parties to sign such an agreement. As a result, this process was carried over to the fourth round of negotiations from December 11 to December 21, 2004. Regrettably, none of the commitments made by the parties during that round were respected, and the Declaration of Principles (DOP) was not signed until during the fifth round which took place from June 10 to July 5, 2005. This Declaration of Principles supported a federal system of government for Sudan, a clear division of power between the local and national government and the redistribution of national wealth. The fifth round also witnessed the dissolution of the SLM/A into several factions, namely an SLM/A faction led by Minni Minawi and another one directed by Abdul Wahid¹⁶.

On September 15, 2005, the sixth round of mediation was initiated with the objective of translating the principles agreed upon in the previous round, into a political framework for the resolution of the conflict. Yet, due to a power struggle within the SLM/A, the sixth round was adjourned on October 20 without any results. The seventh and final round took place during five

¹⁵ Slim, Hugo. "Dithering over Darfur? A Preliminary Review of the International Response." *International Affairs* 80, 5 (2004). P. 817

¹⁶ Ekengard, Arvid. "The African Union Mission in Sudan (AMIS): Experiences and Lessons Learned." FOI – Swedish Defence Research Agency. August 2008. P.13-15

months of intense negotiations from November 29, 2005 to May 5, 2006, and led to the signature of the Darfur Peace Agreement (DPA), after almost two years of negotiations¹⁷. The DPA, however, was only signed by the Government of National Unity and the SLM/A faction led by Minni Minawi, and was rejected by the SLM/A faction led by Abdul Wahid and the JEM. It stipulates the integration of 4,000 SLA troops into the Sudan Armed Forces, provides for \$300 million initially and \$200 million each in 2007 and 2008 from government funds for reconstruction and development purposes for Darfur; and institutes the Transitional Darfur Regional Authority (TDRA), a new entity mandated under the DPA to administer Darfur. In addition, the DPA provides seats for the SLM in the national and regional parliaments and several top positions, including the chairmanship of the TDRA and Senior Assistant to the President¹⁸.

Yet, the DPA proved to be irrelevant as it was overlooked by the warring parties like previous agreements, and very quickly violence re-initiated and intensified on the ground. In addition, the DPA was also strongly opposed by internally displaced persons who violently protested against it in camps and elsewhere. Interestingly, the collapse of the DPA was of no surprise to many, particularly to Jan Pronk, the UN Secretary-General's Special Representative in Sudan, who had warned as early as the beginning of July, that the DPA had chances of collapsing because it was an honest compromise between the extreme positions taken by the parties in Abuja, but did not reflect the people of Darfur. In fact, the people of Darfur support that the DPA was imposed on them, and that instead of meeting everyone's interests somewhere

¹⁷ Ibis. P15

¹⁸ Dagne, Ted. "Sudan: The Crisis in Darfur and Status of the North-South Peace Agreement." CRS Report for Congress. July 23, 2008. P.18

halfway, the DPA strengthens the position of the Government and the minority Zaghawa tribe represented by the SLM/A faction of Minawi¹⁹.

The collapse of the Darfur Peace Agreement is mostly due to the negotiating parties unwillingness to engage in negotiations. In fact, the deep-rooted violent conflict between the parties has resulted into hatred and mistrust among them, which rendered the signing of an agreement almost impossible, particularly considering that the mediators failed to build the parties' confidence in each other and in the process of negotiations. On the one hand, there was a lack of trust between the rebel movements and the government who perceived them as unworthy military, political and negotiating opponents, not even representative of the people of Darfur, and would therefore be reluctant to make any concession with them. Then, there was also a severe mistrust between the rebel alliances provoked by the numerous divisions. The JEM and the SLM did not trust each other, nor did the SLM inner factions that were attacking each other in Darfur while the negotiations were underway. There was also tension within Wahid's faction since there were attempts to oust him as the leader. The rebels were unable to unify under similar concerns and come as one voice during the negotiations, due to the divisions, mistrusts, and agendas specific to each group²⁰.

Finally, the collapse of the Darfur Peace Agreement is also explained in terms of the deadline diplomacy policy adopted by the mediators due to financial concerns. Indeed, the negotiations between the warring parties in Darfur were regulated by a set of deadlines established by political leaders and donors. The issue with mediators emphasizing on deadlines is that it rushed the parties into signing agreements that needed more time to be discussed or could barely be understood due to the jargon used. Although, the expedited signing of the DPA

¹⁹ Nathan, Laurie. "The Failure of Deadline Diplomacy for Darfur." *RUSI Journal*. 151, 4; August 2006. P. 74

²⁰ Ibis. P.76

was aimed at ending the killing and destruction, allow the IDPs and refugees to return to their homes and create a safe environment for the provision of humanitarian relief and the initiation of reconstruction and development, the deadlines diplomacy actually hindered the realization of these objectives; teaching mediators that deadline diplomacy was a quick fix to the situation in Darfur, doomed to a short life²¹.

The DPA's greatest failure is the lack of implementation of the disarmament of the Janjaweed militias, a provision that Khartoum has always failed to put into practice, five times already, in the previous agreements²². The disarmament process has certainly been undermined by the reluctance of the Sudanese government to comply with its obligations, as stipulated in the UNSC Resolution 1556. This process has, however, proven to be even more intricate due to the difficulty in identifying the Janjaweed. On the one hand, the Sudanese government support that the Janjaweed is solely composed of 'outlaw militia,' that is bandit groups upon which they have no control and therefore, cannot disarm them. Yet, it continues to arm and recruit militias and support their operations. In addition, Khartoum is known for having hidden nearly half of the Janjaweed by admitting them into the formal security services like the Popular Defence Forces (PDF), the Border Intelligence Units and the Central Reserve Police (the riot police)²³.

Since the breakdown of the DPA, the governments of Slovenia, Eritrea and Libya have all attempted to facilitate unity among the different rebel groups. After the talks in Eritrea and Libya in July 2007, the parties met in Arusha, Tanzania in August 2007 for talks sponsored by the UN and AU; during which, the parties to the conflict approved a roadmap for Darfur supported by the international community. The October 2007 gathering in Sirte between the

²¹ Nathan, Laurie. :The Failure of Deadline Diplomacy for Darfur." RUSI Journal. 151, 4; August 2006. P. 74

²² International Crisis Group. "Darfur's Fragile Peace Agreement." Africa Briefing N°39. Nairobi/Brussels. June 20 2006. P.1

²³ Ibis. P 4-5.

rebels and the Sudanese government was intended to launch phase three of the road map, however key rebel leaders were absent²⁴. The efforts to implement the DPA agreement remain in progress, but they have been challenged by the diverging positions of the warring parties and the constant divisions of the rebel forces.

II. The Responsibility to Protect

Prior to criticizing or approving the role of the international community in Darfur, one must determine under which auspices the global community has the right to intervene. It has been established, through several UN resolutions, namely the paragraphs 138 and 139 of the 2005 United Nations World Summit, that the international community not only has the right to intervene in case of a humanitarian crisis, but also the responsibility and duty to intervene.

The responsibility to protect is a concept that first emerged through the Resolution 1706, in which the Security Council refers to as the mandatory deployment of UN peacekeepers and recourse to whatever military means necessary to restore international peace and security, under the Chapter VII of the UN Charter²⁵. Endorsed unanimously by the UN General Assembly, the responsibility to protect convey the idea that “if a country cannot or will not protect its citizens from genocide, war crimes, crimes against humanity, or ethnic cleansing, then it must accept support or assistance from other nations to end the violence²⁶.” Such concept has undeniably raised concerns over the role and importance of state sovereignty. To this, the UN has responded

²⁴ Campbell, Kelly. “Negotiating Peace in Darfur.” USIPeace Briefing. January 2008. P. 2

²⁵ United Nations Security Council. Resolution 1706. 5519th Meeting. 31 August 2006.
<<http://daccessdds.un.org/doc/UNDOC/GEN/N06/484/64/PDF/N0648464.pdf?OpenElement>>

²⁶ O’Neill, G. William. “The Responsibility to protect Darfur: The UN Should Send a Peacekeeping Force to Darfur – Even Without Sudan’s Consent. Brookings Institution Press. September 28, 2006.

that although the sovereignty of states to regulate their internal affairs is respected, it is a conditional and not absolute status²⁷.

With regards to the conflict in Darfur, the Sudanese government still fails to fulfill its sovereign responsibility to protect the Darfurian population from militia attacks and to provide assistance, despite the global community exhaustion of all peaceful means of intervention, namely mediation, pressure and sanction. The GOS' failure, has therefore bestowed the international community with the responsibility to protect and provide assistance in Darfur. Although the consent and cooperation of the Sudanese government to the deployment of the peacekeeping forces would have been preferable, it is not in any case required.

In other words, as a response to some African leaders, namely the Sudanese President Omar Al-Bashir himself, who has been questioning the legitimacy of the UN intervention in Darfur, the latter intervention was conducted in all legality, with respect to the Chapter VII of the UN Charter and Resolution 1706; which the Sudanese government, as a member state of the United Nations since November 12, 1956, is bound to respect²⁸.

