

**UN SECURITY COUNCIL DECISION MAKING AND CONFLICT  
MANAGEMENT IN AFRICA: CASE STUDY OF 1994 RWANDA  
GENOCIDE AND DARFUR WAR, 2003-2010**

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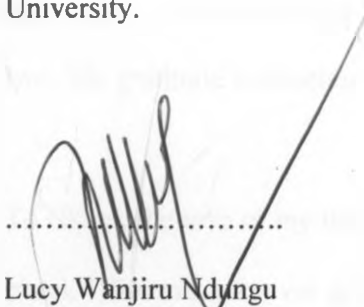


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## DECLARATION

This thesis is my original work and has not been submitted for a degree to any other University.



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## **DEDICATION**

This thesis is dedicated to my parents, John Ndungu and Monicah Mumbi who gave me a formidable foundation in education and selflessly gave their material and parental support to make sure I got nothing less than the best. I wouldn't have reached where I am without you two. My gratitude is priceless.

To Nkem, the love of my life and my friend, for tirelessly standing by me and nudging me to excel, I'll remain forever grateful. Thank you for the intellectual teasing and the countless books and materials you availed for my studies. Over the years many things have changed but you have been the constant in my life. I couldn't have done this without you, I Love You.

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## ABSTRACT

Inter- and intra-state conflicts in Africa are as old as the continent itself. Increasingly, more conflicts have become inter-state civil wars. These conflicts more often than not tend to threaten the stability of not just the country, but the international arena as well. Usually, when a conflict threatens international peace and security, the international community represented by the UN Security Council is mandated to mitigate the threat.

The UN Security is mandated by the Charter to maintain international peace and security, and to respond to what can be discerned as threat to international peace and security. Despite this assertion, the Council sometimes fails to match its rhetoric with action leaving its reputation marred and inevitably, tainted. Much of the Council's perceived reluctance to respond to conflicts in Africa has been attributed to the complex decision making process of the organ, which seems to be held hostage by its permanent members (P-5).

One of the cases the Council has got involved in is the Darfur crisis in Sudan. After fighting broke out in the region and vocal condemnation of the events there reached pitch high, the Council did not move decisively and expeditiously to offer a solution. In fact, it was even accused of moving in the opposite direction.

This study examines the Council's decision making on Darfur in an attempt to provide an analytical understanding of the bureaucratic processes that inhibit its effective working. It seeks to provide an intellectual reference point for people wishing to engage the Council as policy entrepreneurs, to provide an analytical perspective of what has been termed 'ineffectiveness' of the Council in responding to conflicts in Africa, and to recommend ways and entry points of national governments, civil society and individuals who would wish to engage the Council on matters of conflict management.

This research relied on the IR theory of realism and specifically critical realism to explain why the permanent members of the Council acted in the manner they did during the Rwanda Genocide in 1994, and on the on-going Darfur crisis. The methodology of the study is the research design known as formulative research studies. A review of relevant literature was done and the researcher built upon the work done by others.

This study found out that national interests of the P-5 play a big role in determining whether or not the Council gets involved in a conflict situation in Africa. While such principles as non-indifference and responsibility to protect should be major determinants of the Council's involvement, the power politics of the P-5 are rendering the organ almost ineffective.

## LIST OF ACRONYMS

AMIS	African Union Mission in Sudan
AU	African Union
BBTG	Broad Based Transitional Government
CNN	Cable News Network
CPA	Comprehensive Peace Agreement
DPA	Darfur Peace Agreement
ECOSOC	Economic and Social Council
EU	European Union
GA	General Assembly
GoS	Government of Sudan
HAND	Human Rights and Advocacy Network for Democracy
ICC	International Criminal Court
ICJ	International Court of Justice
IDP(s)	Internally Displaced Person(s)
JC	Joint Commission
JEM	Justice and Equality Movement
KWSA	Kigali Weapons-Secure Agreement
LDF	Darfur Liberation Front
LJM	Liberation and Justice Movement
MIR-79	Cable sent from Rwanda to UN in New York
NGO(s)	Non-Governmental Organization(s)
NIF	National Islamic Front
OSCE	Organization for Security and Cooperation in Europe
P-5	Permanent Members of the Security Council
PDD25	Presidential Decision Directive 25
PDF	Popular Defence Force
PKO(s)	Peacekeeping Operation(s)
RtoP	Responsibility to Protect
SLM/A	Sudan Liberation Movement/Army
SPLM/A	Sudan Peoples Liberation Movement/Army

UN	United Nations
UNAMID	United Nations/African Union Mission in Darfur
UNAMIR	United Nations Assistance Mission in Rwanda
UNGA	United Nations General Assembly
UN-OCHA	United Nations Office of Coordinator of Humanitarian Affairs
UNOMUR	United Nations Observer Mission Uganda-Rwanda
UNITA	National Union for Total Independence of Angola
UNMIS	United Nations Mission in Sudan
UNPKO(s)	United Nations Peacekeeping Operation(s)
UNSC	United Nations Security Council
UNSG	United Nations Secretary General
UK	United Kingdom
US	United States
WW II	World War II
CFC	Ceasefire Commission

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# CHAPTER 1

## INTRODUCTION

### Background

United Nations Security Council (UNSC) is the organ of the United Nations (UN) primarily charged with maintenance of international peace and security.<sup>1</sup> Having been given that mandate under the UN Charter, the UNSC has on many occasions been involved globally on issues that threaten international peace and security. While the nature of conflicts has morphed over time to complex, multi-faceted affairs, the UNSC's security agenda has clearly enlarged after the Cold War as seen in the proliferation of new concepts of security: environmental, human and democratic security.<sup>2</sup> Subsequently, the UNSC has responded to these changes by declaring most armed intra-state conflicts as threats to international peace and security and thereby getting involved either through a Chapter VI, Chapter VII or Chapter VIII operation as defined in the UN Charter.<sup>3</sup> Despite the labeling of these conflicts as threats to international peace, the response of the Council in many instances, specifically African, has consisted of rhetoric and half-measures that have left a lot to be desired. A number of factors account for the inability of the UNSC to match its rhetoric with action.

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<sup>1</sup> For functions and powers of the UN Security Council, see Article 24 of the UN Charter available on <http://www.un.org/en/documents/charter/chapter5.shtml> Retrieved on 02/21/2010

<sup>2</sup> Malone, D. (Ed.). *The UN Security Council: From the Cold War to the 21<sup>st</sup> Century*. (Colorado: Lynne Rienner Publishers, Inc., 2004) pp 28

<sup>3</sup> Chapter VI, 'Pacific Settlement of Disputes' resolutions are recommendations and are not binding on UN members. The UNSC "may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute and recommend appropriate procedures or methods of adjustment." Resolutions passed under Chapter VII are binding to UN members and include economic sanctions or other measures taken in situations involving "threats to peace, breaches of the peace, or acts of aggression" while Chapter VIII refers to authorization which must be given by the UNSC for any action conducted by regional organizations.

See <http://www.un.org/en/documents/charter/index.shtml> Retrieved on 02/21/2010

First, decision making within the UNSC is a complex mix of dynamics that makes the process almost look tainted. Before the Security Council institutes a response to any conflict, it has to assess the briefings brought to it by the Secretariat. There is a relationship between the two principal organs of the UN with regard to the maintenance of peace and security, namely the UNSC and the Secretariat, and their connection to the outside security environment: the Secretariat seeks to detect and issue warnings of forthcoming security threats under Article 99 of the UN Charter, whilst the Council bearing the greatest responsibility for peace and security under the Charter uses such information as raw materials for its conceptualization of and reaction to conflicts.<sup>4</sup>

From the outset, these briefings are characterized and shaped by the events unfolding in the conflict area. Despite receiving these briefings, the Council may not act expeditiously to deploy a UN peacekeeping operation. This is on account of the changing nature of defining and authorizing missions necessitated by the intricate webs of multi-dimensional operations and with them, the time frame necessary to respond to such crises has lengthened too. This study will explore these dynamics and politics in detail in subsequent chapters. Second, while events in the conflict area might threaten regional peace and stability, and hence international peace, unless the UNSC is able to muster a consensus among its members to approve a mission, no intervention will take place. This is clearly defined in Article 27<sup>5</sup> of the UN Charter.

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<sup>4</sup> Piiparinen, T., *The Transformation of UN Conflict Management: Producing Images of Genocide from Rwanda to Darfur and Beyond*. (New York: Routledge, 2010) pp 29

<sup>5</sup> Article 27(2) states: Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members. Article 27(3) states further: Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

Third, a number of scholars have argued that unless the country in question presents a strategic value to some members of the international community, it will be difficult to get the UNSC to authorize an intervention. Such scholars point to the genocide in Rwanda.<sup>6</sup> Despite months of briefings and predictions that serious violence was likely to break out, the UNSC was unable to authorize an intervention, even with the limited troop deployment that the Secretary General (SG) had requested. Most commentators are now agreed that if the UNSC had authorized the deployment, the carnage in Rwanda would have been prevented or substantially mitigated.

Before the UNSC makes any resolution, there are deliberations whose analysis enable understanding of how the UNSC makes decisions, and which can help contextualize how the UNSC has handled the Darfur Crisis. The factors driving the Council's decision making process in this case, which deserve an interrogation, have not been explored in detail, or theoretically explained which this thesis seeks to achieve.

### **Statement of Research Problem**

The UNSC involvement in many African conflicts is often belated, half-hearted and often ends up in the organ losing more credibility in the global arena. Examples abound of the Council's perceived failure in Africa-Angola, Somali, Sierra Leone, Rwanda-and currently, with the on-going Darfur crisis. Following the conflict in Darfur, the then US Secretary of State Colin Powell and UN Secretary General Kofi Annan visited in late 2004 and drew international attention to the crisis and raised

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<sup>6</sup> *Op. Cit*, pp 26

hopes that the UNSC would, at last, resolve conclusively within its mandate to address the Darfur crisis.<sup>7</sup> However, this didn't happen due to a myriad of factors that this study will explore.

Under Chapter VII of the UN Charter,<sup>8</sup> the UNSC can respond to armed conflict deemed as a threat to international peace and security by authorizing one or a combination of member states to conduct a peace operation, it can authorize a regional peace operation, or it can authorize the UN itself to conduct a Chapter VII peace operation. In spite of the Charter stating without any measure of ambiguity the UNSC's mandate and manner of engagement, the words are not always translated into hard action. For instance, the UNSC deliberations on Darfur began fifteen months after the conflict had started in 2003. Even after adopting its first resolution<sup>9</sup> on Darfur in June 2004, the UNSC's record of action was one of uncertain half-measures which included repeated but unheeded calls on the Sudanese government to disarm the Janjaweed<sup>10</sup> militia blamed for much of the violence, the creation of an independent commission to investigate the charge that genocide was being committed

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<sup>7</sup> Collins, R. O. *Civil Wars and Revolution in the Sudan: Essays on the Sudan, Southern Sudan, and Darfur, 1962-2004*. (California: Tsehai Publishers & Distributors, 2005) pp 165-167

<sup>8</sup> See UN Charter, Chapter VII Article 39 which states that:

"The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security." Accessed from <http://www.un.org/en/documents/charter/chapter7.shtml> on 02/21/2010

<sup>9</sup> Resolution 1547/2004 was the first UNSC resolution to mention Darfur.

<sup>10</sup> The basic meaning of *Janjaweed* is 'devils on horseback.' Historically, it has taken two distinct meanings-the seasonal bandits, and would be a pejorative term used by nomads and farmers alike, and the politicized version sometimes referred to as 'counterinsurgency on the cheap'(de Waal), who are government-reinforced fighters (though always denied) to implement counter insurgency tactics. Janjaweed is a Sudanese militia group recruited mostly from the Afro-Arab Abbala tribes of the northern Rizeigat region in Sudan.

in Darfur, and to allow the African Union force to monitor the numerous cease-fires.<sup>11</sup>

This perceived lackluster performance by the Council has been attributed to among other bureaucratic politics, ineffective decision-making that is often held hostage by the P-5 members of the Council. To understand the workings of the UNSC, a study of its complex decision making process is of absolute importance in order to explain the Council's seeming reluctance to engage effectively in conflict management in Africa. Therefore, this study will critically examine the Council's uncertain and ineffective approach in the Rwanda Genocide and the Darfur crisis. The study will investigate the motivations and interests of the key members of the Security Council, such as the permanent five members, as well as the organizational dynamics, actors and processes that influence and affect the manner and speed with which the UNSC responds to conflicts, especially in Africa.

## **Objectives**

### **General Objective**

This thesis seeks to examine the bureaucratic processes involved in decision making within the UNSC.

### **Specific Objectives**

- a) To critically analyze the processes of reaching UNSC resolutions
- b) To examine the interests and bureaucratic processes that UNSC is confronted with in decision making on conflict resolution.

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<sup>11</sup> *Op Cit.*, Collins, pp 165

- c) To assess the challenges that the UNSC faces in enforcement of peace in Africa and more so in Darfur.

### **Research Questions**

- a) What are the processes of arriving at UNSC resolutions?
- b) What are the dynamics that have informed the UNSC resolutions on Darfur?
- c) What are the challenges that the UNSC faces in peace enforcement in Africa and particularly in Darfur?

## **Literature Review**

This section will review the dominant writings on the study of the problem. Literature review is a body of text that aims to review the critical points of current knowledge and/or methodological approaches on a particular topic. Literature reviews are secondary sources, and as such, do not report any new or original experimental work. In this chapter, the study will review critical writings on the workings of the UNSC, the deliberations that precede resolutions, and particularly with regard to Darfur and other similar contexts.

It will focus on two major themes: the role of the UNSC in maintenance of international peace and security as outlined in the UN charter and decision-making in UNSC on conflict resolution with special regard of the Darfur crisis.

### **The Role of UNSC in Maintenance of International Peace and Security**

The United Nations (UN) is an international organization founded in 1945 after the World War II to replace the League of Nations which had failed in its efforts to stop wars. Archer succinctly defines international organization as an outcome of an attempt to bring order into international relations by establishing lasting bonds across frontiers between governments or social groups wishing to defend their common interests, within the context of permanent bodies, distinct from national institutions, having their own individual characteristics, capable of expressing their own will and whose sole role is to perform certain functions of international importance.<sup>12</sup>

This definition is consistent with David Mitrany's functionalist theory of integration, which argues that greater interdependence in the form transnational ties

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<sup>12</sup> Archer, C. *International Organizations*. (New York: Routledge, 2001) pp 32



between countries could lead to peace.<sup>13</sup> He goes further to argue, albeit naïvely, that efficient cooperation and collaboration in international organizations would lead to transference of loyalty, by citizens, from the state to the international organization after realizing the gains in welfare and peace occasioned by the international organization.<sup>14</sup> The thinking of the founders of the UN's precursor, the League of Nations, was guided by this notion. It is this principle of cooperation that persuades states to become members of international and regional organizations such as the UN.

