ADDIS ABABA UNIVERSITY

SCHOOL OF GRADUATE STUDIES

RHETORIC AND PRACTICE OF HUMANITARIAN INTERVENTION UNDER THE INTERNATIONAL SYSTEM: THE CASE OF DARFUR

BY

TEFERA NEGASH GEBREGZIABHER

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A THESIS SUBMITTED TO THE SCHOOL OF GRADUATE STUDIES OF ADDIS ABABA UNIVERSITY IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF MASTER OF ARTS IN INTERNATIONAL RELATIONS

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APPROVED BY BOARD OF EXAMINERS

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EXAMINER

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ACRONYMS

ADT- US Atrocities Documentation Team

AMI- African Union Mission in Sudan

CFC- Ceases Fire Commission

COI- Commission of Inquiry

DPA- Darfur peace Agreement

ECOWAS- Economic Community of West African States

ERP- Early Recovery Programme

EU- European Union

GOS- Government of Sudan

ICC- International Criminal Court

ICISS- International Commission on Intervention and State Sovereignty

IDP- Internal Displaced People

JEM- Justice and Equality Movement

NATO- North Atlantic Treaty Organization

NIF -National Islamic Front

PHR- Physician for Human Rights

RECs- Regional Economic Communities

R2P- responsibility to protect

SLA- Sudan Liberation Army

SLA/AW- Sudan Liberation Army Abdul Wahid

SLA/MM- Sudan Liberation Army Minni Minawi

UNAMID- United Nations Mission In Darfur

UNAMIS- United Nations Mission in Sudan

UNSC- United Nation Security Council

UP- Umma Party

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ABSTRACT

This thesis deals with the international response to the Darfur crisis. It seeks to examine the responses of the international community to the crisis through the prism of humanitarian intervention and the emerging norm of the responsibility to protect. The study employed explanatory qualitative research methodology. The study method includes primary and secondary method of data collection. The primary data elicited through in-depth interview with key informants as well as studying resolutions and communiqués while the secondary sources include books, articles, official documents and other pertinent publications. This study has come up with five major findings. First, international organizations (such as AU and UN) and major powers are not yet ready to prevent mass atrocities for purely humanitarian purpose even if there exist wider acceptance of the principle of protecting civilians both in rhetoric and practice. Second, neither Sudan nor the international community has carried out the responsibility to protect civilians that Responsibility to Protect (R2P) documents stipulate as core principles. Third, the Darfur crisis have crossed the just cause threshold, which should have prompted military intervention as per R2P documents and the just war tradition. Fourth, military intervention in Darfur was possible since the major criterion of just cause is satisfied and most of the precautionary criteria have been fulfilled. Fifth, there are three major gaps that underpin the norm of humanitarian intervention and its practice in the Darfur crisis. There is a big gap between norm of intervention and sovereignty. Despite the existence of humanitarian intervention norm and practices the international community has failed to intervene in Darfur; secondly, there is a wide acceptance of protecting civilians through revitalizing peacekeeping operations but the international community has failed to bring about a robust peacekeeping force with a task of protecting civilians; and lastly, there is a huge gap between expectations and outcomes in protecting civilians.

CHAPTER I

INTRODUCTION

1.1. Background

The failure of the international community to prevent the Rwandan genocide was described as a "sin of Omission" by former Secretary General Kofi Anan (BBC News, 26 March 2004). However, only a single decade passed when the world witnessed the government of Sudan and its alleged proxies conducted a brutal campaign of mass killing and ethnic cleansing in response to an uprising by Sudan Liberation Army (SLA) and Justice and Equality Movement (JEM) (Bellamy, 2005:31).

Even though the crisis in Darfur, a place that some writers equate with the size of France and others with Spain or Texas, traces back its history of conflict a little earlier than the recent outbreak, it became the focus of attention at the beginning of 2003, when the government of Sudan (GOS) launched a ferocious counterinsurgency campaign in Darfur aimed at crushing a nascent armed revolt by two rebel groups, SLA and JEM. Mukesh Kapila[1], emphatically expressed his personal experience in Darfur comparing it with Rwanda, stating, "I was present in Rwanda at the time of genocide, and I have seen many other situations around the world and I am totally shocked at what is going on in Darfur … and I don't know why the world isn't doing more about it" (BBC, 19 March 2004)

Unfortunately, as Bellamy (2005:32) pointed out "Despite professed commitments to prevent future man-made humanitarian catastrophes, the world's response to the Darfur crisis has been muted". The new professed commitment has been the responsibility to protect civilians but the international community has conspicuously failed in its responsibility to protect the people of Darfur, despite all the evidence (Grono, 2006:625). The literature on the subject indicates humanitarian intervention in general and the responsibility to protect (R2P) in particular has never been easy, as the former UN Secretary General puts it in his report:

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[1] Mukesh kapila was a UN Humanitarian coordinator for Sudan.

> Humanitarian intervention is a sensitive issue, fraught with political difficulty and not susceptible to easy answers. But surely no legal principle — not even sovereignty — can ever shield crimes against humanity. Where such crimes occur and peaceful attempts to halt them have been exhausted, the Security Council has a moral duty to act on behalf of the international community.[2]

The United Nation, which is the prime and rightful authority to act and fundamentally change the situation, has never been pushed enough. The United Nation Security Council (UNSC) resolution 1706 of August 2006 and subsequent discussions and decisions have not contributed much to change the course of the history of international intervention in such situations. The other body dealing with the situation in Darfur has been the African Union, which has not done much due to various reasons including its limited mandate and financial constraints that hampered its mission in Darfur (Grono, 2006:625-26). The approach of other international actors such as EU, NATO, the US has not been that great in the practical sense. While the latter is the lead in rhetoric of calling the crisis "genocide" the former have to some extent provide financial and technical assistance to AU's effort (*ibid*: 627-8). This paper seeks to examine and analyse the on-going rhetoric regarding international intervention and the practice thereof by taking Darfur as a case study.

1.2. Statement of the problem

The crisis in the Darfur region of the Sudan came to the attention of the international community beginning from its start in 2003. The crisis has been labeled as one of "the worst humanitarian crisis" and "genocide". Alongside the Darfur crisis there is a rethinking of humanitarian intervention and consequent development of the doctrine of the responsibility to protect such crisis that led to the re-conceptualization of the subject matter. Further, decisions and deliberation regarding humanitarian intervention in general and Darfur in particular have emerged at international forums.

The rethinking in humanitarian intervention, however, has not brought significant consensus as far as the situation in Darfur is concerned. Moreover, the international community has not responded to the crisis as expected.

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[2] United Nations, Fifty-fourth session. Agenda item 49 (b). The Millennium Assembly of the United Nations. "We the peoples: the role of the United Nations in the twenty-first century", Report of the Secretary-General.

Therefore some gaps in theoretical consensus and inaction in practice has left the greatest gap that remains unabridged in today's international system which is an ever increasing rhetoric assertion of protection and lack of actual commitment to it. Hence the study seeks to identify this gap and draw conclusion from the case as its implication to the neighboring states and the international system as a whole remains paramount.

1.3. Objectives

1.3.1. General Objective

The general objective of this study is to describe and frame the current state of humanitarian intervention by analyzing the international reaction to the Darfur crisis. For this purpose, the study analyzes the conceptual frame of the evolution of humanitarian intervention and identifies the gap between rhetoric and practice on the subject by taking the Darfur crisis as a case study.

1.3.2. Specific objectives

The specific objectives of this study include:

- Identify actions and inactions of major states and international organizations to the Darfur crisis as far as humanitarian intervention is concerned.
- Identify major and recent international decisions on the Darfur crisis and their implications for humanitarian intervention.
- Investigate the international response to the Darfur crisis using the recent rhetoric of humanitarian intervention such as the R2P of the International Commission on Intervention and State Sovereignty (ICISS)
- Analyze the gap in the rhetoric and practice of humanitarian intervention in the Darfur crisis.
- Draw possible conclusions on the future of Humanitarian intervention taking the involvement of the international community in Darfur into account.

1.4. Research Questions

- What is humanitarian intervention?
- What are the just war criteria of intervention?
- What is the relation between humanitarian intervention, just war, and RtoP?

- How does the international community respond to the crisis in Darfur?
- What is the gap between the norm and practice of humanitarian intervention and its practice in the Darfur crisis?

1.5. Methodology and study Method

1.5.1. Methodology

The study employed descriptive approach in that it described, interpreted and analyzed the research problem as it existed. The study attempted to look at the roots of humanitarian intervention such as the just war tradition and the hitherto developed criteria for interventions and the conceptual developments in the subject area in relation to preventing grave humanitarian crisis. In doing so, the study described the most fundamental criteria and meanings of humanitarian intervention and the revitalization of the subject in the Responsibility to Protect (R2P) or RtoP documents. Besides, the study uncovered the actions and inactions of the international community in mitigating the crisis in Darfur. In doing so, the study puts forward a comprehensive approach envisaged to realize the objectives.

1.5.2. Method

The study Method employed includes primary and secondary methods of data collection. In this regard, primary data is elicited through an extensive and in-depth interview in Addis Ababa. Primary sources include selected officials and experts of Government of Sudan (Sudan Embassy in Ethiopia), African Union, the Institute for Security Studies. These interviewees are particularly selected by taking their background, credibility, involvement, stake, contribution, membership and activities into account.

Secondary data sources mainly focused on studying the principles developed with regard to humanitarian intervention, R2P and the controversies surrounding the theoretical arguments regarding intervention. A qualitative approach has been employed to draw a framework for the study. Pertinent books, journal articles, researches, conference discussion papers and other studies have been consulted as secondary sources of data. The analysis of the secondary materials has also enriched in shaping the interview guides and questions.

In addition to conducting interviews, the study shall undertake detail analysis of letters, speeches, communiqués, and decisions of the African union, United Nations, and other institutions engaged in addressing the Darfur crisis.

1.6. Scope and Significance of the study

The scope of this study is confined to studying and analyzing the international response and related engagement on the Darfur crisis. Thus the study doesn't indulge into studying the alleged causalities and atrocities in its deepest sense. The study is hoped to contribute to the humanitarian intervention efforts and/or dialogue to deal with grave humanitarian disasters. This is mainly by making comprehensive study of intervention efforts of the international community on humanitarian issues with specific reference to African human right issues.

In this regard, the study could be used as an additional input to the already existing body of knowledge of principles and practices of intervention. Moreover, it will be helpful for researchers who conduct their study on the issue of humanitarian intervention, preempted by, humanitarian crisis. Furthermore, state and non-state actors could use the study to have better information on policies and decisions on the subject.

1.7. Limitation of the study

The study is subject to a number of limitations such as access to direct information and observation, time and financial constraints. Moreover, the crisis in Darfur and the attendant international responses are surrounded by controversies which make the obtaining of accurate information difficult.

1.8. Organization of the study

The thesis is organized into five chapters. The first chapter is an introductory section dealing with the background, the research problem, objectives and methodology. Chapter two reviews the literature relevant to the theme of the study and provides a conceptual framework. The third chapter provides the major findings by describing the actions and inactions of states and international organizations with regard to the Darfur crisis. Thus, it draws the rhetoric and practical involvements of states and non-state actors in the efforts to contain the effects of the Darfur Crisis. The fourth chapter analyzes the findings in view of the international responses to the crises through the prism of right to protect and related doctrines of humanitarian intervention.

Further, this chapter touches upon the growing controversy of conceptualizing humanitarian intervention. The final chapter draws conclusions and set possible scenarios to the future of humanitarian interventions in the international system taking the Darfur crises as a case in point.

CHAPTER II

LITERATURE REVIEW AND CONCEPTUAL FRAMEWORK

2.1 Literature Review

Intervention in general and humanitarian intervention in particular means different things for different people. As Keohane (2003:1) simply puts it mentioning the term 'humanitarian intervention' in a room full of philosophers, legal scholars, and political scientists is like crying fire in a crowded theatre. For him even though there is a large amount of literature on intervention, there is no agreement on the conceptual understanding of the term. The literature is replete with discussions of intervention of military, propaganda, economic, diplomatic, ideological nature (Rosenau, 1969:152). Chesterman (2001:8-9) states that, the usage of the term intervention commenced in the nineteenth century while its meaning has remained "imprecise". He pointed out that the coming of a substantive doctrine of "just war" had given birth to the classical origins of humanitarian intervention in the middle age. Yet other writers contend that humanitarian intervention as a concept had been discussed in the sixteenth and seventeenth century by classical writers in international law (Kardas, 2001:NA). Inspite of disagreement on the exact time of the origin of the term, however, most of the authors agree that humanitarian intervention has emanated from the just war tradition. Moreover, Humanitarian intervention is an old concept that gets momentum after the end of the cold war[3].

According to Parekh (1997:55) Humanitarian intervention is "an act of intervention in the internal affairs of another country with a view to ending the physical suffering caused by the disintegration or the gross misuse of the authority of the state, and helping create conditions in which a viable structure of civil authority can emerge" For Holzgrefe (2003:18) humanitarian intervention is:

> The threat or use of force across state borders by a state (or group of states) aimed at preventing or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens, without the permission of the state within whose territory force is applied.

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[3] For detailed history of the concept and its practice see Knudsen, T. B. (2009).

Similarly, De Waal and Rakiya Omaar (1994:2) define humanitarian intervention as "the violation of a nation-state's sovereignty for the purpose of protecting human life from government repression or famine or civil breakdown". Evans and Mohamed (2002:99) concisely define it as "coercive action against a state to protect people within its borders from suffering grave harm". For Lowenheim (2003:23) humanitarian intervention is defined as "an armed action taken by one state to protect civilians other than its own in a foreign country or jurisdiction". Clarifying on the difference between humanitarian intervention and humanitarian aid Parekh (1997:55) points out that humanitarian aid is merely concerned with mitigating suffering rather than creating peace and order. Further, Holzgrefe (2003:49) on his discussion of the debate on humanitarian intervention concludes that "any attempt to separate legal questions from moral ones is doomed to failure".

The centre of the debate on humanitarian intervention has been the tension between Sovereignty which is the defining pillar of the UN on the one hand and "the evolving international norms related to human rights and the use of force" (Welsh, 2004:1). As Pattison (2010:1) indicates humanitarian intervention is getting a moral acceptance as well as perhaps legally and politically permissible. To show this he listed the various instances of humanitarian intervention in the post-cold war international system that include, the Economic Community of West African States (ECOWAS) intervention in Liberia in 1990 and in Sierra Leone in 1997; The intervention of the west in northern Iraq in 1991 to protect endangered Kurds; The US-led intervention in Somalia in 1992 to open up humanitarian corridors as well as in Haiti in 1994 to restore the elected Jean-Bertrand Aristide; NATO's bombing of Bosnian-Serb positions in 1995 to end the civil war in the former Yugoslavia and its intervention in Kosovo in 1999 to protect the Kosovan Albanians from ethnic cleansing; The Australian-led intervention in East Timor in 1999 after Indonesian brutality; The UN and EU action in Democratic Republic of Congo since 1999; The ECOWAS, UN, and US intervention in Liberia in 2003 after the renewal of fighting; The French and UN intervention in Coˆ te d'Ivoire in 2003 (*ibid*:1-2).

In line with these, the debate about humanitarian intervention and its legitimacy have been the domain of the English school, which is also called the 'international society approach' in international relations (Bellamy, 2003a: 321). Bellamy (*ibid*) point out that, the concerns of the school have predominantly been the relation between principle of international order and justice

as well as issues of legitimacy and norm construction in international relations. Scholars of the English school of international relations are divided between Pluralists and Solidarists whose debate has shaped the controversy about the theory and practice of humanitarian intervention. Nevertheless both conceptions agree that the international system includes agreed values, rules and institutions (*ibid*:323). Both disagree on the three major normative content of the international system, namely the place of war in international system, the sources of international law, and the status of the individual (*ibid*).

The pluralist conception of international society is that states agree only on some minimum purposes in which the most crucial are reciprocal recognition of sovereignty and norm of non-intervention (Wheeler and Dunne, 1996:94). For pluralists, states are morally and legally tied by "a common code of co-existence" even though they don't share substantive goals and values such as human right (*ibid*:95). Bellamy (2003b:500) added that, non-intervention and sovereignty are powerful norms that combine state interest, moral principles, and formal laws. Pluralists further emphasise that often the only protection of the weak against the strong state has been sovereignty and thus interventionism is illegal and illegitimate as it is against the norm of international society (*ibid*).

In contrast to the pluralist conception stands Solidarism (Wheeler and Dunne, 1996:95). Solidarists contend that the society of sovereign state cannot transcend community of human kind but rather universal solidarity exists between human beings (Bellamy, 2003a:321). Furthermore, different societies do agree on substantive moral standards and they have the moral agency to maintain that (Bellamy, 2003b:500). Thus in the Solidarist international society, states display degree of solidarity in developing and enforcing international law. The use of force, therefore, is legitimate as far as it enforces the law by averting crime of aggression and upholding the moral purpose of the society (*ibid*: 324). Thus, Solidarism seeks to subordinate the use of force to collective will of the society of states in international politics (Wheeler and Dunne, 1996:95). As these authors observed there are two manifestations of this collective will. The first being "states exhibit solidarity in their response to law-breaking states" while the second manifestation is the fact that Solidarism perhaps require a challenge to non-intervention principle. Therefore, state leaders have the responsibility to safeguard human rights everywhere (*ibid*).