III. How the International Community Failed Darfur

The failure of the international community to prevent the 1994 genocide in Rwanda and protect millions of Hutus and Tutsis from the massacres remains an uncomfortable memory to all. Yet, a decade later the international community is watching while another genocide occurs under its watch. After the Nazi regime, they had all said "Never Again," nonetheless, world leaders seem not to have learned their lesson yet or simply seek to subtly avoid the responsibilities of a humanitarian intervention. Five years after the start of the hostilities in the

²⁷ Ibis

²⁸ United Nations. List of United Nations Member States. <<http://www.un.org/members/list.shtml>>

Sudanese Darfurian region, the death of approximately 200,000 from the combined effects of the conflict – including hunger, disease and violence, and the displacement of about 2.5 million people²⁹, leaves no doubt that the international community has failed to live up to its own standards.

A. The Main Actors of a Military Intervention in Darfur

1. The Government of Sudan (GOS)

Prior to evaluating the role and responsibility of international community in Darfur, it is important to point out that the main actor in this situation should be the Sudanese government. In fact, as a sovereign state, Sudan has the primary responsibility to protect its own citizens against atrocities³⁰. However, it has willingly and flagrantly ignored such responsibility, in addition to prolonging and worsening the conflict, by unleashing the Janjaweed militias to attack the people of Darfur and blocking the humanitarian response³¹. In fact, despite numerous UN resolutions and peace agreements, the Sudanese government continues to recruit and arm militias, supports their continuing attacks and reinforces the tribal rivalries and longstanding ethnic hatreds³². In addition, the government in Khartoum has been obstructing humanitarian intervention by resorting to visa restrictions or suspended travel permits³³. By doing so, the Sudanese government has exacerbated the famine conditions for millions, who are innocents and

²⁹ CBC News – Radio Canada. “Darfur Death Toll Could Be as High as 300,000: UN Official. April 22, 2008. <<http://www.cbc.ca/world/story/2008/04/22/darfur-un.html>>

³⁰ Grono, Nick. “Briefing – Darfur: The International Community’s Failure to Protect.” African Affairs, 105/421, Oxford University Press. 2006

³¹ Slim, Hugo. “Dithering over Darfur? A Preliminary Review of the International Response.” International Affairs 80, 5 (2004). P. 812

³² Grono, Nick. “Briefing – Darfur: The International Community’s Failure to Protect.” African Affairs, 105/421, p. 625. Oxford University Press. 2006

³³ Slim, Hugo. “Dithering over Darfur? A Preliminary Review of the International Response.” International Affairs 80, 5 (2004). P. 812

vulnerable³⁴. Undeniably, the Sudanese government's failure and reluctance - as a sovereign state - to protect its population from violence such as crimes against humanity, and its involvement in the perpetuation and exaggeration of the conflict, requires the intervention of the international community as specified by the UN Security Council in its Resolution on the Protection of Civilians in Armed Conflict, established in April 2006.

2. *The African Union (AU)*

Due to the Sudanese government failure to comply with its responsibility and the lack of leadership and intervention from the international community, the African Union emerged as the lead international actor in Darfur. The AU first involvement in Darfur was through a monitoring mission that initiated with 60 monitors and 300 troops to protect them; which over the years expanded to some 7,000 troops. Although the African Union was certainly more active than any other international actor, its leadership was severely limited by its mandate as an observer mission. As such, the AU cannot proactively protect civilians, unless the latter are being attacked in its presence; granted if they have enough troops to intervene, which it usually doesn't³⁵.

The African Union's work in Darfur has been, in fact, severely hampered by its lack of adequate resources or staff. Although it expanded its deployment to 7,700 agents, it did not suffice to cover an area that experts estimate needs as many as 50,000 agents. From a logistical point of view, though Western and other countries have pledged funds and logistical support, and are airlifting AU troops into Darfur, the organization remains limited on transportation (aircraft or vehicles), troops, communication equipment, tents, boots and other basic equipments. Most

³⁴ Fraser, Jon. "International Intervention in Darfur." The Boston Globe. July 12, 2005.

<http://www.boston.com/news/globe/editorial_opinion/letters/articles/2005/07/12/international_intervention_in_darfur/?rss_id=Boston+Globe+---+Editorial%2FOp-ed+pages>

³⁵ Grono, Nick. "Briefing - Darfur: The International Community's Failure to Protect." African Affairs, 105/421, p. 625. Oxford University Press. 2006

importantly, its personnel who until today was limited to observation, lacks critical training to face a situation such as the one in Darfur³⁶.

On the other hand, the critical role of the African Union as a mediator in the conflict of Darfur should be commended. In addition to immediately sending a monitoring mission to Darfur, the African Union also conducted an early humanitarian mediation through the Centre for Humanitarian Dialogue, which acted as a non-state intermediary between the Sudanese rebel groups and the formal state system; and gathered the Sudan Liberation Army and Movement (SLA/M) and the justice and Equality Movement (JEM) into international talks, thus facilitating the fluidity of the negotiations³⁷.

Chad, particularly distinguished itself as a mediator in 2003, when the international awareness of the crisis was still at its lowest. In September 2003, following the initiation of the SLA and JEM guerilla operations and the government retaliation, the Chadian government mediated the first ceasefire in Darfur which lasted 45 days; a process known as the N'Djamena talks. These talks were, however, not sufficient in resolving the conflict in Darfur due to the complex political relationship between the Sudanese and Chadian Presidents. Their relationship is, on the one hand, drawn on Khartoum supporting the Chadian President Deby invasion of Chad, while being in exile in Darfur; but on the other hand, President Déby, who belongs to the Zaghawa ethnic group – the major group victim of Khartoum's violence – is torn between his responsibility as an international agent to intervene, and his loyalty to his ethnic group. His

³⁶ Cohen, Roberta. "The International Response to Darfur." *Forced Migration Review* [1460 – 9819]. Vol. 23. 2005. P. 7

³⁷ Slim, Hugo. "Dithering over Darfur? A Preliminary Review of the International Response." *International Affairs* 80, 5 (2004). P. 813

double standard has caused him to lack the necessary political leverage to give the negotiations credibility and weight³⁸.

3. The Organization of Islamic Countries and the Arab League

Similarly to the rest of the international community, the Organization of Islamic Countries and the Arab league were absent in Darfur. While both organizations had been highly critical of the United States military action in Fallujah, and of the Israeli military action, in 2003 and early 2004, in the Palestine occupied territories, they were rather silent over the humanitarian violations occurring in Darfur³⁹. Though one would expect a high involvement and support of these entities, with regards to the shared Arabic identity with Sudan, the Arab League was not involved in the N'Djamena process, but did grace the African Union of its presence for the signing of the agreement in Addis Ababa on May 28. Their late arrival in the negotiating processes, namely the Abuja process which began in August 2004, is all the more outrageous as one remembers the proactivity of the Islamic states towards the ethnic cleansing in Bosnia⁴⁰.

Its only involvement, if any, was to encourage the Sudanese government in obstructing any intervention from the United States or European Union; as well as support the expansion of the international presence in Darfur, without nonetheless providing for any troops on its own⁴¹. Evidently, these organizations, at the images of the international community, have been involved in Darfur more rhetorically than concretely.

³⁸ Slim, Hugo. "Dithering over Darfur? A Preliminary Review of the International Response." *International Affairs* 80, 5 (2004). P. 814

³⁹ Slim, Hugo. "Dithering over Darfur? A Preliminary Review of the International Response." *International Affairs* 80, 5 (2004). P. 823

⁴⁰ Slim, Hugo. "Dithering over Darfur? A Preliminary Review of the International Response." *International Affairs* 80, 5 (2004). P. 812

⁴¹ Slim, Hugo. "Dithering over Darfur? A Preliminary Review of the International Response." *International Affairs* 80, 5 (2004). P. 824

4. *The United Nations*

As mentioned previously, although the African Union acted as the lead international actor in Darfur, its financial and logistic limitations, and most importantly the restrictions of its mandate as a mission observer, did not allow for the organization to prosper in Darfur. A situation of such magnitude requires a larger international force to enforce the ceasefire agreement and improve the security of the displaced populations. Most importantly, it is in need of an entity such as the United Nations, whose efforts will not be hampered by the lack of funding and resources⁴².

The UN first reaction to the crisis in Darfur was to express its concerns to the Sudanese government, without pressuring or threatening it. It was not until March 2005 – two years after the conflict had started – in the face of the repeated provocations from Khartoum, namely its failure to disarm the militia, that the Security Council imposed sanctions against those obstructing the peace process and committing human rights violations⁴³. With regards to humanitarian assistance, individual state members have been effective in providing food, medication and blankets through national agencies such as the United States through the USAID⁴⁴. The UN agencies, such as the UNHCR, have also been involved in providing assistance and protection to the internally displaced person and Sudanese refugee population in Chad and other neighboring countries; even if these efforts are once again being obstructed by Khartoum⁴⁵.

Military speaking, the United Nations has been involved in Darfur through the hybrid AU-UN force: the UN-African Union Mission in Darfur (UNAMID). Established in July 2007 in the

⁴² Mozeresky, David. "International Intervention in Darfur." *The International Development Magazine*. November 2004

⁴³ Grono, Nick. "Briefing – Darfur: The International Community's Failure to Protect." *African Affairs*, 105/421, p. 626. Oxford University Press. 2006

⁴⁴ USAID Press Office. "U.S. Response to the Humanitarian Crisis in Darfur." June 30, 2004. Washington DC.