The UN has 192<sup>15</sup> member states that include nearly every sovereign state. The UN charter, Chapter 3(8),<sup>16</sup> does not place any restrictions on eligibility of individuals in its principal and subsidiary organs. The UN's mandate was to stop wars among states and to provide a platform for dialogue and diplomacy.<sup>17</sup> Over the years, this mandate has expanded to cover other broad areas namely facilitating cooperation in International Law, international security, economic development, social progress, human rights and the achieving and maintenance of world peace and security, as outlined in the preamble of its Charter. In a bid to effectively and successfully carry out these duties the UN established principal organs namely, the General Assembly (GA), the Security Council (UNSC), Economic and Social Council (ECOSOC), a Trusteeship Council, which in light of modern political developments is dormant; the International Court of Justice (ICJ), and the Secretariat. Under the Charter, these

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<sup>13</sup> Jackson, R. H. & Sørensen, G. *Introduction to International Relations: Theories and Approaches*. (Oxford & New York: Oxford University Press, 2007) pp 104

<sup>14</sup> *Ibid*, pp 104-106

<sup>15</sup> Luck, E. *UN Security Council: Practice and Promise*(New York: Routledge Publishers, 2006) pp3

<sup>16</sup> See <http://www.un.org/en/documents/charter/index.shtml> for the Charter. Retrieved on 05/24/2011

<sup>17</sup> See <http://www.un.org/en/documents/charter/preamble.shtml> for the Preamble of the UN Charter.

Retrieved on 05/24/2011

organs can have subsidiary organs established to assist in the implementation of their respective mandates.

For the maintenance of international peace and security, the primary organ of the UN is the Security Council. By the nature of its operations, the Security Council can make decisions that are binding on the member states in accordance with the UN Charter.<sup>18</sup> The UNSC powers in maintenance of international peace and security have been set out in Article 24 of the Charter. In order to ensure prompt and effective action by the UN, its members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf (24[1]).<sup>19</sup>

The Article further sets the powers and mandate of the UNSC in paragraph 2 thus: In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the UN.<sup>20</sup> The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII. An interesting dynamic of the powers of the Council is reflected in the Charter by granting it the power to make binding decisions and to carry out enforcement actions in cases of threats to peace, breaches of peace and acts of aggression.<sup>21</sup> Thus, the Council interprets the Charter and retains the discretion to give specific meaning to such broad notions as “threats to the peace.” Since its decisions are binding, the

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<sup>18</sup> Article 24(1). Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

<sup>19</sup> *Ibid*, UN Charter

<sup>20</sup> *Ibid*, UN Charter

<sup>21</sup> Lee, R.S.K (Ed.). *Swords into Plowshares: Building Peace through the United Nations*(Netherlands: Martinus Nijhoff Publishers, 2006) pp2

Council creates new law for the member states, and can impose coercive measures on states deemed to be threatening the international peace.

Among all the articles that define the powers of the UNSC, Article 39<sup>22</sup> is the most far-reaching. The Article empowers the UNSC to determine whether or not a threat exists and then, to decide what to do about the threat: make recommendations or decide on measures which involve enforcement. Since it retains the power to interpret the Charter, the Council thus has no prescriptions as to what comprises “threats to peace.” It must ascertain the facts within the principles of the Charter and in accordance with its own understanding of the legal limitations there might be. Thus, in interpreting “threats to peace,” the Council has adopted a teleological interpretation of the Charter to expand its scope to include intra-state conflicts. It is now not surprising for the Council to declare armed intra-state conflict as threats to international peace and security under Article 39 of the UN Charter. This represents a significant shift in the principle of non-interference in member states’ domestic affairs (Article 2[7] of the Charter).

The emerging international consensus is the principle of non-indifference:<sup>23</sup> that the international community cannot watch countries or governing elites carry out genocide, crimes against humanity or other egregious international wrongs against their citizens. This principle was adopted as the ghost of the 1994 Rwanda genocide loomed large. While previously states, especially Africa, had heralded sovereignty

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<sup>22</sup> Article 39 of the UN Charter states: The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

<sup>23</sup> Black, D. R. and Williams, P. (Eds.) *The International Politics of Mass Atrocities: The Case of Darfur* (New York & Oxon: Routledge, 2010) pp 109

and non-intervention as core principles; however, the debates and desire for better conflict resolution in Africa slowly began to affect Africa's political environment. These changes occurring in the UN in the early 1990s led to a greater involvement of the organization's interventions in civil wars. In 1992, Secretary General Boutros Boutros Ghali's *An Agenda for Peace* recommended that the work of the UN Security Council should be informed by a broader human security framework, although sovereignty remained the key pillar of the UN system.<sup>24</sup>

With the new-found clout, the Council has regularly responded to armed intra-state conflict by employing its Chapter VII powers to authorize UN peace keeping operations to use military force to protect civilians and for the restoration of governing authority, starting with the unanimous adoption of Resolution 1270/1999<sup>25</sup> regarding the conflict in Sierra Leone.

With these fundamental realities that define it, the Council's response to conflicts and threats to international peace and security is enshrined in the concept of collective security. The word *security* represents a goal, as outlined in the Charter, while *collective* indicates the nature of the means employed; *system* denotes the institutional component of the effort to make the means serve an end.<sup>26</sup> The institutional component in this instance refers to the UN. Since the means is

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<sup>24</sup> Michael Dillon, 'Sovereignty and Governmentality: From the Problematics of the "New World Order" to the Ethical Problematic of the World Order,' in *Alternatives*, Vol. 20, No. 3, 1995, pp323-368. See also Roland Paris, 'International Peacebuilding and the "Mission Civilisatrice,"' *Review of International Studies*, Vol. 28, No. 4, 2002, pp 637-658.

<sup>25</sup> Acting under Chapter VII of the UN Charter, decides that in the discharge of its mandate, UNAMSIL may take the necessary action to ensure the security and freedom of movement of its personnel and, within its capabilities and areas of deployment to afford protection to civilians under imminent threat of physical violence, taking into account the responsibilities of the Government of Sierra Leone and ECOMOG (Article 14).

<sup>26</sup> Claude, I.L. Jr. *Swords Into Plowshares: The Problems and Progress of International Organization*. (New York: Random House, 1971) pp 250

collective, the nature of the goal is bound to be collective. Within the premise of the UN, collective security can thus be defined as a system in which states renounce the use of force to settle disputes and also agree to band together against states that resort to the use of force.<sup>27</sup> Theoretically in such a system, the threat of a collective response by all states deters the use of force by individual states. It is under this premise that the Council derives its response capacity when international peace and security is threatened.

One of the limiting factors to the Council's response lies in the fact that the UN, lacking its own force, relies on member states to make available armed forces, assistance and facilities necessary upon the Council's call.<sup>28</sup> Through this, the Council authorizes peacekeeping mission either under Chapter VI or Chapter VII of the Charter. At times, this may take time since in spite of the members voting in support of a mission, their votes are not translated into action by availing troops.

### **Decision Making in the UNSC**

To understand the decision making at the UNSC, it's important to get acquainted with its composition as defined in Article 23<sup>29</sup>, voting guidelines as set out in Article 27,<sup>30</sup> as well as its mandate. Article 23 of the UN Charter describes the composition of the UNSC as consisting of fifteen members of the UN. Out of these, five are

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<sup>27</sup> Shimko, K.. *International Relations: Perspectives and Controversies*. (Massachusetts: Wardsworth Cengage Learning, 2009). pp 75

<sup>28</sup> Article 43(1) of the Charter states: All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

<sup>29</sup> See UN Charter [www.un.org](http://www.un.org)

<sup>30</sup> *Ibid*, UN Charter

permanent members (United States of America, USA; the United Kingdom of Great Britain and Northern Ireland, Republic of China, the Union of the Soviet Socialist Republics, USSR(modern day Russia), and France. The remaining ten members are elected by the General Assembly to be non-permanent members of the Council with due regard being paid to contribution of Members to the maintenance of international peace and security and to the other purposes of the UN, and to equitable geographical distribution.

Article 27<sup>31</sup> of the UN Charter gives guidelines on how decisions are made in the UNSC thus: of the fifteen-member Council, decisions on procedural matters shall be made ‘by an affirmative vote of nine members, including the concurring votes of the permanent members.’ The Article further provides that decisions on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, a party to a dispute shall abstain from voting.<sup>32</sup> However, this requirement does not apply to decisions under Chapter VII. The result is that any of the five permanent members can prevent the adoption of any significant decisions under Chapter VII through the veto.

The decisions made at the UNSC can determine the lives of civilians and alter rights and responsibilities of states. One such significant decision is the Council’s reaction to armed intra-state conflict by authorizing UN peace operations to use force as provided in Chapter VII of the Charter. After the end of the Cold War, the UNSC

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<sup>31</sup> See the UN Charter, <http://www.un.org/en/documents/charter/chapter5.shtml> Retrieved on 05/24/2011

<sup>32</sup> Matheson, J. *Council Unbound: The Growth of UN Decision Making on Conflict and Postconflict Issues after the Cold War*. (Washington: United States Institute of Peace, 2006) pp 21.

was free from the superpower rivalry that had largely limited the use of coercive measures at its disposal.<sup>33</sup>

The ongoing crisis in Darfur<sup>34</sup> Province in western Sudan began in February 2003, when two rebel groups, Sudan Liberation Movement/Army (SLM/A) and the Justice Equality Movement (JEM), emerged to challenge the National Islamic Front (NIF) government in Sudan on grounds of institutionalized marginalization and domination meted against Africans by an Arab controlled government oligarchy in Khartoum.<sup>35</sup> The conflict pits the three African ethnic groups, the Fur, Zaghawa, and the Massaleit against the Arab nomadic ethnic group. The conflict had its roots in land and other natural resources disputes, exacerbated by expanding desertification in the region, and politicized by a long-held sentiment of marginalization in the political system and resentment against a central government that favored one tribal grouping against the rest in the region.

Historically, tensions between the Arabs and the African-Muslim ethnic groups have existed since the 1930s and recently surfaced in the 1980s. From the 15<sup>th</sup> century until its conquest by the Turco-Egyptian regime centred in Khartoum in 1874, Darfur was an autonomous state with strong roots in the local Fur tradition.<sup>36</sup> After the end of the Mahdist revolution from 1898 until 1916, Darfur was again established as an independent state. Darfur was included in the Anglo-Egyptian Condominium in 1916. A system of indirect rule was instituted and during the 1940s, a modern political

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<sup>33</sup> During the Cold War, authorization for the use of force was only resorted to in the case of Korea in the 1950s and in the early 1960s.

<sup>34</sup> The term 'Darfur' is derived from two words: *Dar* means 'home' while *Fur* stands for the Fur ethnic group. Literally, it means homeland, settlement or territory of the Fur people.

<sup>35</sup> Tar, U. A. "Old Conflict, New Complex Emergency: An Analysis of Darfur Crisis, Western Sudan." *Nordic Journal of African Studies*, Vol. 15(3), 2006. pp 406

<sup>36</sup> Mamdani, M. *Saviors and Survivors*. (New York: Pantheon Books, 2009) pp 8-9

system was being established in Northern Sudan, Darfur became a stronghold of the Ansar sect and its Umma party.<sup>37</sup> Later, the Muslim Brotherhood also found supporters in the region.

Despite this inclusion in political processes at the centre, the people of Darfur, even the intellectual elite, were not expected to play an active role in national politics. It seems that the fear of being further politically marginalized as a consequence of the GoS-Sudan Peoples' Liberation Movement/Army(SPLM/A) peace process was an important factor when the SLM and JEM decided to start attacking military installations in Darfur.

The UNSC first considered the Darfur conflict in April 2004 after numerous reports and media attention became more focused on the atrocities happening there.<sup>38</sup> Commentators started referring to the events unfolding in Darfur as genocide.<sup>39</sup> The UN officials became increasingly vocal and the Non-Governmental Organizations' (NGOs) advocacy efforts intensified. The Security Council finally discussed Darfur on April 2, 2004 not as an agenda on its own but under other matters.<sup>40</sup>

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<sup>37</sup> *Ibid*, pp 8-9

<sup>38</sup> This arose from constant media coverage by major international stations like Al-Jazeera, BBC World, CNN and CBS and from early warning signals from human rights organizations like Amnesty International, Human rights Watch, and Life and Peace Institute.

<sup>39</sup> Article 2 of the Convention the Prevention and Punishment of the Crime of Genocide defines genocide as any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

<sup>40</sup> For details of the Security Council's discussions and reports on Darfur, see <http://www.ohchr.org/EN/Countries/Pages/SecretaryGeneralReportsSD.aspx> retrieved on 07/13/2011



Over the next four months, the UNSC discussed Darfur every four weeks and received a large number of briefings. Several of these briefings were based on missions to Darfur and the conclusion in each of these briefings was a grim picture of human suffering. Despite these reports, the UNSC did not move decisively and with speed to offer a solution to the crisis and at some point, it was accused of moving in the opposite direction with regard to Darfur. Apart from adopting Resolution 1556,<sup>41</sup> calling the GoS to abide by its commitment to disarm the Janjaweed and to bring to justice those responsible for the atrocities, the UNSC response remained unsettlingly muted.

### **Study Justification**

This study seeks to make a contribution to the body of knowledge by providing a deeper understanding of the dynamics, actors and processes that determine the decision making at the UNSC on issues considered key in the discharge of its primary mandate of maintaining international peace and security.

It attempts to analyze which theory, or a combination of theories, best explains the decision making process of the UNSC with regard to the Darfur conflict. This information will be useful to scholars of the UN system, policy planners and other actors who may wish to engage the formal mechanisms of the UNSC.

This information will also be useful to policy makers within the UN system as well as governments of member states of the UNSC in future decision making in

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<sup>41</sup> For a detailed writ of the resolution, see <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/446/02/PDF/N0444602.pdf?OpenElement> Retrieved on 07/13/2011

instances of armed conflicts that may require speedy and more decisive action from the UNSC.

The goal of this dissertation is not to build a theory of UNSC decision making. Rather, it is to test which theory has the explanatory power of the Council's decision making. While some literature exists on this subject, these accounts have not been exhaustively explored and documented to give a concrete and substantive analysis of the politics of decision making in the Council by analyzing the various variables and interests at play in any conflict and/or humanitarian crisis. There is need for exploring a theoretical foundation to the topic which this study seeks to address.

### **Operationalization of Terms and Variables**

In this thesis, various terminologies have been used and will continue being used throughout. It is imperative to acquaint the reader with these terms in order to ensure coherence and understanding of the context in which they are used within the thesis.

Such terms include *bureaucratic processes* which in this study will be employed to mean the processes the UNSC undergoes before a resolution is adopted. Bureaucratic processes will be used to mean interests of the members, internal structures, and the relationship with other UN organs. This will be measured by conducting a series of interviews and an in-depth analysis of the Council's decision-making on a number of other cases. National interest of the P-5 members with regard to a conflict area will be measured in terms of geopolitical importance.<sup>42</sup> This is an index composed of various variables-oil reserves, gas reserves, oil pipelines, gas

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<sup>42</sup> Slater, D. *Geopolitics and the Post-Colonial: Rethinking North-South Relations* (Oxford & Massachusetts: Blackwell Publishers, 2004) pp178-183

pipelines, civil nuclear capacity, possession of nuclear weapons, area, the length of coastlines and the UN military strength.

A *resolution* will be used to mean a written motion adopted by the UNSC. This will be measured quantitatively in terms of the numbers of resolutions adopted.

The *independent variable* for this study is the bureaucratic processes while the UNSC decisions will be the *dependent variable*.