In this connection, for Solidarists there is an agreement now in the international society of what represents supreme humanitarian emergencies, and intervention for the purpose of safeguarding justice is a duty (Bellamy, 2003a: 324 and Wheeler and Dunne, 1996:97). Moreover, the norm of intervention to end human suffering has been witnessed in practice in the international system (Bellamy, 2003a:325). He point out that several interventions have been observed since Operation Provide Comfort in Northern Iraq that are clear cases of the right of intervention in extreme cases (*ibid*). Thus, Solidarists argue that sovereignty "is not a veil that human rights abusers can hide behind" (*ibid*: 325).

As Evans (2006:703) observed the issues of how the international community should respond when faced with catastrophic human rights violation against the long standing principle of national sovereignty are still alive. It is discussed in literature that the debate over the rhetoric and practice of what came to be known as humanitarian intervention has been fierce in the 1990s and it was very difficult to resolve the issue even in the United Nations. The inconsistency of the international response to crisis has repetitively challenged the former Secretary General Kofi Anan leading him to plead with the General Assembly in 2000 'to find a way through these dilemmas' (Evans and Mohamed, 2002:100). In response, the task of drafting a framework for forging the gap between the legality and legitimacy of humanitarian intervention to meet the challenge laid down by Kofi Anan fell on the Canadian government sponsored International Commission on Intervention and State Sovereignty (ICISS), which published a report entitled *The Responsibility to Protect* in December 2001 (Evans and Mohamed, 2002:100). The Commission was led by the former Australia's Minister of foreign affairs, Gareth Evans (Pattison, 2010:3).

According to Holt (2005:6) "the report argued for shifting the basis for action from the "right of humanitarian intervention" to the "responsibility to protect" civilians when a state fails to offer that protection and there was the risk of *large-scale loss of life* or *ethnic cleansing*. For Evans (2006: 704), the international community is closer to consensus in giving a conceptual response that is even developing into customary international law. Holt (*ibid*) stated that,

> The evolution away from the discourse of *humanitarian intervention*, which had been so divisive, and toward the embrace of the new concept of *the responsibility to protect* has been a fascinating piece of intellectual history in its own right.

The responsibility to protect (R2P or RtoP for short) is not only an intellectual history. It has some success in getting to the international agenda since its inception, the most notable being the 2005 UN summit in which more than 160 heads of states and governments agreed on the existence of a universal responsibility to protect (Pattison, 2010:3). Furthermore the development of this doctrine has been hailed by historian Martin Gilbert as "the most significant adjustment to the national sovereignty in 360 years" (*ibid*).

The responsibility to protect has, therefore, come up with four main contributions to address the stated dilemma (Evans, 2006:709-710). First, it re-characterized the right to intervene to a responsibility to protect changing the perspective from potential interveners to those needing the support. Second, the concept of sovereignty is changed from control to responsibility with a new focus on human right and human security. So, sovereignty entails domestic and international responsibility (*ibid*). Thirdly, as Pattison (2010:3) clarifies, when the responsibility to protect is transferred to the international community it involves the responsibility to prevent the crisis, the responsibility to react robustly, and the responsibility to rebuild after. He further points out that the responsibility to react requires humanitarian interventions provided that certain precautionary principles namely just cause, legitimate authority, right intention, last resort, proportional means, and reasonable prospects are met primarily (*ibid*). Fourthly, the commission has come up with guidelines with regard to when military action is appropriate from both the perspectives of legitimacy and legality (Evans, 2006: 710).

For Bellamy (2006:207) the position of the commission on when to undertake humanitarian intervention is a commonly held view. The ICISS report thus point out that:

> In the Commission's view, military intervention for human protection purposes is justified in two broad sets of circumstances, namely in order to halt or avert:
>
> ❏ *large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or*
> ❏ *large scale "ethnic cleansing," actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape.*
>
> If either or both of these conditions are satisfied, it is our view that the "just cause" component of the decision to intervene is amply satisfied (ICISS, 2001b:32)

In addition to putting the circumstances that should call for humanitarian intervention the Commission's report has also clarified on issues of authority that meant to entail the responsibility to protect. Thus, the commission "proposed a three-layered distribution of responsibility" (Bellamy, 2006:207). These are clearly stated on the commission's report as:

> The responsibility for protecting the lives and promoting the welfare of citizens lies first and foremost with the sovereign state, secondly with domestic authorities acting in partnership with external actors, and only thirdly with international organizations (ICISS,2001b:49)

Thus, when the primary and secondary authorities failed to address prevailing humanitarian crisis, the legal authority is vested in international organizations in general and the UNSC in particular (Bellamy, 2006:207-208). Further, the General Assembly through "Uniting for Peace" procedure as well as collective intervention by regional and sub-regional organizations are called for as rightful authorities (ICISS, 2001b:53-54). According to Bellamy (2006: 208), the Commission has also insisted that military intervention should be placed on the global agenda if the just cause threshold and the four just war criteria are satisfied. Here, the commission offered six specific principles justifying and compelling the use of military force to intervene. The report divides these into the just cause threshold and precautionary criteria. The precautionary criteria are *right authority, right intention, last resort, proportional means,* and *reasonable prospects* (ICISS, 2001b:32-38).

2.2. Conceptual Framework: R2P and just war principles for Humanitarian Intervention

The just war tradition provides principles of when and how military force should be used for humanitarian intervention. The just war tradition as the Commission puts it is "the most thoroughly developed tradition of inquiry into the ethics of recourse to the use of lethal force (ICISS, 2001a:139). For Wheeler (2001:554) the just war tradition emerged to reject early Christian church pacifist views in Western Europe. The tradition is not a checklist to use force rather "a moral reasoning to discern ethical limits of action" (*ibid*). In this regard Elshtain

(2001:2) argues that the Just war tradition is thus a theory of comparative justice that can be applied in considering war and intervention.

For Elshtain (2001:4) the just war tradition is a way of thinking that "refuses to separate politics from ethics". Unlike the competing doctrine of state-centred strategic realism, the just war argument insists that one must not open up an unbridgeable gulf between "domestic" and "international" politics (*ibid*). The specifications provide the terms under which a war (or intervention in this case) may be waged and also establish the norms applying to the conduct of war and that is the role of just war criteria (Domagala, 2004:10). According to Domagala (*ibid*:7) even though the just war tradition has not been extremely consistent since there are two categories of criteria, namely *jus ad bellum* (justice of going to war) and *jus in bellum* (law during war), which have not been as such changed since the sixteenth and seventeenth centuries. In addition to these two basic rules, a third one that governs how victors should conduct after a war *(jus post bellum)* has also been recently developed (Bellamy, 2006: 121).

As different writers identified there are six substantive principles that should be applied to judge humanitarian credential of a given case of intervention (Wheeler, 2001:554). These are *Right Intention, Just Cause, Proportionality, Last Resort, Right Authority, and Reasonable Prospect* regarding the rational of going to war (*jus ad bellum*). Yet Bellamy (2006:122-23), contends that it is only the first four criteria that are substantive principles governing the decision to go to war while the others are only prudential criteria. The second set of criteria of the just war tradition are the rules that regulate the conduct of war associated with three basic principles namely principle of discrimination, principle of proportionality, not to use prohibited weapons and not to violate laws of war (*ibid*:124).

 Pattison (2010:99) observed that the shift from humanitarian intervention to R2P exacerbated the focus on *ad bellum* issues while the just war theory considers *in bello* in a detailed fashion, though not specifically in relation to humanitarian intervention. As the drafters of the R2P report confirmed one of the contribution of the commission was the crafting of guidelines for military intervention that are appropriate both in terms of its legality and legitimacy. Thus, the drafters identified five criteria (*Right Intention, Just Cause, Proportionality, Last Resort, and Reasonable Prospect)* that should be applied by the world in general and the Security Council in particular

(Evans, 2006:710). So, leaving aside the second rules, i.e. *jus in bello,* the major principles that have been developed in the just war tradition and given more focus on the responsibility to protect doctrine to scrutinize justification for intervention are discussed in the subsequent sections.

Right Intention

The first *Jus ad bellum* criterion is right intention which refers to the motives that lie behind the decision to the use of force. In this regard, Bellamy (2006:122) emphasise that "individuals must wage war for the common good". He points out that right intention is found at "the very heart" of the just war tradition. According to the ICISS (2001b: XII) the primary motive of the intervening states has to be to stop the human suffering in the target state. This is true when it comes to the big powers decision to intervene. For example, intervention in Kosovo and the failure to intervene in Rwanda are instances of this case. However, in practice, intervening states have mostly demonstrated mixed interests, particularly in safeguarding their overseas national interest. Thus, any kinds of military involvement to alter borders, support a fighting group or to occupy territory or to overthrow a regime are not considered as right intentions (Chandler, 2002:70). To assure the predominance of humanitarian motives, the best mechanism so far available is, as per the ICISS recommend, the intervention has to be multilateral in composition and has to incorporate regional opinion and the victims concerned (*ibid*:141).

Just Cause

Literature on the just war tradition puts just cause as the first criteria to be met. However, Bellamy (2006: 122) states this second substantive rule is about the fact that wars have to be waged for a just cause, which includes self-defence, defence of others, restoration of peace, defence of rights, and the punishment of wrong doers. The just war tradition has always recognize the protection of victims under "supreme humanitarian emergency" (Wheeler, 2001:554).

> One of the most persistent arguments against creating a doctrine of humanitarian intervention in international law is that it will be abused, and that such abuse will undermine the already fragile restraints on the use of force. The best response to this concern is to identify the threshold for intervention so narrowly that it becomes very difficult for states to exploit this standard to justify the use of force for ulterior purposes (ibid).

Similarly, the ICISS report stated that prior to recourse to humanitarian intervention, the criterion of just cause has to be satisfied by proving that a large scale loss of life or ethnic cleansing either actual or imminent has occurred (2001b:XII). Though setting clear criteria for recourse to humanitarian intervention avoids the confusion when and where to go, it has shortcomings as regards its implementation. The application of humanitarian intervention was so inconsistent. For example if humanitarianism is the cause for intervention, intervention in Kosovo and the failure to intervene in the Democratic Republic of Congo (DRC) or Rwanda, shows inadequacy and double standard in terms of its practical applicability.

Proportionality

Some authors prefer to call this concept proportionality of ends whereas other including the report of the commission argues that it is proportionality of means. "The first thing to be said about proportionality is that a response to humanitarian need should itself be humanitarian" (Coady, 2002:27). Hence, proportionality should justify that the overall harm by military activities is less than the harm to human rights which the measure aims to correct or prevent (*ibid*). However, this principle becomes so controversial when civilians are targeted. Some argue that the NATO bombings of the civilian targets such as radio and television stations and electricity plants in Kosovo are in conflict with the spirit of humanitarian intervention (Wheeler, 2001:557). Proportionality is a fundamental jus ad bellum principle and its inclusion in the criteria is not controversial (Massingham, 2009: 808).

Last Resort

The principle of recourse to use force as a last resort indicates that there must be serious efforts to find political solutions primarily. For Bellamy (2006: 123) last resort is the fourth and last substantive "test". He (*ibid*) emphasizes that:

> last resort doesn't require the exhaustion of every means short of force. If it did, force would never be licit because one can always continue to negotiate. Instead, last resort demands that actors carefully evaluate all the different strategies that might bring about the desired ends, selecting force if it appears to be the only feasible strategy for securing those ends.

As non-violent alternatives have not always been available the above formulation might ease the epistemological constraint associated with last resort (ibid). This is mainly because some of the

basic literature on the subject argues that military intervention can only be justified when all peaceful means have been exhausted (ICISS, 2001a:131). On the other hand, Wheeler (2001:556) emphasise that "while policy-makers try to halt killings through non-violent means, massacres might be continuing on the ground". This is to remind the interveners that, the decision to use military force has to be weighed carefully. Otherwise, as Coady (2002:28) stated the measure has to be taken, in the face of clear danger to be averted since it will not be logical to wait until the danger has taken place. Thus, the use of force according to this idea may sometimes come first if the threat or the crises is so imminent.

Reasonable Prospects

Another point in the use of force for humanitarian purposes is that there should be a clear prospect for success for an intervention to be conducted. Wheeler (2001:560) argues that reasonable prospect is a final criterion dealing with "a reasonable chance of ending human rights abuses". He is of the view that success is 'too demanding' and thus if the intervening force withdraws after stopping the humanitarian crisis the human right abuse may resume calling for policing and building legitimate state institutions. Thus, Success in humanitarian intervention can be seen in two phases: success in terms of stopping ongoing or imminent atrocities and success in terms of addressing the root causes of problems of the crises. From a realist perspective, Bellamy (2006:123) stipulates that, both the overall likelihood of success and the calculation about the cost of success are included in the prudence perspective.

Right Authority

Another criterion for justified use of force is that the decision to use force has to be made by the rightful authority. According to Bellamy (2006:124) in history, sovereign princes used to have this authority, which was transferred to States, which since 1945, has been restricted by the UN Charter. In general, the idea of right authority refers to the people and institutions that are vested with the right of decision making.

The debate over humanitarian intervention puts the issue of rightful authority as one of its criteria for justifiable intervention. As a result, the reports of the ICISS (2001a:139 and 2001b:XII) views the UNSC as the most appropriate body for authorising military intervention for humanitarian purposes. This was highly pronounced particularly after the NATO decision to

intervene in Kosovo without the authorization of the UNSC. However NATO's decision to intervene in Kosovo without the authorization of the UNSC, coupled with Annan's comment and the ICISS suggestions, signifies the need for actions based on moral imperatives in times of grave crises without the authorization of the UNSC would be tolerated.

The writer firmly believes that the concept of humanitarian intervention in general, and the developed criteria of responsibility in particular, are instrumental to explain and investigate the action and inactions of the international community to the Darfur crisis. The doctrine of responsibility to protect is being selected as a tool of analysis since it embraces the historic tradition of just war and clarified dilemmas of humanitarian intervention under the international system.

As a conceptual framework the responsibility to protect is applied in the study as it entails that sovereign states have a responsibility to protect their own citizens from preventable catastrophe that when they are unwilling or unable to do so, that responsibility must be borne by the broader community of states. It is attempted to make use of the ICISS report with the realities in question in the case study to investigate the international community's response and actions. The approach looks into how the United Nations, the African Union, and the international community acted by taking the newly emerging intervention framework and emphasizes on what could have been done to avert the crisis. Moreover some gaps could be observed both in the legitimacy and legality of humanitarian intervention that calls for a deeper analysis of the circumstances associated with the case study.

CHAPTER III

INTERNATIONAL RESPONSE TO THE DARFUR CRISIS: RHETORIC AND PRACTICE

The central focus of this chapter is describing the response of the international community to the Darfur crisis. This chapter is divided into two main sections. The first section introduces the region and sets the context of the crisis. It begins with the history of the region and the composition of the people; second, the cause and the current status of the Darfur crisis is be described; and third the severity of the crisis and the general debate on the magnitude of the crisis is analyzed, as it is the severity of the crisis that prompts international organizations and states to respond to the crisis. In the second section the extent to which the international community responded to the crisis under study is described.

3.1. Background to the Crisis

The history of Darfur and its people, the current Darfur crisis, and the magnitude of the crisis are presented in this section. Understanding the political history and the ethnic composition of the area helps to capture the gist of the current crisis. Moreover, explaining and understanding the severity of the crisis helps to evaluate the need for the intervention and/or response of the international community.

3.1.1. Darfur: The Land and the People

Darfur is a geographic area of 250, 000 square kilometers found in the western part of the Sudan with an estimated population of six million (COI, 2005:20, De wall and Julie Fliet, 2008:4). It shares border with Libya, Chad and the Central African Republic. Darfur has been administratively divided since 1994 into three states namely North, South and West Darfur each governed by a *Wali* (governor) appointed by the central government (COI, 2005:20). The capitals of each of these are El Fashir, Nyala, and Geneina respectively. Even though there are few towns in addition to the capitals, the majority of the people of Darfur live in small villages and hamlets. The COI report (*ibid*), further state that Darfur had been a sultanate that emerged in the middle of seventeen century and had a continued existence with some slight interruptions

until it (Darfur) became a British colony. It was in 1917 that Darfur was incorporated into Sudan proper. The inhabitants of Darfur are tribal groups and distinction between them only tends to sharpen when conflict erupts. According to the Commission of Inquiry report stated above, the tribal structure that goes back to many centuries still persists even though it was weakened during Nimeiri's regime (*ibid*).

The Commission of Inquiry report (2005:20) states that the population of Darfur is mainly divided into sedentary and nomadic tribes. The sedentary tribes are further divided into those that are predominantly agriculturalist and those that are cattle herders. Among the predominantly agriculturalist tribes one finds the Fur, the Barni, the Tama, the Jebel, the Aranga and the Masaalit while the major groups in the southern Darfur such as the Rhezeghat, as well as the Zaghawa are mainly sedentary cattle herders (*ibid*). The non-sedentary nomadic and semi-nomadic tribes herd cattle and camels which among others include the Taaysha, the Habaneya, the Beni Helba, the Mahameed. Moreover all Darfurians are Muslims and Arabic is generally spoken even though each tribe has its own language (*ibid*).

Darfur is made up of two words, Dar means homeland and Fur is an ethnic group that inhabited that land. Thus Darfur means the land of the Fur people. "Five centuries ago, in the mountainous triangle between Kutum, Kebkabiya and Korma, centralized states were created" (De wall and Flint, 2008:2). The first was the Tunjur Empire succeeded by the Fur sultanate. The Fur sultanate was the first Muslim sultanate that emerged in Darfur in the mid-seventeenth century (*ibid*). O'Fahey (2004:24) confirms that Darfur was established around 1650 and it is heir to a very old tradition of state formation associated with non-Arab ethnic groups. Indeed, "Darfur was an African kingdom that embraced Arabs as valued equals" (*ibid*). According to Sarsfield-Hall (1922:359), Darfur belongs to the Fur which was formerly one of a chain of ancient kingdoms which extend from east to western part of Africa.

