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The Responsibility To Protect and the Crisis in Darfur

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Governments that have endorsed the 'sovereignty as responsibility' approach have shown little inclination to protect civilians suffering at the hands of their own government in the Sudanese province of Darfur. After providing an overview of Darfur's crisis and international society's feeble response, we explore why the strongest advocates of 'sovereignty as responsibility', the NATO and EU states, failed to seriously contemplate military intervention. We suggest that three main factors help explain the West's unwillingness to intervene in Darfur: increased scepticism about the West's humanitarian interventionism, especially after the invasion of Iraq; Western strategic interests in Sudan; and the relationship between the crisis in Darfur and Sudan's other civil wars. We conclude that the emerging norm of humanitarian intervention remains weak and strongly contested, and that advocates of the 'responsibility to protect' approach have yet to persuade their governments to help save populations in danger.

Keywords Sudan · Darfur · intervention · United Nations · African Union

SPEAKING SHORTLY AFTER the UN Security Council passed Resolution 1556 on the crisis in the Sudanese province of Darfur, the Philippines ambassador to the UN remarked that 'sovereignty also entails the responsibility of a State to protect its people. If it is unable or unwilling to do so, the international community has the responsibility to help that State achieve such capacity and such will and, in extreme necessity, to assume such responsibility itself' (United Nations, 2004b: 10–11). Similarly, the UK representative suggested that the adoption of Resolution 1556 'underlines the commitment of the Security Council to ensure that all Governments fulfil that most basic of obligations – the duty to protect their own citizens' (United Nations, 2004b: 5). These sentiments echoed those of the International Commission on Intervention and State Sovereignty (ICISS) and advocates of the 'sovereignty as responsibility' approach (ICISS, 2001; Deng et al., 1996).

SECURITY DIALOGUE

In September 2000, the Canadian government commissioned ICISS to examine the relationship between sovereignty, human rights and intervention. The following year, the ICISS report set out guidelines to govern international interventions in supreme humanitarian emergencies and recommended that the language of the debate should be changed from 'the right to intervene' to 'the responsibility to protect'. According to the Commission, 'the responsibility to protect' looks at the issue from the point of view of those needing help; it acknowledges that the host state has primary responsibility for the welfare of its citizens and that intervention can only be contemplated if the state is either unwilling or unable to fulfil its responsibilities to its citizens; finally, it means that intervention ('the responsibility to react') should be situated alongside prevention and post-conflict rebuilding (ICISS, 2001: 17). The report's approach built upon the idea of 'sovereignty as responsibility' outlined earlier by Francis Deng (1995) and his collaborators (Deng et al., 1996). According to this view, 'sovereignty carries with it certain responsibilities for which governments must be held accountable. And they are accountable not only to their national constituencies but ultimately to the international community. . . . By effectively discharging its responsibilities for good governance, a state can legitimately claim protection for its national sovereignty' (Deng et al., 1996: 1). Although the USA has distanced itself from the ICISS findings, the White House has also articulated a form of 'sovereignty as responsibility' in the shape of its policy on 'rogue states'. In addition to proliferating weapons of mass destruction (WMDs) and harbouring terrorists, rogue states are defined by the US government as those that 'brutalize their own people and squander their natural resources for the personal gain of their rulers'. Such 'rogues', the current *National Security Strategy* bluntly points out, must be 'stopped' (White House, 2002: 14). This doctrine, then, identifies a state's responsibility to desist from attacking its citizens as one component of US strategic policy. It is therefore possible to identify a weak norm of 'sovereignty as responsibility' in international society, though, as we shall see, this falls far short of the type of 'operational doctrine' envisaged by the ICISS commissioners.

The parallels between this conception of sovereignty and the views put forward in the Security Council by the Philippines and the UK in relation to Darfur are striking. During the first half of 2004, the situation in Darfur was repeatedly described as representing a 'supreme humanitarian emergency', that is, a situation where 'the only hope of saving lives depends on outsiders coming to the rescue' (Wheeler, 2000: 34). According to the ICISS, there are two threshold criteria – 'large scale loss of life' and 'large scale ethnic cleansing' – that must be met before the 'responsibility to protect' can be invoked to override state sovereignty (ICISS, 2001: 14). Since there can be little doubt that these threshold conditions were met in the Darfur case, armed interven-

tion to halt human suffering would have been legitimate (a view shared by Gberie, 2004: 8).

And yet, international society failed to even seriously contemplate military intervention. Although Resolution 1556 was passed under Chapter VII of the UN Charter, the Security Council chose not to assume responsibility for alleviating human suffering in Darfur by authorizing a humanitarian intervention. Instead, it imposed an arms embargo on the region, demanded that the Sudanese government disarm the so-called janjaweed militias and facilitate the delivery of humanitarian aid, and supported the envisaged African Union (AU) Protection Force. This Protection Force constitutes the only foreign troops deployed to Darfur. The problem for the civilian victims in the province is twofold. First, until late October 2004, the AU troops were only mandated to protect the Union's small Observer Mission, which deployed to the region in June 2004.[1] Second, by the end of October only some 597 out of the envisaged 3,300 AU peacekeepers had actually arrived in the region.