### **Theoretical Framework**

A theoretical framework is a collection of interrelated concepts that guides the research, determining what variables will be measured, and what statistical relationships the researcher will look for between the variables. The theoretical framework is supposed to help the reader make logical sense of the relationships of the variables and factors that have been deemed relevant or important to the problem. It provides definition of relationships between all the variables so the reader can understand the theorized relationships between them. Theoretical frameworks are obviously critical in deductive, theory-testing sorts of studies. In those kinds of studies, the theoretical framework must be very specific and well-thought out.

This study will employ a combination of theories of International Relations to make an attempt at explaining the decision-making process of the UNSC. The theories will be useful in formulation of hypotheses for the study. The theories that will inform this study will include Realism, Domestic Politics, and the CNN Effect (Cable News Network), which is a relatively new concept in international relations. The choice of the theories has been driven by the assumption that the Council's action

is driven by four considerations: national interests of the P-5, domestic politics of the P-5 members, “severity” of the crisis and the amount of global media coverage. The theories will complement each other in explaining various variables in the decision making structure of the UNSC.

Should the failure of UN diplomats and officials to prevent genocides be conceived of as largely self-inflicted, or should it be more reasonably attributed to the constraints of the surrounding structures and mechanisms which limit the political maneuvering space of these actors? To answer this question, it’s important to delve into the critical realist school of thought. Before probing critical realism more in detail, it is appropriate to situate it in International Relations (IR) studies more broadly.

Old debates in IR theory have been conducted by Machiavellians (political realists), Grotians (rationalists) and Kantians (liberal institutionalists).<sup>43</sup> Machiavellians view states and state-systems as the proper levels of analysis. Grotians, in turn, emphasize the diplomatic and normative structures that bind states together, whilst Kantians prioritize transnational actors that enhance the emergence of international community. Since the end of the 1980s, a variety of new IR approaches has emerged challenging the transcending the aforementioned ‘Three Waves’ of IR discipline.<sup>44</sup>

Critical Realism initially emerged as a critique of positivism (positivism here is defined by the prevalence of the empiricist method in IR research and the belief in the existence of regularities in the social world) in the philosophy of science, which

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<sup>43</sup> *Op Cit*, Piiparinen, pp 32-39

<sup>44</sup> *Op. Cit*, Piiparinen, pp 27

suggests that critical realist approaches in IR have close affinities with post-positivism.

Double Movement<sup>45</sup> based on critical realist philosophy views events and actors only as a starting point, not so much as explanatory factors per se but more as factors to be explained, because it considers the importance of the ‘troublemaking’ structures and mechanisms that generated those events in the first place and affected the behavior of actors. This is an important aspect of understanding decision making in the UNSC because it offers explanation, albeit unsatisfactory, why actors respond to certain events in the manner they do.

In analyzing mechanisms specifically in relation to the UN, the hypothesis here is that the UNSC constitutes what Roy Bhaskar<sup>46</sup> terms an ‘open system’ composed of fifteen member states, but what makes this group representatives of the Security Council in control of international security threats, rather than a closed gentleman’s club of ambassadors, is the surrounding framework of structures and mechanisms of the UN. The critical realist framework illuminates a novel way of understanding the Security Council as an *open system* and of conceiving the UN conflict management as a *related whole*, in which control mechanisms play a central role.<sup>47</sup> ‘Control mechanisms’ in the context of UN conflict management are understood metaphysically as causal linkages by which images of outside security threats are produced in the UN system.<sup>48</sup> These linkages denote both the relationship between the two principal organs of the UN with regard to the maintenance of peace and

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<sup>45</sup> *Ibid*, Piiparinen pp 27

<sup>46</sup> Bhaskar, R. *A Realist Theory of Science*. (New York: Routledge, 2008) pp 19-33

<sup>47</sup> Archer, M.S et al (Eds.) *Critical Realism: Essential Readings* ( New York: Routledge, 1998) pp 213

<sup>48</sup> *Op. Cit*, Bhaskar, pp 190-192

security, namely the UNSC and the Secretariat, and their connection to the outside security environment: the Secretariat seeks to detect and issue warnings of forthcoming security threats under Article 99 of the UN Charter, whilst the Council bearing the greatest responsibility for peace and security under the Charter uses such information as raw materials for its conceptualization of and reaction to conflicts.

While exploring domestic politics and the role this plays in the UNSC, this thesis will frame the relationship between domestic and international politics as theorized by Putnam in his notion of two-level game.<sup>49</sup> He posits that domestic politics and international relations are often *somehow* entangled, but it's not clear how strongly domestic politics really determine international relations.<sup>50</sup> The theoretical link between these two levels is the requirement of domestic ratification of international decisions and agreements. It is postulated here that domestic determinants of foreign policy and international relations must stress politics: parties, social classes, interest groups (both economic and non-economic), legislators and even public opinion and elections, not simply executive officials and executive arrangements.<sup>51</sup>

Following this theory, the study will focus on the interactive process that country ambassadors engage in at the UNSC-the hypothesis here is that the ambassadors at the Council are engaged in two simultaneous processes; while they have to build consensus amongst themselves as required by the UN Charter, they also have to be alive to the domestic political system of their respective countries. This entanglement creates considerable constraints of conciliation on the Council members while

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<sup>49</sup> Putnam, R.D. "Diplomacy and Domestic Politics: The Logic of Two-Level Games" in Putnam, R. D., et al. (Eds.) *Double-edged Diplomacy: International Bargaining and Domestic Politics* (London and California: University of California Press, 1993 ) pp 431-468

<sup>50</sup> *Ibid*, pp 431

<sup>51</sup> *Ibid*, pp 435

attempting to reach a balance between domestic realities and international expectations at the UNSC. This inevitability of domestic pressures inescapably affects the decisions the UNSC makes.

The explosion of media technology has driven the scholars of international relations to devise the relatively new concept of Cable News Network (CNN) Effect. This theory postulates that global all news networks have created a fascination from the perception that they, television in particular, have become an important power broker in politics. The CNN Effect theory resulted from policymakers' reflections on the roles played by global television networks, particularly CNN, in major international conflicts such as the Gulf Crisis, Iraq Invasion and occupation of Kuwait, Somalia in 1992, Rwanda in 1994, Bosnia (1992-1995) and Kosovo in 1999.<sup>52</sup> In assessing the Council's action on conflicts, there is common assumption that the amount of global pressure and media coverage partly drives it. This assumption is backed by the assertion that images of what is happening in a conflict situation are given greater significance than what really happens. MacNeil<sup>53</sup> calls this "a contest of images" while Kissinger confirms it in his observation that officials asking for his advice used to ask him what to *do*, but now ask him what to *say*.<sup>54</sup>

Both the Rwanda Genocide and the Darfur crisis received considerable coverage by the international media. This study will assess the extent CNN Effect has on the Council to respond to humanitarian crises.

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<sup>52</sup> Eytan Gilboa, "The Global News networks and U.S Policymaking in Defense and Foreign Affairs," in *The Joan Shorenstein Centre on the Press, Politics and Public Policy* No. 6, 2002, pp8

<sup>53</sup> Robert MacNeil, "The Flickering Images that may Drive Presidents," in *Media Studies Journal*, Vol. 8, 1994, pp 121-130

<sup>54</sup> Neuman, J. *Lights, Camera, War: Is Media Technology Driving International Politics?* (New York: St. Martin's Books, 1996) pp 124

## Hypotheses

This research will be based on the following hypotheses:

- a) The UNSC decisions are largely influenced by the national interests of the P-5 members hence UNSC is more likely to send a peace operation in areas of geopolitical importance to them.
- b) Double movement, control mechanisms, their connection to the outside security threats and the surrounding framework of structures and mechanisms of the UN greatly affects decision making actors in the UNSC.
- c) The more the UNSC democratic members are subject to strong domestic pressures and constant media coverage, the faster the Council can adopt resolutions on an on-going conflict.

## Methodology

Mugenda & Mugenda<sup>55</sup> define methodology of a research as the procedures that are followed in conducting a study. Leedy<sup>56</sup> posits that research methodology is a continuous process and the approach by which meaning of data is extracted. It gives direction towards getting answers to issues that are of concern. This section of the study explains the methods of carrying out the research as well as the design to be applied. It also includes the population, procedures of sample selection, data collection instruments, data analysis techniques and the expected output.

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<sup>55</sup> Mugenda, A & Mugenda O. *Research Methods: Qualitative and Quantitative Approaches*. (Nairobi: Longhorn Publishers, 1999) pp 21

<sup>56</sup> Leedy, P. D. and Ormrod, J. E. *Practical Research: Planning and Design*. (California: Wadsworth Publishing House, 2009) pp 48



## **Research Design**

Research design refers to the overall conception of the study including description of all concepts, variables and categories, the relational propositions and the methods of data collection and analyses. Research design thus refers to the process that the investigator will follow from inception to the completion of the study

This study will use exploratory or formulative research design in the sense that the researcher will review works done on the area of study and build on it. An in-depth analysis of existing literature will be carried out with a view to identifying gaps which this study anticipates to bridge. The researcher will apply concepts and theories in the area of international relations for the purposes of identifying which theory or a combination of theories best explain decision making in the UNSC.

## **Population and Sample**

The population of this research work is global. The sample for the research is Darfur. The study shall also focus on other conflict areas where the UNSC has intervened with what can be considered speed and in other incidents where its response has been seemingly slow and ineffective. This will allow a comparative analysis that can be used to draw generalizations.

## **Data Collection**

This research will largely rely on secondary sources of data. The researcher will also use primary sources of data such as interviews with experts within UN, the P-5 member states; questionnaires, and case studies of areas where UNPKOs have been

used. The use of multiple methods will permit triangulation of the data to improve validity of the findings and enable greater inferences from the results.

## **Interviews**

An interview as a method of data collection is appropriate as the study is qualitative. The researcher will conduct interviews to collect the necessary data for the research. In-depth unstructured interviews which will explore participant's perceptions will be used to validate the researcher's subjective interpretation of the data.

Interviews involve the presentation of oral-verbal stimuli and replies in terms of oral-verbal responses. The interviews translate the research objective into specific questions. Interviews can be carried out on phone or through personal interviews.<sup>57</sup> The advent of the internet allows for interviews to be carried out on the net too. Answers to the questions provided the data for hypothesis testing.

Both open-ended and closed ended questions will be employed in this study thus allowing the interviewee room to answer exhaustively. Three elements of interviews will be adopted in the study thus: informal conversations, formal interviews and semi-structured interviews.

## **Case Study**

Case studies are a popular method where qualitative data is required. It's an in-depth method of data collection where the researcher carries out a full analysis of a

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<sup>57</sup>Kothari, C.R., *Research Methodology: Methods & Techniques* (New Delhi: New Age International, 2007). pp 43

limited number of events within the area of study, and their interrelationship.<sup>58</sup> From case studies of other conflict areas the UNSC has been involved, the researcher makes generalizations and inferences from the decisions made with regard to the conflict, and relate them to the case of Darfur.

### **Data Analysis**

Data analysis is a process of inspecting, editing, transforming, modeling and coding data with the goal of highlighting useful information, suggesting conclusions, and supporting decision making. It involves the systematic application of statistical tools.<sup>59</sup> Data analysis has multiple facets and approaches encompassing diverse techniques. The overarching principle of qualitative data analysis is that causal relationships and theoretical statements emerge from and are grounded in the phenomena under study. The theory should emerge from the data and not imposed on the data.<sup>60</sup>

### **Chapter Outline**

Chapter One of the study is the proposal that gives the background to the research, justification, objectives, literature review, hypotheses and methodology. It details how the study will be carried out, how data will be collected and analyzed too. This chapter also reviews dominant writings on the topic.

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<sup>58</sup> *Ibid*, pp113

<sup>59</sup> Lewis-Beck, M. *Data Analysis: An Introduction* (California: Sage Publications, Inc., 1995) pp 3

<sup>60</sup> Coolican, H. *Research Methods and Statistics in Psychology*. (London: Hodder & Stoughton, 1990) pp 12

Chapter two is the theoretical discussion on decision making at the UNSC. It also delves into the historical perspective of Darfur in order to give the genesis of the conflict, and details how the conflict has morphed during the time under study.

Chapter Three is a case study in which a critical analysis of decision making in the UNSC in another conflict where the action, or inaction, of the Council has come under scrutiny. Case study will allow for similarities to be drawn with the Darfur conflict in order to allow generalizations.

Chapter Four presents and critiques the data collected with a view to testing the hypotheses of the study, and to address the objectives outlined in chapter one.

Chapter Five presents recommendations and conclusion drawn from the findings of the study.

## **CHAPTER TWO**

### **UN SECURITY COUNCIL AND DARFUR**

#### **Introduction**

This study seeks to dig deeper into the bureaucratic processes that inform decision making in the UNSC. These processes will be analyzed within the context of the variables of the study to better understand the impact they have on the resolutions the UNSC adopts. In this section, the study will delve deeper into the bureaucratic processes and politics that influence decision making the Security Council. It will further detail the history of Darfur and subsequently relate it to the genesis of the present conflict in the region.

#### **Decision Making**

The study of decision making is an analysis of power relations which reveals how power is translated into action. Therefore, in order to analyze the decision making of the UNSC, the dynamics of power relations must be assessed. Each decision and decision making process is a consequence of power relations and the way that power is structured is the determinant of the decision-making process. An analysis of the structure of existing power relations is vital to understand how decision making processes are constructed, sustained, and/or changed.

The decision-making process can thus be seen as both a test of the power relations assumed at the start of the action (the mental picture), and as a means towards changing these power relations. Decisions can change power relations either by changing the resources available to the actors or by changing the procedures through

which they interact so as to give some actors a more advantageous position than others. A study of decision making is, accordingly, a study of the dynamics of power relations. It begins with an analysis of the structure of existing power relations; and it seeks to understand how the decision process may tend to sustain or to change that structure.<sup>61</sup>

International organization here is regarded as the process that takes place in world power relations—a process in which hegemony becomes institutionalized. When a particular formal intergovernmental institution is established, it crystallizes the hegemonic consensus of a particular time in relation to a particular global task or set of global tasks. Hence hegemony comprises the environmental variables relevant to decision making in international organization, such as the UN.<sup>62</sup>

Within the Council, decision making is a complex process that involves a show of might by the P-5 members through the veto, or threat of use of veto. Right from the birth of the UN, these power relations came into play when the permanent ‘home’ of the organization was being sought. Nicholas<sup>63</sup> expertly captures this power play evident in 1951 when the term of the sitting Secretary General, Trygve Lie, was coming to an end. The then Soviet Union vetoed his re-nomination in the Security Council after a disagreement with the US over the Uniting for Peace Resolution.<sup>64</sup> The US on its part, arguing that a Secretary General should not be penalized for exercising his duties, announced that they would veto any other candidate. Thus, Lie

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<sup>61</sup> Cox, R.W., & Jacobson, H. R. *The Anatomy of Influence: Decision Making in International Organization*. (New Haven & London: Yale University Press, 1973). pp 371-436

<sup>62</sup> Cox, R. and Sinclair, T. J. *Approaches to World Order*. (New York: Cambridge University Press, 1996) pp 364

<sup>63</sup> Nicholas, H.G. *The United Nations as a Political Institution*. (London: Oxford University Press, 1962) pp 47-58

<sup>64</sup> For details of the Uniting for Peace Resolution, and its interpretation, see <http://untreaty.un.org/cod/avl/ha/ufp/ufp.html> Retrieved on 07/20/2011

was not re-nominated for another term, as this would have required a Council recommendation which would not have found concurrence, but instead he was “continued in office”<sup>65</sup>

The power play between super powers within the Security Council had reached its peak during the Cold War. This, coupled with the interests of the P-5 members has significantly hindered the operations of the Council in maintenance of peace and security as mandated in the Charter. Although the realities of the Cold war era have changed dramatically, Council’s effectiveness in maintenance of international peace and security has been plagued by a combination of factors rendering it almost ineffective.