According to Young (2005:12), in history Darfur was an important center of trade and religion in which the three dynasties played significant role. These dynasties were the Daju that ruled from thirteenth century to the sixteenth century, the Tunjur that ruled until the seventeenth century, and the Keira. The Fur was the core group of this last dynasty in addition to the other groups it assimilated (*ibid*). The seventh Sultan, Mohammed Tayrab, extended the Fur Sultanate in 1787

as far east as the Nile by conquering the Funj province of Kordofan. It was the Ottoman Empire that overthrew the Keira Sultanate in 1874, a time described as Turco–Egyptian rule (1874–1883). Sporadic revolts by the Fur and Baggara (cattle-herding) tribesmen characterize the short Turco-Egyptian rule, which was in turn overthrown by the Mahadiya forces in 1883 that ruled Darfur from 1883 to1898. Muhammad Ahmad, a man that declared himself as "the awaited one" for restoring Islam in 1883 led the movement and took over Khartoum (*ibid*, 13-16).

According to Young (2005:12) "Turco-Egyptian empire and the Mahdist years, came to be known as umm kwakiyya – years of misery, burning and banditry" but these rules were short-lived to have a lasting effect on institutions established by the Fur Sultanates (*ibid*). Darfur librated itself from the Mahadiya in 1889 and remained an independent sultanate until 1916. Darfur was the last area that the British incorporated to the Sudan on 1st January 1917 (De wall, 2007:3). The Anglo-Egyptian Condominium finally annexed Darfur to Khartoum and colonized it until 1955 (Young, 2005:16). According to De Waal (2007:3), the 39 years of brief colonization of the area had "a very light colonial imprint" in transforming the society which it rather was neglected. In the Post-Independence period that commenced in 1956 Sudan witnessed a succession of military and democratic regimes. Moreover, two major parties which have deep commitment to Islam, namely the Umma Party (UP) and the National Unionist Party (NUP) emerged in the post-independence period (Young, *ibid*). The last in this regard is the National Islamic Front (NIF) when army officers led by Brigadier Umar Hasan Ahmad al-Bashir, overthrew the civilian government of Sadiq al-Mahdi on 30 June 1989.

The new Islamic state of Sudan, headed by Umar al-Bashir, was to follow an Islamic model espoused by Hasan el-Turabi, leader of NIF, a direction it has maintained until the present day (*ibid*:19-20). NIF come up with changes and processes to establish Sudan on an Islamic Model. These set of structural changes and processes included Islamaisation, Arabism and mobilization of Arab Militias (*ibid*). It was at this time that Darfur has commenced a process that is now destabilizing itself. "Darfur became one of the recruiting areas for Murahaleen fighters to join the Islamic jihad in southern Sudan, against the rebel Sudan People's Liberation Army (SPLA)". According to this historical account, tribal leaders and current opposition leaders were part and parcel of such recruitment process. The militarization of Darfur and intensification of tribal

conflict had also continued which led to formation of armed opposition groups such as the Daud Bolad movement in the 1990s (*ibid*).

During its long history, Darfur is host to ethnic groups or tribes that range between forty and ninety depending on one's definition (De wall and Flint, 2008:6). According to the ICG Report (2004:4) the whole mix of the ethnic groups in Darfur is made up of people with Arab and African origins. "Centuries of coexistence and intermarriage have reduced distinctions to cultural identification or non-identification with the Arab world as members of both groups are dark-skinned. Except for the Zaghawa, who specialise in herding camels, the indigenous black African groups depend on subsistence farming and animal husbandry. On the other hand, groups of Arab extraction live on camel herding in northern Darfur and cattle herding in southern Darfur (*ibid*). According to the Sudan Embassy in Addis Ababa, the land in Darfur has been distributed by the late Sultan of Fur, Ali Dinar, among the different tribes since the last century. The distribution was not accurate in terms of specifying the geographical area of each tribe.[4]

3.1.2. The Crisis

The UN report on the Darfur crisis (COI, 2005:22) pointed out that few years before the current conflict in Darfur, the idea of differentiation between "Africans" and "Arabs" and consequently the importance of tribal identity of individuals developed. This distinction between Africans and Arabs resulted from "cumulative effects of marginalization, competing economic interests and, more recently, political polarization which engulfed the region" (COI: ibid). Traub (2010:4) emphasizes that to understand the war that broke out in Darfur in 2003 one has to see how the policy of Sudanese government has been spontaneous in addressing the national questions. According to Udombana (2005:1153), although the African and the Arab tribes of Darfur had frequently clashed over land, crops, and resources the Khartoum government favored the latter which led the Fur to distrust the mainstream political system. This distrust worsened when the government of Sadiq El Mahdi armed the Arab militias from Darfur and Kordofan to use them against the south-based rebels (*ibid*). Both El Mahdi and his successor military government have used the militias for nearly twenty years. Thus, as many have argued the root causes of the Darfur conflict are complex. Factors such as tribal feuds, availability of modern weapons,

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[4] Interview with Mohamed Yusif, Sudanese ambassador to Ethiopia, Sudan Embassy Chancery, Addis Ababa, 11 March 2011

marginalization, and deep layers related to identity, governance, and emergence of popular armed rebels shapes the current crisis (COI, 2005:22).

Explaining how the current conflict in Darfur emerged, Mohamed traces it to the split of the incumbent National Congress Party into two in which Dr. Turabi split after forming his own party named the Popular Congress and joined the opposition whose prominent leaders are from Darfur. The Popular Congress helped Darfurian politicians to publish a book called "The Black Book" that criticized the Khartoum government of being made up of only three tribes from the North and pointed out that Darfur has been marginalized.[5] Thus, Darfurians agitated by this publication organized themselves and established an armed group known as the Darfur Liberation Movement in 2001. He further pointed out that it was the SPLM/A trying to stretch government troops to Darfur by helping organize armed groups everywhere in Sudan.[6] According to the International Crisis Group, competition over water, grazing and fertile land has caused friction between nomadic groups and farmers in Darfur (ICG, 2004:4). Meron[7] emphasized that land is the main cause of the Darfur conflict and the significance ownership and distribution of land should be seriously considered in looking for a solution to the Darfur crisis. For Amuzu, the people of Darfur took up arms as they are incensed by marginalization, starved of development and not being adequately represented politically.[8] Solomon claims that the structural cause of the Darfur conflict is related to the formation of the state of the Sudan and its centre-periphery relations. The manifestation of the centre-periphery relations has been marginalization in terms of lack of socio-economic development and undue control of administration in Darfur. This relation has further been aggravated by problems related to competition over scarce resources.[9]

The Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) are the two rebel groups in Darfur that were organized in 2001 and 2002 against the Khartoum

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[5] Interview with Mohamed Yusif, Ambassador of Sudan to Ethiopia, Addis Ababa, Embassy of the Republic of Sudan March 11, 2011

[6] Ibid.

[7] Interview with Meron , political officer, Joint Mediation Support Team (JMST) of the African Union Commission, 10 March, 2011.

[8] Interview with Amuzu, Michael Kodozo, Head of Darfur Desk, Peace and Security Department of the African Union Commission, 8 March, 2011.

[9] Interview with Solomon Ayele, Senior Researcher, Institute for Security studies, 7 March 2011, Addis Ababa ISS office

government citing such factors as socio-economic and political marginalization as causes for their insurgency (COI,2005:22-23). The leader of SLM/A, according to the Embassy of Sudan, was recruited and trained by SPLM/A, and Khalil Ibrahim, a member of the Popular Congress party formed his own party and named it The Justice and Equality Movement.[10] For De wall (2007:5), the fact that Khartoum and its environs taking well over half of the national income forms the inequality that led to the taking shape of Darfurian revolt. At the beginning SLM/A focused on the situation of Darfurians while the JEM based its agenda on the "Black Book", a kind of manifesto (*ibid*). The Black Book was written in 2001 by group of Darfurians within the Khartoum government about the systematic marginalization, under-provision of resources and, political representation of Darfur. It "essentially seeks to prove the disparities in the distribution of power and wealth, by noting that Darfur and its populations, as well as some populations of other regions, have been consistently marginalized and not included in influential positions in the central Government in Khartoum" (De wall, 2007:5, COI, *ibid*).These rebel groups have now a political agenda concerning the entire Sudan. The three tribes that make up the two rebel groups are the Fur, the Massalit and the Zaghawa. (COI, 2005:23).

According to the COI Report (2005:26), the military threat from these rebel movements, coupled with the lack of military capabilities in the Darfur region, prompted the Khartoum government called on local tribes for the war by exploiting the existing tensions between different tribes. Moreover, the government was more than happy to recruit foreigners that responded to its call, from Chad, Libya and other states. "These new "recruits" were to become what the civilian population and others would refer to as the "Janjaweed", a traditional Darfurian term denoting an armed bandit or outlaw on a horse or camel" (*ibid*). So, Darfur has entered the international public consciousness in 2004, just as the GOS in Khartoum and the rebels of the Sudan people's liberation Movement/Army in Southern Sudan were negotiating the terms of the CPA that would eventually end the second Sudanese civil war (Grzyb, 2010:7). The ongoing conflict erupted in February 2003 when SLM/A attacked and captured Gulu, the capital of Jebel Marrah in central Darfur (CFR, 2004:3). By April of 2004, the yearlong insurgency developed into what the UN and the United States called the worst humanitarian crisis in the world. On April 8, 2004, under the auspices of President Déby and in an atmosphere of significant international pressure, the

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[10] Interview with Mohamed Yusif, Ambassador, 11 March, 2011

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government and the rebels signed a renewable forty-five day humanitarian ceasefire agreement in N'djamena, Chad (*ibid*:4).

3.1.3. The Magnitude of the crisis

Markusen (2010:95) states that the Darfur crisis begun as a counter-insurgency move in early 2003 against rebel groups that belong to the Fur, Zaghawa, and Masalit. He further emphasizes that "the campaign against the rebels escalated into crimes against humanity and genocide against the innocent civilians in those groups who were not involved in the insurgency" (ibid). He analyzed reports of three empirical investigations done on the Darfur crisis by three different bodies, namely the US Atrocities Documentation Team (ADT) that presented the report on September 2004, the International Commission of Inquiry on Darfur (COI) report of January 2005, and Physician for Human Rights (PHR) report of February 2005. All the three teams have undertaken primary investigations of the crisis (*ibid*: 96-108). First, the findings of the ADT, among others, revealed consistent and widespread pattern of atrocities; close cooperation between the GOS and the *Janjaweed*; typical pattern of attack[11]; Killing, beating and rape.

The U.S. House of Representatives and the Senate unanimously passed resolutions calling the conflict genocide (Markusen, 2010:95, and CRS, 2004:13). While others including observers and government officials have described the atrocities in Darfur as "ethnic cleansing" (CRS, 2004:13), the US called the crisis a genocide based on the ADT data, satellite imagery, information from the state Department and the international community at large (Markusen, 2010:99). Secondly, The COI was established by the UNSC Resolution 1564 and mandated to investigate allegation of violation of international law, determine whether genocide occurred, identify perpetrators, and suggest means to hold them accountable (*ibid*:100). According to Markusen the findings of COI, ADT and other such investigations are consistent and similar on all matters including internally displaced persons, refugees, destroyed villages. The COI reveals that the widespread and systematic mass killings, rape and sexual assault against three "African" tribes may amount to a crime against humanity but reserved itself in calling it a genocide (COI, 2005:79 and 95). Thirdly, the PHR inquiry was intended to complement the above reports and

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[11] The typical pattern identified was that, first aircraft bombs a village usually at dawn, then GOS military forces and Janjaweed militia surround the village then they move in and kill and rape the survivors, plunder the village, finally burn houses and poison wells.

such other investigations by focusing on direct violence. The PHR pointed out that while it is extremely difficult to survive outside of village life in Darfur, civilians were herded from their homes into forbidding weather and into no-water and no-transportation areas. Thus they end up in starvation, dehydration, and disease. Just like the ADT and COI reports, the PHR have revealed widespread and systematic mass killings and death from deprivation (Markusen, 2010:107). The PHR report further stated that 90 percent of non-Arab villages were attacked or razed to the ground (*ibid*, 108). More fundamentally, the report have established direct and circumstantial evidence of genocidal intent and concluded that the government of Sudan and the Janjaweed are committing genocide.

Campbell (2007:375-376) pointed out that in addition to the US and the UN Commission of Inquiry, the genocide claim has propelled much of the media coverage in 2004 about the crisis, which has also been attributed to statement of Mukesh Kapila, the UN Humanitarian Coordinator for Sudan, mentioning Darfur as the world's worst humanitarian crisis comparing it to the Rwandan genocide. As Straus (2005:128) puts it, there have been consistent reports from aid workers and reporters with undisputed facts. Yet the GOS has denied direct involvement in civilian attacks while the African Union and the Arab league downplayed the human right violations. According to Reeves (2008:55), the extraordinary violence of 2003-2004 has destroyed 80 to 90 percent of all African villages in Darfur.

> Such deliberately destructive violence, along with mass executions, the systematic and racialized use of rape as a weapon of war, torture, abduction, and other forms of violent abuse have produced the staggering numbers of deaths, displaced persons, and civilians who are now critically in need of humanitarian aid. But people are also dying from the disease and malnutrition that have come in the ghastly wake of these violent attacks. The 1948 UN Genocide Convention makes clear that these deaths are no less genocidal in nature: the deliberate, ethnically targeted destruction of livelihoods and the ability to live is also genocide (Reeves, 2008:55)

The other form of violence that perhaps uniquely characterizes the Darfur conflict has been sexual violence. Amnesty International's document depiction of rape as a weapon of war elaborates on how this violence has been gravely perpetrated in Darfur. The report (AI, 2004:1) begins by putting one female refugee's testimony as follows:

> "I was sleeping when the attack on Disa started. I was taken away by the attackers, they were all in uniforms. They took dozens of other girls and made us walk for three hours. During the day we were beaten and they were telling us: "You, the black women, we will exterminate you, you have no god." At night we were raped several times. The Arabs guarded us with arms and we were not given food for three days."

The idea of mass rape perhaps has been a unique kind of violence that came to the forefront in explaining atrocities in the Darfur conflict by various documents and reports. This allegation of rape is completely dismissed by the Sudanese ambassador in Ethiopia as intentional misinterpretation by translators at IDP camps communicated to humanitarian organizations.[12] He further emphasized that Sudan is an Islamic State and Darfurians accused are strong Muslims and by no means involve themselves in such un-religious act. According to Dawit as far as the current situation of Darfur is concerned, Darfur's security has been significantly stabilized; UNAMID deployment reached 97 percent of its mandated coverage with 25, 000 troops.[13] Yet there have been some skirmishes between the GOS and armed groups as well as among the armed groups; IDP's are returning to their habitats. In this regard UNAMID's mandate is extended to the carry out Early Recovery Programme (ERP) aimed at providing basic assistance for the IDPs to start their life afresh.[14]

3.2. International Response to the Darfur Crisis

The central theme of this section is to describe how the international community has been responding to the conflict that is labeled as the worst humanitarian crisis. In this section the decisions and some of the moves made by the United Nations, and African Union including the rhetoric and practical responses of the major powers such as the P5 countries and the roles that NGOs, human right movements and advocates play in the Darfur crisis are discussed.

3.2.1. The UN: Resolutions and their impact in resolving the crisis

The response of the UN in general and its political bodies in particular has been clearly pointed out in its resolutions and the various reports of the UN Secretary General. According to FRIDE (2010: 6), Darfur was officially brought to the UN around December 2003 but it was after many

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[12] Interview with Mohamed, Sudanese Ambassador in Ethiopia, March 11, 2011
[13] Interview with Dawit Toga, political Analyst at the African Union, March 2011, AU Commission, Addis Ababa
[14] ibid

victims and several months later that the UNSC agreed on the fact that Darfur cannot be ignored while the other organs of the UN acted much less. As De wall (2007:1042) emphatically pointed out the responses of the UN Security Council to the Darfur crisis have not been systematic or strategic but it has rather mainly took ad hoc approach. The attention has indeed remained on the North-South conflict and in February 2003 Amnesty International and other human rights groups began calling for attention (Traub, 2010:4). The other important fact was the Sultans from the victim African tribes came to Khartoum to request the UN for protection (*ibid*). The foundation for the UNSC demand was that the Ndjamena agreement that refers to the government's responsibility to 'neutralize armed militia' (De wall, *ibid*).

The UN has considerably contributed to drawing attention to the violence in Darfur but it has done from little to nothing to stop the killings, rape, and devastation (Totten, 2010:185). In this regard, putting what the UN has been doing chronologically gives the full picture. According to Totten (*ibid*), from December 2003 to March 2004, various UN officials were alarmed about the situation in Darfur. Totten further noted that by April 2004, around one million Black Africans fled in terror from their villages and 3000 killed by January 2004. On 19 March 2004, the UN Humanitarian Coordinator for Sudan, Mukesh Kapila, claimed that the case of Darfur is not conflict but ethnic cleansing, only a difference of numbers from Rwanda. On 2 April 2004, Jan Egeland, the UN Under-Secretary General, had also described Darfur as a case of ethnic cleansing in his briefing to the UNSC. On 7 April 2004, at the 10th anniversary commemoration of the Rwandan genocide, the then UNSG, Kofi Annan, called for swift and appropriate action of the international community (*ibid*). On 25 May 2004, a UN presidential statement under the auspices of the UNSC reiterated its deep concern on the continued violence especially with an ethnic dimension, sexual violence, forced displacement and related violations of international humanitarian law (*ibid*, 185). As the conflict was going on, the Government of Sudan (GOS) and the Secretary General issued a joint communiqué on 3 July 2004 in which the GOS promised to immediately disarm the *Janjaweed* and other armed groups as well as bringing human right violators to justice.

