

# R2P: IDEALISM OR PRAGMATISM IN INTERNATIONAL RELATIONS

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The nature of international relations began to change after the First World War. Till that time, pragmatism and self interest dominated. Attempts to establish an effective League of Nations heralded a new beginning. The purposes of the League were idealistic. It was meant to guarantee the security of all countries. One of the reasons Britain was slow to re-arm in the face of an emerging Germany in the 1930's was a continuing belief that the League of Nations would secure the peace. Such beliefs were of course vastly premature. That wasn't the only idealistic notion. Japan in particular, had sought to insert a racial equality clause into the preamble of the League of Nations. That was frustrated by Prime Minister Billy Hughes more than anyone else.

While a sense of idealism was struggling to materialise, real politics, pragmatism still dominated the affairs of nations. Self interest governed the day. Italy's invasion of northeast Africa, her attempt to carve out an empire in Africa, equivalent to that achieved by Britain and by France and in part by Germany, underlined the impotence of the League and its inability to do more than pass pious resolutions. Perhaps this should have been foreseen because without the United States as an active participant and supporter the League was doomed to fail.

After the Second World War more serious attempts were made to strengthen the Rule of Law and to promote a sense of idealism in world affairs. The world had been so shocked by the revelations of the Holocaust and by the destructive power of the atomic bombs dropped on Hiroshima and on Nagasaki. Civilization had been so nearly destroyed and the capacity for that level of destruction was so evident that world leaders at that time knew that the way in which affairs were conducted between nations had to change. The United Nations was born, as were the IMF and the World Bank.

At one level these institutions were steeped in self interest, but at another they exhibited an idealistic strand which was to become increasingly important. The Universal Declaration of Human Rights in 1948 was the most obvious example of idealism in international affairs.

In the ensuing years Conventions were negotiated, designed to give legal force to the high principles of the Universal Declaration. Many aspects of life were covered. The status of refugees, of women, of children, economic, social and cultural rights, political rights. The Geneva Conventions were developed and negotiated to govern what was and what was not permissible in the conduct of war and in the treatment of prisoners of war.

Throughout history examples suggest to us that nations have not acted out of friendship, or because of what they perceive to be right even though they will always claim that God is on their side. They will act when they believe action advances their own cause, their own status, their own power.

This older and traditional approach to the conduct of affairs between nations is slowly beginning to change. The question before us is not only when will nations act from the sense of idealism or humanitarianism, but what can one do to advance the circumstances in which such actions will be more and not less likely.

When one looks at earlier examples of intervention the idea of the responsibility to protect was ill formed and would certainly not have been foremost in the minds of governments. Nevertheless, there are forerunners to the emergence of the concept of R2P.

## INDIA/PAKISTAN

After the independence and partition of India in 1947, problems immediately arose between East and West Pakistan. In 1971 the Pakistani President ordered the Pakistan army to suppress the resistance movement which had emerged in East Pakistan. This resulted in the deaths of tens of thousands of civilians at the hands of the Pakistan Army. An estimated 10 million refugees fled across the border to India.

This caused new problems for Pakistan's relations with India. Appeals to the international community fell on deaf ears. There was no political solution in sight. The Indian Government therefore decided to support the East Pakistan armed resistance fighters to liberate East Pakistan. Pakistan launched air attacks on India which failed and Indian ground troops rapidly converged on Dhaka, the capital of East Pakistan. The result of this conflict, East Pakistan became the People's Republic of Bangladesh.

There was clearly a major humanitarian crisis in East Pakistan which had many implications for India. India was however, principally concerned for the stability of her north-eastern border, addressing the cause of the massive flow of refugees from East Pakistan into India and perhaps using the opportunity to reduce Pakistan's influence through South Asia. The humanitarian issue would have carried less weight than these other factors.

## CAMBODIA

A further example of intervention occurred between Vietnam and Cambodia. The Khmer Rouge had come to power in Cambodia in 1975 which set in motion an agrarian policy which forced people out of cities and into the countryside. This policy, political killings and the country's isolation led to mass executions, death by starvation and slave labour.