The UN Charter, as finally adopted, contains two significant chapters in relation to the maintenance of international peace and security. Chapter VI provides for the pacific settlement of disputes by, among other things, negotiations and adjudication; and Chapter VII contains the collective security provisions which were intended as the cornerstone of its policy in the maintenance of world peace. It is Chapter VII that provides for enforcement measures under the direction of the UNSC as the military instrument.<sup>66</sup>

Incidentally, the lack of an express mention of peacekeeping in the Charter has not inhibited its development. In fact, this may have helped establish peacekeeping as a flexible response to international crises, while at the same time contributing to a misunderstanding regarding its nature. This has thrown peace operations in a grey area creating differences among authorities on the exact legal basis for peacekeeping

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<sup>65</sup> *Op. Cit*, Nicholas pp56

<sup>66</sup> Murphy, R. *UN Peacekeeping in Lebanon, Somalia and Kosovo: Operational and Legal Issues*. (New York: Cambridge University Press, 2007) pp 5

operations. This prompted Dag Hammarskjöld to refer to these operations as belonging to “chapter six and a half” of the Charter.<sup>67</sup> To get out of this legal morass, the International Court of Justice (ICJ) has held that they are within the power of both the GA and the UNSC.<sup>68</sup>

A further complication of the UNSC’s abilities in maintenance of international peace and security arises by the virtue of the kind of operations conducted under Chapter VII and intended to be enforcement action in nature, despite the failure to conclude the requisite agreements between member states and the UN for the provision of armed forces under Article 43 of the Charter.<sup>69</sup> Military actions conducted during the Korean conflict, and more recently the First Gulf War belong in this category.<sup>70</sup> Operations of this kind can be established under Article 42 of the Charter(which provides for measures by air, sea, or land forces as may be necessary to maintain or restore international peace and security) by way of a decision by the UNSC, or they may be authorized by way of a recommendation under Article 39.<sup>71</sup>

In special circumstances, for instance the Korean conflict, the Uniting for Peace Resolution procedure then adopted by the GA provides a further mechanism that could be availed of in the future. The resolution provides that, if, because of the lack of unanimity of the P-5 members of the UNSC the Council cannot maintain

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<sup>67</sup> See <http://www.unis.unvienna.org/unis/en/60yearsPK/index.html> Accessed on 06/13/2011

<sup>68</sup> Orakhelashvili, A., “The Legal Basis of the United Nations Peace-keeping Operations,” in *Virginia Journal of International Law*, Vol. 43, 2002-2003 pp 485-524 and Liivoja, R., “The Scope of the Supremacy Clause of the United Nations Charter,” in *International and Comparative Law Quarterly*, Vol. 58 July, 2008 pp583-612

<sup>69</sup> Article 43(1) states: All members of the United Nations...undertake to make available to the Security Council, on its call and in accordance with special agreement or agreements, armed forces, assistance and facilities...for the purpose of maintaining international peace and security.

<sup>70</sup> *Op Cit.* Murphy pp 5

<sup>71</sup> Article 39 states: The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measure shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace or security.



international peace where there is a 'threat to the peace, breach of the peace or act of aggression,' the GA 'shall consider the matter immediately.'<sup>72</sup>

The well known weaknesses of the UNSC decision making procedure have remained serious in the post Cold War era. They were already evident in the Kosovo crisis in the March 1999, when the prospect of a Russian veto led the US and its allies to avoid even putting a resolution authorizing force before the UNSC. The weaknesses were more evident in March 2003, when France indicated that it would veto a resolution authorizing force in Iraq. Never before has a major power, seeking to act militarily with the claimed purpose of implementing UNSC resolutions, faced the openly advertised prospect of veto by an ally.<sup>73</sup>

Conduct of business in the security Council, in particular voting is prescribed in the UN Charter; Article 27.<sup>74</sup> The most conspicuous element is the veto on substantive decisions, for each of the P-5. Soon after WW II in the early years of the functioning of the UNSC, the voting provisions of Article 27(3) led to consultations among the veto holding powers as to whether an abstention by one of those P-5 did or did not mean that the required affirmative vote was lacking. It was agreed that "common sense" required that an abstention or non-participation in the vote should be construed as a form of concurrence. The practice of voluntary abstention by the P-5 members has diminished the potential destructive influence of the veto.<sup>75</sup>

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<sup>72</sup> *Op Cit.* Murphy pp 6

<sup>73</sup> *Op Cit.* Malone, pp 148

<sup>74</sup> For Article 27 of the UN Charter, see <http://www.un.org/en/documents/charter/chapter5.shtml>  
Accessed on 02/22/2010

<sup>75</sup> Kaufmann, J. *United Nations Decision Making.* (Netherlands: Sijthoff & Noordhoff International Publishers, 1980) pp 44.

It's worth noting that since its establishment, the UN has been kept on a tight rein and prevented from developing its full potential due to differences among the P-5 members. A study of the organization during the Cold War reveals that both the US and the Soviet Union used the threat of veto in the UNSC to good effect, and both shared a common interest in hindering the GA from developing its full capacity.<sup>76</sup> The collapse of the Soviet Union and the end of the Cold War has given rise to a situation where there is in effect one superpower, the US, to the chagrin of the Soviet Union.

The end of the Cold war had a dramatic impact on the UNSC decision making in regard to its peacekeeping operations. The UNSC, no longer immobilized by the veto power of the P-5 members approved UN observer and peacekeeping missions to conflict-ridden states in growing numbers. Between 1988 and 1991, ten UN observer missions and peacekeeping operations (PKOs) were created, a number which almost equals the thirteen observer missions and PKOs mounted between 1948 and 1988.<sup>77</sup> In addition, the nature of peacekeeping operations changed in several important ways. First, the P-5 members began to send troops to participate in UNPKOs. Second, the UNSC began to approve PKOs (named 'second-generation' operations) under Chapter VII as their mandates expanded to include peacemaking and peace enforcement. Third, the right to intervene for humanitarian purposes was accepted as a new justification for UN peacekeeping operations based on two resolutions passed in the GA. Finally, in the wake of the disastrous UN peacekeeping experience in the

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<sup>76</sup> Jeffrey Mankoff, "Rethinking Russia: Generational Change and the Future of US-Russian Relations," in *Journal of International Affairs*, Vol. 63, No. 2, Spring/Summer 2010, pp1-18

<sup>77</sup> Sorenson, D. S and Wood, C. *The Politics of Peacekeeping In The Post-Cold War Era*. (London: Frank Cass, 2005) pp 44

former Yugoslavia, some countries, including France, have shifted their participation from UNPKOs to multinational peacekeeping operations with a UNSC mandate.<sup>78</sup> In effect, these dynamics have stretched the Council's and the overall UN's resources needed for an effective mission in a conflict area.

Another complication in UNSC decision making arose from a policy directive by the US. In 1994, the then US president Bill Clinton signed Presidential Decision Directive 25 (PDD25), which was a high policy review aimed at reforming and strengthening the UN peacekeeping ability.<sup>79</sup> One of the key tenets of this policy is that it insisted upon great rigor by the UNSC in approving, reviewing, changing, phasing out or authorizing new or existing operations. Some of the requirements were that the mission is clearly defined, linking the military and political objectives, making certain there is an overall political objective to be served by establishing the PKO, establishing, when possible, time lines and end dates for the duration of the mission; getting a firm statement of costs involved, and the risks involved.<sup>80</sup> This directive further complicated the UNSC's decision making process due to the rigors involved before a PKO could be sent out.

While some resolutions passed by the UNSC have the objective of improving effectiveness and inclusivity of its actions, they present an inadvertent complication to decision making within it. One such resolution was passed in October 2000 when the UNSC held an open discussion entitled "Women, Peace and Security" in which forty member states made strong statements supporting the mainstreaming of gender

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<sup>78</sup> *Ibid*, pp44

<sup>79</sup> The United States Information Agency, "In Pursuit of International Peace and Security," *U.S Foreign Policy Agenda* Vol. 2, No. 2, (1997) pp. 11

<sup>80</sup> MacKinnon, M. G. *The Evolution of US Peacekeeping Policy under Clinton: A Fairweather Friend?* (Oregon: Frank Cass Publishers, 2000) pp124-146

perspectives into peace support operations.<sup>81</sup> The UNSC adopted a resolution (S/RES/1325) on women, peace and security. Resolution 1325 builds on a series of UNSC resolutions and provides a number of important operational mandates, with implications for both individual member states and the UN system.

Resolution 1325 reiterates the importance of bringing gender perspectives to the centre of attention in all UN conflict prevention and resolution, peace-building, peacekeeping, rehabilitation, and reconstruction efforts. It asks the UNSC itself to ensure that its missions take gender considerations into account, including through consultation with women's organizations. The resolution requests that the secretary-general include progress in gender mainstreaming in reporting on peacekeeping missions.<sup>82</sup>

These recommendations are key markers in the decision making structures of the UNSC as they have also played a role as stumbling blocks to the expeditious decision making within it. Any subsequent resolutions on PKOs have had to put into consideration resolution 1325.

Organizational bureaucracies and dysfunctions within the UN have the unfortunate outcome of hindering effective UNSC decision making. Although the UNSC has the "primary" responsibility for maintenance of international peace and security, that responsibility is not exclusive under the Charter system. Under Article 11,<sup>83</sup> the GA may discuss and make recommendations concerning any questions

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<sup>81</sup>For the full text of Resolution 1325, see [http://www.un.org/events/res\\_1325e.pdf](http://www.un.org/events/res_1325e.pdf) Accessed on 02/21/2010

<sup>82</sup> Mazurana, D. E., et al (eds.) *Gender, Conflict, and Peacekeeping*. (Oxford: Rowman & Littlefield Publishers Inc., 2005) pp 16

<sup>83</sup> Article 11 of the UN Charter states "The General Assembly may discuss any questions relating to the maintenance of international peace and security..... may make recommendations with regard to

relating to peace and security, and may call the attention of the UNSC to situations that are likely to endanger peace. However, under Article 12, the GA may not make any recommendations with respect to a situation in which the UNSC is exercising its functions. The GA has sometimes used this power to make “recommendations” as an asserted basis for involvement in conflict situations—a source of considerable controversy.

The Charter also gives the UNSG certain responsibilities that have developed into a very significant role in the maintenance of peace and security. Specifically, Article 99 provides that the SG may bring to the Council’s attention any matter “which in his opinion may threaten the maintenance of international peace and security,” and also empowers him to perform such other functions as may be entrusted to him by the Council or the GA. Over the years, these authorities have provided the basis for the SG’s efforts to provide political leadership in decisions relating to conflict resolution, to direct UNPKOs and to provide a variety of services that have been essential to UN actions in this field.

The Charter does authorize the UNSC to take action to prevent and resolve armed conflict including, if necessary, the use of force. It gives extensive powers to the Council that can be used to address the consequences of armed conflict, as considered in detail in the Charter. And the Charter does confirm the right of states to take action to protect themselves from armed attack if the international community is unable to or chooses not to act effectively to deal with the threat.<sup>84</sup> However, it is also clear that

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any such questions to the state or states concerned or to the Security Council or to both.....” See <http://www.un.org/en/documents/charter/chapter4.shtml> Accessed on 02/21/2010

<sup>84</sup> Article 51 of the UN Charter: Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations,

the UNSC is the indispensable heart of this system, and that the Charter structure works only if the Council is able to act effectively. When the council has been immobilized by political divisions, as is want to, other actors-particularly states, regional organizations, and other UN organs-have attempted to fill the gap but often with unsatisfactory results and a serious lack of international legitimacy.

In light of the very extensive power and responsibility that the UNSC wields, the decision-making procedures for the Council was a central issue in the negotiation of the Charter, since it involved the degree to which decisions on collective security and mandatory measures would be taken by the victorious great powers or by the other member states of the UN. The answer to this puzzle is contained in Article 27,<sup>85</sup> which provides that decisions of the fifteen-member Council on “procedural” matters shall be made “by an affirmative vote of nine members,” and decisions on all other matters shall be made “by an affirmative vote of nine members, including the concurring votes of the permanent members.” The Article also provides that any Council member that is “party to a dispute” before the Council must abstain from voting on any Chapter VI decision relating to that dispute, but this requirement does not apply to decisions under Chapter VII.

The practice of the Council over the years has resolved some of the ambiguities inherent in Article 27. In particular, the language requiring the “concurring votes” of the permanent members for nonprocedural decisions was treated by the Council as

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until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security. Available on

<http://www.un.org/en/documents/charter/chapter7.shtml> Accessed on 07/21/2011

<sup>85</sup> UN Charter Article 27, See <http://www.un.org/en/documents/charter/chapter5.shtml> Retrieved on 02/21/2010

permitting a decision even if one of the permanent members abstained, declined to vote, or was absent. Although, in the abstract, this was an unusual interpretation of the phrase “concurring votes,” it is nonetheless very useful, as a practical matter, since it permits permanent members to register their objections clearly and conspicuously, but without having to assume the political onus of preventing a decision from being taken.<sup>86</sup>

At times, the Council delegates its decision-making powers to another body or person rather than make the decision itself. This practice may take several forms. First, the Council may delegate authority to the UNSG, who of course may draw upon the substantial resources of the Secretariat to exercise that authority.<sup>87</sup> Some of these delegations are relatively ministerial in character—for example when the Council provides that its sanctions become effective or cease to be effective when the SG reports that a specific notification has been received or a specific action taken. In other cases, the determinations to be made by the SG require considerable judgment and discretion. For instance, in the Haiti case, the Council provided that sanctions would enter into force on a specified date unless the SG reported that “the imposition of such measures is not warranted at that time.”<sup>88</sup> In the case of the National Union for Total Independence of Angola (UNITA), the Council provided that sanctions would come into force if the SG reported that UNITA had broken the cease-fire or had “ceased to participate constructively” in the implementation of the relevant peace accords and Council resolutions.<sup>89</sup>

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<sup>86</sup> *Op Cit.*, Matheson, pp 21

<sup>87</sup> *Ibid*, pp28

<sup>88</sup> *Ibid*, pp28

<sup>89</sup> *Ibid*. pp 28-29

Acting under the authority of the UNSC, the SG may create bodies to make decisions necessary to carry out the tasks assigned to him. One prominent example was the Iraq-Kuwait Boundary Demarcation Commission, created by the SG pursuant to the Council's decision at the end of the Gulf War that it was necessary to have a definitive resolution of the dispute over the boundary, which had been one of the ostensible causes of the conflict.<sup>90</sup> In due course, the commission completed the demarcation after which the Council declared that the demarcation was final and guaranteed the inviolability of the boundary as demarcated. Even more extensive were the broad governance powers over Kosovo and East Timor that were given by the UNSC to the SG and his "special representatives," including the authority to make all necessary laws, appoint all necessary executive and judicial officers, and take all appropriate administrative measures.<sup>91</sup>

The Council may delegate decisions to persons or bodies outside the UN structure. For example, the Council provided in September 1994 that various sanctions against Yugoslavia would be suspended if the co-chairmen of the steering committee of the International Conference on the Former Yugoslavia certified that the authorities of the Federal Republic had effectively closed their border with Bosnia. The scheme for then governance of Kosovo involved significant delegations of responsibility to the Organization for Security and Cooperation in Europe (OSCE) and the European Union.<sup>92</sup>

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<sup>90</sup> *Ibid*, pp 28

<sup>91</sup> *Ibid*, pp 27

<sup>92</sup> *Ibid*, pp28



Third, the Council is authorized by Article 29 of the Charter to “establish such subsidiary organs as it deems necessary for the performance of its functions,”<sup>93</sup> and it may delegate decision-making authority to subsidiary organs on such terms and conditions as it chooses. Many subordinate organs have no formal decision-making authority, such as the committees and working groups created to study or recommend solutions to specific problems, or the peacekeeping and other missions created by the Council to carry out specific tasks in the field. Such subsidiary organs consist of sanction committees, for instance the Sanctions Committee for Iraq.