As Grzyb (2010: 10) stated, the UN Security Council passed multiple resolutions on Darfur since 2004. The first UNSC Resolution, 1556, was adopted on 30 July 2004 demanding that the GOS disarm the Janjaweed militia within thirty days or face further action. This resolution was a

severely watered-down version of America's draft (Traub, 2010:10). This resolution only vowed to take coercive measures short of military actions and it requested the Secretary-General to report back on Khartoum's compliance within thirty days. Even then, China and Pakistan abstained" (*ibid*). The Resolution,

> *Demands* that the Government of Sudan fulfil its commitments to disarm the Janjaweed militias and apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out human rights and international humanitarian law violations and other atrocities, and *further requests* the Secretary- General to report in 30 days, and monthly thereafter, to the Council on the progress or lack thereof by the Government of Sudan on this matter and *expresses its intention* to consider further actions, including measures as provided for in Article 41 of the Charter of the United Nations on the Government of Sudan, in the event of non-compliance;

According to Mickler (2009:35), though the resolution is legally binding the lack of unanimity has weakened the political and moral authority of the decision and hence the resolution did not materialize in practice. According to Bellamy (2005:45), members of the Security Council were not ready to impose sanction even if Sudan fails to comply with the deadline set by Resolution 1556 as the various consultations held at the UNSC showed following the passing of the resolution. In practice, Sudan has met some of the commitments it made under the communiqué where as it failed to meet the most important ones (Mickler, 2009: 142). The two key areas that Sudan failed or unwilling were the fact that it did not stop attacks against civilians or disarm the *Janjaweed* and has not identified any of the militia leaders that have been perpetrating the attacks (*ibid*). By mid-September, the US was circulating another draft resolution on the basis of the material breach of Resolution 1556 by Sudan (Bellamy and Paul, 2006:152).

The draft resolution called for "an expanded AU force, international over flights to monitor the situation, moves to prosecute those responsible for genocide, a no-fly zone for Sudanese military aircraft, and targeted sanctions (such as travel bans) against the ruling elite (ibid). Resolution 1564 was adopted on 18 September 2004 by the Security Council that established the International Commission of Inquiry on Darfur (COI) stating that the UN would consider imposing sanctions on Sudan if it failed to bring the *Janjaweed* under control and if it fails to accept a large AU observer mission. According to Bellamy and Paul (2006:152), the final

version of the Resolution contains much-diluted forms of the original measures advanced by the US.

This resolution was passed with China, Russia, Pakistan and Algeria abstaining. Just like the previous Resolution, this one also does not accuse the GOS of directly targeting civilians but identified the militia as responsible for the atrocities occurring in Darfur (Mickler, 2009:143). Not only did the resolution fail to put a timeframe for compliance but also Sudan got strong support from China and Russia and other non-permanent members of the Security Council (*ibid*). Following this, the UNSC passed Resolution 1574 calling on all the parties to cease violence and everything else related to it and ensure that their members comply with international humanitarian law. This resolution was mainly focused on the issue of the North-South peace process that ended the civil war between the GOS and the then SLM/A rebels. The resolution only decided on monitoring compliance by the parties to previous resolution and warns of appropriate actions if parties fail to comply and its language reflected retraction from more coercive action by the Security Council. On 25 January 2005, the findings of IOC were released pointing that the critical element of genocidal intent was not found with regard to higher officials. It stated that "the crimes committed may be no less serious and heinous than genocide" (COI, 2005:4). Thus, these report made the Security Council to reconsider more strong action. On 29 March 2005, the UNSC passed Resolution 1591 that authorized sanctions of freezing assets and restricting travel on individuals that are responsible for violating international law in Darfur. According to Totten (2010:193), this resolution would have been a real attempt towards a concrete action but there followed a lack of action. The International Crisis Group report emphatically summarizes that all the three resolutions and the COI report were the basis for further actions but were not seriously followed up.

> A quick review of measures threatened by the Security Council but not pursued offers insight into why the NCP apparently believes it need not risk domestic trouble by changing its stance on UN deployment. Security Council Resolutions 1556 (2004), 1564 (2004), and 1591 (2005), as well as the January 2005 report of the International Commission of Inquiry on Darfur and the January and August 2006 reports of the subsequent Panel of Experts, have laid the basis for broad action against the government, including sanctions on individuals who impede the peace process. Despite Khartoum's lack of compliance, however, there has been little follow up. (ICG, 2006:6)

On 31 March 2005, the UNSC passed resolution 1593 based on the COI report and referred the Darfur issue to the International Criminal Court (ICC). The COI presented names of fifty-one suspects that consist of government and military officials of the GOS to the ICC. According to Mickler (2009:161), Resolution 1593 is significant, not only for Darfur but also to the international criminal justice, as it referred the issue to the ICC based on the findings and recommendation of the COI report. From the 15 members of the Security Council, U.S., China, Brazil, and Algeria abstained when the resolution was passed. Even though the U.S. claims that justice should be served it rather prefer an establishment of a hybrid tribunal in Africa. It has to be noted that both US and Sudan are not party to the Rome Statute. Invited to respond to the Resolution at the Security Council, Sudan claimed that the resolution would complicate the situation on the ground. It is easy to observe that lack of consensus weakened the council's moral and political authority to pressure Sudan, a country becoming diplomatically successful and obdurate in character (*ibid*). Then the issue of Darfur was not the priority of the UN even though it began publicly speaking about a large peacekeeping force to replace those of the AU. On May 16, 2006 the council passed resolution 1679 calling for the creation of such a force. Although it invoked Chapter VII of the UN Charter, both Russia and China stipulated that the force had to be acceptable to Khartoum thereby nullifying the coercive underpinning of the resolution (Traub, 2010:18).

On August 31, 2006 the Council, led by the United States and the United Kingdom, passed Resolution 1706 mandating UNMIS, the force deployed for furtherance of the CPA, to assume AMIS's responsibilities no later than the end of 2006. Resolution 1706 authorized a UN mission of at least 20,600 troops and police to deploy to Darfur with a Chapter VII mandate allowing use of force to protect threatened civilians, UN personnel, humanitarian workers and the DPA (ICG, 2006:2). The Resolution has also revoked the principle of R2P as it did on the previous resolution. Resolution 1706 was passed through 12 affirmative votes and three abstentions (China, Russia and Qatar). The resolution point out in its first paragraph about the need for consent from the GOS. The Resolution,

> *Decides*, without prejudice to its existing mandate and operations as provided for in resolution 1590 (2005) and in order to support the early and effective implementation of the Darfur Peace Agreement, that UNMIS' mandate shall be expanded as specified in paragraphs 8, 9 and 12 below, that it shall deploy to Darfur, and therefore invites the consent of the Government of National Unity for this deployment, and *urges* Member States to provide the capability for an expeditious deployment;

As the three states namely China, Russia and Qatar that abstained claimed during the consultation on the resolution, consent should only be voluntary and the consent of the GOS should come first before the resolution was adopted. According to Mickler (2009:208), the voting and statements of the UNSC member states on the resolution show the same trend inside the Security Council. It has been stated that the GOS categorically rejected the envisaged transition process of AMIS to a UN force. Just within a few days, the government of Sudan rejected Resolution 1706 just as a bluff of the US and UNSC, President Omar al Bashir "decided to draw a red line that further tied down international political efforts on the details of the international force" (De wall, 2007:1042).

The consultations and voting trends at the UNSC on Darfur shows the emergence of two groups with divergent views emanating from their respective national interest in which the first group are led by the US and the second group is led by China and Russia. The Western countries have at least been rhetorically engaged in generating pressure on Sudan in the Security Council as they were forced to respond to domestic and international pressure to act in Darfur as well as a likely genuine interest for the responsibility to protect civilians from the atrocity that the US and EU characterized as "genocide" and "tantamount to genocide" respectively. However, the Western reaction has been only limited to "initiation, financing, or facilitation of a variety of important but ultimately inadequate measures short of military intervention" (Mickler, 2009:217). At the beginning of the conflict the US focused on quite diplomacy which involved a telephone conversation with officials of the Government of Sudan (CFR, 2004:11). It has to be noted that Sudan has been viewed as the most important information source in the "War on Terror" and the intelligence community, with its interest of protecting the officials of Sudan, has significantly steered the Bush Administration's policy (ICG, 2007:16). For others, the overwhelming political focus on negotiation to end the North-South war between SPLM/A and the GOS has been one of the policy priority that forced the West not to push hard on the GOS as

excessive pressure over Darfur could jeopardize the negotiation that had sometimes been at the verge of collapse (CFR, 2004:11). So, conflicting priorities due to vested national interests which include intelligence cooperation in regional counter-terrorism[15]; extensive political investment in the CPA and the military capacity of US and UK being stretched due to their operations in Iraq and Afghanistan dictated the various moves made by the western permanent members of the UNSC (Mickler, 2009).

The major countries in second group of countries in the UNSC regarding Darfur are China and Russia. Beginning from Resolution 1556, China and Russia have mixed motives of principles and economic interests for opposing strong measures including sanctions against Sudan (Bellamy, 2005: 45). As far as the economic relations between these two permanent members of the UNSC and Sudan is concerned, according to the Save Darfur Coalition report, the economic ties between China and Sudan has been growing faster as observed in the trade, infrastructure, oil and other sectors (SAVEDARFUR, 2007:3-4). Between 2006 and 2007, the trade between China and Sudan doubled and the trade volume increased by 124 percent. It is pointed out that "China is Sudan's leading trade partner; it purchased about two-thirds of Sudan's export; and provides one fifth of its global imports" (*ibid*). It is recalled that China's annual trade value during the heights of the Darfur conflict in 2004 was roughly 1 billion USD (Paterson, 2004:5). In addition to the growing trade relations China is a leading developer of Sudan's oil industry and major purchaser of the oil. In 2007, the China National Petroleum Company (CNPC) concluded a production-sharing deal with the GOS to develop Sudan's offshore oil block (SAVEDARFUR, 2007:2-4).

In the infrastructure sector, China has been developing Sudanese infrastructure among which the 1.5 billion USD railroad construction contract of June 2007 between the two countries could be cited. Moreover, Chinese companies are taking increasing role in Agriculture, Mining, Medicine and Education sectors of Sudan (SAVEDARFUR, 2007:2-4). Furthermore, despite the UNSC arms embargo, China has played a direct role in selling arms and developing the weapon industry of Sudan as confirmed by various UN reports. High level meetings between Chinese and Sudanese military officials and official speech of Chinese Defense Minister clearly stated the continuous military relations between the two countries (ibid).

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[15] For detail discussion on Sudan and terrorist relations see Carney, T (2005).

Russia has also strong economic and diplomatic ties with Khartoum. Russia has made modest weapons sells and made an oil deal. In July 2004 while the UNSC debates sanctions on Sudan, Russia announced the final delivery of 12 MiG-29 jet fighters to Sudan and the fact that Sudan being viewed as potential buyer of such arms (Paterson, 2004:5). In addition to arms trade Russian companies have been subcontractors of Chinese companies in the Sudanese oil industry (*ibid*). In relation to this a Russian company had secured a deal to construct a Sudanese oil pipeline in 2004 (Mickler, 2009:266). He summarized the relation between these countries as "an intimate relation between Beijing, Moscow, Khartoum, Oil and Weapons developed in the 21st century" (*ibid*).

On the other hand, the principle that has been invoked at consultations by China and Russia has been the reason for protecting coercive actions against Sudan. China and Russia have persistently resisted the claim of humanitarian intervention or the responsibility to protect through military intervention (Mickler, 2009:251-52). China have been arguing for the consent of conflicting parties; prior authorization of the UNSC so as to retain veto power on such kinds of humanitarian intervention rather than giving it up to organizations such as NATO; and all peacekeeping operations should be use the principle of non-use of force and neutrality as permanent principles whenever Darfur was discussed. Similarly Russia has also been skeptical about humanitarian intervention in Darfur. The political philosophy on subordination of individual right to the necessities of states; the human rights discourse often associated with the West's critiques of Soviet policy; and Russia's policy focused much on domestic economic and political structuring and the problem in Russia and its neighbors takes priority rather than distant places such as Darfur (*ibid*). Thus, Mickler (2009:256) concluded that the various statements of Chinese and Russian officials imply that these countries are acting as the sentinels of global security by defending state sovereignty and the pluralist international order.

Despite Khartoum's consistent rejection to a UN force on the many consultations and the insistence of the countries that abstained during the passage of the resolution, the Council took a procedural measure of extending the mandate of UNAMIS by unanimously adopting Resolution 1709 (Mickler, 2009:204-205). He concludes that, the variety of non-military or cooperative measures attempted by the UNSC had failed to deter Khartoum or to protect Darfurians (*ibid*).

Finally, after eight months of wrangling Sudan agreed to a hybrid force of AU and UN (UNAMID) which was mandated by UNSC Resolution 1769 of 31 July 2007 (*ibid*). According to Traub (2010:20), Resolution 1769 has given the rebel groups of Darfur a hope that a UN force would immediately be deployed. The AU and UN joint mediators found the rebels willing for a political negotiation.

The typical characteristic of the Darfur rebels has been their consistent fragmentation that oftentimes brought problems in bringing political solution to the crisis. One of the major reasons for the fragmentation of the rebels was the peace process and the Darfur Peace Agreement (DPA) itself. According to Traub (2010:17), the only rebel group that signed the DPA immediately turned itself as a pro-government militia and the DPA had "an ironic effect of accelerating the fragmentation of the rebel forces". According to ICG (2007:13), the fragmentation of non-signatory groups resulted from "the failure of the Abuja peace talks, the NCP tactics, poor leadership, desire of regional powers to gain influence, tribal animosities, internal power struggles and the lack of a unifying leader" have been some of the reasons for the fragmentation of the Darfur rebels. Some argue that, the NCP tactics has been the major reason for the fragmentation of the rebel group in Darfur and this divide-and-rule tactics of the GOS has been blamed by many analysts for the increased fragmentation of the rebel groups (Flint, 2010:18). The other reason for fragmentation has been the formation and internal dynamics of the rebel groups. As far as SLA is concerned, there has been conflict between Fur and Zaghawa for the control of the SLA and internal tensions between its two leaders, Abdel-Wahid Mohammad Nur (a Fur) and Minni Arku Minawi (a Zaghawa) has been increased through time. The second divisive factor among these groups within SLA was the issue of how to deal with Khartoum in which the Fur inclined to negotiate and the Zaghawa prefers military solution and paradoxically it was Minni of Zaghawa that signed the DPA. In addition to the ethnic relations, Minni's attempt to dominate and his heavy handed tactics has plaid big role for the SLA to be fractured into three groups namely SLA/MM, SLA/AW and the G-19. Moreover, generational gap has been one of the reasons for disunity as there have been clashes between young rebels and intellectuals; field commanders and their political counter parts; and intellectual and field commanders (Tanner and Jerome, 2007:27-30). As for the JEM, the government tactics of "buying" leaders, internal power struggles, tribal conflict and personal connections are some of the reasons for its fragmentations and alignments and re-alignments (ICG, 2007:15 and Tanner

and Jerome, 2007:37). Moreover, even if these major rebel groups fought alongside they had also fought each other for more land and influence (Tanner and Jerome, 2007:37). According to ICG (2007:16), several groups emerged which have not been part of the negotiation at Abuja that resulted in the DPA. Thus, it is argued that negotiating peace shall be difficult without unifying rebel groups that have been extraordinarily fragmented.

Generally speaking, As far as the UN is concerned then, what matters most is a possible consensus as to what kind of action to be taken.[16] It is quite difficult to reach on a consensus as the Security Council is made up of different members with varying interest and with their own approach towards the solution to the crisis. Explaining the inherent difference of states on the Darfur conflict, Bellamy (2006:156) stated that China, Russia and a number of non-permanent members of the UNSC "consistently refused to acknowledge the idea that consideration for human rights should trump sovereignty, despite the very clear evidence that the situation in Darfur was characterized by mass murder, ethnic cleansing and potentially genocide". Moreover, UNSC members such as the US and UK have their own commitment in other parts of the world such as Afghanistan and Iraq. The first involvement of the UN in this regard was an effort to rectify the weakness of the AU that the UN took a position to send a force into Darfur invoking Chapter VII mandate of its Charter but it was a very much negotiated move agreed by AU, UN, GOS.[17] Solomon went on to say that it is not clear if the international community could have done much better in terms of giving support to the peace keeping efforts of UNAMID as it suffered from inadequate supply of equipment and personnel, monitoring capacity and logistics such as vehicles and helicopters to shield IDP camps.