This article explores the apparent contradiction between governments' use of 'sovereignty as responsibility' language to enhance their own humanitarian credentials and their unwillingness to take 'responsibility-based' action in Darfur. In particular, we analyse the factors that dissuaded governments from intervening and reflect upon what this tells us about a contemporary norm of humanitarian intervention within international society. To do so, the article proceeds in three parts. It begins by providing an overview of Darfur's crisis and the international responses to it. We then suggest that three main factors help account for the lack of political will to intervene in Darfur: increased scepticism about the West's humanitarian interventionism, especially after the invasion of Iraq; the strategic interests of the permanent five members of the Security Council in Sudan; and the relationship between the Darfur crisis and Sudan's other civil wars and peace processes. The final section reflects upon what the Darfur case tells us about the prospects for humanitarian intervention after the Iraq war. We suggest that the humanitarian intervention norm remains weak and strongly contested, and that intervention requires a state, coalition or organization with the capacity to assume responsibility for protecting the population in danger and to shoulder both the political and material costs of intervention.

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[1] On 20 October 2004, the AU's Peace and Security Council announced that the mandate of its Protection Force was being extended to include the protection of civilians under imminent threat and in the immediate vicinity of AU troops and monitors (United Nations, 2004c: para 54).

The Crisis in Darfur and International Responses

In our opinion, the crisis in Darfur represented a supreme humanitarian emergency. It therefore provides an important test case of international society's commitment to an emerging norm of humanitarian intervention and the ideas set out in *The Responsibility to Protect* report. The current war in Darfur began in earnest in February 2003, when first Sudan Liberation Army (SLA) and then Justice and Equality Movement (JEM) forces attacked government military installations in frustration at decades of political marginalization and economic neglect.[2] The rebels initially appeared to take the government by surprise and enjoyed some successes, notably the destruction of half a dozen military aircraft and the capture of an air force general at El Fasher Airport in April 2003 (de Waal, 2004b; Power, 2004). The government responded to the insurgency by deploying some of its own troops (notably the air force), but more significantly by arming and support-ing the janjaweed militias (an umbrella term popularly encompassing out-laws/bandits, Arab tribal militias and the Popular Defence Forces). The janjaweed subsequently engaged in killings, abductions, forced expulsions, systematic sexual violence, and deliberate destruction of crops, livestock and important cultural and religious sites.

After several attempts to negotiate a ceasefire during late 2003, the govern-ment launched a major ground and air offensive in late January 2004. Shortly afterwards, President Bashir declared that 'law and order' had been restored and that the government had 'established control in all theatres' (Justice Africa, 2004). However, hostilities continued and another round of ceasefire negotiations began in late March in Chad's capital, N'Djamena. By 25 April, these negotiations had produced two rather confused agreements (the first was signed on 8 April). The confusion stemmed in part from the inexperi-ence and rifts within the rebel movements during the negotiations, and partly from the Chadian government's inability to act as a neutral mediator. The result was a ceasefire agreement riddled with poor drafting and serious discrepancies between its English and Arabic versions (International Crisis Group, 2004: 4–7). It was not surprising that the ceasefire failed to hold, and a pattern developed of government and janjaweed attacks followed by the rebels responding in kind.

By this stage, Khartoum's counter-insurgency operations had spilled across the border into Chad, resulting in the deaths of approximately 30,000 people (mainly civilians) and forcing approximately 1.2 million to flee their homes. Around 200,000 of these were estimated to have crossed into Chad, while the

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[2] For a short summary of Darfur's violent history, see Johnson (2003: 139–141). By October 2004, reports were emerging of two new rebel movements, the National Movement for Reformation and Development (NRMD) and the *Al-Shahamah* (nobility) in west Kordofan (United Nations, 2004c: 6h).

majority remained internally displaced within camps in Darfur (which remained vulnerable to continued janjaweed attack and exploitation, and sealed off from most international relief agencies).[3] By mid-2004, the World Health Organization was estimating that between 240 and 440 people were dying every day as a result of the conflict (see United Nations, 2004b: 4). USAID predicted that, if left unchecked, by October–December 2004 this number could increase to as many as 2,400 per day (Winter, 2004). Whatever the true statistics, the situation was commonly described within the UN system and Western states as 'the most serious humanitarian emergency in the world today'.[4] By September 2004, the situation had deteriorated further. The number of estimated deaths had risen to 70,000 and the UN Secretary-General's Special Representative on Sudan, Jan Pronk, reported that the overall number of people requiring relief had increased by at least 10% (to around 2 million) since the Security Council had become engaged in the problem in June 2004 (*United Nations News*, 2004c).

  Not surprisingly, Darfur's crisis attracted various labels. The UN Security Council,[5] the EU and a variety of NGOs (including Amnesty International, Human Rights Watch and the International Crisis Group) all acknowledged that the government of Sudan was complicit in large-scale crimes against humanity and ethnic cleansing in Darfur. Other NGOs, such as Physicians for Human Rights and Justice Africa, went further, calling the crisis genocide.[6] Inevitably, the use of the word 'genocide' invited comparisons with the slaughter in Rwanda during 1994 and highlighted the need to avoid a repeat of international society's feeble response there. Speaking at the UN's Human Rights Commission on the tenth anniversary of the Rwandan genocide, Kofi Annan (2004) had said that events in Darfur left him 'with a deep sense of foreboding. Whatever terms it uses to describe the situation, the international community cannot stand idly by . . . [but] must be prepared to take swift and appropriate action. By "action" in such situations I mean a continuum of steps, which may include military action'. On 9 September 2004, following a similar determination in the US Congress, Secretary of State Colin Powell made the unprecedented announcement to the Senate Foreign Relations Committee that his government also believed genocide had been committed in Darfur. However, Powell went on to endorse a restrictive interpretation of the 1948 Genocide Convention and to insist that, despite his determination, no new action would be required on the part of the US government.