⁴⁵ Mozeresky, David. "International Intervention in Darfur." *The International Development Magazine*. November 2004

UN Resolution 1769, and operational in early 2008, the task of the latter force is to take the necessary action to support the implementation of the Darfur Peace Agreement, and protect its personnel and civilians⁴⁶. Better equipped than the AMIS, the international community had high hopes in the UNAMID force, which ended up confronting the same governmental obstruction and targeted violence from militia⁴⁷. As of today, the role and contribution of the UNAMID is mitigated, mainly due to its lack of an earlier intervention.

On the other hand, the UN adopted a more robust position on the legal front. First, it established an International Commission of Inquiry which concluded that international offences such as the crimes against humanity and war crimes had been committed in Darfur. The UN then referred the situation in Darfur to the International Criminal Court (ICC) which started its investigation three months later⁴⁸, and issued a warrant of arrests against two militia leaders and Sudanese President Omar Al-Bashir.

5. *The European Union*

Similarly to other international actors, the European has chosen to be involved in Darfur through the African Union. Indeed, perceiving the AU has the lead international player in Darfur, the EU decided to be proactive by supporting the African Union in its effort; a support that mostly translated into the donation of funds. Most importantly, the EU was a strong advocate of support of an African solution to an African problem⁴⁹; which was an unofficial way to attribute the responsibility of the Darfur fiasco to the African Union, while avoiding any physical

⁴⁶ African Union/United Nations Hybrid operation in Darfur. March 2009.
< <http://www.un.org/Depts/dpko/missions/unamid/>>

⁴⁷ Human Rights Watch. "Darfur 2007: chaos by design: peacekeeping challenges for AMIS and UNAMID. Human Rights Watch; Vol. 19 no. 15(A). September 2007. <<http://www.hrw.org/node/10679>>

⁴⁸ Ibis. p. 626-627.

⁴⁹ Ibis

intervention in the country. Individual European countries such as Great Britain and Denmark, which had embassies on the ground, attempted to engage the Sudanese government on the situation, in vain⁵⁰.

6. The North Atlantic Treaty Organization (NATO)

Competing with the European Union for a spotlight in Darfur, the NATO's action has been limited to the provision of expertise and logical support to the African Union mission. With regards to a military intervention, the NATO has demonstrated unwillingness to go beyond its current involvement and deploy troops in any significant numbers⁵¹. It must be kept in mind that after the Kosovo "fiasco" depending on the standing, the NATO has not been as willing as before to be a leading actor in military intervention.

7. The United States

The United States exemplify a mixed record on Darfur. In its rhetoric, the US has been at the forefront of international action by expressing its concerns to the Sudanese government and defining the situation in Darfur as genocide. Unfortunately, the American rhetoric has once again failed to meet its action. First of all, naming Darfur a genocide is a step towards recognition but the United States has yet to put real pressure on the Sudanese government. Then, by abstaining from the Security Council vote on the ICC referral, the US demonstrated the extent of its commitment to Darfur⁵².

⁵⁰ Slim, Hugo. "Dithering over Darfur? A Preliminary Review of the International Response." *International Affairs* 80, 5 (2004). P. 814

⁵¹ Grono, Nick. "Briefing – Darfur: The International Community's Failure to Protect." *African Affairs*, 105/421, p. 627. Oxford University Press. 2006

⁵² *Ibis*.

The United States has tried to compensate for its lack of assertiveness towards the Sudanese government, by being more involved in the humanitarian assistance scene. In that sense, the US has been a generous donor financially and in its aid contributions. In 2004 alone, the US government provided \$100,357,490 in humanitarian assistance to Darfur and \$4,914,000 in humanitarian assistance to eastern Chad. These funds were completed by the additional pledge of approximately \$297, 5 million to Darfur, western Sudan and eastern Chad, in view of the disastrous impact of the rainy season on these regions⁵³.

In addition, USAID has been constantly airlifting relief supplies such as blankets, water purification systems, and rolls of plastic sheeting; supplies which in 2004 alone amounted to approximately \$3 million, in addition to \$3.4 million spent on transportation and nearly \$17.4 million of donations to UN agencies and NGOs such as CARE and the International Rescue Committee (IRC)⁵⁴. It is critical to retain that the US level of involvement in humanitarian assistance should not be used as a fallback to an assertive response to the conflict in Darfur.

B. The Failure to Intervene in a Timely Manner

In 1994, the international community witnessed the massacre of 800,000 people in Rwanda, in approximately 100 days. Considered to be a shameful example of the failure of the international community to intervene⁵⁵, Rwanda was meant to teach us a lesson, upon which the global community promised genocide should never happen again. Yet, precisely a decade later, the international community is challenged by another African conflict in the Sudanese region of

⁵³ USAID Press Office. "U.S. Response to the Humanitarian Crisis in Darfur." Washington DC. June 30, 2004.

⁵⁴ Ibis.

⁵⁵ United Nations Information Service. "International Community Mourns Rwanda Massacre of 1994." April 5, 2004. < <http://www.unis.unvienna.org/unis/pressrels/2004/unisinf6.html>>

Darfur, which has now been recognized as genocide by several world leaders. Sadly, the international community has once again proven its inability to intervene when most needed.

Although, upon the initiation of the conflict, the African Union immediately dispatched a monitoring mission and peacekeeping force known as the African Union Mission in Sudan (AMIS), in order to protect the monitors, it took two years for the rest of the international community to intervene militarily⁵⁶. While the global community approach to Darfur consisted in showing concern through official public statements and providing extensive humanitarian assistance and funding and logistical support to the African Union, its military involvement was delayed as the political debate across the UN, the US and the EU focused not on how to stop the crisis but on whether or not the situation in Darfur should be called a genocide⁵⁷.

The focus on defining Darfur with the g-word resulted from the two provisions in the Genocide Convention that stipulate that the “contracting parties are required to prevent and to punish genocide⁵⁸. In which case, if Darfur was to be labeled as genocide, the international community would have had to intervene. The global reluctance to intervene was therefore delayed as states debated over two years on the eligibility of Darfur as genocide. In the United States, the genocidal debate was initiated in March 2004 with the pressure of columnists such as Nicholas Kristof from the New York Times, who published several articles on the matter. With mounting pressures from human rights organization, religious associations and political groups; in addition to the conclusions of a U.S government-funded study that demonstrated that violence against civilians was widespread, ethnically oriented, and strongly indicated government

⁵⁶ Cohen, Roberta. “The International Response to Darfur.” *Forced Migration Review* [1460-9819]. Vol. 23. 2005. P. 8

⁵⁷ Straus, Scott. “Darfur and the Genocide Debate.” *Foreign Affairs*. Jan/Feb 2005, Vol. 84 Issue 1. P. 123

⁵⁸ Straus, Scott. “Darfur and the Genocide Debate.” *Foreign Affairs*. Jan/Feb 2005, Vol. 84 Issue 1. P. 127

involvement in the attacks, the US government had but no choice than to recognize in early September that a genocide was in fact taking place in Darfur⁵⁹.

However, by then, the US government had been cautious and informed the international community, that such labeling would not change the US policy towards Sudan, namely that it would keep on showing concerns and sending humanitarian aid, but denying civilians the protection of military troops, and the resolution of the instabilities in Darfur.

In the meantime, other world and opinion leaders continued to show great reticence in qualifying Darfur as genocide. Whether it is within the UN, with Secretary General, or with the European Union, there is a preference to refer to Darfur as “massive violations of human rights” or “ethnic cleansing⁶⁰”; as if these words made the situation in Darfur any less dramatic. It did, however, help them hide away from their responsibility to protect.

Undeniably, defining Darfur as genocide was an intricate task due to the disagreements on the qualification of the term in itself. Although the convention defines genocide as “the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such”, the international community has experienced difficulties in determining how much ‘partial’ group destruction was required to reach the genocide threshold. In April 2004, for instance, the International Criminal Tribunal for the Former Yugoslavia (ICTY) “concluded that genocide meant the destruction of a substantial part of group, which the court defined as 7,000-8,000 Bosnian Muslim men from Srebrenica⁶¹.” Presently, The international community should have been vigilant and more efficient in recognizing a genocide before it reaches the 100,000 death toll rate, and not wait for a post-fact tribunal to ‘shed the light’ on a situation that was more than blatant. Whether it was genuinely because they sought to better understand the unfolding ‘ethnic

⁵⁹ Ibis

⁶⁰ Straus, Scott. “Darfur and the Genocide Debate.” *Foreign Affairs*. Jan/Feb 2005, Vol. 84 Issue 1. P. 126

⁶¹ Straus, Scott. “Darfur and the Genocide Debate.” *Foreign Affairs*. Jan/Feb 2005, Vol. 84 Issue 1. P. 128

cleansing' in Darfur or most likely due to hidden political reasons, there is no doubt that the global community has yet to finally learn how to address genocidal situations.

The irony of the situation is that unlike the genocide in Rwanda in which the international community was instructed not to define it as genocide due to its implications of a military intervention, the global community was 'quicker' in publicly acknowledging the crisis in Darfur as such; yet still proved "to be slow and ineffective in responding to large-scale, state-supported killing⁶²."

C. The failure to adopt an effective approach

As mentioned previously, the international community is, first and foremost, responsible for failing to intervene in brief delays, as they postponed their duty, hiding behind a genocidal debate, while thousands of people were being killed. When the global community finally decided to intervene, it encountered a new challenge and debate about what steps to take now that the situation in Darfur had been recognized as genocide. So much time had been wasted debating on the "g-word" that no one ever inquired on what to do, how to do it, and who should do it; ; in such way that when the international community finally decided to intervene, it fumbled and wasted more time, all in a careless and rushed fashion. Khartoum, in the meanwhile, took advantage of the global confusion to intensify its attacks on the Darfuri population⁶³.