3.2.2. The AU: Negotiation and Peacekeeping

The response of the African Union to the Darfur crisis can generally be analyzed based on the two interrelated tasks that it has been involved in, namely political negotiation and Peace monitoring/ peace keeping. The most active involvement in Darfur has come from the African Union, which was not only mediation but also deploying peacekeeping force.[18]

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[16] Interview with Solomon, institute of security studies, 7 March 2011
[17] *Ibid*
[18] Interview with Solomon, Institute of Security Studies, 7 March 2011

Negotiation

The African Union considered the containment of the Darfur conflict as essential by itself and also to insulate the then ongoing Naivasha peace process (Dawit, 2007:215). African Union officials consulted with the GOS in Khartoum to strengthen AU's role in the Darfur conflict, where the GOS agreed despite claiming Darfur as an internal issue. The N'djamina talks resulted in the signing of the Humanitarian Cease Fire Agreement signed on 8 April, 2004 through the mediation of Chad. Consequently, the AU established a Cease Fire Commission (CFC) in April 2004, to monitor the N'djamina ceasefire Agreement reached between the government and the rebels (Totten, 2010:205). In this connection, AU's increased engagement commenced at the end of May 2004 when the belligerents signed an agreement on the modalities of the CFC and the deployment of observers in Darfur (Dawit, 2007:218, Traub, 2010:8).

Dawit (2007:219) pointed out that the Inter-Sudanese Peace Talks that resulted in the DPA resumed in Addis Ababa on July 15, 2004 and then moved to Abuja, Nigeria, where successive talks were held.[19] The last and the Seventh Round of the Abuja Peace Talks ended after more than five months of long and difficult negotiation and its purpose was to broker a comprehensive peace agreement between the belligerent parties. On 5 May 2006 the Darfur Peace Agreement (DPA) was signed by the Government and Minni Minawi, the leader of one of the two SLM/A factions. This was rejected by JEM and Abdel Wahid al Nur, the leader of the other SLM faction (Dawit, 2007:235, Nathan, 2006:1). For Traub (2010:17) the DPA included most of the language of security, wealth and political power sharing as well as a plan to disarm and reintegrate both the Janjaweed and rebel groups, and the Darfur-Darfur dialogue. The DPA, however, did not offer a guarantee for implementation and it stated nothing on the much talked UN peacekeeping force. While the Fur tribe of Abdel Wahid and many Darfurians discredited the DPA as key parties failed to sign those leaving in IDP camps felt that it lacks a mechanism to help them move to their villages. According to ICG (2006:1), the non-signatories of the DPA namely the SLA faction of Abdel Wahid Mohamed Nur (SLA/AW) and the Justice and Equality Movement (JEM) refused to sign as SLA/AW demands direct participation in implementation of security arrangements and is also dissatisfied with the DPA's provisions for political representation and a victim's compensation fund. ICG (*ibid*), further stated that, JEM maintains that the protocols on

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[19] For the details of each rounds of Abuja Peace Talks see Dawit T. (2007)

power and wealth sharing do not adequately address the conflict's root causes which include "the structural inequities between Sudan's centre and its periphery that led to the rebellion in 2003". On the other hand, the GOS regarded the rebels as "unworthy military, political, and negotiating opponents" and dismissed both SLM and JEM as 'rebels without a cause' and the government never made a substantial concession to them (Nathan, 2007:255). According to ICG (2006:17) the concession made by the government at the Abuja negotiation to the rebels demands regarding greater shares in national decision making and fairer share of revenues for their region were very little. Yet for ICG (*ibid*:18), the major weakness of the DPA is that the responsibility of disarming the *Janjaweed* militias to the GOS despite prior dismal of the same commitment.

After this almost failed peace deal the African Union has tried to re-energize the peace process. First, through organizing peace talks between the GOS and non-signatories in collaboration with the United Nations, the African Union tried to re-energize peace negotiation (HSBA, 2011:1). The hybrid peace effort had planned a three-phased process that consists of aligning regional initiatives, uniting rebel groups and commencing new talks.

> Nine of the factions had come together around a common agenda; five others had joined the "United Resistance Front." Of the major groupings, only Abdel Wahid's SLA kept its distance. In September, the new UN secretary-general, Ban Ki-moon, traveled to Sudan, Chad, and Libya in order to lay the groundwork for a new round of talks. AU officials insisted that such talks be held in Libya, despite the fact that major donors objected and rebel factions recoiled from holding talks in a stronghold of pan-Arab ideology. The UN conceded, and talks were scheduled for the city of Sirte, starting on October 27 (Traub, 2010:20).

Yet this hybrid experiment end up in failure as armed movements boycotted the talks as well as failing to participate in a meeting of armed groups. According to Flint (2010:27), "The Sirte process, no matter how flawed, would have survived had there been sufficient will among the Sudanese to reach an agreement". It is pointed out that most of the rebel leaders were more concerned with personal power than peace as Abdul Wahid for instance made two demands namely "to be recognized as the sole leader of an SLA that was irrevocably fragmented and to negotiate peace only after his protection was guaranteed, failing (or refusing) to comprehend that the two were linked".

Second, the Doha Peace Process has been the last and the long peace initiative that is still underway in Qatar in which AU has been the main actor in the negotiation (Traub (2010:23). One of the major achievements at Doha is the Ceasefire agreement signed between LJM and the GOS. LJM is a new coalition of 11 rebel groups calling itself the Liberation and Justice Movement headed by civil society leader Tijani Seise. Despite the fact that the talks appears positive on the surface in Doha the government has continued to negotiate in bad faith as it has continued military operations in Darfur while the tension within and among rebel groups, shifting allegiances dominated the negotiating rebels (ENOUGH, 2010:1-2). Moreover, the Doha peace process has been dominated by backroom deals that hold little promise to change the situation in Darfur "with no practical thought as to the implementation, monitoring, or enforcement [of] any of the agreements under discussion" (*ibid*). The Mediation team has been seeking a comprehensive peace agreement on Darfur for 20 months but now it is speaking of an outcome document that could be approved by LJM and GOS. According to Dawit, the Mediation team has now submitted a frame work agreement to the parties (GOS, LJM and JEM) and it is scheduled that the Doha process to be completed by 20 March 2011 and Darfur Political process shall be commenced around mid April in Sudan. African Union has prepared a document for the coming political process to be conducted within Sudan. In the same way, the GOS has now adopted a document entitled "Towards a new strategy for achieving comprehensive peace, security and development" to bring the Darfur political process home from Doha[20]. According to Dawit, most of the issues stated on both documents are similar and some overlap. The political agreement at Doha shall be a basis for the internal process and the AU mediation team is preparing the enabling environment with the international community so that the Government of Sudan not to be an obstruction to the domestic process.[21] It has been argued that the shortcomings of Doha and Abuja will only be worsened if the peace process is going to be "domesticated" through cosmic changes of venue and mediation without bringing fundamental change on the ground (ENOUGH, 2011:2). "Recent escalating attacks on civilians by the Sudanese Armed Forces and rebel groups, ongoing restrictions on humanitarian and peacekeeper access, and the detention and repression of human rights activists and political protestors make Sudan an impossible venue for such critical negotiations" (*ibid*).

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[20] Interview with Mohamed Yusif, Ambassador, 11 March 2011
[21] Interview with Dawit Toga, political analyst, African union

Third, AU's negotiation effort has also continued through 2008 and in 2009 and its Peace and Security Council authorized a High-Level Panel on Darfur and the AU High-Level Implementation Panel (AUHIP) on Sudan which is led by former South African President Thabo Mbeki. The AUHIP was established to assist the implementation of all aspects of the AU High-Level Panel on Darfur (AUPD) recommendation, implementation of the CPA and generally to coordinate African engagement with the Sudan. The AUDP is mandated to examine the situation of Darfur and submit recommendation on how best to effectively and comprehensively address the issue of accountability and combating impunity on the one hand and Peace, healing and reconciliation on the other (AU, 2010:xiii). According to Flint (2010:38), the importance of Doha has been declining through time and more importantly the coming of two powerful players into the Darfur issue namely the establishment of AUDP by the AU and the appointment of a Special envoy by the US would undercut the mediation process at Doha. According to the report of the Chairperson of the African Union, the implementation of AUDP's recommendation on justice and reconciliation, Security, political and peace process has been disappointing.

Peacekeeping

The second area of response of the African Union has been peace keeping on the ground. It has been stated that the AU has played a leading role in the drafting and implementing the Humanitarian Ceasefire Agreement of 8 April 2004. The July 27th Communiqué of the African Union Peace and Security Council (AUPSC) mentioned that civilian protection to be a primary objective of AU's force to be deployed (Powell, 2005:31). The AU started sending troops and planned to deploy 7000 troops in Darfur. This mission eventually evolved into AMIS for which additional troop deployment was required. Romeo Dallaire, commander of the UN force during the Rwandan genocide, argue that well trained 24,000 to 44, 000 troops preferably a mix of AU and NATO or Western troops are needed to provide real protection to the Darfur civilians (Totten, 2010:205). The monitoring team of the African Union has not been effective in its activities as it has been under-staffed (CFR, 2004:4).

It has been stated that AU has been motivated by its Constitutive Act on its right of intervention and a sense of giving African Solution to an African problem more than a practical evaluation of

the dynamics of the conflict as well as the poor infrastructure, resources and operational responsibility of AMIS (Aboagye, 2007:3). Even though AMIS was deployed on the basis of Chapter VI of the peacekeeping mandate, it is argued that there is no respectable comprehensive ceasefire and peace agreement. This is due to the fact that the African Union lacks the means, expertise and resources for such kind of intervention that requires complex and modern peacekeeping (*ibid*). The other major problems identified as far as the incapacity of AMIS in protecting civilians is concerned with its slow mobilization, deployment and build up capacity; lack of any coherent involvement of Regional Economic Communities (RECs); lack of structured frameworks of cooperation with the UN until a team was established in 2007 for such purpose; the operational complexities of the functions and composition of the CFC (Ceasefire Commission) that comprised the warring factions. Aboagye (*ibid*:4) summarizes that,

> Thus, coupled with the lack of a comprehensive ceasefire and/or peace agreement, as well as other exigencies of the deployment, the AMIS was saddled with a weak, perhaps incoherent mandate, for which it also lacked the capacity and resources, including a demonstrated operational will for force protection and mission accomplishment.

Yet, AMIS was not a total failure as some argue. By December 2005, AMIS with 7,000 personnel and a civilian police of 1,320 strong has stabilized security on the ground in which it carried out some selective and ad hoc innovative protection such as patrolling water points, firewood places and market days. Yet it is noted that "AMIS did not constitute an overt 'R2P response' to the violence in Darfur" (Badescu and Linnea, 2009:297). Moreover, the existence of AMIS has provided an excuse for the international community to avoid direct involvement in Darfur. The typical example was the West failed to provide attack helicopters, which is one of the major factors for the shortcomings of AMIS (*ibid*).

On the one hand, it has been argued that the African Union has helped to stabilize security and assisted in averting humanitarian disaster.[22] On the other hand, it has been consistently argued by various bodies that the African Union has not done much in protecting civilians as the weak AU monitoring force cannot protect Darfurians and even sometimes was unable to protect itself. By 2007 AMIS have even failed to protect itself as shown in the attack on its base in South Darfur in which ten soldiers died and some were wounded and lost, which is interpreted by analysts that

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[22] Ibid

AMIS has failed to undertake its assigned task. This has continued for long as "political cowardice" of African leaders who failed to confront Khartoum over issues of civilian protection and "the regime's ongoing policy of harassment and obstruction" (Reeves, 2008:53). It has been further argued that, while the AU have been prompt to lead the response on the ground, the UN is considered by most as the right organization that may bring a coordinated response through availing necessary resources and legitimacy (Grono, 2006:626).

3.2.3. Major Powers

Discussion on major powers in international relations might need detailed discussion regarding material capability and other capacities for containing crisis situations. For the purpose of this study, the five permanent members of the UNSC and Canada are taken as major powers that have direct or indirect bearing on Darfur and the humanitarian intervention debate. To begin with, as Prendergast and Colin (2007:1) pointed out, the US, France and China have vested interest in Darfur and a desire to assist to bring peace for various reasons. As far as the US is concerned, U.S. Agency for International Development (USAID) visited Darfur in late-2003 to deliberate on the emerging humanitarian crisis but it was in early April 2004 that the White House issued its first statement on Darfur. It is further stated that the Bush Administration has given attention to the peace negotiation between the Sudan Government and SPLM/A (CRS, 2004:11). Then, in July 2004, the US Congress labeled the Darfur crisis as genocide when the then State Secretary Colin Powell used the term and then President George W. Bush officially repeated the same at the United Nations some weeks latter (Straus, 2005:123). According to Straus (ibid), this is "the first time such senior US government officials had ever conclusively applied the term to a current crisis and invoked the [Genocide] convention".

Looking at the internal dynamics of the decision making of the US, De wall (2007:10) reiterated that there are multiple policies in the US that are at work simultaneously. While the Congress was proposing to intervene and bring the evil doers of Sudan to book, the policy of the State Department was in favor of protecting the CPA. The policy of the US Agency for International Development was sympathetic toward the rebels and to do everything possible to improve humanitarian access. The CIA's policy is inclined towards cooperating with Khartoum on counter-terrorism while the Pentagon avoided in going to Sudan even to airlift AU troops to

Darfur. Then, finally the White House insisted on the United Nations engagement in Darfur and by May 2005 the U.S government stated that the AU must handover its operations to the UN (*ibid*). The response of the US to the Darfur crisis could be looked at from three perspectives. These include US's effort of investigating the crisis and the consequent labeling it as genocide; the attempts of the US in pushing the UN to a more robust action; and the need for extending assistance of various sorts. In this regard, the US played a strong role in supporting the various talks between the GOS and the rebels. So far, the immediate consequences of the U.S. labeling the crisis as genocide has been minimal despite the declarations by Bush, Powell, and the U.S. Congress that was not echoed by the international community. Nor has the United States itself done much to stop the violence (Straus, 2005: 131).

As advocates of "liberal-democratic values" such as the defence of human rights the western world in general and US, UK, and France in particular have faced public pressure to react to the Darfur Crisis (Mickler, 2009:242). According to ICG (2007:16), most of the pressure by the general public and human rights advocates "focused on getting strong international force into Darfur". Even though the west has been pressured by the domestic and international public, policy priorities such as counter-terrorism and the Naivasha peace process has been influencing their actions to pursue coercive measures. Moreover, the military engagement of US and UK in Iraq and Afghanistan has been constraining them to act in Darfur both due to their lack of legitimacy and added pressure on their military capacity. France have been only concerned with Chad, a Francophone neighbor of Darfur that has been directly and indirectly affected by the crisis in Darfur (Mickler, ibid). For Traub (2010:21) France started to play an active role in Darfur when President Nicolas Sarkozy came to power and appointed Bernard Kouchner as his Foreign Minister. "Bernard Kouchner, the humanitarian activist who, in his own abortive campaign for president, had vowed to use forceful means to address the crisis in Darfur." when competing with Sarkozy in the presidential election. As far as China and Russia are concerned, they tend to protect their economic interest by defending Sudan at the Security Council. Moreover due to the minority problem in China and secessionist movements in Russia they have been against all draft resolutions that may give precedent to such kind of international intervention (Mickler, 2009:274). The economic interests of these countries in Sudan as discussed in this chapter have been arms sale and trade as well as investment in the oil industry of Sudan.

The major contribution of the western world has been providing support for the UN mission in Darfur. According to Totten (2010:206), the EU provided approximately 100 million USD and the US provided 45 million USD. In this regard, "Canada has been generous, providing tens of millions of Dollars and, in July 2005, the loan of 105 armoured vehicles with training and maintenance assistance for a year" (*ibid*). According to Dawit, all the permanent members of the UNSC in general and US and China in particular have been helpful in implementing the decisions of the African Union. It is to be recalled that, China helped UNAMID in its effort of deploying troops. He further stated that without the support of all of its partners, AU couldn't have been able to implement its decisions.[23] Yet it has been pointed out that China has remained the most important partner of Sudan in the Security Council with its oil and other investments in Sudan and the business ties between them has been continuing as usual even though some considered that China's recent moves as taking critical approach. This approach, it is stated, observed when China agreed to the conclusion of the Addis Ababa meeting that requested the GOS to agree for heavy support package envisaged (ICG, 2007: 16). As stated on various communiqués of the African Union and resolutions of the UNSC the Addis Ababa consultation of 2006 provides three-phased UN support to AMIS namely Light Support Package (LSP), Heavy Support Package (HSP), and a Hybrid Operation. The HSP proposed for deployment of 2,250 military force with 721 Police and 1,136 civilians to support AMIS before transition to a hybrid force. So, China questioned Bashir's rejection of the HSP and informed that China expected more flexibility from Sudan (ICG, 2007:17).

According to Dawit, the international community has taken measures including the bilateral sanction taken by the US, EU, as well as by the UN and AU. These sanctions are to some extent successful but it has to be noted that effective implementations of sanction has always been difficult.[24] For Garrigues (2007:19) the measures approved by the security council and other actors have not been implemented due to lack of political commitment as well as realpolitik dilemmas and trade-offs. According to ICG (2006:17) statement back in 2006, much more have to be done before the international community resorts to non-consensual military intervention

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[23] Ibid

[24] Interview with Dawit Toga, African Union Commission, March 2011

and that the international pressure should move beyond issuing statements with serious follow-up.

3.2.4. NGOs and Human Right advocates

The Darfur crisis has not only been the focus of state actors and multilateral organizations but also attracted considerable attention from NGOs and Human rights advocacy groups. Advocacy efforts have particularly concentrated in the US. According to Thomas and Julia (2008:149), nationwide campaigns on Darfur have strongly grown in the United States since the start of the crisis. Such movements among others include, STAND (A Student Anti-Genocide Coalition) which was formed at George town University in 2004 and expanded into a network of world student activists. The other important advocacy group, The Save Darfur Coalition, is an alliance composed of "more than 180 faith-based advocacy and human rights organizations with more than one-million activists and 1000 community groups working to end the atrocities in Darfur" (*ibid*). According to Traub (2010:9), the Save Darfur Coalition has become a leading source of advocacy and information and also became a focus of criticism from scholars and diplomats. Other groups that emerged to promote awareness and provide policy solutions in the United States include ENOUGH (a joint initiative of the Centre for American Progress and the International Crisis Group), the Genocide Intervention Network and the Sudan Divestment Task Force. In finding solution to the Darfur Crisis, the Movement has been expanding to other countries such as China, France and Great Britain (Thomas and Julia, 2008: 850).