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[3] For more details, see Amnesty International (2004a); Human Rights Watch (2004a,b); International Crisis Group (2004).

[4] See, for example, Benn (2004); *Washington Post* (2004).

[5] The two UN reports most critical of the government of Sudan's complicity in the atrocities in Darfur are Ramcharan (2004) and Jahangir (2004).

[6] For various indicators of systematic human suffering in Darfur available from July 2003, see Austin & Koppelman (2004: 19–27, 54–56).

As a result, alongside the usual array of NGO activities,[7] international society's responses to Darfur's crisis have come primarily in the form of humanitarian assistance through the UN and its specialized programmes and agencies (such as the World Food Programme, UNHCR and the WHO), the USA and the EU. In political terms, however, the responses have been slow, tepid and divided.

The first Security Council resolution mentioning Darfur was Resolution 1547 on 11 June 2004. This set out the Council's position on the Machakos/ Naivasha peace process (concerning the war between the government of Sudan and the Sudan People's Liberation Movement/Army, SPLM/A). However, Paragraph 6 of the resolution also called upon the parties involved 'to bring an immediate halt to the fighting in Darfur' and elsewhere, and to 'conclude a political agreement without delay'. On 30 July, acting under Chapter VII of the UN Charter, the Council authorized Resolution 1556, which, among other things, imposed an arms embargo on the region, supported the deployment of the AU Protection Force and gave the Sudanese government 30 days to disarm the janjaweed or face sanctions. The wording of Resolution 1556 was changed during the negotiation phase from explicitly referring to sanctions to the broader notion of 'measures as provided for in Article 41' of the UN Charter. It also firmly placed responsibility to protect the suffering Darfurians in the hands of the Sudanese government. This was in spite of the fact that most experts agreed that the government of Sudan lacked the capability and will to quickly stop or disarm the janjaweed by force (de Waal, 2004b).

For some, Resolution 1556 did not go far enough. Amnesty International (2004b), for instance, suggested that although the resolution ensured the continued monitoring of the crisis, it 'failed to adopt measures that are urgent and essential to address the appalling human rights situation'. As one of Amnesty's spokespersons put it, Resolution 1556 represented 'the abandonment of the people of Darfur and an abdication of the Security Council's role as a human rights enforcing agent' (Aaronovitch, 2004). The US ambassador to the UN acknowledged such concerns, stating that 'many people who are concerned about Darfur would say that this resolution does not go far enough. . . . Perhaps they are right' (United Nations, 2004b: 4). For others, however, the resolution went too far in threatening economic and diplomatic sanctions against Sudan. China and Pakistan, for instance, explained their abstentions in the Security Council vote by rejecting the need for 'mandatory measures' against Sudan (United Nations, 2004b: 4, 10).[8] Russia's opposition to intervention is arguably connected to concerns about Chechnya, but the country also has substantial commercial interests in the region, especially

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[7] By October 2004, approximately 70 organizations and 6,100 humanitarian workers (including 780 internationals) were in Darfur (United Nations, 2004c: para 27).

[8] China had the added incentive of protecting its substantial oil interests in Sudan (Cohen, 2004).

since it has sold around $150 million worth of military equipment to Sudan, and in 2002 a $200 million oil deal with the Sudanese government fell through. Ruslan Pukhov, a Moscow-based defence analyst, has suggested that Russia fears that sanctions could provide a loophole for the Sudanese government to default on its payments to Russia (Peterson, 2004: 14). The Sudanese representative at the Council also rejected the resolution as 'an unfair and unjust policy of double standards' that was 'the result of a domineering, colonial mindset' (United Nations, 2004b: 14). Instead, his government declared it would work towards the 90-day schedule previously agreed on 3 July in its joint communiqué with the UN Secretary-General. This highlighted a further problem with the formulation of Resolution 1556, inasmuch as it left unclear exactly what progress the Sudanese government needed to make on the ground in Darfur in order to avert UN sanctions after the 30-day deadline had expired. Consequently, within a week of Resolution 1556, a 12-point Darfur Action Plan was agreed between the government of Sudan and Jan Pronk. This clarified the practical steps necessary for Sudan to avert sanctions.

Compliance with Resolution 1556 was patchy at best. Immediately after the resolution's passage, the Sudanese government relaxed visa controls for foreign aid workers but provided precious little else in terms of support for humanitarian agencies. A UN compliance report released in September 2004 noted that the Khartoum government had failed to meet 'some of the core commitments' (*United Nations News,* 2004a). In particular, reports soon emerged that, far from demobilizing the janjaweed, the Sudanese government was incorporating the militia into regular military and police forces (see United Nations, 2004c: paras 6d, 33–34). Furthermore, Jan Pronk informed the Security Council that there had been 'no systematic improvement of people's security and no progress on ending impunity'. He concluded, 'today, still increasing numbers of the population of Darfur are exposed, without any protection from their government, to hunger, fear and violence. The numbers affected by the conflict are growing and their suffering is being prolonged by inaction' (*United Nations News*, 2004b). The Council reconvened on 4 November to hear Pronk's assessment of the situation. While he noted some progress in the political negotiations, he observed 'regression' on the ground. In particular, Pronk pointed to the return of large-scale militia violence (which had ceased at the time of Resolution 1556) as indicative of a worsening situation in Darfur (United Nations, 2004d). Council members chose not to respond to the report and retreated into informal consultations.