Under great pressure and criticism, the global community needed to show a new front in which it will be portrayed as proactive; sadly, leadership was mistaken for a race against time as the Abuja negotiations were expedited to somehow make up for the time wasted on the genocide debate. The issue with the rapid termination of the talks and the rushed to a conclusion is that the

⁶² Straus, Scott. "Darfur and the Genocide Debate." *Foreign Affairs*. Jan/Feb 2005, Vol. 84 Issue 1. P. 124

⁶³ Slim, Hugo. "Dithering over Darfur? A Preliminary Review of the International Response." *International Affairs* 80, 5 (2004). P. 811

text of agreement was essentially deficient in numerous critical facets of the peace process in Darfur. In the process, the global community also managed to lose Khartoum's trust – already fragile – as the Sudanese government questioned the hasty process of Abuja⁶⁴.

The peace process in Darfur is inherently unusual as the first step to a peace operation is generally the implementation of a peace agreement, followed by the deployment of troops. In the instance of Darfur, the troops were dispatched prior to the signature of any agreement. The odd choice of the global community to proceed in such way has resulted on its focus on details pertaining to the troops such as the establishment of a name, their mandates, the force numbers and other logistics pertaining to the sort; leaving the essential development of a concept of operations untouched⁶⁵.

It is generally known in the field of conflict resolution that one cannot just deploy forces to a territory prone to violence without a plan, as the success or failure of any peace support operation depend upon the long term vision and strategy of the operation⁶⁶. In other words, the success of the peace operations in Darfur, if any, will strongly be correlated to the preparation of the latter operation; as of today non-existent.

Therefore, the lack of a strong and effective international response to the situation is due to the absence of tools and structures available to the international community to address internal crises. While there exists an extensive apparatus for humanitarian intervention, there is no international machinery readily available to protect civilians caught up in violence occurring within their country⁶⁷. With no mechanisms for preventing genocide or mass killings and no

⁶⁴ De Waal, Alex. "Darfur and the failure of the responsibility to protect." *International Affairs* 83:6 (2007) 1047.

⁶⁵ De Waal, Alex. "Darfur and the failure of the responsibility to protect." *International Affairs* 83:6 (2007) 1047.

⁶⁶ Ibis

⁶⁷ Cohen, Roberta. "The International Response to Darfur." *Forced Migration Review* [1460 – 9819]. Vol. 23. 2005. P. 7.

enforcement machinery, it is not surprising that come time to intervene, the international community was at loss and could not agree on an effective intervention in Darfur.

Taking into account the waste of time, the lack of a concept of operations and of an international apparatus to address genocide and massive killings, it is obvious that the peace process in Darfur will be challenging. However, the global community can avoid another failure once it will start acting in agreement with its mandate and according to the conflict resolutions principles that have generally proven to be effective – even if the situations differ.

D. Politics versus Rights

It has been established previously that the lack of a prompt response by the international community was due to too much time spent on defining the situation of Darfur. This delay, however, was a cover-up for an underlying issue that no one would dare say out loud: Darfur just isn't that important to the international community⁶⁸. In fact, the international community's reluctance to take action illustrated several Security Council members' geopolitical interests, mostly economical or political. Then, at times their attitude simply reflected their disregard of Sudan, and the African continent overall as many western governments do not consider Africa to be in their national or strategic interests to take the necessary political, financial or military risks in order to stop the killings⁶⁹.

China and Russia have certainly been the strongest action-impeder in the Security Council. From an economic perspective, China who has significantly invested in Sudan and is the largest oil importer – it imports up to 25% of from Sudan - has no doubt that its support of

⁶⁸ Grono, Nick. "Briefing – Darfur: The International Community's Failure to Protect." *African Affairs*, 105/421, p. 628. Oxford University Press. 2006

⁶⁹ Cohen, Roberta. "The International Response to Darfur." *Forced Migration Review* [1460 – 9819]. Vol. 23. 2005. P. 8.

any UN measures against the Sudanese government, would impact its economic relations with Khartoum. Russia, also involved in oil activities, is the major arms supplier to Sudan; and has therefore economic incentives to veto any Security Council initiative⁷⁰. Politically speaking, both China and Russia have opposed diplomatic pressure or sanction against the Sudanese government for fear of setting a precedent that might lead to intervention in Tibet, Xinjiang or Chechnya⁷¹.

The United States have also exhibited their share of political interests in their handling of the Darfuri conflict. The official rhetoric used to justify the American inertia is based off the idea that any intervention would threaten the peace process between the north and south, in which the US had played an important role; a discourse also supported by the European Union⁷². Unofficially, Darfur was even problematic for the US because it has a close intelligence relationship with the Sudanese government with regards to its war on terror – yet to be won.

Although the African Union has taken upon more political responsibility and risks to intervene in Darfur, its actions were conditioned by the good will of the Sudanese government. Considering that the AU was able to operate in Darfur because it had obtained the permission from the Sudanese government, it feared that too much pressure would result into marginalization⁷³ – but it was only a matter of time before the ICC indicted President Bashir and he expelled several NGOs; thus marginalizing the Darfuri region anyways. Other entities, such

⁷⁰ United States Conference of Catholic Bishops (USCCB). “Crisis in Darfur, Hope for Sudan.” February 21, 2005. < www.usccb.org/sdwp/international/Sudan%20Darfur%20Social%20Ministry%20Gathering.ppt >

⁷¹ Ibis

⁷² Cohen, Roberta. “The International Response to Darfur.” *Forced Migration Review* [1460 – 9819]. Vol. 23. 2005. P. 8.

⁷³ Grono, Nick. “Briefing – Darfur: The International Community’s Failure to Protect.” *African Affairs*, 105/421, p. 628. Oxford University Press. 2006

as Algeria and Pakistan concerned with the Arab league presenting a united front and keeping Sudan from any humiliation, worked to postpone any international action⁷⁴.

The intervention in Darfur was inherently already complicated enough; but when geopolitical interests are added as factors of influences, it is not surprising that the global community was in no rush to take upon its leadership responsibility. The issue with such behavior is that the international community is sending mixed messages, leading many to believe that humanitarian interventions does not depend so much on human rights but the western forces' political interests. In fact, on the one hand the UN brandishes numerous resolutions that emphasize states responsibility to protect when the original state has failed to do so; but on the other, when such duty is most needed, victims are confronted to a community that denounces the atrocities and provides humanitarian help, but considers the costs of trying to stop the killings as too elevate and not worthy⁷⁵.

Unfortunately, the international community does not realize that by contradicting itself in rhetoric and actions its bluntly exposing the double standard nature of its humanitarian interventions, in which the one reserved to the African continent consists mostly in idleness and inefficiency; No wonder some leading African political figures such as the Libyan President Moammar Kadafi interpret every international action as a new form of colonialism and perceive the ICC as the African International Criminal Court. Most importantly, the global community does not realize that its double standard and selective humanitarian interventions affect its credibility.

⁷⁴ United States Conference of Catholic Bishops (USCCB). "Crisis in Darfur, Hope for Sudan." February 21, 2005. < www.usccb.org/sdwp/international/Sudan%20Darfur%20Social%20Ministry%20Gathering.ppt >

⁷⁵ Cohen, Roberta. "The International Response to Darfur." *Forced Migration Review* [1460 – 9819]. Vol. 23. 2005. P. 8.

IV. The Role of the ICC in Darfur: Obstacle, Success or Failure?

On September 18, 2004, the International Commission of Inquiry was established by the Security Council and the Secretary-General through the UN Resolution 1564, in order to investigate reports of violations of international humanitarian law and human rights law; and to determine whether or not acts of genocide had been committed in Darfur⁷⁶. The Commission concluded that “the international offences such as the crimes against humanity and war crimes that have been committed in Darfur may be no less serious and heinous than genocide⁷⁷.” Additionally, it found that “government forces and militias conducted indiscriminate attacks including killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement throughout Darfur⁷⁸.”

On March 31, 2005, confronted with these findings, the Security Council determined that the situation in Sudan constituted a threat to international peace and security, and adopted the Resolution 1593 which referred the latter situation to the Prosecutor of the International Criminal Court; thereby acting under Chapter VII of the UN Charter⁷⁹, and despite the strong opposition of the United States for personal political interests⁸⁰. The ICC investigation was initiated three months later, and demonstrated upon completion – in spite of the ardent obstruction from the Sudanese government – that large scale massacres, hundreds of rapes, thousands of ‘slow-deaths’ from forced displacement and destruction of food-stocks had been taking place⁸¹.