According to Amuzu, the nature of the Darfur crisis attracted international attention. In addition to advocacy efforts, various NGOs and humanitarian organizations have been operating in Darfur and people around the world have been readily extending their support. Of the various humanitarian organizations operating in Darfur, some are accused of sending sensitive information to their principals in the West. On the One hand, the GOS believes that the information used at international organizations is provided by these agencies whereas on the other hand some NGOs are using Darfur to generate money and not using the whole sum for the intended purpose.[25] These NGOs have also been a source of information for the wider public. According to Moszynski (2005: 619) the government of Sudan accused three NGOs namely

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[25] Interview with Amuzu, Michael Kodzo, Head of Darfur Desk, AU Commission, 8 March 2011

Oxfam, the Norwegian Refugee Council, and Medecins Sans Frontires due to their reporting on issues of rape. Medecins Sans Frontires said its doctors treated almost 500 victims of sexual violence between October 2004 and Mid-February 2005.

One of the most important points in relation to NGOs in Darfur is the expulsion of 13 international and 3 local NGOs from Darfur at the beginning of March 2009 following the issuance of an arrest warrant against President Bashir. These organizations altogether have been providing at least half of the humanitarian assistance they managed to mobilize to the 4.7 Million Darfurians (Traub, 2010:22).

CHAPTER IV

DARFUR FROM R2P AND HUMANITARIAN INTERVENTION PERSPECTIVES

The previous chapter clearly identified that the response of the international community to the Darfur crisis has mainly been slow and ineffective. The UN passed numerous resolutions with little impact in deterring the atrocities in Darfur whereas AU has reacted at the very beginning to bring about political solution but in sending military personnel to Darfur it has fundamentally failed to bring peace and protect civilians. Major powers and humanitarian advocacy groups/movements have not brought significant change to avert the crisis and protect civilians in practical terms. Hence, the international response to Darfur provides a typical case that could be analyzed through the international norm of Humanitarian Intervention in general and the emerging norm of R2P in particular. This chapter first looks at the debate on the norm of intervention in the Darfur crisis and then view the international response through the prism of R2P including analyzing the response through its core principles and elements. The final and the critical part of the analytic chapter highlights the gap between rhetoric and practice regarding the response of the international community to the Darfur crisis.

4.1. Darfur and Rhetoric debate

Before investigating the practical responses in the prism of intervention it is quite necessary to see the prevailing lack of conceptual consensus with regard to how the international community viewed and debated the Darfur conflict. As discussed in the conceptual framework, Humanitarian Intervention began to appear in legal literature after 1840 following interventions such as the English intervention in Greece; the intervention of France and Russia in 1827 to stop Turkish Massacres in 1827; and the French intervention in Syria in 1860 to protect Maronite Christians (ICISS, 2001a:16). Since then, intervention has been fiercely debated. ICISS states that:

> Intervention has long been one of the most controversial issues for diplomats, lawyers, and academics. In the post-Cold War era, and particularly since the NATO intervention in Kosovo, state practice and

scholarly analyses have sharpened the cutting edges of these long-standing controversies (*ibid*:23).

Even though the issue of Humanitarian intervention came at the forefront in international relations following the NATO intervention in Kosovo, its significance reduced after the allied invasion of Iraq in 2003 and resumed its importance again due to the emergence of the crisis in Darfur (Franceschet, 2007:1). In his study of the norm of humanitarian intervention after Iraq, Bellamy (2005:32) argued that "the situation in Darfur reveals two subtle changes to the humanitarian intervention norm". The first change is the fact that US and UK are undermined as the norm carriers elements that became difficult for them to convince other states to intervene in foreign lands for humanitarian purpose as they are currently facing the cost of acting outside the framework of international organizations. The second normative change is that even if the meaning of the language has been strongly debated the "Darfur debates have been deeply infused with the language of responsibility to protect" (*ibid*: 32-33). Not only the UNSC has the legal right to authorize humanitarian intervention under chapter VII of the UN Charter, there has also been a partial consensus among some liberal states that there is a moral right to intervene without UNSC authorization in extreme cases (Bellamy, 2005:34). Thus, a moral consensus has been developing in the international system for humanitarian intervention in supreme humanitarian emergencies.[26]

As clearly stipulated in the conceptual framework chapter, the issue of intervention has been significantly shifted from humanitarian intervention to the R2P debate. As Badescu and Linnea (2009:288) pointed out, the change of conceptual language from humanitarian intervention to R2P is an attempt to move the focus from those who intervene to the civilians in need of protection as well as looking sovereignty in terms of 'responsibility' rather than 'control'. So, the writers argue that,

> As seen so far, there have been many unresolved tensions in the R2P framework since it was adopted by the UN membership in September 2005. It is essential to keep this in mind when reviewing the lack of clear cut answers to the question of how world leaders should have responded to Darfur since 2003 onwards (*ibid*:294).

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[26] See Stromseth, Jane for detailed investigation of the development of Humanitarian Intervention in Holzgrefe and Kohane, ed.

As protection has been framed in the language of the R2P, it helped in mobilizing international attention and recognition of the severity of the Darfur crisis (*ibid*: 302). Nonetheless, "it failed to activate united or even sufficient political will for states to agree on an explicit and convincing response in line with the R2P framework for action" (*ibid*). Yet, it is not difficult to observe that there has been lack of common conceptual consensus. Therefore, protection for Darfur has been viewed as secondary to the sovereignty of Sudan by the UN member states which clearly show the principle of non-intervention and national interest of the international actors have still been strong (*ibid*:303). It is stated that the debate on Darfur has brought the traditional meaning of sovereignty as strong as ever into the UN debates even by those countries that expressed their support for the 2005 World Summit Outcome Document that dealt with the responsibility to protect (*ibid*).

4.2. Darfur and the core principles of R2P

As discussed in chapter two, R2P is a global commitment to put an end to genocide, war crimes, ethnic cleansing and crimes against humanity as well as a shift of understanding in the meaning of sovereignty. The concept was first developed by the ICISS back in 2001 and consequently adopted unanimously by world leaders at the 2005 United Nations' World Summit and was reaffirmed by the United Nations Security Council in Resolution 1674 of 2006. According to Mepham and Alexander (2006:1), despite this defined obligation by the international community the inadequate international response to the Darfur crisis makes one to question the seriousness of this commitment and the integrity of leaders who adopted it. The core principles of R2P as identified by the ICISS and World Summit Outcome Document, among others, pointed out that the primary responsibility of protecting citizens rests upon the state itself and then when the state is unwilling or unable to do that, an international responsibility follows (ICISS, 2001b:xi).

Sudan's Responsibility

Even though the government of Sudan has the primary responsibility to protect its own citizens against atrocities, it has obviously flouted this responsibility (Grono, 2006:625). This has been noticed in the fact that the Government of Sudan (GOS) has been involved in the campaign of ethnic cleansing and has used the Janjaweed militias against the people of Darfur while the UNSC repeatedly directed Sudan to disarm them. To make matters worse, it is pointed out that

the GOS continued to recruit and arm militias and has been skillfully playing one tribe against another (*ibid*). In contrast, Amuzu pointed out that the government of Sudan had quickly moved in to avert the humanitarian crisis in Darfur expressed by the fact that its administration is still running and the government feels that it has the responsibility to assure law and order.[27] Yet, most literature argue that let alone to protect the citizens from harm, Khartoum has even been refusing the intervention of the UN force that could reduce the insecurity of civilians. Besides, the AU force on the ground has been under-equipped, under-staffed and lacks the proper mandate (Reeves, 2008:53). The Khartoum government has been consistent with its disagreement to allow the entry of the UN force. Even though Resolution 1706 and 1769 mentioned and authorized the deployment of 26, 000 troops with a mandate of civilian and humanitarian protection, there has not been a meaningful deployment of personnel and the necessary resource.

In this connection, Reeves (ibid) stated that

> Khartoum's obstructionist tactics have crippled planning efforts and blocked the deployment of key elements of engineering and rapid-response teams. Khartoum has also prevented, without evident fear of consequence, construction of barracks and infrastructure necessary for this complex mission. In turn the failure of militarily capable Western nations to provide the critically necessary transport and tactical helicopters has made Khartoum's efforts all too easy.

So, various reports and studies on the Darfur crisis have documented the fact that the government of Sudan has used *Janjaweed* militias as counter-insurgency forces. Moreover, the GOS has been unwilling to let a strong military presence of any sort in Darfur as clearly observed by its position to this end on various occasions when the issue of Darfur was discussed including consultations at the UNSC. For Badescu and linnea (2009:294), "The actions of the government of Sudan resembled a textbook illustration of a government unwilling to live up to its responsibility to protect its citizens". In his interview with this author, Ambassador of Sudan to Ethiopia, Mohamed, pointed out that the government of Sudan has done its level best to bring about law and order in Darfur and the issue of *Janjaweed* or "devils on the horse back" has been the creation of the Western media that is very much influenced by Jews.

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[27] Interview with Amuzu, Michael Kodzo, Head of Darfur Desk, AU Commission, March 2011

International Responsibility

As far as taking over the responsibility of protecting Darfurians is concerned, some argue that the international community's response to the Darfur crisis has been slow and ineffective (CRS, 2004:11). As documents of R2P indicate, when a state fails to carry out its responsibilities, regional organizations (in this case the African Union) and the UN should take over the responsibility. According to Dawit, the international community has taken all kinds of measures to avert the humanitarian disaster.[28] In this regard, he recalled the fact that the African Union has immediately authorized AMIS which was a force that served in Darfur until 2007 which latter changed itself into a hybrid force. He claims that the African Union has helped to stabilize security, and assisted to avert humanitarian disaster.[29] On the other hand, as indicated in the previous chapter, various documents and some of the key informants pointed out that the African Union has failed to protect Darfurians for various reasons including lack of political will, financial constraints and lack of other necessary resources. The UN has also been vocal in terms of issuing resolutions that have not been strong and Resolutions that were never followed through by members (Bellamy, 2006:156). Further, none of the great powers are willing to act outside of the UNSC and thus the option left has been an intervention from regional organizations such as EU and NATO, which are by themselves related to the three permanent members of the Security Council namely US, UK and France. Hence it is unlikely for both organizations to act in case these states are reluctant to act. Yet, the most obvious organization has been the African Union which despite Article 4(h) of its Constitutive Act that allows for an intervention into a sovereign state, lacked both the capacity and a political consensus to support serious interventionism (Bellamy, 2006:157)

4.3. Elements of R2P and Darfur: Prevent, React, and Rebuild

The three specific elements of responsibility identified by R2P document of the ICISS are the responsibility to protect, the responsibility to react, and the responsibility to rebuild. The R2P documents identified that "prevention is the single most important dimension of the responsibility to protect" (ICISS, 2001b: xi). Some argue that the responsibility to prevent is at least a "smokescreen" that covers the attention given by the ICISS report to the responsibility to

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[28] Interview with Dawit Toga, African Union, Political Analyst, 13 March , 2011
[29] *ibid*

react (Massingham, 2009:807). According to Mepham and Alexander (2006:1) the most contentious of the three is the responsibility to react and especially when it involves the use of military force. Emphasizing on the responsibility to react the ICISS report states that,

> The "responsibility to protect" implies above all else a responsibility to react to situations of compelling need for human protection. When preventive measures fail to resolve or contain the situation and when a state is unable or unwilling to redress the situation, then interventionary measures by other members of the broader community of states may be required (ICISS, 2001b:29).

It is clearly stated that, the responsibility to react primarily focuses on measures that are short of military action and thus coercive measures including political, economic and military sanctions should be primarily examined (*ibid*). Military intervention only follows when certain threshold conditions are reached with additional precautionary principles to ensure that a given intervention remains both defensible in principle and workable and acceptable in practice (*ibid*). Responsibility to prevent is not the subject of the analysis as the world has manifestly failed to prevent the Darfur conflict before it unfolded. Thus the following section analyzes the international community's responsibility to react to the Darfur crisis.

The responsibility to react could take a non-military or military form. As far as the Darfur crisis is concerned, military and/or coercive measures taken by the international community has been almost non-existent as shall be discussed in the next section. The UN approved various resolutions one of which was dealing sending force to the Sudan with Chapter VII mandate. Yet the international community has failed to discharge its responsibility to react through the measures identified. Great powers had chosen to provide support to the African Union forces which has been weak. Even sometimes the AU fails to protect itself let alone protecting citizens while the United Nations has failed to bring about a consensus among the permanent members of the Security Council. According to Reeves (2008:58), "China has done the most to insulate Khartoum from greater pressure imposed by the UN Security Council" and the US as well as European members of the UNSC failed to convince China to change its position. Moreover, these western states have not used their diplomatic and political capital to make Darfur the first-tier international issue due to some considerations related to their own national interests. The Arab league exerted no meaningful pressure on Khartoum but only encouraged Sudan to accept

the hybrid UN-AU force. The AU never confronted Khartoum with any coercive measure and its approximate 9,000 troops became no more capable to fulfill the desired goal (ibid).

4.4. Military intervention and Darfur

The R2P principles which also trace their root to the just war tradition for military intervention are *Just Cause*, *Right Authority*, *Right Intention, Proportionality, Last Resort, and Reasonable Prospect* as discussed in the conceptual framework of this study. The ICISS (2001b:35) stated that for military intervention to be justified these conditions have to be satisfied. For the purpose of analysis, the first principle looked at here is the Just Cause criteria which the ICISS report identified as the Just Cause Threshold to undertake military intervention in a given crisis while the others are only precautionary (*ibid*:32). The responsibility to protect was developed to address situations such as Darfur as it meets some of the key criteria for intervention identified by the ICISS and the other UN documents on the subject.

The Just Cause Threshold

Bellamy (2006:222) questions where Darfur stands in the scale between just cause and right Authority criteria. For him it is reasonable to argue that Darfur is a clearer case than Kosovo or Iraq. As discussed in the previous chapter, Darfur has been depicted as ethnic cleansing, a place where an act more heinous than genocide was carried, and the worst humanitarian crisis. The Just Cause Threshold is the principle that put the fact that military intervention for humanitarian protection purpose is an exceptional and extraordinary measure and there must be serious harm occurring to human beings or likely to occur for it to be warranted (ICISS, 2001b:xii). These irreparable harms, according to this report are large-scale loss of life or large scale ethnic cleansing of various degrees. Still, some argue that such principles stipulated by the ICISS are intransigent and the occurrence of mass atrocities could be strong conditions for regional organization to take strong measures.[30]

Given all the data available from the various UN documents, reports of government commissioned bodies as well as interviewee responses, Darfur has witnessed actual large-scale loss of life with a deliberate state action. This makes Darfur in reality to cross the Just Cause

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[30] Interview with Dawit Toga, political analyst at the African Union, March 2011

Threshold. By the end of 2006, an estimated 250, 000 people died and nearly 3 Million were displace in Darfur (Feinstine, 2007:103). According to Feinstine (*ibid*:100), slow-motion ethnic cleansing is the most recent case of a state supporting mass atrocity in Darfur when the rest of the world did very little to end the killings. For Bellamy (2006:223), given all the description and statement from UN officials the Darfur conflict "has crossed the just cause threshold" and thus regional organizations, states and coalition of the willing are entitled to intervene to protect Darfurians without either UNSC authorization or the consent of Khartoum.

According to ICG (2006:16), the situation in Darfur has "unquestionably satisfied" the criteria for military intervention. The policy brief of ICG highlights about the seriousness of the threat in Darfur as follows:

> Is the threatened harm to state or human security of a kind, and sufficiently clear and serious, to justify *prima facie* the use of military force? In the case of internal threats, does it involve genocide and other large-scale killing, ethnic cleansing or serious violations of international humanitarian law, actual or imminently apprehended? In the early stages of the Darfur conflict this criterion was unquestionably satisfied; it is probably met again now and certainly would be if the African Union force were to leave and no UN force replace it. The security and humanitarian situations have worsened dramatically over the past year, especially after the DPA was signed. Humanitarian access is the lowest since 2004 (*ibid*).

The above analysis was made before the establishment of UNAMID and there was not much done by UNAMID's presence as it will be argued in the last section of this chapter. Since 2004, however, attacks against civilians and on humanitarian organizations has increased; the belligerents still seek to resolve the crisis through military means; the Janjaweed have been incorporated into formal military; Aerial bombardment of villages by the government continued (ICG, 2006:16). When the just cause threshold is crossed, the other criteria that should be satisfied to consider military intervention have been labeled as the precautionary criteria.

Right Authority

This is the first precautionary criterion identified by the ICISS that remained a priority in the just war tradition. It stipulates that the decision to use force has to be made by the rightful authority namely the UNSC. The ICISS report (2001b:xiii) stated that:

> Security Council authorization should in all cases be sought prior to any military intervention action being carried out. Those calling for an intervention should formally request such authorization, or have the Council raise the matter on its own initiative, or have the Secretary-General raise it under Article 99 of the UN Charter.
>
> The Security Council should deal promptly with any request for authority to intervene where there are allegations of large scale loss of human life or ethnic cleansing. It should in this context seek adequate verification of facts or conditions on the ground that might support a military intervention.
>
> The Permanent Five members of the Security Council should agree not to apply their veto power, in matters where their vital state interests are not involved, to obstruct the passage of resolutions authorizing military intervention for human protection purposes for which there is otherwise majority support.