The EU's response to the crisis followed a similar pattern to that of the Security Council, relying on diplomatic and humanitarian instruments. The European Commission had funded humanitarian programmes in Sudan for over ten years, but in autumn 2003 it provided an extra €14 million in assistance to western Sudan. In 2004, the Commission allocated €92 million for

humanitarian assistance to people in Darfur, in addition to its regular humanitarian programme for Sudan worth €30 million. Plans for reconstruction and development programmes were also put in place, conditional upon a comprehensive peace agreement and the resumption of bilateral cooperation between the government of Sudan and the European Development Fund. However, despite offering some technical and financial support, the EU left the AU to take the lead in conflict resolution and efforts to achieve a political settlement, as well as in deployment of troops to protect the delivery of relief supplies.[9] Like the Security Council, the EU threatened sanctions against the government of Sudan but showed no interest in deploying its own peacekeepers to Darfur. As one EU official suggested, 'However much hand-wringing there is, we're simply not up to something like this yet' (*The Economist*, 2004b: 40). This implied two possible explanations for the EU's decision not to intervene militarily: either its members were incapable of conducting such an operation or their relevant armed forces were stretched near to breaking point after deployments in the Democratic Republic of Congo (DRC), Macedonia, Afghanistan, Bosnia and elsewhere.[10] However, given the EU's increasing experience of peacekeeping and enforcement, the most likely explanation for its failure to contemplate intervention in Darfur was that its leaders lacked the political will to muster the necessary resources.[11]

  Before the current crisis, Washington's policy towards Sudan had not been concerned with Darfur (see Martin, 2002). Since the coup that brought President Bashir to power in 1989, US policy has focused on stopping Sudan becoming a haven for terrorists. A secondary objective has been to end the civil war between the government and the SPLM/A. The links between Sudan and terrorism became particularly important for the USA during the early 1990s, when Khartoum hosted Osama bin Laden and supported an assassination attempt on the Egyptian prime minister in 1995 (see USIP, 2004: 13–15). In 1993, the USA added Sudan to the list of states it considered supporters of terrorism, and in 1996 it closed its embassy and imposed sanctions on Sudan. US–Sudan relations soured further when in 1998 the Clinton administration bombed a Sudanese factory in retaliation for attacks on US embassies in Kenya and Tanzania. However, at about the same time, Sudan began exporting oil and Bashir's government became keener to cooperate with US demands. It proceeded to round up terrorist suspects and

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[9] The EU has, for the first time, used the European Commission's Africa Peace Facility, which contains €250 million, to help finance the AU's initiatives, and it despatched an expert civilian and military team to assess how best it can support the AU Observer Mission and the envisaged protection force; see European Commission (2004).

[10] For details of recent troop deployments by EU states, see Giegerich & Wallace (2004).

[11] For example, in late July 2004, General Mike Jackson, the UK's Chief of General Staff, told the BBC that 'if need be, we will be able to go to Sudan. I suspect we could put a brigade [approximately 5,000 troops] together very quickly indeed'; see *Reuters* (2004).

to share intelligence with the USA, and in 1999 it dismissed and later imprisoned Hassan al-Turabi, the leader of the radical National Islamic Front.

In this context, ending the civil war between the government and the SPLM/A was a secondary objective for Washington, but it was particularly important for several groups within the USA, notably the Christian lobby and the Black Congressional caucus. However, the Clinton administration's methods were directly related to its counter-terrorism policy. That is, it tried to contain, isolate and marginalize Khartoum within the region (Deng & Morrison, 2001: 5). As a result, the USA made little progress towards resolving the government–SPLM/A war. In contrast, the Bush administration succeeded in pushing the Machakos/Naivasha process forward, for several reasons. First, under significant pressure from the domestic Christian lobby (see Power, 2004), it engaged in more dialogue with Khartoum, often as part of a troika with Norway and the UK. Second, Bashir's government took the Bush administration's pressure seriously, especially after 9/11 and the USA's interventions in Afghanistan and Iraq. Third, since Sudan's oil production had shifted the military balance in favour of the government, the SPLM/A was more prepared than before to reach an agreement. And, fourth, US oil firms repeatedly emphasized the potential significance of Sudan's oil fields for the US economy. Consequently, the Bush administration was able to push the Machakos/Naivasha process forward using carrots (such as offering more aid and removing Sudan from its list of state sponsors of terrorism) rather than sticks.

The reluctance of the UN, the EU and the USA to threaten military intervention in Darfur meant that the AU assumed centre stage in the international response. However, despite clear evidence of government complicity in attacks upon civilians, like the West, the AU has refused to act without the consent of the Sudanese government. Darfur's crisis presented the AU with a genuine opportunity to find an African solution to this African problem through the invoking of Article 4(h) of its new charter, which permits collective intervention in 'grave circumstances', namely, when there is evidence of war crimes, crimes against humanity and genocide. However, in this case, the slogan of 'African solutions to African problems' provided a convenient façade behind which Western powers could wash their hands of committing their own soldiers to Darfur.