⁷⁶ United Nations. Press Release: Secretary-General Established International Commission of Inquiry for Darfur. SG/A/890 AFR/1046 HR/4797 < <http://www.un.org/News/Press/docs/2004/sga890.doc.htm>>

⁷⁷ Grono, Nick. “Briefing – Darfur: The International Community’s Failure to Protect.” African Affairs, 105/421, p. 627. Oxford University Press. 2006

⁷⁸ Ibis

⁷⁹ Amnesty International. News & Events. “Sudan: Arrest Now! Darfur, Sudan: Ahmad Harun and Ali Kushayb” April 27, 2008. < <http://www.amnestyusa.org/document.php?id=ENGAFR540152008>>

⁸⁰ Annalisa Ciampi & Luigi Condorelli. “Comments on the Security Council Referral of the Situation in Darfur to the ICC.” Journal of International Criminal Justice 3 (2005), p.590

⁸¹ Grono, Nick. “Briefing – Darfur: The International Community’s Failure to Protect.” African Affairs, 105/421, p. 627. Oxford University Press. 2006

A. The Indictment of a State Official and Militia Leader

The findings of the ICC investigation supervised by Luis Moreno-Ocampo – the ICC Prosecutor – resulted in the indictment of two important Sudanese political figures: Ahmad Harun and Ali Kushayb. In fact, on April 27, 2007, after twenty months of investigation, two warrants of arrest destined to Ahmad Muhammad Harun (commonly known as Ahmad Harun) and Ali Muhammad Al Abd-Al-Rahman (commonly known as Ali Kushayb), were issued on the basis of war crimes and crimes against humanity committed between August 2003 and March 2004.

Ahmad Harun, currently Minister of State for Humanitarian Affairs of Sudan, was formerly the Minister of State for the Interior from 2003 to 2005. In his capacity, he was managing the Darfur Security Desk and coordinated the different bodies of the government involved in the counter-insurgency, including the police, the armed forces, the National Security and Intelligence Service. His warrant of arrest which listed 42 counts of crimes against humanity and war crimes – including persecution, murder and forcible transfer - indicted him for his recruiting, mobilizing, funding and arming of the Janjaweed, while inciting them to attack civilians; with full knowledge that they would commit crimes against humanity and war crimes against the civilian population in Darfur⁸².

Ali Kushayb, an important former senior Janjaweed commander and member of the Popular Defence Force was indicted for commanding thousands of Janjaweed militia which led attacks on the villages of Kodoom, Bindisi, Mukjar and Arawala. In addition he enlisted, armed, funded and provided supplies to the Janjaweed under his command. Although he was allegedly arrested

⁸² Amnesty International. News & Events. “Sudan: Arrest Now! Darfur, Sudan: Ahmad Harun and Ali Kushayb” April 27, 2008. < <http://www.amnestyusa.org/document.php?id=ENGAFR540152008>>

by the Sudanese authorities in November 2006 in relation to incidents in South and West Darfur, which are different from those referred to by the ICC, he was released and is now said to be in Khartoum⁸³.

B. The ICC Issues a Warrant of Arrest Against President Bashir

Most recently, on March 4th, 2009, the ICC issued a warrant of arrest against the Sudanese sitting head of state, President Omar Hassan Ahmad Al Bashir, for war crimes and crimes against humanity. He is suspected of being criminally responsible, as an indirect (co-)perpetrator, for intentionally directing attacks against an important part of the civilian population of Darfur, murdering, exterminating, raping, torturing and forcibly transferring large numbers of civilians, and pillaging their property⁸⁴. The warrant of arrest for Omar Al Bashir lists 7 counts on the basis of his individual criminal responsibility including five counts of crimes against humanity (murder, extermination, forcible transfer, torture, and rape); and two counts of war crimes (intentionally directing attacks against a civilian population as such or against individual civilians not taking direct part in hostilities; and pillaging)⁸⁵.

Although the prosecution stressed the inclusion of charges on genocide, it was not included in his warrant of arrest as the judges estimated that there were no reasonable grounds to believe that the government of Sudan acted with specific intent to destroy, in whole or in part, the Fur, Masalit and Zaghawa groups. Nevertheless, the warrant of arrest could be amended if the Prosecution provided additional evidences⁸⁶. While Bashir thought he would not have to worry

⁸³ Ibis

⁸⁴ AllAfrica.Com. Press Release. "Sudan: ICC Issues a Warrant of Arrest for Omar Al Bashir, President of Sudan." March 4th, 2009. < <http://allafrica.com/stories/200903040747.html>>

⁸⁵ International Criminal Court. Press Release. "ICC issues a warrant of arrest for Omar Al Bashir, President of Sudan." March 4th, 2009. < <http://www.icc-cpi.int/NR/exeres/0EF62173-05ED-403A-80C8-F15EE1D25BB3.htm>>

⁸⁶ Ibis.

about genocide charges, Luis Moreno-Ocampo has already appealed the judges' decision to exclude the charges on genocide. He supports that the judges have failed to understand his arguments and are committing a monumental error. On a statement released on March 13th, 2009, the ICC prosecutor disputed that genocide does not solely lies on the direct committing of murders but can include rape, forced displacement, destruction of basic means of survival; all actions that reflect the intention of the Sudanese President to exterminate a targeted group⁸⁷.

Unsurprisingly, the ICC warrant of arrest was strongly rejected by President Bashir who vowed to confront it with “force, determination and transparency⁸⁸.” Fearless to the international community authority, President Bashir added that the warrant of arrest against him would not change the politics of the Sudanese government; at the contrary⁸⁹. His undermining of the international community's authority, particularly of the ICC, has been reinforced since the issuance of his warrant of arrest, as President Bashir, between March 23rd and March 26th 2009, fearlessly traveled to Eritrea, Egypt and Libya – all opposed to the ICC jurisdiction – despite the warnings of his supporters⁹⁰. Bashir's travelling is, therefore, another way for him to mock the international community and demonstrate that he remains above the ICC and above any international jurisdiction. Ultimately, his reaction is the continuation of a long practice of obstructing and undermining the international community authority and its efforts to provide humanitarian assistance and safety to the victims of the conflict.

⁸⁷ Habibou Bangré. “Omar el Béchir de nouveau inquiété pour génocide? Jeune Afrique. March 14, 2009. <<http://www.jeuneafrique.com/Article/ARTJAWEB20090314133112/-Darfour-CPI-Bechir-justice-Omar-el-Bechir-de-nouveau-inquiete-pour-genocide-?.html>>

⁸⁸ Jeune Afrique. La Présidence soudanaise rejette le mandat d'arrêt de la CPI. March 5, 2009. <<http://www.jeuneafrique.com/Articles/Dossier/DEPXXIJ20090305T083235/-Darfour-CPI-Omar-el-Bechir-Ali-Osman-Mohamed-Taha-La-presidence-soudanaise-rejette-le-mandat-d-arret-de-la-CPI.html>>

⁸⁹ Jeune Afrique. “ Le Mandat d'arrêt de la CPI ne changera rien, affirme Béchir.” March 6, 2009. <<http://www.jeuneafrique.com/Articles/Dossier/DEPAFP20090306T082136Z/-Darfour-CPI-Omar-el-Bechir-Le-mandat-d-arret-de-la-CPI-ne-changera--rien--affirme-Bechir.html>>

⁹⁰ Bangré Habibou. “Omar el-Béchir nargue la CPI.” Jeune Afrique. March 26, 2009. <<http://www.jeuneafrique.com/Article/ARTJAWEB20090326154813/-Darfour-Luis-Moreno-Ocampo-Omar-el-Bechir-Amnesty-International-Omar-el-Bechir-nargue-la-CPI.html>>

C. The Global Concerns of the Issuance of President Bashir's Warrant of Arrest

The warrant of arrest against President Bashir certainly had been longed for and welcome by many, particularly by the numerous victims of the conflict. While most of the international actors believed that the issuance of a warrant of arrest against Bashir would have demonstrated their political will and commitment to resolving the conflict in Darfur – and as a result make up for their initial lack of pro- activity – this warrant of arrest was not welcomed by all. At the contrary, several entities (individual states or regional organizations) have expressed their concerns with regards to the consequences that the indictment of President Bashir could have on the peace process and its repercussions on the population; while others look at the situation from a colonialist perspective.

The African Union was first to react against the latter warrant of arrest. Upon its issuance, the AU stated that it would dispatch a delegation to New York, in order to convince the Security Council to differ for a year the warrant of arrest against President Bashir, by fear that it would undermined the peace process⁹¹. South Africa, which has qualified the warrant of arrest against President Bashir as deplorable, has adopted the same position as the African Union and supported it in its endeavor of deferring the warrant, until a sustainable solution has been encountered for Darfur⁹². In Egypt, the discourse is identical: the Egyptian government has

⁹¹ Jeune Afrique. L'UA va demander a l'ONU d'interrompre la procédure du CPI. March 5th, 2009. <<http://www.jeuneafrique.com/Articles/Dossier/DEPAFP20090305T140926Z/-Soudan-Darfour-CPI-conflit-L-UA-va-demander-a-l-ONU-d--interrompre--la-procedure-CPI.html>>

⁹² Jeune Afrique. L'Afrique du Sud juge regrettable le mandat d'arrêt contre Béchir. March 5th, 2009. <<http://www.jeuneafrique.com/Articles/Dossier/DEPAFP20090305T100310Z/-Darfour-CPI-Omar-el-Bechir-Nkosazana-Dlamini-Zuma-L-Afrique-du-Sud-juge--regrettable--le-mandat-d-arret-contre-Bechir.html>>

condemned Bashir's warrant of arrest, and insisted to remind the Security Council of its duty of ensuring a stable resolution first⁹³.