Moreover, when the UNSC fails to deal with such grave matters the UN General Assembly, regional or sub regional organizations should act in lieu of the Security Council (ibid). According to Bellamy and Paul (2006:145), in the Darfur crisis, the UN had taken an ambiguous position at the beginning while the African Union's position was trying to organize and assemble an intervention force. The UN failed to impose serious sanctions on Sudanese officials and did not publicly contemplate using force to protect civilians or provide humanitarian aid. It has eventually passed sanctions on few individuals, arms embargo, and a no-fly zone and referred the issue to the International Criminal Court (ibid). Looking at the details of the debate at the UNSC, Bellamy and Paul (2006:155) emphatically concluded that at least two of the permanent members of the Security Council, namely Russia and china as well as some non-permanent members consistently refused that human rights should trump over sovereignty despite a clear evidence of mass murder and ethnic cleansing. For Garrigues (2007:19), China and Russia couldn't see beyond multi-million contracts of arms sale and oil investments and there has not been a unified vision at the Security Council on a best strategy to follow as far as the Darfur crisis is concerned. Thus, veto power has consistently come to the fore by China and Russia

which shows how "unfair and old-fashioned" and ineffective the Security Council is in reality (*ibid*).

Right Intention

Right intention, as discussed in chapter two, is one of the primary *jus ad bellum* criteria which imply that, the decision to militarily intervene should aim at ending human suffering in the target state, which in this case is Sudan. According to the R2P framework, to ensure the predominance of humanitarian motives the intervention has to be multilateral and has to incorporate regional opinion and the victims concerned. When looking at Ambassador Mohamed's description of the Western position on the Darfur issue, the West lacks a Right Intention motive to intervene.[31] For him, humanitarian organizations have a hidden agenda and he mentions that Darfur has long been known for its endowments in mineral resources such as uranium, lead, oil and even underground fresh water. According to the Ambassador, some humanitarian organizations have been taking soil samples for laboratory taste. On the other hand, Western politicians were making Darfur an issue of election campaign among which Senator John Kerry of the US and French President Nicholas Sarkozy are the major ones. Based on Sarkozy's promise to save Darfur, the French tried to intervene into Darfur from the Chadian border that benefited Khalil Ibrahim (the leader of JEM) to launch attack against the GOS through French technical assistance. In addition to supporting the Save Darfur motto a coalition manipulated by the Jews and Sarkozy's Jewish ancestry, Khalil Ibrahim has based himself in France.[32]

However, the view of the international community in general and the West in particular with regard to responding to the Darfur crisis has been only humanitarian. According to ICG (2006:16), the primary purpose of proposed military action in Darfur is to avert the threat in question whatever motive was involved and Darfur is bereft of natural resources and strategic value and the international interest in Darfur is "undoubtedly primarily humanitarian". Yet the GOS have been trying to change the terms of the debate as it argued domestically and in the Arab world that the international interest in Darfur has been "a western or Zionist plot against Islam" (*ibid*).

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[31] Interview with Mohamed Yousif Hassan, Sudanese Ambassador to Ethiopia, March 11, 2011
[32] *ibid*

Reasonable Prospect

A reasonable chance of ending human rights abuse is another precautionary criterion to justify the use of force in a given crisis. It is stated that success in humanitarian intervention can be evaluated in two phases, namely success in stopping atrocities and success in addressing the root causes of the crisis. In view of these, it is difficult to assume humanitarian intervention to be successful in Darfur. According to De wall (2007:1047), "Darfur is the locus of several complex conflicts involving many different armed groups and, consequently, a range of different types and layers of conflict and threat". He further stated that the classic peacekeeping arrangment was found insufficient as the Ndjamena humanitarian ceasefire agreement has failed to be implemented by the signatories. Traditional peacekeeping is difficult as there is no territorial delineation given that there have been numerous independent armed groups. Moreover undertaking attacks such as the ones done in Iraq, Afghanistan or Kosovo was not practical as NATO countries were not willing to commit large numbers of troops that would be required to sustain casualties, cost and indefinite commitment required of a ground occupation (*ibid*).

According to the ICG (2006:17), this is the hardest criterion that could be satisfied against all the odds stated above since this could not make the R2P concept irrelevant. Rather it might have to be implemented by means of falling short of full-scale coercive military intervention. It is further pointed out that a coercive deployment is very much difficult for various reasons (*ibid*). Some of the reasons that would make a non-consensual force to operate in Darfur difficult are identified by the International Crisis Group. These include first, logistically Darfur is landlocked and has poor air infrastructure. Second, there is a big risk of civilian causalities affecting those that are already concentrated in IDP camps who are defenseless hostages. Third, there is a risk of inevitable collapse of humanitarian relief operations that endangers the lives of civilians. Fourth, the CPA and UNMIS activities would be jeopardized and fifth there could be a risk of continuous insurgency including those that could be backed by al-Qaeda (ibid). Badescu and Linnea (2009:295) further add that "from the UN Secretariat's point of view, a multilateral military intervention in Darfur was unfeasible" and it would be difficult for the UN and the contributing states to access Darfur with the 'considerable logistics and resources they would require'.

Yet, even for making a consensual deployment, the UN requires political agreement among the parties to carry out peace keeping operation. According to Dawit, the AU did not wait for such an agreement as causalities may rise when waiting for a political agreement and negotiation that may take longer than it is anticipated.[33] He further noted that if AMIS had the necessary military capability, it could have done much better than even NATO or the UN force.

Proportionality

This criterion states that the response to humanitarian crisis should itself be humanitarian. Thus, any military intervention in Darfur has to mainly deal with protecting civilians and stop lawlessness and impunity. According to ICG (2006:17), the general consensus among experts was that a force between 40,000 to 50,000 troops would be required, which is at least double the number required if it is in cases of consensual deployment. Yet some argue that the use of force for humanitarian intervention in Darfur remains a limited and short term solution to the problem (CIHRS, 2007:3). Moreover it was pointed out that,

> Nonconsensual humanitarian intervention (i.e. carried out without the consent of the GoS) within Darfur has the danger of causing further destabilization in Sudan, and the region. Therefore, any humanitarian action that is taken in Darfur may cause more harm than good, unless it is carried out in a widely accepted/supported manner that is in conformity with international law. Any intervening UN force may have to secure the acceptance of the Sudanese government to avoid a further escalation and intensification of the conflict (*ibid*).

So, the scale, duration and intensity of the proposed military action is considered the necessary minimum required to meet the threat in Darfur (ICG, 2006:17).

Last Resort

According to the Last Resort criterion, primarily there must be an effort to find political solution to a crisis but this doesn't require the exhaustion of every means short of using force. If it did, force would never be used because one can always continue to negotiate. It is clearly stated that the responsibility to react primarily focuses on measures short of military action and certain

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[33] Interview with Dawit Toga, African Union Commission, March 2011

conditions must be fulfilled before contemplating military intervention. The ICISS report point out that these measures in particular include political, economic, and military sanctions. Moreover, effective monitoring is crucial to make the sanction's prospect for effectiveness (ICISS, 2001b:30). In the military area, arms embargo includes sale of military equipment and spare parts and ending military cooperation and training programmes. Economic Sanction include financial sanction that target foreign assets of a country or a particular leader, restrictions on income generating activities such as oil, diamond and logging, restrictions on access to petroleum products and aviation bans that generally prohibit international air traffic to or from a particular destination. In political and diplomatic terms, sanctions include restrictions on diplomatic representation and expulsion of staff to limit illicit transactions (such as illicit commodities or purchase of arms or movement of funds), restrictions on travel, suspension of membership or expulsion from international or regional bodies which not only affect national prestige but also technical cooperation and financial assistance (*ibid*).

In this regard, the United Nations imposed sanctions on Sudan by UNSC Resolution 1556 (2004) in relation to the humanitarian crisis including attacks on civilians. These sanctions are strengthened by the UNSC Resolution 1591 (2005), which includes arms embargo, and imposed additional measures including travel ban and asset freezes on individuals identified by the committee established by the same resolution 1591 despite that China, Russia and Algeria abstained. Traub (2010:15) argues that it is only because oil embargo was left out that China did not veto the sanction. Further, the arms embargo was strengthened by UNSC Resolution 1945. The other issue was the fact that Resolution 1593 of the UNSC referred the allegation made by the IOC (International Commission of Inquiry) to the ICC on which US, China, Algeria and Brazil abstained. According to Traub (2010:21), the only stick that the UN was left with was the ICC indictment in which the ICC issued arrest warrant to apprehend Ahmad Muhammad Harun and Ali Muhammad Ali Abd al-Rahman on April 27, 2007. The former was a cabinet Minister who played a key role in recruiting, funding, and arming the Janjaweed while the latter is a Janjaweed leader. Both are charged with war crimes and crimes against humanity, including murder, torture, and rape. Moreover, on March 4, 2009 an arrest warrant was issued on President Bashir on charges of genocide, war crimes and crimes against humanity. For Traub (*ibid*) "Persuasion and incentives had not worked; and yet pressure and actual punishments had never

been strong enough to deter the regime from pursuing a policy that it considered essential to its very survival."

According to Dawit, the international community has taken measures including bilateral sanctions taken by the US, EU, as well as by the UN and AU. These sanctions are to some extent successful but it is to be noted that effective application of sanctions has always been difficult.[34] For Garrigues (2007:19), the measures approved by the security council and other actors have not been implemented due to lack of political commitment as well as realpolitik dilemmas and trade-offs. According to ICG (2006:17), back in 2006 much more have to be done before the international community resorts to non-consensual military intervention. The international pressure should move beyond issuing statements with serious follow-up.

4.5. Gap in Rhetoric and Practice of Humanitarian Intervention in the Darfur crisis

This section identifies the gap between rhetoric and practice of humanitarian intervention as far as the international response to the Darfur crisis is concerned. To this end, the inactions of the international community shall be highlighted and explained. First of all, the gap between rhetoric of humanitarian intervention and the actual emphasis given to the principle of sovereignty and non-intervention shall be analyzed. Secondly, the rift observed in the anticipated civilian protection and the peacekeeping operations in Darfur shall be examined. Thirdly, the expectations of Darfrians, the rebels and the international community at large shall be compared against the actual outcome of actions and inactions of the international community.

Humanitarian Intervention versus Sovereignty

There has been declared support for the idea of sovereignty as responsibility and various UN reports suggested that sovereignty cannot be any more a shield to cover mass atrocities. The level of atrocity that include huge number of deaths, large number of Darfurians destined to be internally displaced, tortured, and reported mass rape are well documented. As already pointed out in this chapter, the crisis in Darfur has crossed the just cause threshold and identified as the worst humanitarian crisis. Reeves (2004c:6) argued that "certainly if present genocidal horrors

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[34] Interview with Dawit Toga, African Union Commission, March 2011

are not sufficient cause for intervention, then it is impossible to imagine some future galvanizing developments in Darfur that might be the final spur to action".

One of the challenges of the realization of R2P in the Darfur conflict since 2003 has been the norms of non-intervention and sovereignty that are strong among the UN member states than the emerging norm of R2P (Badescu and Linnea, 2009:302). Despite persistent call for intervention, the international community has failed to intervene in Darfur, which has mainly to do with the consistent support for the Sovereignty of Sudan. As Badescu and Linnea pointed out "the Security Council was not willing to consider intervention in Darfur without the consent of the government in Khartoum". The reluctance to challenge the Sovereignty of Sudan was not only seen by the UNSC but also all actors that have been supporting AMIS and UNAMID. It has also been argued that all activities regarding Darfur including the deployment of the AMIS force has never been considered by the African Union without the consent of the government of Sudan (ibid). Solomon claimed that the involvement of the African Union is not an intervention in strict sense but peacekeeping of some sort. It was thus a negotiated deployment between AU, UN and Sudan which otherwise wouldn't have been accepted by the latter. Solomon further adds that it is not clear if the international community could have done much better in terms of providing support to protect the civilians in Darfur.[35] George W. Bush asserted on 17 February 2006 that a security force for Darfur requires NATO's stewardship and doubling of peacekeepers to which NATO's officials replied that there shall only be a minimum support and alliance in Darfur. Moreover, the expectation for the UN to take a robust action with meaningful authority to stop the killing in Darfur never materialized (Reeves, 2010:167). Explaining UN'S lack of meeting the expectation in view of R2P, Badescu and Linnea (2009:303) state that:

> As such, it becomes clear that UN member-states viewed protection for Darfur as secondary to their respect for Sudan's sovereignty, which speaks to the strength of the non-intervention norm and to the self-interested motives of international actors in connection with Sudan. The international response to the conflict in Darfur further illustrates that there is no consistent political will from powerful states, especially those that have declared their support for R2P, to commit military forces in ways that would challenge the traditional meaning of sovereignty. So far, the concept of sovereignty as responsibility appears wedded to preserving international order.

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[35] Interview with Solomon , Institute of Security Studies, March 2011.

Thus, it has been manifestly observed that states and multilateral bodies have failed to forcefully intervene in the Darfur crisis due to the traditional non-intervention in the domestic affairs of a sovereign state. The other problem that caused the gap between the rhetoric of humanitarian intervention in general and the R2P in particular has emerged from the extent to which members of the UN expressed their commitment about the R2P back in 2005. This "explains the lack of unified position on the most appropriate ways to respond to Darfur" (Badescu and Linnea, 2009:303). The lack of commitment to the practical criteria of the R2P has its roots in the UN meetings in which the international community failed to incorporate the criteria for intervention into an international agreement in the 2005 World Summit in which the wordings of the paragraphs of the outcome document on R2P. This reduced the sense of obligation on the Security Council to act. It is also argued that the members of the UN have recognized to react to the Darfur conflict but it is difficult for the Security Council to deploy a non-consensual intervention into a state while the government is functioning. Thus, the government of Sudan has consistently reminded members of the UN about its juridical sovereignty and thus the right to oppose foreign interference to the Darfur crisis which it considered as a domestic issue (Badescu and Linnea, 2009:295). Moreover, the Security Council is too easily distracted as it has failed to act robustly and has done little to enforce its decisions (Traub, 2010:26).

Prevention versus Peacekeeping

The other major gap between rhetoric and practice of intervention and the response to the Darfur crisis has been the continuous emphasis given to "peacekeeping" and the actual lack of protecting civilians or stop mass atrocities. According to Breau (2007:430), the debate whether peacekeeping operations could use force to protect civilians would be resolved in the face of a duty to prevent genocide, crimes against humanity and war crimes. These atrocities are stated on the R2P commitment of the international community on the World Summit Outcome Document of 2005. Breau (ibid) is optimistic on what R2P possibly changes on the basic substance of peacekeeping and argued that:

> UN operations will evolve into true collective security actions to deal with threats to the peace posed by intra-state conflicts. Peacemakers will be sent into situations of civil wars with robust mandates and rules of engagement

that require intervention to protect the civilian population. If the responsibility to protect in its full meaning is accepted, multi-dimensional activities will take place with three elements: early warning and prevention, robust and timely reaction, and comprehensive rebuilding.

These mandates and rules of engagement have been stated as the responsibility to prevent, react and rebuild in the ICISS report. According to Breau (2007:430), various reports have been produced on the future of the United Nations that have also recommended on matters of peacekeeping operations in which most of the recommendation has been implemented. These reports include *An Agenda for Peace*, the *Brahimi Report*, *The Responsibility to Protect*, *A More Secure World*, *In Larger Freedom* and Kofi Annan's *Action Plan to Prevent Genocide.* Yet "the comprehensive notion of R2P and its various components has not yet been adopted as best practice in peacekeeping". Hence it could be argued that the ICISS report envisages a dramatic departure from traditional peacekeeping in which it explains intervention for human protection purpose without consent of the state in which deployment is to be undertaken. The three elements identified by the ICISS, namely the responsibility to prevent, react, and rebuild must be implemented in peacekeeping operations. In the responsibility to react phase, which the international community is expected to discharge its effort in Darfur, a given military operation should be able and willing to engage in a robust action which in reality transcends the hitherto Rules of Engagement of traditional peacekeeping that used minimal force in self-defense (*ibid*:432). Thus, there has been a continuous rhetoric and an agreed upon document dealing with protecting civilians by the international community. This has never been implemented in the Darfur crisis.

Reeves (2004a:4) stated at the outset that there shall not be a robust international humanitarian intervention with a task of protecting civilians as the tacit decision by political leaders at the UN, EU, US or elsewhere suggest. He argues that "though there has been no fully honest acknowledgement of this decision, it has all too clearly been made". For Breau (2007:452) the UNSC has been "staggeringly slow" to respond to the grave crimes in Darfur and the 2005 resolution that established a UN peacekeeping mission in Sudan (UNMIS) to monitor the CPA did not incorporate Darfur in its mandate. It has also been pointed out that Darfur is an example of the failure of the UN system and the most important action taken in this regard was the referral of the Darfur case to the International Criminal Court. Further, though there is a

transformation in the kinds of the mandate given to the UN forces, the R2P has not yet adopted the UN peacekeeping operations (*ibid*). For Hughes (2010:267), the primary operational tools for the international community are sanctions and military intervention, as peacekeeping thus far has not been successful. In view of this, discussing the peacekeeping operations in Darfur and their pitfalls necessitates a close look at the discrepancy between the envisaged civilian protection and peacekeeping conundrum.