Given our argument that a humanitarian intervention would have been legitimate in Darfur's case, what should have been done in practical terms? In our opinion, would-be interveners would have faced a spectrum of options along the following lines:

1. Stop further deaths from slaughter, disease and hunger by providing troops to (a) ensure delivery of humanitarian assistance to the various camps for refugees and internally displaced persons (IDPs) within

Darfur; (b) protect the camps from the various militias; and (c) set up a no-fly zone and provide aerial reconnaissance.

2. Carry out (1), but also provide troops to help police a ceasefire agreement while talks continue between the government and rebels.

3. Carry out (1) and (2), and ensure the resettlement of IDPs and refugees.

4. Carry out (1), (2) and (3), and provide troops to help manage the transition period after the government/janjaweed and SLA/JEM conclude a political agreement.

Of course, there are no quick fixes for Darfur's crisis, but according to most expert assessments the arrival of a relatively small number (circa 5,000) of foreign soldiers pursuing Option 1, above, could have made a substantial difference to the plight of the local population.[12] Even if an intervention stopped at Option 1, this could have provided the political breathing space for conflict resolution to begin in earnest, perhaps in tandem with implementation of the Naivasha agreement (see below).

Obstacles to Intervention

Western Abuse of Humanitarian Justifications During the 'War on Terrorism'

Since 9/11 and the US-led interventions in Afghanistan and especially Iraq, many states have become increasingly suspicious that the West's humanitarian justifications mask neo-imperial ambitions. This has also helped to cast doubt upon *The Responsibility to Protect* project, since one of its authors, Michael Ignatieff (2003), was a vocal supporter of the case for war in Iraq, albeit in order to prevent WMD proliferation within 'rogue states' rather than on humanitarian grounds. Sudan voiced this suspicion in the UN Security Council when its representative asked whether the Council's 'lofty humanitarian objective' in Darfur was a 'Trojan horse . . . embraced by other people who are advocating a different agenda' (United Nations, 2004b: 13). Such accusations suggest that the USA and the UK's attempt to legitimize the war in Iraq on humanitarian grounds has increased the level of scepticism about the West's professed humanitarianism.[13] Although most states have not gone as far as Sudan, in this case the general argument about humanitarian justifications acting as a façade for neo-imperial ambitions revolves around two factors: terrorism and oil. Even well before 9/11, the US government consistently identified Sudan as a key state in its counter-terrorism policies in Africa. Moreover, since Sudan began exporting oil in 1998, the

[12] See, for example, de Waal (2004a).
[13] This argument is developed in detail in Bellamy (2004).

USA has viewed it as a potential alternative, non-Middle Eastern, source of oil (along with other African states such as Nigeria, Angola and those along the Gulf of Guinea). However, because the USA's strategic concerns dictated its commercial stance, US firms have not been at the forefront of extracting Sudan's oil. Instead, a wide variety of firms from states including China, Malaysia, France, Qatar, Russia, Canada and Sweden have taken the lead (Human Rights Watch, 2003). As a result, critics have suggested that any so-called humanitarian intervention in Darfur would simply be a façade for gaining access to Sudan's oil.[14]

In Iraq, the political leaders of the major troop-contributing states (USA, UK and Australia) gave considerable weight to the humanitarian justification for war, particularly as justifications based on WMDs and self-defence floundered. Whatever one thinks of the argument, of all the different cases for war with Iraq, the humanitarian case against Hussein's regime has proven more persuasive within international and world society than any other. Nevertheless, most states and non-state actors rejected the idea that the Iraq war counted as a humanitarian intervention, not least because the humanitarian impulse was not the primary motivation.[15] This was evident in the coalition's adoption of strategies that caused harm to the civilian population (such as the use of cluster munitions) and in its failure to plan sufficiently for postwar reconstruction. Analysts have also pointed to the absence within Security Council resolutions of references to either a 'current, growing, or imminent' humanitarian emergency in Iraq as evidence that the 'Council, as a whole, did not consider the situation in Iraq to be a threat to international peace and security *for humanitarian reasons*' (Vesel, 2003: 56; emphasis added). Whereas in the Kosovo case there was significant international acceptance of NATO's claim that it was acting to avert a humanitarian crisis, in the Iraq case most actors in international and world society believed that humanitarian justifications were used to mask the exercise of hegemonic power. As a result, while a norm of humanitarian intervention may be emerging, the coalition's 'abuse' of humanitarian justifications in Iraq has raised the level of ideational and material resources that Western states must invest in order to persuade others of their case.