Another subsidiary organ to which considerable decision making authority was given by the Council is the UN Compensation Commission, which was created in 1991 to adjudicate and pay claims against Iraq arising out of its invasion and occupation of Kuwait; and the two international criminal tribunals created by the Council for the prosecution of international crimes in Rwanda and the former Yugoslavia.<sup>94</sup>

A reckoning of the UNSC action or inaction in most African conflicts reveals that Articles 24(1) and Article 1 have played little role in guiding the Council when it receives emergency calls from member states. The UNSC did receive emergency calls from Liberia (1989-97), Sierra Leone (1997-2001) and Rwanda (1994). In virtually all these cases its response had been similar: the UN could not get involved in such conflicts. In contrast to African situations, an overthrow of a democratic government in Haiti (as the one in Sierra Leone) attracted the Council’s ‘ground-

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<sup>93</sup> See <http://www.un.org/en/documents/charter/chapter5.shtml> Retrieved on 02/21/2011

<sup>94</sup> *Ibid*, pp28-29

breaking' decision to intervene in the internal affairs of a member state.<sup>95</sup> Such double standards in the decision making practice of the Council continue to raise concerns. As professor Elihu Lauterpacht has noted:

It is painful to ask, and even more painful to be unable satisfactorily to answer, the question why it is that the conscience of the international community is so rightly (albeit sufficiently) exercised over one of these episodes (Haiti coup) and is so relatively unconcerned with, to the extent that it is aware of, the horrors of the second (Liberia).<sup>96</sup>

The answer to this oscillates in the dissonance between the organizational politics of implementation and the national interests of the Council members as evident from the literature above. This has again shown great prominence in the case of Darfur where the Council has been accused of being unprincipled, inconsistent and of questionable effectiveness.

### **Historical Perspective of Darfur**

In *Saviors and Survivors*, Mamdani contends that most protracted African conflicts have their roots in colonial legacies.<sup>97</sup> He asserts that the Darfur conflict, after careful research, is no exception. Even with new conflict drivers in Darfur, the historical perspective provides an insightful understanding of its genesis and magnitude. The outline below gives a historical perspective into Darfur:

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<sup>95</sup> Malone, D. *Decision-Making in the UN Security Council: The Case of Haiti, 1990-1997*. (Oxford & New York: Oxford University Press, 1998) pp 17

<sup>96</sup> Abass, A. *Regional Organizations and the Development of Collective Security: Beyond Chapter VIII of the UN Charter*. (Oregon: Hart Publishing, 2004) pp 93

<sup>97</sup> *Op Cit.*, Mamdani pp 25-40

## **Darfur's TimeLine from 1200-2006**

- 1200-1300 A Daju state in the area southeast of Jabal Marra.
- 1500-1600 A Tunjur state located in Northern Jabal Marra and Jabal Si.
- 1650 The emergence of a Fur state onto the plains west of Jabal Marra. The first historical ruler of the Keira Fur dynasty was Sulayman Solongdungo "The Arab" but also with the meaning "red man."
- 1700-1750 A series of wars between the Keira state and their western neighbors, Wadai.
- 1751-1786 Reign of Muhammad Tayrab. Expansion east of the mountains. Tayrab conquers Kordofan; the Darfur state now larger than present day Nigeria.
- 1791-1792 Establishment of a permanent capital at al-Fashir.
- 1821 Kordofan conquered by the Egyptians and annexed to the Egyptian Sudan.
- 1850s-1860s Darfur a major trading partner with Egypt: a series of largely futile campaigns against the cattle nomads.
- 1874 Battle of Manawashi which marks the final stage in the conquest of Darfur from the south by the slave trader al-Zubayr Pasha al-Mansur. Darfur incorporated into the Egyptian Sudan.
- 1874-1882 Resistance to the Egyptian rule by a series of Keira "shadow sultans."
- 1882 The Mahdist revolution comes to Darfur.
- 1893 The last "shadow sultan," Ali Dinar B. Zakariyya, surrenders to the Mahdists. He is taken to the Mahdist capital, Omdurman.

- Sep 1898 On the eve of the Battle of Omdurman in which the British destroy the Mahdist army, Ali Dinar and a group of Darfur chiefs race back to Darfur. The Darfur Sultanate is re-established.
- 1916 Conquest of Darfur by the British; Ali Dinar killed.
- 1922 Consolidation of Indirect Rule in Darfur.
- 1930s-1950s Heyday of Indirect rule in Darfur.
- 1956 Independence of the Sudan.
- 1962 Civil war begins in the south.
- 1966 Formation of the Darfur Development Front; alliance with the al-Sadiq al-Mahdi wing of the Umma Party.
- 1969 Jafar Numayri leads the May Revolution Coup.
- 1972 South becomes a self-governing region; the beginning of the dismantling of the Indirect Rule system.
- 1985-6 Drought and desertification begin to make serious inroads in northern Darfur.
- 2003 Formation of the Sudan Liberation Movement/Army (SLM/A). Conflict erupts in Darfur.
- 2003-2006 Protracted conflict at various levels throughout Darfur.
- 2006 Darfur Peace Agreement (DPA) signed by the GoS and the Minni Minawi faction of the SLM/A.

(\*Source: R. S. O'Fahey and Jérôme Tubiana in Darfur, Historical and Contemporary Aspects).<sup>98</sup>

<sup>98</sup> See <http://www.smi.iub.no/darfur/A%20DARFUR%20WHOS%20WHO3.pdf> Retrieved on 02/21/2010

For a detailed history of Darfur, see Mamdani, M. *Saviors and Survivors* (New York: Pantheon Books, 2009)

## The Darfur Conflict

The Darfur region remained underdeveloped through the period of colonization and into independence in 1956. The majority of national resources were directed toward the riverine Arabs clustered along the Nile near Khartoum. This pattern of structural inequality and underdevelopment resulted in increasing restiveness among people in Darfur. The influence of regional geopolitics and war by proxy<sup>99</sup>, coupled with economic hardship and environmental degradation, from soon after independence led to sporadic armed resistance from the mid-1980s. The continued violence culminated in an armed resistance movement around 2003. Successive governments in Khartoum have long neglected the African ethnic groups in Darfur and have done very little to prevent or contain attacks by Arab militias against non-Arabs in Darfur.<sup>100</sup> The last straw presented itself when the NIF government, which came to power in 1989, began arming Arab militias and disarming the largely African ethnic groups.

Darfur has an estimated population of seven million people with more than eighty ethnic groups although these groups fall into the two major categories pointed out earlier. Both communities are Muslim and over time, they have intermarried making racial distinctions impossible. Fighting over resources has led to the intense infighting within Darfur. The NIF government, many observers note, has exacerbated the conflict by systematically and deliberately discriminating against and marginalizing the African communities in Darfur by extending its support to the Arab militia to

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<sup>99</sup> A proxy war results when opposing powers use third parties as substitutes for fighting each other directly. Violent non-state actors and/or mercenaries are often employed in the hope that these groups can strike an opponent without leading to full-scale war.

<sup>100</sup> International Crisis Group (ICG). *Darfur Rising: Sudan's New Crisis*. March, 2004.

suppress the former, whom they perceive as a threat to their hold on power. This, coupled with the 'Civilization Resurrection'<sup>101</sup> programs the government launched served to fuel the conflict.

In 2000, the founder of the NIF, Hassan-al-Turabi, was ousted as Prime Minister. This led to a split within the Islamic Movement; the government imposed a state of emergency and used its new authority to crack down on dissidents in Darfur. In response a self-defense force of largely Fur-dominated group emerged as the SLM/A, challenging the government forces in Darfur. With the NIF government in turmoil, the SLM/A and the JEM gained the upper hand in the conflict by 2003 as they were better organized and better armed. The civilian population backed the rebels and so did the Sudanese army whose majority of the senior officers comes from the Darfur region. The SLM/A was believed to be supported by the Zaghawa in Chad and funded by businessmen in the Persian Gulf.

On 26<sup>th</sup> February 2003, some 300 insurgents calling themselves the Darfur Liberation Front (LDF) led by Abd al-Wahid Muhammad Ahmad al-Nur, a Fur Lawyer, member of the Communist Party and the SPLM, seized the town of Gulu, capital of Jabal Marra Province in the state of Western Darfur. Equipped with automatic weapons, mortars, and "Technical"-Toyota trucks with mounted machine guns made famous in the Chadian wars with Libya-they attacked scattered police and army posts before retiring to training camps in Jabal Marra. Two weeks later the Darfur Liberation Front changed its name to the Sudan Liberation Movement/Army (SLM/A) and then "recaptured" Gulu in a fierce firefight, killing 195 government

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<sup>101</sup> Civilization Resurrection refers to programs the NIF government has instituted to 'resurrect' Islamic values in Sudan. The ideals are fundamentalist in nature.

soldiers and forcing the garrison to flee. Minni Arkua Minnawi, the Zaghawa Secretary-General of the SLM, the political arm of the movement, released to the press the Political Declaration of the SLM which stated that since the government of Khartoum has “systematically adhered to the politics of marginalization, racial discrimination, exclusion, exploitation, and divisiveness” the SLM/A opposes the policies of Arabization, political and economic marginalization, and “the brutal oppression, ethnic cleansing, and genocide sponsored by Khartoum.”<sup>102</sup>

In mid-2003, the GoS launched a military offensive by arming the Arab militia, Janjaweed, and by deploying the Popular Defense Force (PDF). The Janjaweed, under the directions of regular government forces unleashed unprecedented terror against the civilian population. The Arab militia engaged in what the UN called ‘ethnic cleansing’ of the African ethnic groups within Darfur. There were reports of summary executions of men, women were raped and generally, a mass displacement of many civilians into the neighboring countries and villages where fighting had not broken out. This created a humanitarian crisis with the number of civilians killed estimated at over 200,000 and the numbers of Internally Displaced Persons (IDPs)<sup>103</sup> rising to 2.2 million; and still the government restricted humanitarian access to those people.<sup>104</sup>

As the fighting escalated, the number of civilian casualties rose and by February 2004, a year after the beginning of the insurgency, the conflict, ethnic cleansing, and

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<sup>102</sup> Burr, M. & Collins, R. O. *Darfur: The Long Road to Disaster*. (New Jersey: Markus Wiener Publishers, 2008) pp 288

<sup>103</sup> The UN defines an IDP as person or groups of persons who have been forced or obliged to flee their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

<sup>104</sup> *Report of the International commission on Darfur to the UN Secretary General pursuant to UNSC Resolution 1564 of September 18, 2005*. (Geneva: United Nations Publications, 2005) Available on [www.un.org/News/dh/sudan/com\\_inq\\_darfur.pdf](http://www.un.org/News/dh/sudan/com_inq_darfur.pdf) Accessed on 04/24/2011

displacement of African Zurug had conservatively claimed 30,000 lives, forced a million people from their land as IDPs and sent another 200,000 across the border as refugees into Chad.<sup>105</sup> In October Médecins Sans Frontières reported that thousands of IDPs had been traumatized by the violence. As the escalation of the humanitarian crisis continued, the international media could not avoid comparing the crisis to the genocide in Rwanda at its tenth anniversary in April 2004. Koffi Annan could hardly remain silent on the subject (he had been the Under-Secretary-General for all UNPK missions in 1994 and the UN force in Rwanda) and on April 7 he declared that “[humanitarian access] is denied, the international community 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...the international community cannot sit idle.” The UN humanitarian coordinator in Sudan, Mukesh Kapila, who had also been with the UN in Rwanda during the genocide argued that “The only difference between Rwanda and Darfur now is the numbers involved....this is more than just conflict, it is an organized attempt to do away with a group of people.”<sup>106</sup>

Among the earlier attempts towards peace, the Humanitarian Ceasefire Agreement<sup>107</sup> in N'djamena in April 2004 between the government of Sudan (GoS), the SLM, and the JEM was important in establishing a ceasefire and setting up mechanisms to oversee the cessation of hostilities, primarily to facilitate the provision of humanitarian aid to displaced civilians. A Ceasefire Commission (CFC) was formed to facilitate coordination between the fighting parties and investigate any

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<sup>105</sup> *Ibid*, pp 24

<sup>106</sup> *Ibid* pp 295

<sup>106</sup> International Crisis Group. "To Save Darfur." *Africa Report* (105), (17 March, 2006), pp17-18.

<sup>107</sup> Reeves, E. *A Long Day's Dying: Critical Moments in the Darfur Genocide* (Toronto: The Key Publishing House, 2007) pp333-337



violations of the ceasefire. The CFC, based in Darfur, was composed of Chad as the mediator of the agreement; GoS, SLM, and JEM as conflict-parties; and the US, EU and the UN as observers.<sup>108</sup> The CFC was to supply data to the Joint Commission (JC), which was based in N'djamena and included all the parties in the CFC. The CFC was intended to collect information on violations and make reports to the JC, for use by the negotiating team at Abuja that was already preparing bases for talks. The CFC, however, ultimately lacked the capacity to monitor the ceasefire and the JC was not provided with sanctioning powers against violators. Thus, the ceasefire was soon being flouted by all parties.

AMIS formed in July 2004 as an observer unit to monitor the ceasefire, was also ineffective, failing largely as a result of a lack of manpower and equipment, but also hindered by a mandate that prevented it from engaging armed groups who violated the ceasefire. One constant attribute of the Darfur conflict/peace processes is the continuous violation of ceasefires signed by the GoS and its opponents.

In 2006, after a visit to Darfur, Kofi Annan remarked:

“When I visited Darfur last May, I felt hopeful. Today, I’m pessimistic; unless a major new international effort is mustered in the coming weeks.....I wish that I could report that all these efforts had borne fruit-that Darfur was at peace and on the road to recovery. Alas, the opposite is true. People in many parts of Darfur continue to be killed, raped and driven from their homes by the thousands. The number displaced has reached two million, while three million(half the total population of Darfur) are dependent on international relief for food and other basics.....The peace talks are far from reaching a conclusion. And fighting now

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<sup>108</sup> *Ibid*, pp 340-342

threatens to spread into neighboring Chad, which has accused Sudan of arming rebels on its territory....One thing is clear: Whatever external force is sent to Darfur can provide at best only temporary security to the people there. Only a political agreement among the leaders can secure their future and the return of 2 million of them to their homes.”<sup>109</sup>

The humanitarian crisis in Darfur has not improved-the Khartoum government still restricts access of humanitarian workers to the refugees and the IDPs. However, despite their efforts, some aid workers and journalists have managed to reach Darfur. Constant media glare and heightened condemnation from various sectors have kept the situation visible to the world.