Military operation in Darfur goes back to the Ceasefire Agreement of April 8, 2004 in which the parties to this agreement, namely GOS, SLM/A, and JEM agreed, among others, to create a team of military observers with an attached protection force to monitor the ceasefire. This protection force was then named AMIS. Initially, it was decided by AUPSC (African Union Peace and Security Council) that AMIS was to be made up of unspecified number of military observers with a limited mandate of monitoring the ceasefire as well as protecting the monitors (Ekengard, 2006:14). By 2007, AMIS have even failed to protect itself when an attack of its base in south Darfur in which ten soldiers died and some left wounded and lost took place. This was interpreted by analysts that AMIS failed to undertake its assigned job. In line with the failures of AMIS, there has been continuous campaign in the West for a hybrid force and its acceptance by the GOS. This force was then established on July 31, 2007 by Resolution 1769 of the UNSC. Hence, AMIS ceased to exist when UNAMID joint special representative took up his command on December 31, 2007 in Addis Ababa. Resolution 1769 has thus given the peacekeeping operation more mandate and power. The resolution stated that:

> *Determining* that the situation in Darfur, Sudan continues to constitute a threat to international peace and security,
>
> *Decides*, in support of the early and effective implementation of the Darfur Peace Agreement and the outcome of the negotiations foreseen in paragraph 18, to authorise and mandate the establishment, for an initial period of 12 months, of an AU/UN Hybrid operation in Darfur (UNAMID) as set out in this resolution and pursuant to the report of the Secretary-General and the Chairperson of the African Union Commission of 5 June 2007, and *further decides* that the mandate of UNAMID shall be as set out in paragraphs 54 and 55 of the report of the Secretary General and the Chairperson of the African Union Commission of 5 June 2007.[36]

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[36] UNSC, Resolution 1769 (S/RES/1769/2007), pp3.

The report of these dignitaries proposed a mandate and structure for a hybrid operation in Darfur and described the effort of the international community to support the peace process in Darfur. According to paragraph 54 of the report the proposed mandates of the hybrid force was:

> (a) To contribute to the restoration of necessary security conditions for the safe provision of humanitarian assistance and to facilitate full humanitarian access throughout Darfur;
> (b) To contribute to the protection of civilian populations under imminent threat of physical violence and prevent attacks against civilians, within its capability and areas of deployment, without prejudice to the responsibility of the Government of the Sudan;
> (c) To monitor, observe compliance with and verify the implementation of various ceasefire agreements signed since 2004, as well as assist with the implementation of the Darfur Peace Agreement and any subsequent agreements;
> (d) To assist the political process in order to ensure that it is inclusive, and to support the African Union-United Nations joint mediation in its efforts to broaden and deepen commitment to the peace process;
> (e) To contribute to a secure environment for economic reconstruction and development, as well as the sustainable return of internally displaced persons and refugees to their homes;
> (f) To contribute to the promotion of respect for and protection of human rights and fundamental freedoms in Darfur;
> (g) To assist in the promotion of the rule of law in Darfur, including through support for strengthening an independent judiciary and the prison system, and assistance in the development and consolidation of the legal framework, in consultation with relevant Sudanese authorities;
> (h) To monitor and report on the security situation at the Sudan's borders with Chad and the Central African Republic.[37]

Moreover, paragraph 55 of the said report outlines the tasks that UNAMID is going to undertake to achieve the goals set in its stated mandates. In addition to this broad mandate, Resolution 1769 in its paragraph 15 pointed out that the UNAMID shall act under Chapter VII of the Charter of the United Nations.

Flint (2010:44) stated that despite the "deafening" attention given to UNAMID by the international community, the record pertaining to practical support has been disappointing. Key informants at the African Union and ISS has also clearly pointed out that the actual support in military terms has been very much less and it was only in November 2009 that UNAMID

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[37] UNSC, latter dated 5 June 2007, From the Secretary-General to the president of the Security Council, pp 13.

received the first tactical helicopters from Ethiopia (Flient, 2010:44). Dawit mentioned that UNAMID has reached 97 percent of its deployment with 25, 000 troops but the force still lacked enablers such as transport helicopters and other means of transportation. Moreover, it is pointed out that UNAMID has created a reporting and monitoring space but developed limited ability to stop crimes (Flint, *ibid*). For Badescu and Linnea (2009:300-02), UNAMID did not offer "meaningful protection" for Darfurians and they are "losing faith in the international community's will or ability to help them". Furthermore, UNAMID's mandate and purpose have been vague and contested. The other main problem attributed to the mission's failure has been lack of comprehensive strategy (ibid). Lack of comprehensive field assessment of all armed parties and absence of confidence between the parties has been some of the factors that made the assumption on which UNAMID's planning was flawed (De wall, 2007: 1049). It has been pointed out by the UNAMID force commander that the peacekeepers wouldn't stand between parties that are fighting as there is no peace to keep and the role of the UN has never been to wage war (Badescu and Linnea, 2009:301).

According to Badescu and Linnea (2009: 301-02), "UNAMID troops [were] caught between a rock and a hard place". This is to mean that on the one hand the UNSC member states that authorized the force did not support the mission in building its military capacity for providing tactical and transport helicopters. On the other hand, the UN has to get permission from Sudan on various issues including land use, troop composition and night flights. These challenges have caused problems on UNAMID's force itself let alone for it to become a protection force. As Birikorang (2009:10) described, it was not only the civilian population that were attacked but also the peacekeepers. For instance ninety vehicles which belong to peacekeepers and NGOs were hijacked at gunpoint in 2008. The peacekeepers have been constantly ambushed and killed and were obliged to travel along dangerous and unfamiliar routes by road. The attacks have been perpetrated by the various groups that have been split from JEM and SLA/M. By October 2008, there are 27 such rebel groups who have their own individual goals and demands. Thus, "even though the AU forces were re-hatted into UN peacekeeping force, most of the problems faced by the AU Mission were still being encountered by UNAMID" (*ibid*).

Expectations versus Outcomes

This is the last but not the least gap identified as existing between expectations of "saving" Darfur and the actual outcome on the ground as far the involvement of the international community is concerned. De wall (2007:1054) emphatically stated that there has been an inflated expectation regarding the limited international force that was expected to protect Darfurians. The expectations of advocates, rebels in Darfur, and those concerned with Darfur have also emanated from the fact that the crisis has been viewed so much in the prism of the newly developed R2P principles in general and the hope that the world has learned much from the Rwandan genocide in particular. In view of this, various organizations invoked the R2P principles and its possible rescue of the crisis in Darfur. These institutions include the UN, International Crisis Group (ICG), Human Rights Watch, Amnesty International, ENOUGH, The Global Center for the Responsibility to Protect, FRIDE (a Madrid based think-tank), the Council on Foreign Relations (CFR), the Media, and a number of prominent individuals as well as experts. According to Hamilton and Chad (2007:337), Darfur has had the benefit of being compared with Rwanda and the guilt it produced whereby movements in Washington have clearly sent a message that America is watching the perpetrators. Explaining the hope of the people of Darfur and how they were following up the Western capitals and movements, the writers noted that "Half a world away, Darfurian refugees gathered around short-wave radios listening to news of the rally". In short, there have been unprecedented expectations from the people and the rebels of Darfur that the international community shall save Darfur as fast as possible.

However, there has never been consensus on hierarchy of relevant norms to intervene in Darfur at the UN Security Council as China insisted on Sudan's consent for military presence. Moreover, the willingness of the international community to commit forces and resources to the under-resourced UNAMID was found to be insufficient (Bellamy, 2010:154). According to Mickler (2009:244), China and Russia have largely opposed the Security Council not to pass mandatory and punitive measures against the GOS. The ICISS report pointed out that humanitarian intervention is unlikely to occur if that clashes directly with the national interests of the major powers. As far as Darfur is concerned, there have been two sets of interest by China and Russia. The first one is the fact that both countries have their own disaffected minorities and

secessionist claims in their respective countries. Secondly both China and Russia have "substantial lucrative trade and investment relations" with the Sudan.

As Flint (2010:8-11) pointed out, the UNSC labeled Darfur 'a threat to peace and international security' and it has used various international instruments to address the Darfur issue which among others include peacekeeping, peacemaking, special envoys, mediators, sanctions, embargos, criminal prosecution whereas "peace remains as elusive as ever". Flint also pointed out that it is ironic to see the United States normalize relation with Khartoum. The US has been the only state with compelling leverage over Khartoum but has not contributed anything except calling the conflict genocide. As Badescu and Linnea (2009:303) argued, lack of political agreement with regard to the role that peacekeepers could play in armed conflict characterizes the limitation of the international community to protect civilians in Darfur. This political disagreement has been clearly shown in the vague mandate, fragile political environment, and poor resources and support provided to both AMIS and UNAMID. Neither the AU nor the UN changed the behavior of the GOS but they rather respected its requirements so as to operate on the soil of Darfur. It is not only changing the behavior of the GOS but the international process to bring peace to Darfur has become complicated due to the various disagreements among and between these international organizations (Flint, 2010:43). It should be noted that the horrific offences of 2003-04 is replaced by a more complicated crisis of multiple internal wars, a thriving war economy and increased regional competition for influence. At the end of the day, criminality has replaced armed conflict as the major driver of insecurity in Darfur and humanitarian access has also been significantly declining and the inability of UNAMID to stop crime has been declining (*ibid*:44).

CHAPTER V

SUMMARY AND CONCLUDING REMARKS

The study analyzed the response of the international community to the Darfur crisis using the doctrine of humanitarian intervention in general and the newly emerging norm of R2P in particular. First of all, to address the central concern of the study, the problem statement and the consequent objective is constructed in brief. The second chapter not only sets out the conceptual framework that range from describing the theoretical conceptions on intervention and the world order regarding the R2P norm but also defined and reviewed humanitarian intervention practices and norms in the international system. In the third chapter, the study uncovered and analyzed the magnitude of the Darfur Crisis and the international response derived from United Nations, the African Union, the major powers, and human rights advocates in putting the right context for analysis.

The major chapter of the study analyzed the responses to the crisis in the lens of the R2P principles. First of all, it looked at the core principles which indicated that the host state (in this case Sudan) should protect its citizens and if it is unwilling or unable to do so the international community has to take over the responsibility to protect. The study found out that neither Sudan nor the international community protected Darfurians from atrocities, torture, rape, and other physical assaults. On the one hand, instead of protecting civilians the GOS skillfully played one tribe against the other and also used the *Janjaweed* militias to commit atrocities as counter-insurgency forces. On the other hand, the response of the international community to the crisis has been slow and ineffective in which the UN have mostly been vocal by issuing weak resolutions. The AU lacked the necessary financial and material resources as well as the political will whereas the major powers have fundamentally lacked the political will to act by themselves in enforcing the decision of the Security Council.

Secondly, there are three specific elements that the R2P documents outline, namely the Responsibility to Prevent, the Responsibility to React, and the Responsibility to Rebuild. This study used the Responsibility to React as the main instrument of analysis as it is the most relevant in view of its stated objectives. The study found out that the international community

has registered a highly limited achievement in its Responsibility to React. The Responsibility to React takes non-military and military forms. The non-military measures are various kinds of sanctions and diplomatic efforts rather than direct military involvement in a conflict. As far as Darfur is concerned, there are some sanctions that the UN issued but never implemented. Some bilateral sanctions from the west were also attempted with minimal effect to change the behavior of the GOS in the effort of protecting civilians. The ICC indictment has not brought civilian protection and negatively affected humanitarian operations in Darfur due to lack of enforcement.

The other component of the Responsibility to React is the military one. This study has undertaken detailed analysis on this specific component as humanitarian intervention is conceptualized as a coercive action as well as an armed action taken against a sovereign state by states and/or organizations seeking to protect civilians. To analyze whether the international community should react militarily in Darfur, the study used the criteria identified by the R2P principles that include *Just Cause*, *Right Intention, Proportionality, Last Resort, Reasonable Prospect, and Right Authority*. The just cause criterion has been the single most important factor to justify such kind of military intervention. The study found out that the Darfur crisis have crossed the just cause threshold, "a harm sufficient to trigger military intervention overriding the non-intervention principle". However the international community failed to undertake military intervention and even failed to send a strong peacekeeping force to Darfur. The other criteria are only precautionary. The study has analyzed if these criteria have been satisfied to strengthen the just cause threshold. According to the R2P framework, the precautionary criteria taken in view of the just Cause threshold could have entailed for the Right authority which is the UN Security Council to decide regarding the need for humanitarian intervention.

The study critically analyzed the situation in Darfur by taking each precautionary criterion into account and found out mixed results that do not preclude military intervention. Right Intention of protecting civilians does exist, even though challenged by the GOS, which could be expected from an accused state actor. As for proportionality, the study found out that a military operation without the consent of the GOS may cause more harm than good especially if the scale, duration and intensity of such military operation is considered. It is pointed out that a given military intervention should be the minimum necessary to prevent or stop human suffering. On the other hand, Last Resort does not require the exhaustion of every means short of force to undertake

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military intervention and the study found out that there have been some measures of sanction that were passed by the UNSC but never followed up. Thus implementation of the already existing sanctions could have been much better than using military force. Since sanctions were not followed through, the conditions for the last resort criterion for military intervention appears to have been fulfilled. Reasonable Prospect is measured in terms of stopping atrocities and addressing the root causes through sustainable solution. The study found out this to be the hardest criterion that could be satisfied for various reasons that range from poor air infrastructure to a risk of emergence of continuous insurgency. Lastly, the final criterion is the principle of Right Authority. It is the UNSC that should deal with military intervention and mobilize effective resources to that effect and deal promptly with any request for authority to intervene where there are allegations of large scale loss of human life approximating ethnic cleansing. In this regard the study found out that the UNSC has failed to act promptly due to its ineffectiveness despite the fact that its latest resolutions have clearly showed that the conditions for right authority has been met and the principle of R2P was even invoked.

Based on the analysis made to the case study using these criteria, the study has identified gaps between the norm of humanitarian intervention and its practice in the Darfur crisis that it set at the very beginning as one of its objectives. First, there is a gap between norms of intervention on the one hand and sovereignty that is strong among the UN members on the other. Despite persistent calls for intervention and the existence of humanitarian intervention norm and practices, the international community has failed to intervene in Darfur. Second, there is a wide acceptance of the need for protecting civilians through revitalizing peacekeeping operations but the international community (UN, EU, US and more others) tacitly and practically failed to bring about a robust peacekeeping force charged with the task of protecting civilians. Finally, there is a huge gap between expectations and outcome in protecting civilians. There have been expectations from the international community including advocates, rebel groups and those concerned with the usage of R2P in the crisis. The hope that the world has learned much from the Rwandan genocide and has witnessed interventions for humanitarian purposes remained unrealized. But lack of consensus on hierarchy of relevant norms to intervene in Darfur at the UN Security Council and the unwillingness of the international community to commit sufficient forces and resources to peacekeeping efforts in Darfur have characterized the international response to the crisis in Darfur.

The overall conclusion that is drawn from the analysis of the findings is that the international community has failed to respond to the Darfur crisis even though mass atrocities occurred which the R2P principles has identified as a just cause threshold and when most of the precautionary criteria are rendered easy to justify.

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Annex 1, Interview Guide

1. Causes such as marginalization, deterioration of land and resources, were pointed out as underlying the Darfur conflict. What do you think are as the most fundamental causes to the Darfur Crisis?

2. Which of the following do you think are concrete expression of the Darfur Crisis?
   2.1. *large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act.*
   2.2. *large scale "ethnic cleansing," actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape.*
3. Do you think the crisis needs humanitarian and military intervention as some argue that the situation could qualify as supreme humanitarian emergency?

4. What do you think are the moral, political and legal obligations of the international community to respond to the violence in Darfur?

5. How do you evaluate the involvement of the international community (the UN, AU, Major Powers, Human Rights advocates) in the effort to put an end to the Darfur crisis?

6. Do you believe that the international community has fulfilled its political and moral/humanitarian obligation in Darfur over the last few years?
   ➢ If yes, which interventions are taken as the most important ones (diplomatic, political, negotiation, peacekeeping force)
   ➢ If No, why?

7. Some say that the international community has only contributed rhetoric rather than solution as far as the problem in Darfur is concerned. If you agree, what actually caused the gap between words and actions?

8. As it is known to you, there is an international commitment to protect citizens as agreed by the UN back in 2005 by adopting and Responsibility to Protect (R2P) Act. How do you evaluate the response of the international community to the crisis with respect to R2P and Humanitarian intervention?

9. Authorities on the subject of Humanitarian intervention argue that R2P have not been observed in curbing the Darfur conflict. If you agree, what should be happening in Darfur for expediting Responsibility to Protect?

Annex 2, List of Key Informants

No.	Informant's Name	Institution	Position	Date and Place of interview
1	H.E. Mr. Mohammed Yousif Hassan	Embassy of the Republic of Sudan in Ethiopia	Ambassador	11 March 2011, Sudan Emabassy Chancery
2	Dr. Dawit Toga	African Union	Political Analyst, Conflict Management Division	13 March 2011, AU Commission
3	Dr. Solomon Ayele	Institute for Security Studies	Senior Researcher	7 March 2011, ISS Addis Ababa Office
4	Mr. Michel Kodzo Amuzu (Col rtd)	African Union	Head of Darfur Desk, Peace and Security Department	8 March 2011, AU Commission
5	Meron Kassa	African Union	Political office, Joint Mediation Support Team	10 March 2011, AU Commission

Declaration

I, the undersigned, declare that this thesis is my original work and has not been presented for a degree in any other university and that all sources of material used for the thesis have been duly acknowledged.

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 Tefera Negash Gebregziabher

June 2011

This thesis is submitted for examination with my approval as an advisor of the candidate.

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Dr. Kassahun Berhanu

June 2011