Educated professionals, intellectuals, ethnic Vietnamese and Chinese were considered to be enemies of the regime and were arrested tortured and killed. over 2 million Cambodians died, 20% of the population. While this was happening, clashes were taking place on the Cambodia-Vietnamese border.

At the end of 1978 Vietnam entered Cambodia militarily together with the Kampuchean National United Front for National Salvation (KNUFNS). The new government, the People's Republic of Kampuchea was installed. Many regarded it as a puppet Vietnamese Government.

The Khmer Rouge fled and undertook a sustained guerrilla campaign against the Vietnamese that lasted until 1991.

The international community widely condemned Vietnam. The Vietnamese War had been very much part of the Cold War. Vietnam's actions were regarded as aggressive and expansionary. Vietnam's intervention led however to the largest and most successful United Nations peacekeeping or peace-making in the history of the organisation with the exercise of transitional authority by the UN in Cambodia. Much of that success was due to Australia's then Foreign Minister, Gareth Evans.

In terms of this discussion Vietnam's motivations would be more relevant. It claimed that the new government had been internally established by the Cambodians themselves, that Vietnam was not involved. Vietnam at no

time asserted a right to humanitarian intervention and there is no evidence that Vietnam intervened in Cambodia due to massive human rights violations.

The human rights violations however, would have had a significant impact on the nature and size of the United Nations operation that was mounted to help Cambodia emerge from its conflicts and once again establish a government united over the country.

## UGANDA

There is a third example of intervention in Uganda. Idi Amin took power in Uganda in 1971. His regime shortly became known for its brutality against its own population and a complete breakdown in the rule of law. Political repression, extrajudicial killings, ethnic persecution and corruption became the norm. It is estimated 300,000 people were killed.

Tanzanian President, Julius Nyerere, had given former Ugandan leader, Milton Obote, asylum. He allowed Obote and his supporters to launch an attack against Uganda which failed. Tanzania and Uganda agreed to refrain from military operations against one another and signed the Mogadishu Agreement. The Organisation of African Unity (OAU), the forerunner of the African Union was largely silent during this time. The African states have individually opposed intervention in the affairs of neighbouring states no matter the circumstances.

In 1978 however, Idi Amin sent troops across the border into northwest Tanzania and announced the annexation of the Kagera region of Tanzania. As a consequence in 1979, Tanzanian forces together with an Ugandan exiles invaded Uganda and overthrew the government.

Tanzania was regarded as having violated the OAU's principle of non-intervention. I find it hard to justify that in view of Idi Amin's actions. I also have a personal knowledge of Julius Nyerere and whatever the record shows, I am sure he would have been deeply concerned at the human rights violations in Uganda itself.

As is common, motives would have been mixed. Tanzania's friendship with Obote and his supporters and Uganda's territorial ambitions were significant. Tanzania used self-defence as justification for the action. There

was no international agreement concerning the right to humanitarian intervention at the time.

These were arguably precursors to the idea of the right to humanitarian intervention which is the final element of the responsibility to protect.

Since the early 1990's the ideal of the international community acting to protect vulnerable populations from gross human rights violations has been evolving. First through the notion of humanitarian intervention to the fuller development of responsibility to protect.. There are significant questions ahead of us. Are there circumstances in which major nations will act from a sense of humanitarianism with a desire to uphold the Rule of Law or will they always be dominated by a pragmatic judgement of their own self interest and advantage? If it is self interest alone it is much easier to judge what nations may or may not do. If idealism has a continuing role to play when will it operate, when will it move nations to protect the people under threat?

## SOMALIA

The first purely humanitarian intervention was probably led by the United States under the auspices of the United Nations Security Council Resolution 872, when a significant number of troops were sent to Somalia so that aid could safely be delivered to starving people. There was no particular American national interest in risking life to ensure the delivery of aid except perhaps to protect aid workers and desperate populations. In my mind, it was a genuinely humanitarian operation. It was, however, a seriously flawed operation.

If there was to be peace the various factions within Somalia had to be reconciled, an objective which has still not been achieved. There had therefore to be serious political steps and sensitive diplomacy designed to facilitate real and effective reconciliation. Ambassador Sahnoun was perhaps the only United Nations envoy in Somalia who might have achieved that result. He was not adequately backed, either by the United Nations or by other countries principally involved. He left Somalia even before the military intervention took place.