African nations and organizations are not the only ones skeptical about the impact of that warrant. China, a member of the Security Council, has also voiced its concern via their Minister of Foreign Affairs, Qin Gang, who sustains that the primary task of the international community consists in maintaining the stability in Darfur, and evolving in the political process currently enforced. As a result, China is strongly opposed to any initiative that would threaten peace in Darfur. The Chinese government has also expressed his support of the African Union and other actors' initiatives of deferring the warrant of arrest, in the hope that the Security Council would reevaluate the ICC's decision⁹⁴.

While most of the opponents of the ICC's decision base their argument on the eventual disruption of the peace process, others look at it from a political perspective. Mouammar Kaddafi, the Libyan President, has demonstrated strong opposition to the ICC decision. His discourse, however, lies on the idea that the warrant of arrest against President Bashir reflects political interests. In fact, he perceives Bashir's indictment as a grave precedent, a direct attack of smaller states' independence and sovereignty; it is an attack against third world countries, with the African states being the main targets⁹⁵. The Hamas shares the same political vision on the indictment of President Bashir, furthering the theory of neo-colonialism, in which the

⁹³ Jeune Afrique. L'Egypte fortement préoccupé par le mandat d'arrêt de la CPI. March 5, 2009.

<<http://www.jeuneafrique.com/Articles/Dossier/DEPXXIJ20090305T013656/-Darfour-CPI-Omar-el-Bechir-Ahmed-Aboul-Gheit-L-Egypte--fortement--preoccupe-par-le-mandat-d-arret-de-la-CPI.html>>

⁹⁴ Jeune Afrique. La Chine exprime regrets et inquiétudes a propos du mandat d'arrêt contre Béchir. March 5, 2009.

<<http://www.jeuneafrique.com/Articles/Dossier/DEPXXIJ20090305T170824/-CPI-Chine-Omar-el-Bechir-La-Chine-exprime-regrets-et-inquietudes-a-propos-du-mandat-d-arret-contre-Bechir.html>>

⁹⁵ Jeune Afrique. Kaddafi dénonce un grave précédent concernant le mandat d'arrêt de Béchir. March 7, 2009.

<<http://www.jeuneafrique.com/Articles/Dossier/DEPAFP20090307T133616Z/-ONU-CPI-Omar-el-Bechir-Mouammar-Kaddai-Kaddafi-denonce--un-grave-precedent--concernant-le-mandat-d-arret-de-Bechir.html>>

“unfair” warrant of arrest against President Bashir illustrates the United States political interests⁹⁶.

Whether the concerns on Bashir’s indictment lay on political or strategic reasons, the increase of insecurity in the country since its, exemplify the fear that many have warned the Security Council against. Indeed, since March 4th, kidnappings, attacks and expulsion of foreign humanitarian agents have become a daily routine. Precisely after his indictment, President Bashir expelled 13 foreign relief agencies, among which Oxfam, MSF and the Norwegian Relief Agency, granting them up to a year to leave the country⁹⁷. Meanwhile, humanitarian workers have been the frequent targets of attacks and kidnapping. For instance, on March 11, 2009, four aid workers from Doctors Without Borders (MSF) were kidnapped from Serif Umra in Northern Sudan.⁹⁸. Although they were released promptly, the frequency of such abductions has caused foreign aid companies to willingly evacuate Darfur.

As for the NGOs that were expelled, Bashir supported that its decision resulted from national security concerns, as he suspected these agencies to be conducting spying missions. Justified or not, the withdrawal of these 13 organizations would cause up to 1.1 million to be deprived of food, 1.5 million of health care and up to a million to be denied water, according to the Office for the Coordination of Humanitarian Affairs (OCHA)⁹⁹; thereby worsening what has been

⁹⁶ Jeune Afrique. “Le Hamas Condamne le Mandat d’arrêt contre Béchir.” March 5, 2009.
<<http://www.jeuneafrique.com/Articles/Dossier/DEPXXIJ20090305T014216/-CPI-Hamas-Omar-el-Bechir-Le-Hamas-condamne-le-mandat-d-arret-contre-Bechir.html>>

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⁹⁸ Reuters Alertnet. MSF aid workers kidnapped in Darfur freed – MSF. March 13, 2009.
<<http://www.alertnet.org/thenews/newsdesk/ALO372212.htm>>

⁹⁹ Jeune Afrique. Expulsion d'ONG: des centaines de milliers de personnes menacées. March 6th, 2009.
<<http://www.jeuneafrique.com/Articles/Dossier/DEPAFP20090306T134903Z/-Soudan-Darfour-CPI-politique-Expulsion-d-ONG--des-centaines-de-milliers-de-personnes-menacees.html>>

identified by many has one of the worst humanitarian crisis and biggest world's relief operation¹⁰⁰.

Whether qualified as ethnic cleansing or genocide, there is no doubt that despite the presence of the UNAMIS, massive killings have taken place in Darfur, and that a severe humanitarian crisis is unveiling on our watch. The issue at stake is that the ICC's issuance of a warrant of arrest against President Bashir is having a reverse impact. Firstly, it has been mostly criticized that praised. Then as moralistic as arresting President Bashir is, many have supported a deferral because at the present time, the warrant of issue is further deteriorating the situation in Darfur. Bashir was originally uncooperative, but since his indictment his hostility towards the international community has reached another level; and it can be righteously feared that working with and in Sudan will be harder than ever.

In light of the complications that have arisen as a result of the warrant of arrest, the credibility of the international community and the ICC is ever more at stake. At this point, it is generally admitted that the global community has failed to protect the Darfuri population and install peace in the region; but now the fear might be that the global actors will actually perpetuate the conflict. Last but not least, while the ICC is trying to build up a reputation, Darfur may not be the best case to do so as arresting President Bashir appears very challenging in a context in which he is supported and protected by several non-signatories party to the Rome Statute.

Despite the flow of pessimism, Dorina Bekoe, a senior research associate at the United States Institute of Peace, is supportive of the ICC initiative, which in her opinion is setting an example and sending a global message that massive killing is unacceptable and shall not remain unpunished. As for the deferral of the warrant of arrest, Bekoe advances that there is no such

¹⁰⁰ Reuters AlertNet. "Darfur Conflict: Peace Elusive As Security Worsens."
<http://www.alertnet.org/db/crisisprofiles/SD_DAR.htm?v=at_a_glance>

thing as good timing to indict the perpetrators of human rights abuses. Firstly whether it is now or later, the GOS and its supporters would have always found an excuse to defer the warrant of arrest. Then, an immediate indictment illustrates the ICC determination in punishing the violators of international laws¹⁰¹.

V. The Genocides in Rwanda and Darfur: A Comparative Analysis

Genocide is not a concept that was born in late 2003, upon the emergence of the conflict in Darfur. At the contrary, the international community has witnessed several genocides from the Armenian genocide conceived and implemented by the Ottoman Empire from 1915 to 1918 leading to the massacres of 1.5 million Armenians¹⁰²; the German Holocaust led by Adolf Hitler that resulted in the killing of approximately six million European Jews during World War II¹⁰³; the Guatemalan army massacre of approximately 166,000 Mayas during the civil war from 1960 to 1996; the Cambodian ethnic cleansing of minorities such as the ethnic Vietnamese and Chinese, orchestrated by the Khmer Rouge leaders which led to the extermination of two million individuals between 1975 and 1979¹⁰⁴; the 1972 Burundi mass killing of 150,000 Hutus by the Tutsi army and the 1993 slaughter of 300,000 Tutsis by the Hutu population¹⁰⁵; and the Rwandan

¹⁰¹ Interview with Dorina Bekoe. USIP. Washington, DC. April 10th, 2009.

¹⁰² United Human Rights Council. "Armenian Genocide -1915-1918."

<http://www.unitedhumanrights.org/Genocide/armenian_genocide.htm> page accessed on April 17th, 2009.

¹⁰³ United Human Rights Council. "History of the Holocaust."

<http://www.unitedhumanrights.org/Genocide/history_of_the_holocaust.htm> Page accessed on April 17th, 2009.

¹⁰⁴ United Human Rights Council. "Cambodia Genocide (Pol Pot)."

<http://www.unitedhumanrights.org/Genocide/pol_pot.htm> Page accessed on April 17th, 2009.

¹⁰⁵ Raphael Lemkin Center For Genocide Prevention. "Genocide Watch: Burundi."

Genocide in 1994 of hundreds of thousands Tutsis and Hutu moderates by the Hutus, which in the course of one hundred days led to the death of an estimated 800,000¹⁰⁶.

During and/or after each situation, the global community shared its concerns, signed conventions and treaties, and expressed its desire for genocide never to happen again; or at least to be prepared to address them right upon their manifestation. Nonetheless, upon the emergence of the conflict in Darfur in late 2003, the international community was as reluctant and/or clueless on how to stop the genocide as if it had been its first exposure to genocide. Why is it that after so many genocides the international community has yet to learn its lessons? And why are we still facing the same debates on defining genocide, avoiding responsibility and lacking preparedness for such situations?

The genocide in Darfur, or ethnic cleansing as some rather call it, as been compared to the genocide in Rwanda of 1994 as they both present similarities, but also differences, in terms of the international community's failure to stop the genocide. The parallelism between the genocide in Rwanda and Darfur has sadly revealed that the global community still lags behind in terms of addressing genocidal situations; however, as surprising as it may sound to many, some lessons have been learned since and the progresses are noticeable in the international community's intervention in Darfur.

¹⁰⁶ United Human Rights Council. "Genocide in Rwanda." http://www.unitedhumanrights.org/Genocide/genocide_in_rwanda.htm page accessed on April 17th, 2009.