Darfur Is Less Important than the 'War on Terrorism'

A second factor said to diminish the likelihood of Western military intervention in Darfur is Sudan's position in the 'war on terrorism'. Since 9/11, the US government in particular has pressurized Bashir's government to be 'with' rather than 'against' it. The danger is thought to be that groups at the

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[14] See, for example, *New York Times* (2004); Laughland (2004).
[15] See, for example, Roth (2004).

radical end of Khartoum's political spectrum could succeed in representing any Western intervention in Darfur as a 'crusader' plot against Muslims and use this to bolster their position within Sudanese politics (*The Economist*, 2004a: 11). Indeed, while Darfur's crisis was unfolding, the US government suspected that Saudi Arabian terrorist groups were using northeast Sudan for training purposes (McElroy, 2004). The anti-UN demonstrations in Khartoum that followed Resolution 1556 also provided an indication of the depth of anti-Western sentiment within sections of Sudanese public opinion who believe that their government was engaged in legitimate counter-insurgency operations in Darfur. The challenge facing Western states in particular was therefore to find ways of responding to Darfur's crisis that emphasized their commitment to the idea of 'sovereignty as responsibility' but which did not fuel Islamic radicalism and encourage Sudan to become a haven for anti-Western terrorist groups as it had been in the early 1990s. This logic provided another justification for letting the AU take the lead in the international response.

Military Intervention Would Jeopardize the Naivasha Agreement

The third and arguably pivotal factor is that Western leaders also voiced prudential concerns about the potential impact an intervention in Darfur might have on Sudan's other civil wars, especially the government–SPLM/A conflict. As US Secretary of State Colin Powell put it, 'There is a concern that we don't want to put so much on the Sudanese government, that causes internal problems that might make the situation worse. . . . At the same time, everybody recognizes that pressure is needed or else we would not get any action at all' (Hoge, 2004). After investing considerable diplomatic capital in pushing the Machakos/Naivasha process forward, the troika and the other participants in the Intergovernmental Authority on Development (IGAD) process were keen to see the agreement implemented. These powers saw the Naivasha agreement as potentially ending Africa's longest running civil war and providing a framework within which the grievances of other regions within Sudan could be addressed. Within this framework, Darfur and Sudan's other conflict-ridden regions would have to be integrated into the overall settlement during the envisaged transitional period. In the light of these developments, Darfur's crisis was considered secondary to securing an agreement between the government and the SPLM/A, as well as on the country's other contested regions, such as Abyei, the Nuba Mountains and the southern Blue Nile. As one commentator put it in early 2004, 'no one is willing to compromise the current prospects of ending Africa's longest war' (Mans, 2004: 293; see also Power, 2004). Western states were concerned that an intervention in Darfur could trigger a domino effect wherein other Sudanese groups, disgruntled at their marginalization from the Machakos/

Naivasha process – such as the Beja of eastern Sudan – would pursue the SLA/JEM route of armed insurgency just as the process was starting to make real progress. The fact that the SLA had publicly announced a merger with the eastern-based Beja Congress only served to heighten such concerns (Mans, 2004: 292). For all its faults, some commentators have argued that implementing the Naivasha agreement remains the best chance of securing a political resolution of Darfur's crisis. Alex de Waal (2004a), for instance, argued that bringing the SPLA leader John Garang to Khartoum as vice president as envisaged in the Naivasha agreement would help stop the war in Darfur, because Garang's desire to represent all of Sudan's non-Arab peoples, including Darfurians, would make it politically impossible for him to endorse a war there. Indeed, Garang has indicated he would assist in the search for peace in Darfur (see Deng, 2004: para 33).

The fear that intervention would jeopardize the Machakos/Naivasha process has been consistently invoked by those opposed to such a course of action. Hugo Slim (2004: 822), for instance, argued that a policy of linking Sudan's two major conflicts 'could not be done too forcefully' if it risked the downfall of President Bashir, which, in turn, would in all likelihood provoke the 'unravelling' of Sudan. Although Slim admitted that a 'linkage' strategy might have been effective had it been attempted at the outset of the Darfur crisis, others have gone further. Ramesh Thakur (2004: 63), for example, argued that talk of Western intervention would, in all probability, embolden the rebels in Darfur and elsewhere in Sudan, worsen conditions, and reduce the chances of a comprehensive and sustainable peace settlement. Similarly, in September 2004, Francis Deng (2004: paras 36–37), the UN Secretary-General's Special Representative on internally displaced persons, argued that 'far from alleviating the suffering of the people of Darfur', military intervention would be likely to 'complicate and aggravate the situation', because it would provoke resistance that would add 'another layer of conflict' and would jeopardize the government's cooperation on the Machakos/Naivasha process. Deng concluded that 'international intervention in Darfur . . . would push the country into an unknown future of multiple conflicts, with catastrophic consequences'. His preferred solution was for 'the international community to support the AU to meet this challenge'.

The problem with these arguments is that they assume the Machakos/Naivasha process actually resolves the underlying causes of Sudan's multiple civil wars. They also downplay the fact that the process remains based on a simplified north–south dichotomy that assumes the SPLM/A speaks for all southerners and does not accurately reflect the complex reality of political forces in Sudan. Consequently, the 'success' of the Machakos/Naivasha process emphasized the extent to which other groups (in Darfur's case, Arabs and non-Arabs alike) were, with international consent, being marginalized from the process of deciding Sudan's political future. The Machakos/

Naivasha process was thus commonly perceived as privileging the SPLM/A at the expense of Sudan's other groups, and hence was one of the immediate factors prompting the SLA/JEM insurgency in Darfur.