While the original idea for and motivation for this intervention was pure, the operation fell apart; it became politicised, it became a failed effort to

hunt General Aideed that ended in disaster and humiliation for the United States.

The disastrous intervention in Somalia had further consequences however: the United States was so disillusioned by its failure in Somalia that it was later paralysed and unwilling to venture into Africa even when its support was desperately needed. .

## RWANDA

Even though the international community knew what was planned in Rwanda and knew that a humanitarian disaster was imminent there was a total lack of will to do anything about it. There were insufficient troops in Rwanda, not enough to hold the peace as the country moved closer and closer to its own genocide.

The reputation of the United States had suffered grievously over Somalia and therefore the leadership that might have come from America in relation to Rwanda was lacking. It is a sad commentary on European States, who are much more heavily involved in North Africa than the United States, that they too were not prepared to act. A genocide in which the best part of one million people were killed in just 100 days.

I can remember standing on a bridge between Rwanda and Tanzania, bodies were still floating down the river. I was told that if I had been there two or three days earlier there would have been so many bodies coming down that river that there would have been too many to count.

The world community did nothing for far far too long. Refugees were flooding into neighbouring Zaire and into Tanzania. The camps and refugee centres were not available or not ready to receive them. In Zaire an additional seventy or eighty thousand who had fled the destruction in Rwanda, died from Cholera because sanitation, clean water, adequate food and primary healthcare were not available. All of which could have been provided with a little foresight.

Rwanda was a humanitarian disaster of a major kind. It was an international disgrace. Failure to act was a total denial of what the international community claimed to stand for. In terms of idealistic motivation, the international community have a strong tick for intentions

in Somalia and the strongest possible cross for the West's combined failure in Rwanda.

It is clear that there was no fundamental self interest for any western country in what happened in Somalia or in Rwanda. The wealth and power of western countries was not at stake, but the sense of self respect, a sense of decency, of humanitarianism was significantly damaged by the failure to act in Rwanda.

## SERBIA/KOSOVO

The idea of humanitarian intervention was shortly to be used to justify a war against Serbia over Kosovo. The history of the Balkans has been tangled, confused and brutal, not for a few years, but through much of history. We perhaps came to believe that past bitternesses and hatreds had been put aside under Marshal Tito's regime. He held Yugoslavia together with an iron fist. The country became a leader of the Third World. Despite it being officially a communist country it gained much respect worldwide. Tito certainly held ancient hatreds in check, but after he died that was to unravel.

In discussing the Balkans, in making judgements about the three groups who dominated in Tito's Yugoslavia, I am conscious of what happened during the Second World War. Croatia was an ally of Hitler's Germany and many Croats manned Germany's concentration or extermination camps or helped Germans hunt down Serbs. Serbia fought more bitterly and more effectively than any occupied country and never ceased its guerrilla campaign against Nazi Germany. The Kosovars, the Albanians, perhaps the poorest part of that region were not major players during the War. After the war, Albania and her allies across the borders in Kosovo became the crime gateway between Europe, the Middle East and Africa.

The United States State Department originally branded the Kosovo Liberation Army as terrorists. The KLA objective of course was an independent Kosovo, to cause the break-up of Yugoslavia. When Milosevic came to power in Yugoslavia, he played the race card. He spoke of the dominance of the Serbs. He was enraged by the way the Kosovo majority treated Serbs in Kosovo. Warfare broke out between the Serbian military and the KLA 'terrorists', as the State Department then considered them. Later, as policy evolved, the United States rebranded the KLA and they became freedom fighters. But their purposes, their tactics, had not altered.

A significant case can be made to suggest that part of their tactic was to gain European western sympathy and so provoke the Serbs that they would use their army in Kosovo in ways that would attract a massive western retaliation. If that was carefully thought out it was certainly successful.