The genocidal debate

The terminology debate - whether these situations qualified as genocide or not – was central to the global community intervention in both Darfur and Rwanda. In fact, there has been a blatant reluctance of the international community in acknowledging the massive killings in Rwanda and Darfur as genocide due to the imperative intervention that such terminology implies. In the case of Rwanda, the international community – or at least leaders in decision making positions – chose not to identify the ethnic cleansing massacres as genocide. Instead, they referred to “acts of genocide” taking place in Rwanda, a lingo that does not have a binding intervention as the recognition of an occurring genocide. It was not until after the one hundred days of slaughter that the United Nations, the Organization of African Unity and other entities, formally labeled the situation in Rwanda as genocide¹⁰⁷. The issue with the concept of act of genocide is to determine how many acts of genocide were required for the situation in Rwanda to be eligible for the genocide status¹⁰⁸.

Undeniably, the reluctance to identify the situation in Rwanda as genocide was due to political and/or personal interests. At the United States level, the Clinton administration and top officials were unwilling to dispatch troops in another risky Central African situation, less than a year after American soldiers had been killed and dragged through the streets in Mogadishu. Some scholars further argue that Clinton’s denial that genocide was in progress in Rwanda was tied to the Clintonite’ electoral fears¹⁰⁹. The United Nations demonstrated a similar

¹⁰⁷ Ed. Markusen, Eric & Totten Samuel. “Genocide in Darfur: Investigating the Atrocities in the Sudan.” Routledge, Taylore & Francis Group. New York. P. 172

¹⁰⁸ Straus, Scott. “Rwanda and Darfur: A Comparative Analysis.” *Genocide Studies and Prevention* 1, 1. July 2006. P.49.

¹⁰⁹ Ed. Markusen, Eric & Totten Samuel. “Genocide in Darfur: Investigating the Atrocities in the Sudan.” Routledge, Taylore & Francis Group. New York. P. 175.

disinclination as the United States in exposing peacekeepers to the increasing Somali insecurity¹¹⁰.

In Darfur, however, the genocidal debate took another turn with growing pressure from activists, as tension intensified on the tenth anniversary of the Rwandan genocide. Given the experience of Rwanda just a decade ago, there was simply no room for the international community to avoid its responsibility. The US Congress was the first to label the violence in Darfur as genocide under great and unusual pressure from a collation of actors. Following its example, Colin Powell, then Secretary of State hired an NGO, the Coalition for International Justice whose survey findings indicated that the violence in Darfur was directed at black African Darfuris, that the government supported the violence, that the violence was widespread and organized, and that the aim was to destroy the population in substantial part. Upon these findings, Powell declared in front of the US Senate committee that the situation in Darfur did qualify as genocide; this was the first time that a high ranked US administration official acknowledges a genocide currently occurring. After Powell, it was President Bush's turn to support a similar discourse in an address to the United Nations¹¹¹.

Despite this major step in US foreign policy, the American officials were very adamant in affirming that a formal recognition of the occurring genocide in Darfur would not however change the American policy towards Darfur. Instead, the United States relied on the UN Security Council to address the latter situation. The UNSC created its own investigation commission, the Commission of Inquiry on Darfur, whose findings indicated that massive killings were in fact occurring in Darfur but could not be labeled as genocide. The issue was then referred to the International Criminal Court whose investigations led to the indictment of President Omar Al-

¹¹⁰ Ibis. P. 50

¹¹¹ Ibis

Bashir, along with Ahmad Muhammad Harun –the current Minister of State for Humanitarian Affairs in Sudan – and Ali Kushayb, a former senior Janjaweed commander for their committing of crimes against humanity. Though the legal aspect of the situation in Darfur has been addressed, a concrete policy to stop genocidal violence has yet to be implemented¹¹².

When comparing the genocidal debate in Rwanda and Darfur, it can be sustained that the international community has in fact made some progress. While in Rwanda the “G-word” was never used, not even mentioned, Darfur has at least benefited from the later recognition. Nonetheless, the situation in Darfur has also been a demonstration of international conventions’ weaknesses. Indeed, although an official recognition of genocide should trigger a binding international preventative action, the global community has gotten away with staying idle. This conveys the idea that since Rwanda, there has been a push for the acknowledgement of genocides that has succeeded in the case of Darfur; yet that prime focus has impeded policy discussions on how to halt the killings¹¹³.

Domestic Activism

The domestic activism in Rwanda and Darfur has been an interesting contrast and critical factor to the global response in the respective countries. In Rwanda, there was very little activism; leaving free room for the genocide to unfold. Some human rights organizations did lobby the Clinton administration and UN representatives; and several newspapers printed front page editorials on Rwanda particularly toward the end of the crisis. But there was no great public

¹¹² Ibis.

¹¹³ Ibis. P. 51

outcry to stop the genocide in Rwanda, perhaps because the violence in Rwanda was quick and did not leave enough time to generate effective domestic pressure¹¹⁴.

The situation was very different in Darfur as activists had learned from Rwanda that if any preventative action was to be implemented, they needed to lobby their representatives and create a domestic momentum. Although in 2003 it received little international attention, the situation changed in 2004 and 2005 as Darfur was shadowed by the tenth anniversary of the genocide in Rwanda. Starting in 2004, a coalition of politically diverse entities, still angered at what had happened in Rwanda just a decade ago, was formed. The evangelical Christians, African Americans, human rights organizations, Jewish-American groups and government officials, along with high-profile journalists such as New York Times columnist Nicholas Kristof, forcefully advocated for a recognition of the violence occurring in Darfur and a preventative action against any deterioration. To that was added a very vibrant student activism on several campuses in the United States and Canada. This was the first time that an African issue attracted such consistent and persistent civil society activism, despite the presence of undermining international factors such as the tsunami in December 2005 or the war in Iraq¹¹⁵.

There has certainly been advancement in domestic activism to stop massive killings from the genocide in Rwanda to the one in Darfur. While Rwanda had generated minimal attention, Darfur has benefited from greater attention. Nonetheless, a greater attention from 1994 to 2004 has not sufficed to engender a concrete policy to stop the genocide. Civil society activism has, therefore, revealed to be necessary but not sufficient to address genocidal situations.

¹¹⁴ Ibis.

¹¹⁵ Ibis. P 52

The international response

The international response to the killings in both Rwanda and Darfur was absent. Although, humanitarian assistance was provided in both instances, the global community failed to stop the violence mainly due to political concerns. In Rwanda, the lack of recognition of its qualification as a genocide immediately disqualified it for any military intervention during the occurrence of the violence. Furthermore, not only was the genocide in Rwanda not prevented, it was not even marginally mitigated¹¹⁶.

The sentiment of abandonment in Rwanda is adequately illustrated through the withdrawal of international forces on the ground, namely the Belgians who pulled out of Rwanda just as the genocide was unfolding, supporting that it was politically impossible for its troops to remain in Rwanda. Its decision of withdrawal, which resulted from the murder of ten Belgian UN troops by Rwandan government soldiers, severely aggravated the situation on the ground as it directly led to the death of twenty-five hundred Rwandans that were being protected by the Belgian troops at the Ecole Technique Officielle (ETO) school compound in Kigali¹¹⁷.

In Darfur, since the situation was granted the genocidal label, it benefited from the deployment of troops on the ground as the violence was still unfolding, but as part of a ceasefire monitoring mission, these troops were restricted to protecting monitors and not Darfuri civilians. In both instance, the lack of international response was a by-product of politics of interest. In general, African politics are gauged not worth of financial and military commitment due to the international community lack of interest in the continent. The genocide in Rwanda was an unconcealed example of a crisis intentionally disregarded as the global community had no

¹¹⁶ Ed. Markusen, Eric & Totten Samuel. "Genocide in Darfur: Investigating the Atrocities in the Sudan." Routledge, Taylore & Francis Group. New York. P. 172

¹¹⁷ Ibid. P. 173-174.

interest at stake and the focus was shifted to the situation in Somalia. Unlike Rwanda, Darfur was of interest to several entities, namely China and Russia as one is Sudan's major oil importer and the other is Sudan's major arm provider. In addition, both countries also had political incentives to oppose any attempt of an international intervention in Darfur, by fear that one day it might be used against them. Rwanda and Darfur therefore differ in that the first one was of no interest that would justify a risky intervention, and the other was of too much interest to intervene. Yet, the result remains the same as in both cases the global community has opted out of its responsibility to protect. Has the international community learned its lessons on genocide prevention since Rwanda? Partly yes, but there is still a lot left to learn and accomplish.

VI. Policy Recommendations to the address of genocidal situations

The "G-Word" Debate

Since the emergence of the violence in Darfur, much of the initial debates worldwide were focused not on how to stop the crisis, but whether or not it should be called "genocide" under the terms of the Genocide Convention; which stipulates that such designation must inevitably trigger an international response. In fact, the idea that states are obligated to intervene in the occurrence of a genocide comes from two provisions of the Genocide Convention: the first treaty holds that contracting parties are required to "undertake to prevent and to punish" genocide; and the Article VIII of the convention instructs that signatory parties may call on the UN to "take such action [...] for the prevention and suppression" of genocide¹¹⁸. However, in the instance of Darfur, public recognition of the situation in Sudan as genocide by world leaders solely triggered further

¹¹⁸ Straus, Scott. "Darfur and the Genocide Debate." *Foreign Affairs*. Jan/Feb 2005, Vol. 84 Issue 1. P. 125

humanitarian assistance, civil society activism and a referral to the ICC, as international actors attempted to avoid any military involvement in Darfur.