Over time, the UNSC has adopted various resolutions with regard to the Darfur crisis. Since 2004 to 2007, a total of twenty three resolutions had been adopted on Darfur. The following list outlines the major UNSC resolutions on Darfur that had policy implications.

### **Key UNSC Resolutions on Darfur**

<b>Resolution</b>	<b>Stated Intent/Effect/Flaws and Abstentions</b>
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1546/2004	Mentioned Darfur. The situation on discussion was the Iraq-Kuwait crisis.
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1547/2004	Called on the parties to use their influence to bring an immediate halt to the fighting in Darfur and urged the parties to the Ndjamenan Ceasefire Agreement of 8 April, 2004 to conclude a political
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<sup>109</sup> Annan, K., “Darfur Descending: No Time For Apathy on Sudan,” in *The Washington Post*, January 25, 2006. P A19. Retrieved from <http://www.washingtonpost.com/wp-dyn/content/article/2006/01/24/AR2006012401136.html> on 02/21/2010

agreement without delay. It welcomed the African Union (AU) efforts and called upon the international community to be prepared for constant engagement including extensive funding in support of peace in Sudan.

- 1556/2004 Called on GoS to disarm Janjaweed or face sanctions. It imposed arms embargo on non-governmental entities. It was disregarded by all parties as there was no enforcement mechanism. Abstention by China and Pakistan.
- 1564/2004 noted Sudan had ignored Resolution 1556. Reiterated sanction threat against Sudan. It created International Commission of Inquiry to report on violations of human rights and humanitarian law. It was disregarded by all parties. The abstentions by Russia, China, Pakistan and Algeria undermined the credibility of sanctions threat. There was no enforcement mechanism.
- 1590/2005 Established the UN Mission in Sudan, UNMIS. It compartmentalized response to Darfur and South Sudan. This approach demonstrated incoherence of international strategy. There were no abstentions.
- 1591/2005 Banned offensive military fights over Darfur. It extended the arms embargo to all in Darfur and authorized targeted sanctions (travel ban and asset freeze). It was disregarded by all parties and the sanctions against individuals were blocked by the Sanctions Committee. This resolution lacked political will for implementation. Again, there were abstentions by Russia, China and Algeria.

- 1593/2005 Referred the Darfur situation to the International Criminal Court, ICC. The investigations were stonewalled by Khartoum. No pressure was applied on GoS to cooperate with ICC. Abstentions were China, US, Algeria and Brazil.
- 1672/2006 Named four persons for sanctions (travel ban and asset freeze). The individuals sanctioned had little foreign assets and did not travel hence the effect was negligible. There was no signal to sanction top leaders. Abstentions were China, Russia and Qatar.
- 1679/2006 Urged non-signatories to sign the DPA. It called for acceleration of transition to UN operation in Darfur. The preoccupation with peacekeeping force doomed the DPA. The major flaw was the insistence by China and Russia that the UN force be acceptable to Sudan as the GoS was opposed to it. There was no abstention on this resolution.
- 1706/2006 Mandated UNMIS to take over AMIS. This was rejected by Sudan within hours of adoption. Abstention by China, Russia and Qatar.
- 1769/2007 Established the UN/AU hybrid force, United Nations/African Union Mission in Darfur, UNAMID. The full deployment of the force was not until 2009. There were no abstentions.<sup>110</sup>
- 1828/2008 Reminded al-Bashir of his commitment towards full deployment of UNAMID. The resolution also noted AU's concerns over potential developments triggered by the ICC Prosecutor's application to

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<sup>110</sup> See <http://www.enoughproject.org/publications/irresolution-un-security-council-darfur> Retrieved on 01/16/2011

consider the matter of Darfur. Condemned the increasing insecurity and attacks on UNAMID and further extended its mandate to July 31, 2009. Abstention by USA.

- 1881/2009 Condemned increased insecurity and attacks against civilians and UNAMID and urged the GoS to comply with its obligations under IHL and Human Rights Law. Reminded member states to pledge and contribute equipment and logistical support to the mission. Extended the mandate to July 31, 2010. No abstentions.
- 1935/2010 Extended the mandate of UNAMID to July 31, 2011. No abstentions.
- 1945/2010 Extended the mandate of the Panel of Experts until October 2011. Abstention by China.<sup>111</sup>

The UN/ African Union Hybrid operation in Darfur, referred to as UNAMID was established on 31 July 2007.<sup>112</sup> In accordance with the decision of the 16 November 2006 High-Level consultations in Addis Ababa, Ethiopia,—attended by former Secretary-General Kofi Annan, the five Permanent Members of the Security Council, representatives of the Government of Sudan, the AU and other States and organizations with political influence in the region — the UN Department of Peacekeeping Operations (DPKO) developed and implemented a three-phased

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<sup>111</sup> For resolution 1828 to 1945 and voting record of all resolutions, see <http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=1G14E979512U8.60567&profile=voting&lang=en&logout=true&startover=true> Retrieved On 08/21/2011

<sup>112</sup> See <http://www.un.org/en/peacekeeping/missions/unamid/background.shtml> Retrieved on 02/12/2010

approach to augment the existing African Union Mission in Sudan (AMIS) and deploy an unprecedented joint AU/UN peacekeeping operation in Darfur.

Through the adoption of resolution 1769(2007), UNAMID was established under Chapter VII of the UN Charter for an initial period of twelve months. UNAMID formally took over from AMIS on 31 December 2007. The mission's mandate has been continued since deployment on account of deteriorated situation in Darfur, and escalating humanitarian crisis. An extension to July 31, 2011 has been consented to through adoption of UNSC resolution 1935.<sup>113</sup> The mission's headquarters is in El Fasher, the capital of North Darfur. It has further sector headquarters in El Fasher, El Geneina and Nyala, with further deployment locations throughout the three Darfur states.<sup>114</sup>

Right from its initial deployment, UNAMID lacked critical resources leaving its own personnel, the people it was supposed to protect and humanitarian agencies vulnerable to ongoing attacks and violence. In fact, on July 8 2008, unidentified militia attacked a UNAMID police military patrol in North Darfur killing seven peacekeepers and wounding over twenty more.<sup>115</sup> This was seen as the deadliest attack on UNAMID. From the recalcitrance of the GoS to allow deployment, to lack of proper equipment such as helicopters and armored vehicles, UNAMID's challenges have been numerous. While the West supported the mission with their votes at the UNSC, the pledges to support the mission went unfulfilled. This

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<sup>113</sup> For all resolutions on Darfur, see

<http://www.un.org/en/peacekeeping/missions/unamid/resolutions.shtml> Retrieved on 08/24/2011

<sup>114</sup> See <http://www.un.org/en/peacekeeping/missions/unamid/background.shtml> Retrieved on 02/12/2010

<sup>115</sup> See [http://www.peacewomen.org/portal\\_resources\\_resource.php?id=220](http://www.peacewomen.org/portal_resources_resource.php?id=220) Accessed on 05/21/2011

prompted the African Union Peace and Security Council to call on the international community to provide the necessary “logistics and other equipment to enable UNAMID to carry out its mandate more effectively.”<sup>116</sup> Some of the necessary logistical support paramount to the success of the mission was being provided as late as February 2010. Only then did UNAMID receive five tactical helicopters from Ethiopia.<sup>117</sup>

After its deployment, UNAMID faced hostilities from the GoS which included restricted movement, arrests and detention of its troops who sometimes were harassed and tortured by the GoS.<sup>118</sup> Aside of state aggression, UNAMID also encountered numerous attacks with abductions of its personnel by the rebel groups and militia. Subsequent chapters of this study will seek to explore the challenges UNAMID faced, and still faces, by interviewing key officials of the mission as well as past and current delegates to the UNSC.

Political negotiations for a peaceful settlement of the conflict in Darfur are still nascent although they started in November 2004. So far, no viable political settlement has been reached and the Darfur Peace Agreement (DPA) signed in Abuja in May 2006 seems to exist only on paper. The splintering of the rebel movements into numerous factions has complicated the ongoing round of negotiations in Doha. Some of the most important insurgent movements that are politically organized and

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<sup>116</sup> Communiqué of the 151<sup>st</sup> Meeting of the Peace and Security Council available on <http://www.africa-union.org> Accessed on 07/03/2011

<sup>117</sup> See UN News and Media on <http://www.unmultimedia.org/tv/unifeed/d/14633.html> Accessed on 02/21/2010

<sup>118</sup> Human Rights Watch. *The Way Forward: Ending Human Rights Abuses and Repression Across Sudan*. (New York: Human Rights Watch, 2009) pp 17

militarily active in Darfur are not taking part in these negotiations citing biased behavior of the AU/UN Joint Mediator for Darfur, partisan stand of the host country in support of GoS as well as GoS' non-respect of agreed upon confidence-building measures. Although JEM and GoS signed two agreements in February 2010 (the Goodwill Agreement signed on 17<sup>th</sup> and the Framework Agreement signed on the 23<sup>rd</sup>), these have not been honored. They were violated within days of their signing and the Framework Agreement was practically abandoned as the belligerents could not agree on a final peace accord by 15<sup>th</sup> March 2010 which was the date that they had willfully agreed upon as the final deadline to sign a peace agreement.

By June 2010, the ongoing negotiations were between GoS and an umbrella group of splinter insurgent movements known as the Liberation and Justice Movement (LJM) which was created in Doha in February/March 2010.<sup>119</sup> However, fears were rife that this movement was created with the full knowledge of the GoS as a rival group to undermine JEM, which had withdrawn from the talks. These fears don't seem unfounded as the Mediation Team, Qatar and the GoS continued to insist on a negotiated solution with two separate insurgent movements in two parallel tracks to be held at the same time and venue.<sup>120</sup>

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<sup>119</sup> See <http://www.enoughproject.org/blogs/darfur-peace-talks-restart-doha> Accessed on 06/18/2010

<sup>120</sup> See Hand Report [http://www.humansecuritygateway.com/documents/HAND-Past\\_and\\_Future\\_of\\_UNAMID\\_Tragic\\_Failure\\_or\\_Glorious\\_Success.pdf](http://www.humansecuritygateway.com/documents/HAND-Past_and_Future_of_UNAMID_Tragic_Failure_or_Glorious_Success.pdf) pp 21 Accessed on 05/13/2011



## **Conclusion**

While a negotiated settlement for the situation in Darfur is necessary, skepticism abounds on how such a solution can be reached. UNAMID seems incapable of containing the crisis given the odds against the mission.

## CHAPTER THREE

### CASE STUDY: UNSC ROLE IN RWANDA GENOCIDE

#### Introduction

This section of the study provides examples of conflict areas that UNSC decision making has come under scrutiny. A thorough analysis of the Rwanda Genocide is exemplified here to illustrate the unsettling manner the UNSC handled itself in responding to the crisis in 1994. This is intended to draw generalizations on the UNSC's response to African conflicts by comparing it with the Darfur crisis.

#### The Case of Rwanda

##### Overview

The conflict in Rwanda that culminated in the 1994 genocide has greatly tainted the image of the UN and particularly the UNSC whose mandate is maintenance of international peace and security. Scholars who have documented the genesis of the Rwandan genocide agree that it was a culmination of events that date as far back as 1959.<sup>121</sup> The colonial masters, Belgians, categorized the Rwandese as either Tutsi or Hutu as a colonial construct to foster their indirect rule. This legacy has plagued the country and defined the politics and governance in Rwanda.

In 1959, the ruling Tutsi were ousted by the Belgians and replaced with Hutu administrators. This resulted in thousands of people being killed and scores of others fleeing their homes to safety. Fearing for their lives, the Tutsis sent dozens of

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<sup>121</sup> Melvern, L. *Conspiracy to Murder: The Rwandan Genocide* (London & New York: Verso Publishers, 2004) pp 7

petitions to the UN describing how dire the situation was and their assessment that the killings were organized.<sup>122</sup>

The UNGA sent a special commission to Rwanda whose final report detailed that racism bordered on “Nazism against the Tutsi minorities” and that the government, together with the Belgians, was responsible.<sup>123</sup> When Rwanda gained independence in 1962, a Hutu president came to power with an entirely Hutu government. The Tutsi were considered the enemy and subsequently, most of them fled the country but on occasions attempted to ouster the Hutu regime, notably in 1963.<sup>124</sup> Failure of this attempted invasion led to a systematic massacre of the Tutsis by the Hutus. This set the stage for yet another mass killing in 1972 of the Hutus by the Tutsis in the neighboring country Burundi, where the latter had retained power, prompting the Belgian government to label the killings as “veritable genocide.”<sup>125</sup> Since then, power dynamics between the two ethnic groups have played a major role in shaping the Rwanda society, citizenry and politics as a whole.

### **The UNSC and 1994 Rwanda Genocide**

At first, the 1994 conflict in Rwanda was perceived as inter-ethnic war between the Hutu and Tutsi. Years of protracted civil war between the government in Rwanda and rebels refugees living in Uganda (coalesced under the banner of Rwanda Patriotic Front, RPF) had prompted the UNSC to pass resolution 846(1993) establishing the United Nations Observer Mission Uganda-Rwanda (UNOMUR) to be deployed on

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<sup>122</sup> *Ibid*, pp 8

<sup>123</sup> *Ibid*, pp8

<sup>124</sup> *Ibid*, pp 8-11

<sup>125</sup> Kuper, L. *The Prevention of Genocide* (New Haven, CT & London: Yale University Press, 1985) pp 155

the Uganda side of the common border.<sup>126</sup> Meanwhile the Arusha Talks<sup>127</sup> had resumed after numerous breakdowns, and were concluded. The SG recommended to the UNSC the establishment of a United Nations Assistance Mission to Rwanda (UNAMIR) with the mandate of “contributing to the establishment and maintenance of a climate conducive to the secure installation and subsequent operation of the transitional government.”<sup>128</sup> Thus UNSC Resolution 872(1993) established UNAMIR, with a Chapter VI mandate of the UN Charter.<sup>129</sup>

The UN deployment was running behind schedule and the first UNAMIR troops did not enter Kigali until early November 1993.<sup>130</sup> Between establishing their presence and getting into the bustle of the mission, the troops encountered intransigence from the Rwanda government. When an informant, who had previously been part of the planning team for the genocide alerted UNAMIR about weapons cache in Kigali (Kigali had been a demilitarized zone following the Kigali Weapons-Secure Agreement, KWSA, signed in December), General Dallaire, the Canadian commander of UNAMIR sent a cable to DPKO in New York seeking guidance on the new developments. What followed was an order to do little except discuss the predicament with President Habyarimana. UNAMIR could not protect the informant

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<sup>126</sup> See <http://www.un.org/en/peacekeeping/missions/past/unamirFT.htm#UNITED> for history and background of UNOMUR and UNAMIR. Accessed on 05/24/2011

<sup>127</sup> These were negotiations between the Rwanda Government and the RPF aimed at installing a democratically elected government and provided for the establishment of a Broad Based Transitional Government until the elections, in addition to repatriation of refugees and integration of the armed forces of the two sides.