There had been the earlier tragedy in Bosnia where the impotence of the United Nations was manifest, both the mandate and the troop numbers were inadequate. United Nations forces at times had to stand by while people were taken from their protection, to be shot. Western opinion became enraged at what they regarded was the brutality of the Serbs. The Serbs had done much to earn that enmity, but perhaps not enough to cause NATO to go to war against Serbia. NATO claimed to act to prevent a humanitarian disaster in Kosovo. It is worth noting that the main refugee movements out of Kosovo began after NATO declared war and the Serb military moved into Kosovo in full force. But we are getting ahead of ourselves.

Madeleine Albright, Secretary of State, called for a final round of diplomacy at Rambouillet. There the Serbs were given an ultimatum. As Henry Kissinger later wrote, the terms given to Serbia, to Milosevic, were terms that not even an angelic Serbian leader could accept. These were terms designed to give NATO an opportunity to bomb Serbia into the next world.

This was an ill-timed and foolish judgement. Once Serbia was attacked by NATO, 490 million of the world's wealthiest people, Serbs from their nature, were bound to unite. If diplomacy instead of war had been pursued a while longer, Serbs themselves would have ousted Milosevic. There were demonstrations 100,000 strong against him and much opposition to him before the war began. I was in Belgrade 5 times during the war and many Serbs said to me, *"I have been against Milosevic, but once NATO declared war, what could I do? I am a Serb."*

At Rambouillet, Serbia would have been required to allow NATO troops, not only to garrison Kosovo, but to move wherever they liked throughout Yugoslavia. After the war, that demand was significantly modified. They were to be United Nations troops and confined to the borders of Kosovo itself.

At Rambouillet NATO required a referendum after three years to determine the fate of Kosovo. At the end of the war Kosovo was recognised as an

integral and permanent part of Yugoslavia. The Rambouillet conditions could not have been accepted by any Serb leader. The more lenient conditions agreed at the end of war represented a significant concession to Serbia. If the same terms had been on the table at Rambouillet there is a reasonable chance that Serbia would have accepted them.

Why did NATO act? Why did the United Nations not authorise war? Was it, as NATO claimed, a genuine humanitarian mission? What was the purpose, the motivation, the self interest? This can be only part answered. The United Nations could not act because both Russia and China would have exercised their veto that caused NATO to intervene without Security Council authorisation. Was there merit in the Russian and Chinese viewpoint? Did they believe that a war against Serbia or Kosovo would be partisan and unnecessary to achieve reasonable results? Did they believe it was not deserved on the merits? Whatever their reasons, NATO determined to act and to bypass the Security Council. In addition to violating the United Nations prohibition on the use of force, NATO was in defiance of its own charter. Article 5 commits members not to go to war except in self-defence or in defence of a treaty member under attack. It is worth recording that former Chancellor Helmut Schmidt privately warned the then Chancellor Gerhard Schröder that he, Schmidt would condemn him if Germany contributed troops to a NATO invasion.

Madeleine Albright in particular believed the war would only last 4 or 5 days and the Serbs would come to heel. Very quickly the NATO powers ran out of military targets. They found it necessary to destroy strategic facilities that had never been attacked through the whole of the Second World War. NATO also heavily bombed suburbs of Niš. They claimed they were only attacking military targets. I was meeting Mary Robinson, High Commissioner for Refugees, in Belgrade. She was late and tired and had been walking without end through civilian suburbs flattened by NATO bombing. Mary Robinson later issued a press statement saying that NATO should look at the legality of its own actions. We do not know the final arguments that caused Milosevic to give in, in negotiations with President Ahtisaari of Finland and Minister Chernomyrdin of Russia. Details of the final conferences have been tightly held, but I believe that Milosevic was threatened, Belgrade will be flattened as Niš has been flattened if you continue to hold out.

Serbia had been able to offer much more resistance than NATO believed possible simply because Marshal Tito had believed that his country would be subject to a Soviet invasion. He thought he was too independent for

Moscow. Yugoslavia was organised into self defence units with their own supplies, equipment and communication. Whatever the cause and whatever the effect, after extensive bombing NATO's destruction of the Serbian military was very very much less than they had believed.

Was it a humanitarian war or was it a war to bring somebody to heel who seemed to defy the world's injunctions and NATO's wishes? If it were humanitarian, as of course NATO claimed, it would have to have broader and wider and more just objectives.