Taken together, these three concerns provided important obstacles to the idea of Western military intervention in Darfur. The Darfur case thus demonstrates that there is no straightforward relationship between the West's strategic interests and its humanitarian concerns. Indeed, in this case the two sets of concerns seemed to pull in different directions: strategic imperatives created a perceived need to appease the Sudanese government as an important player in the 'war on terrorism', while humanitarian concerns suggested the need for greater levels of coercive pressure against that government. At the very least, this suggests that we cannot assume that just because the West has a general strategic interest in preventing state failure, this will bolster the norm of humanitarian intervention in every case.[16] In Darfur, as in Chechnya, perceived strategic interests mitigated against an interventionist position.

Humanitarian Intervention After Iraq

What do the international responses to Darfur's crisis tell us about the norm of humanitarian intervention? Is the sun setting on the norm, as Thomas Weiss (2004) has argued? Although we share Weiss's concern that the problem post-9/11 is not the danger of too much humanitarian intervention, but rather too little, we disagree with his claim that 'the notion that human beings matter more than sovereignty radiated brightly, albeit briefly, across the international political horizon of the 1990s' (Weiss, 2004: 135). This does not capture the extent to which that idea was heavily circumscribed, even by its most ardent advocates, and was widely criticized and feared by many members of international society (see Wheeler, 2000: 295).

The 'sovereignty as responsibility' idea outlined at the beginning of this article contains two core elements. The first, and least contentious, is the recognition that the Security Council has a broad right to define threats to international peace and security and to authorize enforcement action. Since the end of the Cold War, the Council has identified, inter alia, refugee flows (in relation to Iraq, Security Council Resolution 688, April 1991); human suffering (Somalia, Security Council Resolution 794, 3 December 1992); the ousting of a democratically elected government (Haiti, Security Council Resolution 917, 6 May 1994); ethnic cleansing (Kosovo, Security Council Resolution 1199, 23 September 1998); international terrorism (9/11, Security

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[16] Wheeler (2003: 209) describes this as the 'indirect self-defence argument'.

Council Resolution 1368, 12 September 2001); and WMD proliferation (Iraq, Security Council Resolution 1441, 8 November 2002) as threats to international peace and security. Although questions about the judicial review of Security Council decisions were raised in the early 1990s, there has been little dissent from the view that the Council's discretion in this area is legitimate (Martenczuk, 1999: 526–527). It is worth noting, however, that while the Council has exercised its broad discretion in identifying issues as threats to international peace and security, it is yet to authorize military intervention for humanitarian purposes within the territory of a fully-functioning state without the latter's consent. Alongside Saddam Hussein, a long list of tyrants including Pol Pot, Idi Amin, Mullah Omar, Charles Taylor and Than Shwe have avoided opprobrium by the Security Council despite their abysmal records on human rights and the trend identified by Weiss. Although the Council's *right* to authorize humanitarian intervention has been widely recognized, its *practice* of authorization has been severely limited. It is against such a backdrop that we should view the Council's response to Darfur.

The second, and more controversial, aspect of the humanitarian intervention norm is a much narrower moral but not legal right of unauthorized intervention in supreme humanitarian emergencies. Since the end of the Cold War, there is evidence of a growing acceptance that such interventions without the explicit authorization of the Security Council have been tolerated, if not wholly embraced. ECOMOG's intervention in Liberia in 1990 and especially NATO's intervention in Kosovo in 1999 are crucial in this regard. Reflecting on the legality and legitimacy of NATO's intervention, a commission of experts declared it 'illegal but legitimate', a view that accurately reflects sentiment in international society (IICK, 2000: 4). Most NATO states chose not to defend their actions in legal terms, arguing instead that the persecution of Kosovar Albanians created a *moral* imperative to act. However, when Russia tabled a draft resolution in the Security Council condemning NATO's intervention and demanding its immediate cessation, it was rejected by twelve votes to three (Russia, China, Namibia). Although five of the voters were NATO members, seven were not and chose to actively cast their votes in support of NATO's actions.[17] Although none of these states gave NATO a ringing endorsement in the Council, and the failure of the Russian draft did not constitute tacit retrospective authorization, the vote did demonstrate grudging acceptance that in extreme cases it is legitimate to take measures outside of the Council (Wheeler, 2004: 41–48). Moreover, both China and Russia implicitly legitimized the end result of NATO's campaign by permitting the passage of Resolution 1244, which created the UN Mission in Kosovo (UNMIK).

[17] The seven were Malaysia, a long-standing defender of state sovereignty and advocate of the so-called ASEAN way, Gambia, Gabon, Bahrain, Slovenia, Brazil and Argentina.

The humanitarian intervention norm is therefore weak and highly contested. It appears to be strongest within Western states and societies, where it has had two discernible effects on collective ideas about the use of force. On the one hand, it has influenced the types of justifications and strategies employed by Western leaders and their militaries. When using force, Western societies now expect their leaders to take the humanitarian consequences of their decisions seriously. Thus, while the US-led intervention in Afghanistan was widely considered to be a legitimate war of self-defence, the USA and its allies nevertheless felt compelled to employ humanitarian justifications alongside arguments about self-defence (Wheeler, 2002; Chesterman, 2004). Ideas about humanitarianism have also influenced how Western militaries fight wars. First, the target of Western militaries has been enemy leadership cadres and their means of political control rather than the entire state in question or even all its armed forces. Second, Western militaries have fought using methods ostensibly intended to minimize both local civilian casualties and the risks to the West's soldiers (McInnes, 2002). On the other hand, the increasing importance of human rights discourse in Western societies has made it harder (although certainly not impossible) for Western governments to ignore the world's crises. There is therefore an important paradox at the heart of the humanitarian intervention norm: it remains weak and contested, but its aspirations (voiced in terms of sovereignty as responsibility) have had a profound impact on the way Western states, militaries and societies think about war.