<sup>128</sup> See [http://www.un.org/Depts/DPKO/Missions/unamir\\_b.htm](http://www.un.org/Depts/DPKO/Missions/unamir_b.htm) Accessed on 05/24/2011

<sup>129</sup> For full details on the mandate of UNAMIR, see UNSC Resolution 872/1993 on <http://daccess-ods.un.org/TMP/8642993.56937408.html> Accessed on 05/05/2011

<sup>130</sup> Barnett, M. N. *Eyewitness to Genocide: The United Nations and Rwanda* (New York: Cornell University Press, 2002) pp74

as that went “beyond the mandate of UNAMIR.”<sup>131</sup> Since then, the January 11 cable which in UN circles is now abbreviated MIR-79 has come to be viewed as the most obvious warning of the looming genocide that the DPKO inexplicably ignored on the basis of a technicality. The fact that the cable had cataloged detailed plans of systematic violence should have been given greater attention. In fact, given the enormity of the situation described in this cable, DPKO should have handed it to UNSC to decide on the appropriate course of action.

The language used in UNAMIR’s mandate created an ambiguity in what the mission could and could not execute. In fact, DPKO’s response to MIR-79 was consistent with the principles of consent and impartiality, the hallmark of a Chapter VI operation. While the commander presented the same information on various occasions, each time the response was the same-DPKO was cautious in interpretation of UNAMIR’s mandate because they “could not risk another Somalia.”<sup>132</sup> While the situation continued to escalate, communication between the mission and foreign governments in Kigali became even more animated and desperate. Belgium was the only member of the contact group to decide that the new information and growing insecurity required stronger military presence. Officials in Brussels implored UNSG to permit UNAMIR take a firmer stance, and the US that the gravity of the unfolding situation necessitated a more direct response. While the UNSC denied UNAMIR broader interpretation of its mandate, the US, through its National Security Advisor responded that UNAMIR was large enough for its “observer mission.”<sup>133</sup>

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<sup>131</sup> *Ibid*, pp 75-79

<sup>132</sup> *Ibid*, pp86

<sup>133</sup> *Ibid*, pp89-96

Another hurdle the mission faced was meager resources—from the very beginning of the operation, the mission had difficulties getting the basic supplies such as flashlights (which arrived eventually without batteries), paper, shoddy military equipment, and peacekeepers were sent without basic items like boots.<sup>134</sup> While this logistical battle was on-going, the situation in Rwanda was fast erupting. At this point, the UNSC was requested to renew the mandate of UNAMIR. This proved quite contentious with the US vociferously arguing against renewal if the BBTG was not established. The extension was granted for an additional four months with a likely review after six weeks if the BBTG had not been established.<sup>135</sup> It was this move that prompted the president to fly to Arusha for conclusion of the peace talks that would give birth to BBTG. On the return flight, the helicopter carrying the Burundi and Rwanda presidents crashed sending Rwanda into a spiraling wave of genocide.

After the signing of the Arusha Agreement, the extremist movement in Rwanda gained force culminating in a well-planned genocide. The movement consisted of members of Habyarimana's government who were opposed to BBTG, *Interahamwe* and *Ipuzamugambi* militias (who had originally been trained by the French), the Gendarmerie or rural police (also trained by the French), the government's Forces Armées Rwandaises, and ordinary peasants who carried out most of the genocidal killing after "years of indoctrination in the 'democratic majority' ideology and of demonization of 'feudalist.'"<sup>136</sup> Even after the genocide had started, the UNSC disinterest and the Secretariat's organizational dysfunction that had preceded it

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<sup>134</sup> Beardsley, B. & Dallaire, R. *Shake Hands with the Devil: The Failure of Humanity in Rwanda* (New York: Carroll & Graf Publishers, 2003) pp 107

<sup>135</sup> *Op Cit.*, Barnett pp 96

<sup>136</sup> Prunier, G. *The Rwanda Crisis, 1959-1994: History of Genocide* (London: C. Hurst & Co., 1995) pp 239-247

continued. The Council voting at the height of the genocide to reduce the size of UNAMIR from 2,500 to 270 troops is a clear indication of the ambivalence with which Rwanda was being treated.<sup>137</sup>

Information reaching the Secretariat and the Council finally forced the Secretariat to issue a report on May 13 labeling the violence in Rwanda as genocide and urging the UNSC to take immediate action.<sup>138</sup> The US and UK were not in favor of intervention while France suggested low number of troops. The US government had recently issued PDD 25 which set out a new non-interventionist policy for the US, and was at the time going through organizational changes at the Department of State Defense.<sup>139</sup> Rwanda, which had been a member of UNSC voted against a UNAMIR II troop increase and a Chapter VII arms embargo.<sup>140</sup> Nevertheless, the Council finally voted to sponsor UNAMIR II, granting it a mandate to protect civilians, with 5,500 peacekeepers through resolution S/RES/918 (1994).<sup>141</sup>

A month after passing the resolution, the Secretary General was still asking for troops contribution to the mission and only a few countries were willing to contribute, but the numbers came nowhere near 5,000. Since no country was providing troops, UNSC authorized France's swiftly deployable "Opération Turquoise" with a Chapter

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<sup>137</sup> See Resolution S/RES/912 (1994) available from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/190/85/PDF/N9419085.pdf?OpenElement> In actuality, the force only dropped to about 450 troops, but 270 was the number cited in the resolution. Accessed on 07/05/2011

<sup>138</sup> For details see Report of the Secretary General S/1994/565 available on <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/215/13/IMG/N9421513.pdf?OpenElement> Accessed on 07/05/2011

<sup>139</sup> Cohen, J. *One-Hundred Days of Silence: America and the Rwanda Genocide* (Maryland: Rowman & Littlefield Publishers, Inc., 2007) pp 95-121

<sup>140</sup> Howard, L. M *UN Peacekeeping in Civil Wars* (London: Cambridge University Press, 2007) pp34

<sup>141</sup> For S/RES/918, 17 May 1994, see <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/218/36/PDF/N9421836.pdf?OpenElement> Accessed on 07/05/2011 Note that China and US changed the wording in the resolution from 'genocide' to 'acts of genocide.'

VII mandate, for two months until the UN could cobble together a force.<sup>142</sup> However, this move proved to be unpopular with many countries as France was seen as an ally of the Hutu government.<sup>143</sup> Opération Turquoise was narrowly supported by the Council with ten votes in favor, and very rare abstentions by Brazil, China, New Zealand, Nigeria and Pakistan.<sup>144</sup> Note that the Council voted to field UNAMIR II with a Chapter VI mandate, at the same time that it endorsed Opération Turquoise under Chapter VII, with peace-enforcement powers rendering the mandates of the two operations at odds with one another.

## Conclusion

The UNSC acts reviewed here can characterize the Council's interest intensity on Rwanda as "moderate" which denotes that while the Council did not endorse a mandate with adequate resources, it did pass many resolutions on the matter. Out of the twenty-six resolutions concerning Rwanda in 1994, the Council passed ten. The fact that it authorized UNAMIR II with a Chapter VI mandate at the same time authorizing Opération Turquoise with a Chapter VII mandate is not only conflicting for the missions to exercise their mandate effectively, but also indicates the marked lack of political will on the part of the UNSC.

In other words, the Council voted often but it did not recommend adequate resources or mandate to the operation.

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<sup>142</sup> *Op Cit.*, Howard, pp 34

<sup>143</sup> Waugh, C. M. *Paul Kagame and Rwanda: Power, Genocide and the Rwandan Patriotic Front*. (North Carolina: McFarland & Company, Inc., Publishers, 2004) pp46-72

<sup>144</sup> S/RES/929 (1994) available on <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/260/27/PDF/N9426027.pdf?OpenElement> Accessed on 07/05/2011



## CHAPTER FOUR

### UNSC ROLE IN DARFUR: AN ANALYSIS

#### Introduction

Chapter one contained the main issues that the study set out to examine. It gave an outline of the objectives that guided the study and an introduction to the United Nations Security Council (UNSC) as the decision making organ in the UN institution. The chapter further introduces the research problem that seeks to investigate the bureaucratic processes at play in decision making within the UNSC and also organizational dynamics, actors and processes at play in its response to conflicts in Africa with a special interest to Darfur. Three theories are consistent in guiding this study namely critical realism, domestic politics and the CNN Effect. However the theory of Critical Realism created the framework of the overall study and will be pivotal in making deductions on the findings and hypothesis testing in this section.

The second chapter of this study presents an overview of literature about the UNSC and traces its decision-making processes since and after the cold war and also analyses its performance on conflict resolution especially with regard to Darfur. With an aim of comparison on this performance chapter three evaluates two case studies namely Haiti and the Rwandan Genocide as backdrop to UNSC decision making in Darfur.

The aim of this chapter is to present and critically examine answers to questions and hypotheses that guided this study from responses received during data collection. It will analyze the responses from interviews conducted on senior UN professionals, former Presidents of the UNSC, former Special Representatives of the Secretary

General, senior officials of UNAMID, envoys from the P-5 members, and scholars of International Relations and Conflict Management; on the factors that shaped decision making within UNSC concerning Darfur and also the lessons that can be drawn from it.

### **Power Politics and Decision Making at the UNSC**

The UN has been described as a perfect embodiment of an international organization suffering from a tragic paradox of our age; it has become indispensable before it has become ineffective.<sup>145</sup> In this article, Nicholas acknowledges this at a time when the organization was deeply embroiled in an African civil war and was widely thought to be on the verge of collapse. More than 40 years on, a lot of literature has been filled with dooms-laden predictions of the UN's imminent demise, or at least of its permanent marginalization in the field of international peace and security. The nay-Sayers' predictions are occasioned by the profound differences that emerge among the P-5 veto wielding members of the Security Council while making decisions.

A history of decision making by the Security Council coupled with its highly uneven record of performance begs the question of why the P-5 continue to see an important role for it in the field of international peace and security. The P-5 though for different reasons have retained a strong interest in ensuring that the council is not marginalized-after all it is their theatre of power play where the mighty carry the day by virtue of the resolutions adopted. A less cynical reason is evident in the fact that the council is quite simply the only forum able to address, if not resolve, security

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<sup>145</sup> Herbert Nicholas, "The United Nations?" in *Encounter*, Vol. XVIII, No.2 February 1963, pp 3

challenges of international concern, and crucially to confer near universal legitimacy on the actions of states or group of states in a way that no alternative agency (real or proposed) has been able to do. This esteem that the council continues to be held with derives largely from the custodial role as protector of principles and rules seen by the vast majority of member states as foundational to the international order. This is further explained by the international law standing the decisions of the Council, especially those made under Chapter VII, enjoy.

Evidence of power relations present in the UNSC is clear from the “empire” each holds within the UN system. An interview with a former president of the Council revealed that each of the P-5 controls a key organ or department within the UN—since the inception of the organization, the British have taken charge of the Department Humanitarian Affairs, the French initially took charge of Department of Economic and Social Affairs under which ECOSOC falls, but this later changed to the DPKO; US takes charge of the management and administration of the entire organization; Russia heads the UN office in Geneva while China now holds the Department of Economic and Social Affairs.<sup>146</sup> While this state of affairs still reflects the international system as it were in 1945, attempts to change this have been unsuccessful thus leaving the UN almost ineffective in light of modern day international system.

In unraveling the paradox of the ‘ineffective yet indispensable’ UN in the field of international peace and security, the first consideration relates to the question of what precisely is meant by the UNSC’s “effectiveness” or lack thereof. The International Institute for Strategic Studies, in its journal *Survival*, captures the great illusion

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<sup>146</sup> Ndungu L., Interview with a former President of the UNSC, Nairobi, July, 2011.

surrounding the UNSC in the late 1980's and 1990's.<sup>147</sup> It was believed that the end of the Cold War would automatically translate into an "effective" UNSC.<sup>148</sup> It was an illusion that rested crucially on the belief that the Council after years of paralysis by the threat or use of veto would 'finally' be allowed to assume its primary responsibility for the maintenance of international peace and security. It was almost as if the removal of the East-West ideological divisions would itself ensure that Council's P-5 members would always find concurrence on issues of peace and security and moreover be prepared to act jointly on the issue of peace and security and also act in defense of common interests.<sup>149</sup>

To state that this was a misplaced and vain hope is not to imply that the passing of the Cold War did not have profound consequences for the UN, but as the Council recent handling of conflicts, especially in Africa, has made it abundantly clear that power politics within and outside the organization is the key determinant of the Council's response, or lack thereof, to the persistent global conflicts. It is evident that interests and value among member states means that the council is on one level inescapably doomed to 'ineffectiveness'. This is true above all, when the core or vital interests of states are seen to be at stake.<sup>150</sup>

An interview with a former president of the UNSC reveals that this is still the case in modern day Council. The Council meetings fall into two categories: public and private meetings.<sup>151</sup> The private meetings are held in the Security Council Chamber

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<sup>147</sup> Mats Berdal, "The UN Security Council: Ineffective but Indispensable," in *Survival* Vol. 45, No. 2, Summer 2003, pp7-30

<sup>148</sup> *Ibid*, pp 9

<sup>149</sup> *Ibid*, pp 9

<sup>150</sup> Wight, M. *Power Politics* (Leicester: Leicester University Press, 1978) pp 95

<sup>151</sup> Ndungu L., Interview with a former President of the UNSC, Nairobi, August 2011.

and are closed to the public, and the media. It is in these meetings that decisions are entirely made. Official records are kept of the proceedings are also not disclosed to the public unless under special authorization. An official communiqué is issued by the Secretary General at the close of these meetings. Public meetings on the other hand are held in public, invariably with the world's media in attendance. These meetings are "declarations" of the decisions reached during the private meetings and informal discussions. Nothing substantive is discussed in the open forums due to the sensitivity of the UNSC deliberations. In addition to the two categories are the 'informal consultations' where no official records of the proceedings are kept, but the discussions weigh heavily on the decisions the Council adopts.

During 'informal consultations' and private meetings, states' interests in the conflict region under discussion come to play-if one of the P-5 members is opposed to the Council's engagement, then it becomes difficult finding concurrence.<sup>152</sup> While consensus, as outlined in Article 27 of the Charter is always sought, it does not always work. As a matter of fact, it rarely is the case especially with the P-5 members. For instance, during the deliberations to adopt Resolution 1706 in 2006 authorizing UNMIS to deploy to Darfur and to strengthen the mission, not all states were in concurrence-China, Russia and Qatar abstained from the vote.<sup>153</sup> China had been exploiting oil in Sudan and while this was a matter of its interests, it didn't veto the resolution but rather abstained to show its stated opposition to interference in domestic affairs.

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<sup>152</sup> Ndungu L., Interview with a Senior UN Official who has been an Ambassador to the UNSC, Nairobi, August 2011.

<sup>153</sup> Ndungu L., Interview with a former Ambassador to the Council at the time of this Resolution, Nairobi, August 2011.