Prime Minister Blair would certainly have regarded the war in Kosovo as humanitarian. He described it as a progressive war. It was the kind of war NATO should fight for the future. But Blair was a missionary, he clearly believed that war was a just instrument. I believe he was the most inadequate judge, he was partisan and as in relation to Iraq, policy was too much influenced by his own deeply held prejudices.

CARE Australia was responsible for the CARE International mission operating out of Belgrade and that mission was responsible for providing food and heating oil to 350,000 Serbs who had been ethnically cleansed out of Croatia by the Croatians.

William Shawcross in his book *"Deliver us from Evil"* documents much of what had occurred. The Croatian Army had driven over 250,000 Serbs out of homes they had occupied in some cases for centuries. It was these refugees, amongst others, who had fled to Serbia with whom CARE was working. This ethnic cleansing by Croatia was not condemned by the west, by NATO, it was permitted. It far exceeded, as Shawcross records, ethnic cleansing in other parts of the Balkans. If the countries principally involved in the intervention have any thought for justice they might ask themselves why they were prepared to allow this to happen almost un-noticed. Shawcross also relates that this Blitzkrieg (his word) had direct support from the United States.

Shawcross quotes from Holbrooke's book *"To End A War"*. Holbrooke himself includes a report given to him by Bob Frasure, a Senior State Department Official, after meeting with President Tudjman in Zagreb. *"Dick, we "hired" these guys to be our junkyard dogs because we were desperate. We need to try to "control" them, but this is no time to get squeamish about things. This is the first time the Serb way has been reversed, that is essential for us to get stability so we can get out."* A little later in the same book Shawcross indicates that Holbrooke was in Zagreb urging

Tudjman to press ahead with his campaign against the Serbs. Shawcross then quotes Holbrooke as saying *"You have five days left, that's all. What you don't win in the battle fields will be hard to gain in all the peace talks. Don't waste these last days."* The United States then was an active participant in supporting Croatia.

I often wonder how great nations make their judgements. Ethnic cleansing by Serbia was unmitigated evil. Ethnic cleansing by Croatia was permitted. How does the West put itself in that position? Indeed going back earlier before the Balkans War or even before there was a thought of War, Germany had done much to reward old allies when her Foreign Minister Genscher said that if Croatia and Slovenia wished to secede from Yugoslavia Germany would immediately recognise them. That statement did more than anything else to promote the destruction of Yugoslavia and to encourage KLA terrorists or freedom fighters, depending upon your point of view, to continue their activities. The German action destroyed the European Unions efforts to establish a unified policy for the Balkans. It also led directly to the problems in Croatia and the Krajina because the Serbs there did not want to be cut off from Serbia.

Britain and America especially had clearly forgotten that if the German divisions tied down in fighting Serbia were opposite Omaha Beach at the European invasion, that the Americans would probably have been thrown back into the sea.

As Shawcross relates in his book, Boutros Boutros Ghali indicated there were probably *"ten places in the world that were worse off than Kosovo at that time. Tens of thousands of Eritreans and Ethiopians were still dying unseen in desert trenches. Sudan was still bleeding and being fed by UN food supplies as it bled. Afghanistan was still at war with itself. Africa's "great war" had spread all around the Congo and in Sierra Leone children and their parents were still having their hands and lips chopped off by the rebels. But Kosovo was seen by the United States and his allies to be different. Kosovo was in Europe, surrounded by members of both NATO and the European Union"*. The intervention in Kosovo was clearly discriminatory placing a higher value on human life and wellbeing in Europe than in other places, but it was also discriminatory within Europe because it ignored Croatia's ethnic cleanings of 250,000 Serbs.

There are no saints in the Balkans, but none of the groups had a monopoly on evil either. The West acted out of a misguided sense of partisanship, I do not believe that the Kosovo War deserves for one moment to be named a

humanitarian intervention. It was a different, if you like, and confused version of power politics, or Europe once again ineffectively involving itself in Balkan affairs.