This means that armed intervention in response to a supreme humanitarian emergency is currently only likely when a state, group of states or regional organization becomes sufficiently animated that it is prepared to incur significant political and material risks to ease the plight of suffering strangers and secure international legitimacy for its actions. Different actors have claimed such a role in recent years, including ECOMOG in Liberia (1990), NATO in Kosovo (1999), the UK in Sierra Leone (2000) and the Australian-led coalition in the Solomon Islands (2003). None of these operations were authorized by the Security Council, but large sections of international society considered them legitimate. It is noticeable that, in all of these cases, either a regional organization, a pivotal state or a Western power was prepared to bear the political and material costs of intervention. Moreover, in none of these cases did the Security Council provide the lead. The Council's primary role was one of legitimization after the fact, and it awarded different degrees of legitimacy to each of these operations (see Franck, 2002: 174–190).

In Darfur's case, there were many states, coalitions and organizations that could have taken such political and material risks in order to protect those in danger. However, neither the AU nor the League of Arab States (LAS) (Sudan is a member of both) were prepared to do so. Despite the AU's adoption of a more interventionist charter than its predecessor the Organisation

of African Unity, the norm of non-interference continues to trump human rights concerns. Following an AU 'mini-summit' in October 2004, a final communiqué reaffirmed the participants' commitment to Sudanese sovereignty and pledged the 'rejection of any foreign intervention by any country, whatsoever' (African Union, 2004). For its part, the LAS explicitly supported the Sudanese government. It dispatched its own team to investigate claims of complicity in human wrongs on the part of the government of Sudan and found no evidence that the latter was directly involved. Consequently, the LAS supported Khartoum's position, called for more aid to the region, stressed the need to give the government more time to manage the situation, condemned the use of terms such as 'ethnic cleansing' and 'genocide' to describe events in Darfur, and unanimously opposed threats of sanctions and military intervention (LAS, 2004; Wallis, 2004).

The lack of a regional response left EU and NATO members as the most plausible interveners. But, as discussed above, these were unwilling to contemplate intervention in Darfur, and the baton was passed back to the AU or the UN. However, both of these options are problematic, for different reasons.

Regarding the first, in addition to the predominant commitment to the principle of non-interference discussed above, the AU also suffers from a chronic lack of capacity. The evidence from the AU's Mission in Burundi during 2003–04, where two of the three contingents turned up over six months late, suggests that the organization is likely to require substantial financial and technical assistance from Western donors to deploy and sustain the Protection Force (see Bellamy & Williams, forthcoming; *eAfrica*, 2003: 7–13).

The second option, then, was for a UN intervention force (assuming, of course, that the concerns of China, Russia and Pakistan could be overcome). Since 2003, there has been something of a renaissance in UN peacekeeping, with four major new operations in Burundi, Ivory Coast, Liberia and Haiti, as well as a significant expansion in MONUC's forces in the DRC. These operations brought the authorized number of UN peacekeepers to 74,478 – a figure close to the peak of around 80,000 during 1993–94, when the organization confronted its most difficult challenges in Somalia, Bosnia and Rwanda. However, these operations also prompted fears of overstretch and increased the gap between the number of UN peacekeepers the Council believes necessary to fulfil a particular mission and the number actually provided by member-states. In June 2004, the shortfall was 18,217.[18] Kofi Annan gave voice to these concerns in a Security Council debate on peacekeeping, where he pointed to serious shortfalls and a 'lack of specialized military capacities, generally available from the military forces of developed

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[18] UN figures suggest 74,478 had been authorized and only 56, 261 actually deployed.

countries'. 'Unfortunately', he continued, 'these countries today make only limited contributions of troops to United Nations peacekeeping operations' (United Nations, 2004a: 5). On top of its current commitments, the UN is also planning a new mission for southern Sudan. Seen in this light, passing the responsibility to protect to the UN is another way for Western states to avoid sending their own troops to Darfur.

What are the implications of these trends for both Darfur and the future of humanitarian intervention? First, the evidence from Darfur suggests that Western states are not prepared to invest the requisite political resources to conduct effective humanitarian interventions and match their bold words about the responsibility to protect with concomitant actions. While it is important to acknowledge that in some cases, such as Chechnya (see MacFarlane, 2000), strategic concerns render intervention imprudent, such arguments are less persuasive in this case. Although Western states have always been reluctant to place their forces in harm's way for humanitarian reasons, Darfur's geography and relatively sparse population and the low-level nature of the militias involved suggest that the West has the capacity to intervene effectively. Second, this gap between words and deeds is not immutable. Advocates of the responsibility to protect idea must therefore find ways to convince Western states to live up to their statements of intent and to take risks in order to save strangers. They must also prepare Western societies to accept the requisite costs. Sadly for Darfurians, the political and material costs of taking the responsibility to protect idea seriously have increased at precisely the same time as the West's willingness to pay has decreased.

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