For the first time, the genocide convention has been tested, but it has failed to uphold its standards as world leaders have deliberately chosen to ignore its stipulations. The United States, for instance, were among the first ones to recognize that a genocide was unfolding in Darfur, but they were also among the first ones to insist that the genocide label would nonetheless not result in any policy changing towards Darfur. Therefore undermining the legitimacy and credibility of international conventions, treaties and laws; but most importantly reinforcing the idea that “genocide” is a term that grabs attention to raise awareness, but it is not a word that triggers intervention¹¹⁹.

At this point, it is imperative that the international community strengthens the Genocide Convention by redefining the concept of genocide; establishing concise guidelines with regards to preventing and suppressing genocide; and implementing some sort of mechanism that hold states accountable for their failure to abide by the genocide convention’s provisions. Firstly, the disagreement on what exactly constitutes an act of genocide has been an excuse for world leaders to avoid the use of the “g-word.” The convention itself defines genocide as the “intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.” But the issue lies in determining how much “partial” group destruction does it take to reach the genocide threshold. If the Convention was to be more specific on the constituency of genocide, there would be less room for questioning and wasting time prior to an intervention. Then, if the Genocide Convention was to provide a defined course of action that should be adopted once a situation has been labeled genocide, the international community would be better prepared to address genocidal situations. Of course, genocide is specific to a country and its history, but generally

¹¹⁹ Ibis. P. 126

speaking the patterns of violence are similar, and the global community should be able to prevent those before they escalate into more complex situations.

Finally, this time around global leaders were more efficient in acknowledging the genocidal nature of the conflict in Darfur, yet they also refused to change their policy towards the conflict because the convention does not have any mechanism to ensure that signatory parties comply with their responsibility to protect. If the convention provided for enforcement mechanism- such as a greater financial burden –that would verify that signatory parties participate not only in assistance but also protection operations, liability for a lack of intervention will be a great incentive for states not to resort to idleness as no one wants to bear the blame alone.

In other words, the genocide convention will be a stronger instrument in addressing genocidal once it has been revised and provides clear guidelines on the early identification of a genocide and the implementation of a basic plan of action that would allow for states to address genocide in the early stages, while preparing for a longer strategic approach, specific to the country situation.

The Actors in Military Intervention

In the instance of Darfur, the leading actor to intervene was the African Union with its monitoring mission. Yet, since the AMIS was strictly restricted to monitoring, it was unable to protect civilians. Once the United Nations collaborated with the African Union through the bias of an hybrid force, the UNAMID, hopes were high that civilians will benefit from greater protection. But, as mentioned by Linda Bishai, a senior program officer in the Education and Training Center/International at the United States Institute of Peace (USIP)¹²⁰, the UNAMID was

¹²⁰ Interview with Linda Bishai. USIP. Washington, DC. April 12, 2009.

mostly composed of African troops which besides its insufficient forces, and its lack of technological equipment, also fall behind in critical training; the combination of which explain its failure to adequately protect civilians, particularly women who have been victims of abuses within refugee camps, but also outside as they fetch for water and wood.

I am very supportive of the African Union taking the lead in Darfur with an intention to build its credibility and more important develop ideas to resolving Africa's issues through an African perspective. However, the potential of its agency must have been evaluated in relativity to the situation on the ground. In fact, as an institution of this size with limited resources, financially and technologically, the African Union was in no shape to take upon this challenge; and should have not be left doing so without any backup from more experienced troops dispatched by larger institutions such as the United Nations and the European Union. The latter entities have certainly contributed to financial and technological support, but donating technological support to troops that may have never been introduced to an advanced level of technology, on top of that remotely, does not in any fashion reinforce the potential of these forces.

In the future, it is critical that world leaders do not use smaller agencies, such as the African Union, to hide from their responsibilities; they should rather collaborate with them, directly on the field, to provide better protection to civilians. With regards to the prevention of massive killings, the United Nations along with other regional associations that can deploy troops must take advantage of times of peace to recruit and build protection forces that will be dedicated to that sole purpose and readily available in times of crisis. In terms of composition, it is important that these troops are reflective of the globe overall, in such way that it will be a rationally balanced representation of African, European, Asian and North and South American

soldiers. Their training will of course be physical, but should also serve as an introduction and perfection of the latest instruments of technology necessary in protection operations. Most importantly, their function should be limited to protection and not monitoring in order to avoid another Darfur situation, in which monitoring functions prevailed over protection ones. Finally, their formation must include a variety of general suggestive plan of actions. The objective of these general plans of action is for the international community to always have a basic plan of approach to genocidal situations prior to implementing one that is more specific to the country situation.

Overall, the objectives behind this readily available troops is for the global community to always have forces ready for intervention at all times; in addition to always have a concrete plan of action to prevent or stop occurring genocides, in such way that the international community can intervene in a timely manner, unlike in Rwanda and Darfur.

Politics vs. Military Intervention: the redefinition of the UNSC

As previously demonstrated, the global community failed to effectively attend to the conflict in Darfur mainly due to the predominance of political interests from the most ‘powerful’ world actors: the permanent members of the United Nations Security Council, particularly China and Russia who resorted to their veto in order to protect their financial interests. The composition of the UNSC limited to five permanent members has turned the latter institution into a political battlefield, in which politics often prevail over humanitarian needs. In fact, Linda Bishai defines the UNSC as a flawed system originating from the winners’ policy of World War II¹²¹. It is a flawed system because these five actors have the power to dictate the deployment of military

¹²¹ Interview with Linda Bishai. USIP. Washington, DC. April 12, 2009.

interventions in accordance with their political ties and financial interests, at the expense of the safety of the population on the ground.

We are often too quick to blame the international community for its lack of intervention in Darfur, but forget that the power to intervene lays in the hands of five countries: China, France, Russia, the United Kingdom and the United States; while China and Russia are too embedded in Darfur with importing oil and exporting arms respectively, violence in Darfur intensifies. Politics is obviously inevitable, but the objective should be to engage in productive politics, in such way that they do not affect the safety and humanitarian needs of the population in distress. For the sake of the United Nations and what it stands for, and most importantly for the sake of world peace, Bishai¹²² suggests a revision and extension of the Security Council. The “new” Security Council would consists in the incorporation of other countries, in such way that even if politics maintain their critical position in decision making processes, at least these decisions will be representative of greater representation of the globe.

With regards to the organization of the “new Security Council, the permanent status of the five members mentioned previously should be revised to allow the participation of all countries. In fact, the age of post-World War II is long gone, and it is time for politics to adapt accordingly. Instead of having five permanent members of the UNSC and ten rotating ones, all members should be rotating on a 5 to 7 years basis; which I believe is short enough for the UNSC to benefit from innovative ideas regularly, but also long enough for these initiatives to be implemented and begin flourishing. Of course, it is needless to say that the fifteen members should represent all continents.

¹²² Interview with Linda Bishai. USIP. Washington, DC. April 12, 2009.

A new Security Council with revised membership will, I believe, allow for politics to have a lesser impact on military intervention; and even if it has a similar impact, at least it will represent the interests of a greater representation of the world.

Although the international community has had past experiences with genocides, the genocide in Darfur was a new challenge that it failed to address adequately. In a system where political ties and financial interests are critical components of decision making processes, civilians are doomed to pay the price. In Darfur, similarly to Rwanda, world actors tried to avoid their responsibility in delaying any military intervention by misusing valuable time to debate on whether the situation in Darfur qualifies as a genocide or not; and even when global leaders labeled Darfur as a genocide, they still declined to deploy military forces. It was not until the signing of the fragile Darfur Peace Agreement that the UNAMID took position with insufficient forces, lack of training and financial resources. We must, however, acknowledge that from the genocide in Rwanda to the one in Darfur, the international community has made some progress in terms of acknowledgement and activism, but forceful intervention to prevent or stop the genocide remains inexistent.

World leaders already once said “never again” but it is highly time for us to meet our promises and make the “never again” concept more of a reality than a moral ideal. We have learned something from Rwanda in terms of recognition, and must learn something from Darfur in terms of responsibility, accountability and preparedness. The policy recommendations provided in the last section aim at achieving these objectives: on the one hand, a revision and stronger implementation of the Genocide Convention will ensure that vital time is not spent on debating over genocide labeling instead of providing protection to civilians; while ensuring that

signatory parties hold each other accountable for any failure of intervention, and since no country wants to be blamed, liability will act as an effective leverage. Then, considering that the military intervention in Darfur was delayed because global actors were unprepared for it, the implementation of a trained and knowledgeable forces dedicated at all times to the sole duty of global protection will guarantee that we are readily prepared to prevent or stop a developing genocide. Finally, politics in Darfur appear to be the greatest obstacle in addressing the genocide. Realistically, politics will always play a critical role in decision making processes, but we must strive to promote constructive politics. That is to say politics that do not interfere with military intervention and civilians' safety; politics that will require a revision of the United Nations Security Council.

Idealistically, we strive to never have to confront genocide again, but in the contrary situation, we want to make sure that the international community has learned its lessons from past genocides and do not commit the same mistakes. We have established conventions, treaties and international laws to provide structure to a world out of control, but we must live up to the standards we have set so that never again means never again.

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