NATO received extensive criticism, during and after its intervention, that it had acted illegally without express authorization from the Security Council. At the same time, prior to the conflict, some NATO nations, such as the UK, justified their actions as a legally acceptable exceptional measure to prevent humanitarian catastrophe, but only in a highly discriminatory fashion. The fact that these nations felt they needed to provide a legal basis before entering into the conflict as well as the ensuing public condemnation of the intervention suggests that international law played a prominent role in the conflict and that the idea of humanitarian intervention was taken seriously despite the controversy as to whether or not NATO's actual intervention was legally justified on humanitarian grounds.

The intense legal debate which followed the intervention centred on the tension between a state's right to its sovereignty, enshrined in the UN Charter, and grave humanitarian concerns. NATO justified its actions by stating that it needed to intervene in order to prevent a grave humanitarian disaster, and that it was carrying out Security Council resolutions.

Kofi Annan, in a speech at the centennial of the first International Peace Conference, said that the Security Council was not able to reconcile two competing priorities, state sovereignty on the one hand and humanitarianism on the other. He saw a significant challenge for the United Nations and the Security Council to *"unite behind the principle that massive and systematic violations of human rights conducted against an entire people cannot be allowed to stand"* and then most cogently he warned against continuing in the direction of Kosovo, noting that the Security Council must regain its place as the sole source of the legitimate use of force he said *"we are on a dangerous path to anarchy."*

This of course is at the centre of much of it. How to persuade major states to accept the Security Council as the ultimate authority in certain matters, so often they use it when they can but if national purposes dictate a different outcome they ignore it.

Certainly in earlier times, the idea of a humanitarian intervention would have been remote from the minds of nations. However, the strength of the rule of law, the emergence of international humanitarian law in particular and the idea of the responsibility to protect have brought important new

elements into the equation. Though there is still little evidence that nations will act from humanitarian objectives alone.

The law is more evident and nations claim to be acting legally, often falsely, under international law, but recent examples do not rate the humanitarian motive particularly high.

Perhaps the most strident claims of humanitarian purposes arose out of the Balkans. But I have sought to show that if that was indeed the case, the principle was so inequitably applied and so unjustly executed that it did little credit to those who embarked on war.

In Iraq, British Foreign Minister Jack Straw claimed that Iraq was a humanitarian intervention. It was indeed an intervention, steeped in self-interest, based on what was known to be false about weapons of mass destruction and perhaps, on the west's insatiable demand for oil.

Afghanistan can lay no claim to be a humanitarian intervention. Its justification rests on a Security Council Resolution passed because the Taliban Government would not give up Al-Qaeda operating out of Afghanistan.

So have we advanced or have we not?

The report of December 2001 of the International Commission on Intervention and State Sovereignty (ICISS) spells out the basic principles involved in the responsibility to protect. From those principles one can define the circumstances in which international action ought to be triggered. In theory, the responsibility to protect involves first and foremost a *"responsibility to prevent conflicts breaking out."* It also involves a *"responsibility to rebuild, to reconcile and to reconstruct."* But the theory, the *"just cause threshold"*, the *"precautionary principles"* and the *"authority"* and the *"operational principles"* can only be a broad guide in particular circumstances.

## DARFUR

Perhaps we learn more from operations in Darfur. The unwillingness of African states to interfere in the affairs of another country despite the

Constitution of the African Union which expressly allows for it. The unwillingness of the west to act contrary to African wishes, and perhaps more importantly, the unwillingness of western countries to involve themselves in what could become a conflict situation with Sudan or even the African Union. When the theory is left behind and the practice is examined, the result falls far short of, on what humanitarian grounds, one would want to achieve.

## **BACKGROUND TO THE HUMANITARIAN CRISIS**

The Darfur conflict erupted in early 2003 and involves a range of armed groups, including the Janjaweed, a proxy for the Sudanese government. By 2004, the situation was widely described as an extreme humanitarian emergency, with mounting reports of war crimes, ethnic cleansing, genocide, destruction of homes and mass displacement of civilians. In the ensuing years, despite various international interventions, the intensity of the conflict and the reported atrocities has remained of grave concern.

## **INTERVENTIONS**

The international community intervened in the case of Darfur through a myriad of mechanisms. However, the international response was not comprehensive, was often delayed and inadequate, lacked strategic planning and political agreement as to what to do and was characterized by placing Sudan's sovereignty above humanitarian concerns.

The two main interventions have been The African Union Mission in Sudan (AMIS), established in 2004 and the African Union/United Nations Hybrid Operation in Darfur (UNAMID), authorized by SC Resolution 1769 in mid 2007. AMIS was largely thought of as ineffective due to its lack of resources and experience and, in the beginning, limited mandate. UNAMID's establishment took a great deal of time due to the Sudanese government's resistance to the presence of westerner peacekeepers and the international community's reluctance to intervene in Darfur without the government's consent. In Dec 2007 UNAMID finally became operational, and by Sept 2009 it was almost at its full strength. UNAMID has been criticized for its vague mandate, its lack of strategic planning, its need for Sudanese governmental consent on many operational issues and for not providing civilians with meaningful protection.

Among the numerous non-military interventions by the UN were the establishment of the International Commission of Inquiry on Darfur in late 2004 to investigate allegations of violations of human rights and international humanitarian law, as well as genocide, the referral of the situation in Darfur to the International Criminal Court in 2005 and numerous Security Council resolutions condemning the situation in Sudan and threatening action should the interested parties not comply with the resolutions. However, the SC has been criticized for not following through with its threats for action in the case of breaches.

## **MOTIVATIONS FOR INTERVENTION**

At the start of the conflict enormous public outcry spurred the UN to take action. The fact that despite these various interventions the humanitarian situation in Darfur remains dire has led some to claim that the international community has failed with regard to the responsibility to protect. The situation is complex and a wide range of factors seem to have been at play. Firstly, from 2003-2004 ongoing peace negotiations were taking place in Naivasha, Kenya to end the long civil war between the north and south of Sudan. There was a great reluctance on the part of the involved states to risk the peace agreement by upsetting the Sudanese government. Secondly, the Security Council's P5 had geostrategic interest in maintaining their relationships with Sudan. The western powers were concerned with Sudan's cooperation in counter-terrorism intelligence, while China and Russia had oil interests in Sudan. Thirdly, the west, particularly, the US, was seen as having lost some of its legitimacy in undertaking humanitarian interventions, since the Iraq war was, for a time, rationalized on humanitarian grounds. There was also concern that a military intervention without Sudan's consent could easily lead to a bigger humanitarian disaster. Additionally, an intervention against Sudan's will would entail an enormous amount of resources and an acceptance of high casualties, which many western states were not willing to give. Key humanitarian intervention advocates, the US and UK, were not willing to follow through with a large invasion on the ground. They were overstretched in Iraq and Afghanistan and wary of another Mogadishu situation.

It is also interesting to note of the many Security Council resolutions relating to Darfur, only one mentions the responsibility to protect. Conversely, every one refers to the sovereignty, unity, independence and territorial integrity of Sudan.

The result often falls far short of the ideal. The record shows that since Somalia, western nations have been most reluctant to intervene in Africa and indeed such interventions would be undertaken with difficulty, with host governments such as Sudan and Zimbabwe, opposing to the best of their ability, the wishes and efforts of the international community. How do you protect a vulnerable population when the government of the country concerned opposes such intervention because the government itself is the cause of the problem?

In law, I believe a significant advance has been made. The idea of sovereignty is now qualified, something to be possessed in trust, but it is not absolute. A government can forfeit its right to exercise sovereignty if it ceases to protect or if it discriminates against or attacks in one form or another significant numbers of its own people. The law is fine, the practice on the ground still needs much to be resolved.

Those who support and passionately believe in the responsibility to protect have much work left to do. Their purpose is right but how to achieve the result if a host government is hostile is by no means clear. In one way this is a discouraging conclusion, but on another basis it should not be, because if this were 50 years ago we wouldn't even be having this debate.

It is important to reflect on the reality of incremental achievement in relation to a concept like the responsibility to protect. Only a few years ago the suggestion of an obligation to intervene in a foreign State to prevent atrocity or to halt egregious violations of human rights would have been unimaginable. Now that the concept has been advanced and to a very considerable extent, accepted, it is important that the inter-governmental community is encouraged, cajoled and pushed toward effective implementation of the concept.

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