A scholar, Gartzke, who has widely researched China's voting patterns in the UNSC posits that for China, UNSC has mainly been used to punish countries that support its "renegade province" Taiwan.<sup>154</sup> It has consistently abstained from UNSC resolutions passed under Chapter VII to demonstrate its passive opposition to outside interventions in the domestic affairs of sovereign countries.<sup>155</sup> Its opposition to sanctions and interventions in Darfur, reflected a difficulty to the US and European action through the Security Council. Of the permanent members in the Security Council, the US took the most assertive standpoint against Sudan, but the threat of China's veto made pushing tougher resolutions even more complex.<sup>156</sup>

According the former UNSC president,<sup>157</sup> Qatar was abstaining in support of a fellow Arab state while Russia's ambivalent could not be amply explained but its history in voting seems to be going against US voting as a weak attempt to show it's still relevant in the international system today. Indeed, Gartzke concurs with this assertion when he writes that for Russia, the UNSC plays a crucial role in providing the country's humiliated political and military elite with some comfort over its lost superpower status.<sup>158</sup>

An example cited by the official on the extent of national interests in the UNSC relates to the events in Syria. Since the uprising began in March 2011, the UNSC has done little on Syria except rhetoric and condemning the widespread violations of human rights and state aggression against the civilians. In sharp contrast, a similar

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<sup>154</sup> For Gartzke's article, see

[http://www.dias-online.org/fileadmin/templates/downloads/031115\\_13.pdf](http://www.dias-online.org/fileadmin/templates/downloads/031115_13.pdf) Retrieved on 08/23/2011

<sup>155</sup> *Ibid*, pp 4

<sup>156</sup> Bellamy, A.J. "Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq," in *Ethics & International Affairs*, Vol. 19, No. 2, 2006 pp 46

<sup>157</sup> Ndungu, L., In terview with Former President of UNSC, Nairobi, August 2011.

<sup>158</sup> *Op. Cit.*, Gartzke, pp 3

situation in Libya has evoked strong action by the UNSC with a series of resolutions, the latest being Resolution 1973 (2011).<sup>159</sup> This assertion by the UN official is corroborated by a current sitting member of the UNSC who sardonically reiterates that “Libya holds strategic geopolitical interests to US because of the presence of oil, in marked contrast to Syria. Syria’s interest to the US is not comparatively great, yes, with the war on terror it does, but oil for the US is like insulin to a diabetic.”<sup>160</sup> It is worth remembering that interests of a state are what it thinks them to be and not what another power says them to be. Subsequently, the Council has invoked the Responsibility to Protect doctrine to authorize action on Libya which is a paradox that the same is not applicable to Syria where the state is committing aggression to its civilians.

In yet another interview, a senior UN official who has served in the Office of the Coordinator of Humanitarian Affairs (UN-OCHA) valiantly quips that for the UNSC to respond to conflicts, especially in Africa where intra-state and civil wars are viewed by the West as a normal occurrence, it must be influenced by the level of suffering experienced by the civilian population.<sup>161</sup> That the situation must be considered severe enough for the Council to determine the existence of a threat to international peace and security is almost as shocking as it is rattling. This was evident during the 1994 Rwandan Genocide where the Council didn’t act decisively until it was already too late. It’s also evident in Darfur where it took fifteen months for the Council to even discuss the crisis.

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<sup>159</sup> For full text of the Resolution, see <http://www.un.org/News/Press/docs/2011/sc10200.doc.htm> Retrieved on 08/25/2011.

<sup>160</sup> Ndungu L., Interview with a Current Ambassador to the UNSC, Nairobi, July 2011.

<sup>161</sup> Ndungu L., Interview with Senior UN-OCHA Official, Cape Town, South Africa, June 2011.

## **Bureaucratic Politics and UNSC**

Sometimes the delays in action by the UNSC are occasioned by lack of or inadequate credible information and analysis by the Secretariat. A senior UN official intimates that sometimes the information reaching the Secretariat is not well analyzed and projected to enable the UNSC take appropriate remedial action in a conflict situation.<sup>162</sup> He argues that the bureaucrats at the Secretariat can become entrenched in particular mindsets informed by the events occurring at the conflict areas and internal organizational structures that distract them from impartial and rigorous analysis. This phenomenon is attributable to group think that tends to seek concurrence among the staffers doing the analysis of information inherently limiting the extent of analysis the Secretariat can do. These pathologies impact on the effectiveness of the Council's decision-making

A former President<sup>163</sup> of the Council concurs with this assertion stating that the Secretariat is traditionally viewed within the UN system as 'playing safe' when it comes to analysis of conflict situation-it's believed to follow the safe, lowest-common denominator approaches and tends to shield the UNSC from disconcerting information unless it absolutely has to act on it. Findlay<sup>164</sup> maintains that the Secretariat's relations with the Council on matters relating to conflict resolution, especially where the use of force may be inevitable, are guided by six principles: playing safe, seeks negotiation and mediation first, take member states' statements and positions at face value, base the planning process on best-case scenarios, attempt

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<sup>162</sup> Ndungu, L., Interview with Senior UN Official, Nairobi, August 2011.

<sup>163</sup> Ndungu, L., Interview with Former President of the UNSC, Nairobi, August 2011.

<sup>164</sup> Findlay, T. *The Use of Force in UN Operations* (Solna & New York: Stockholm International Peace Research Institute, 2002) pp 11



to shield the Council from disconcerting information unless it absolutely has to act on it, and displays an aversion to the use of force. This has been evident in both the Darfur and Rwanda case, the latter exemplified by the MIR-16 cable.

### **UNSC as a Tool for the P-5**

In addition to the formal role the Security Council has long performed a number of other unacknowledged 'functions.' Three of these merit special attention. First, the UN and the associated organs and agencies can always be relied upon to act as a 'scapegoat' for the vanities and follies of statesmen and especially for its P-5 members. O'Brien argues that the shortcomings of the UN have often provided cheap and convenient cover for the failure of their own policies.<sup>165</sup> He goes further to state that this function is in fact one of the things that UN is about and is a large part of utility to national leaders.

A second and vital function of the council has been to serve as an instrument for collective legitimization of state action that is as a dispenser of politically significant approval and disapproval of the claims, policies and actions of states.<sup>166</sup> A third and related cluster of functions has been to provide P-5 states with a mechanism through which their separate and interests can sometimes be more effectively advanced, concessions or *quid pro quos* from other member states secured, and likely international criticism of what are in effect unilateral policies or actions deflected. Post Cold war examples illustrating each of these functions include: China's repeated

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<sup>165</sup> O'Brien, C. C. "Faithful Scapegoat to the World", in *The Independent*, 1<sup>st</sup> October 1993.

<sup>166</sup> Inis J. Claude Jr. "Collective Legitimization as a Political Function of the United Nations," in *International Organization*, Vol. XX, No.3, Summer 1966, pp 368.

use of its Council's membership to signal and restate its interests vis-à-vis Taiwan.<sup>167</sup>; Russia's apparently successful efforts in 1993 to obtain a more forthcoming US position on Georgia Tajikistan in exchange for supporting a US sponsored resolution on Haiti,<sup>168</sup> and France's ability to deflect criticism of its policies in Rwanda before and during the genocide by receiving Security Council's endorsement of operation Turquoise, its military and humanitarian, and it should be added, morally ambiguous operation in the country from June to August 1994.<sup>169</sup>

Once these considerations are borne in mind-to wit the persistence of power politics inside and outside the UNSC and, intimately related to this, the importance of the Council's unacknowledged functions-it becomes much easier to understand why repeated crises facing the Council in the 1990's did not fatally undermine its perceived utility to states.

In a more recent case, the unbridled pursuit of western self interests in Libya and Cote d' Ivoire has the consequence of destroying the moral authority of the United Nations. In effect the, the Security Council has become a quisling facilitating what is becoming an apparatus of 're-colonization' of some parts of the world strategic to western interests.<sup>170</sup> As stated earlier in the chapter and sufficiently acknowledged by the UN officials interviewed, the Council is the P-5's arena for power play, and

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<sup>167</sup> The two vetoes cast by china in the post cold war period in 1997 and 1999 were both determined by China's policy of punishing anyone strengthening its bilateral ties-financially, diplomatically or otherwise- with the island. In the first instance the actual effect of the veto was to undermine the UN's verification mission in Guatemala (MINOGUA). The second lead to the termination of what was termed as a successful UN operation in Macedonia (UNPREDEP). See Sally Morphet, "China as a Permanent Member of the Security Council," in *Security Dialogue*, Vol. 31, No.2, June 2000, pp164

<sup>168</sup> *Op. Cit.*, Malone. pp 107

<sup>169</sup> Gourevitch, P. *We Wish to Inform You That Tomorrow We Will Be Killed With Our Families: Stories from Rwanda* (London: Picador Publishers, 1998) pp. 154-160

<sup>170</sup> Akyaaba Addai-Sebo, "Never Again! ... Why Africa Can No Longer Believe In UN Neutrality," in *NewAfrican* , No. 509, August/September 2011 pp12-18

invariably, a tool for pursuing their policies. A professor of International Relations candidly puts it: “The UN has, and continues, to be used as a Foreign Policy tool by the US to facilitate its strategic interests in the international arena, especially after the Cold War. This has rendered the Council almost ineffective in its mandate and unless this state of affairs changes, then Africa needs to find its own solutions to the conflicts that have for decades defined it. We cannot trust the West, and the UN, as long as they view Africa as a subordinate state in the international system. This is a fact that cannot be ignored.”<sup>171</sup>

### **International Response to the Crisis in Darfur**

The systematic atrocities of the counterinsurgency war in Sudan’s western province of Darfur coincided with the tenth anniversary of the Rwandan genocide. Arguably, this led to perceptions about Darfur as a test case to measure the extent to which the international community had improved at responding to genocide and crimes against humanity. Kofi Annan explicitly created the connection between international responsibility in respect of Rwanda and Darfur in his memorial address for the Rwandan genocide in Geneva, in 2004. Speaking of ethnic cleansing in Darfur, he said, “The international community cannot stand idle in the face of such widespread human rights violations”.<sup>172</sup>

In this address, Annan while tagging at the international society’s conscience and the principle of non-indifference, he unequivocally referred to the mounting

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<sup>171</sup> Ndungu L., Interview with a Professor of Human Rights and Current Senior Official of UN, Cape Town, June, 2011.

<sup>172</sup> Kofi Annan, address to the UN Commission on Human Rights, Geneva, 7 April 2004, UN News Service, <http://www.un.org/apps/news/printnewsAr.asp?nid=10377>, Accessed on 03/07/2011

humanitarian crisis in Darfur, calling on the international community to take action. The UNSC's inaction, plagued by its members' reluctance to get involved was the subject of a plethora of writings. One such scholar, Pentland,<sup>173</sup> explains European members of the Council's inaction in Darfur as more complex to explicate than American inaction. First, the EU arguably has a larger interest in African security and stability due the shared colonial history-Belgium, England, France and Portugal are European countries that have maintained extensive historical relationships with Africa, and boast enduring relationships with their former colonies. Trade agreements, aid packages, and foreign investment link the EU and Africa, and European concerns with illegal immigration and internal security threats, are also being incessantly associated with volatility in Africa.<sup>174</sup>

Second, distinct from the US, the EU does not have a tarnished image as a norm-carrier. A former Special Representative of the Secretary General interviewed for this study revealed that the US reluctance to get involved in Darfur was borne from the gross military overstretch it was experiencing in Iraq, and the fact that it could not risk being tagged a "crusader" against Moslems.<sup>175</sup> This cannot be said of EU, but a reckoning from a diplomat in one of the P-5 missions in Nairobi indicates that some European countries in the Council follow the "direction that the US wind blows them as they are declining powers and their position as permanent members of the Council does not reflect the power realities of this era."<sup>176</sup> This sentiment is echoed by a

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<sup>173</sup> Charles C Pentland, "Africa: Towards Durable Peace," in *International Journal*, Vol. 60, No. 4, Autumn 2005, pp 919-936

<sup>174</sup> *Ibid*, pp 924

<sup>175</sup> Ndungu L., Interview with Former Special Representative of the Secretary General, Nairobi, August 2011.

<sup>176</sup> Ndungu L., Interview with an envoy of one of the P-5 missions in Nairobi, August 2011.

senior UN official who valiantly states that Britain and France are powers in decline and their permanent membership in the Council is reminiscent of a “washed up actor who clings onto past fame and grandeur. Russia on the other hand is obsolete as a superpower and its permanent membership in the Council gives it the farcical belief that it still matters in international peace and security while in actual sense, it doesn’t.”<sup>177</sup> Berdal agrees with these assertions in his *Survival* article when he writes, “For Britain and France, permanent membership of the UNSC is a unique privilege that buys them exceptional influence, clout, and prestige (it is one reason why it is very difficult to envisage them ever agreeing to exchange their two seats for one ‘EU’ seat).”<sup>178</sup> Yet another scholar, Gartzke,<sup>179</sup> posits that the UNSC provides Britain and France influence and prestige out of proportions to their actual weight in world affairs, be it measured in terms of military power, economic might, let alone population size. He further contends that France depends heavily on the UNSC to advance its vision of “Great Power” status.

While realists might maintain that the Security Council deliberations over Darfur expound the triumph of state power and interests over norms, analytical eclecticism suggests a more complex relationship between norms, interests, and power. Dissimilar to realism, constructivism does not presuppose state interests; to a certain extent, constructivists seek to explore how interests and identities are created. This

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<sup>177</sup> Ndungu L., Interview with Senior Advisor in the UN Headquarters in New York, Nairobi, August 2011.

<sup>178</sup> *Op. Cit.*, Berdal, pp 12

<sup>179</sup> See Duesseldorf Institute for Foreign and Security Policy Opinion piece, Irrelevant or Indispensable?-The UN after the Iraq War, available on [http://www.dias-online.org/fileadmin/templates/downloads/031115\\_13.pdf](http://www.dias-online.org/fileadmin/templates/downloads/031115_13.pdf) Retrieved on 08/23/2011

sets aside norms, and not just material interests, to comprise a state's identity.<sup>180</sup> Therefore, with the submissions here, it can be argued, from a realist perspective, that norms fall short of the necessary clout to triumph on international issues, but from a more constructivist point of view, the US can use material power to pursue specific norms within the Security Council. Thus, China's material power did not trump normative considerations categorically; to some extent, the US, Britain and France failed to push for stringent measures against Sudan's contravention of international human rights norms.<sup>181</sup>

Certainly, the 2004 Naivasha Peace Process was aimed at ending Sudan's civil war between Khartoum and the Sudanese People's Liberation Movement/Army (SPLM/A). Bellamy and Williams argue that the agreement was still very delicate and the trepidation of endangering the cessation of Africa's longest civil war contributed to virtual lethargy in terms of international intervention.<sup>182</sup> It was the international community's belief that an intervention would derail the essential co-operation between the SPLM/A and the government by buoying up both the SPLM/A and the rebels in Darfur, further protracting the civil war.<sup>183</sup> Further complicating this was President al-Bashir's fear of a potential movement for regime change if Sudan Liberation Army (SLA), JEM and SPLM/A all made some inroads. Subsequently, exerting pressure on Khartoum over Darfur and Naivasha concurrently, not only

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<sup>180</sup> Theo Farrell, "Constructivist Security Studies: Portrait of a Research Program" in *The International Studies Review*, Vol.4, No.1, 2002 pp 50

<sup>181</sup> Scheffer, D.J. "Challenges Confronting Collective Security: Humanitarian Intervention." In Scheffer, D.J., Gardner, R.N. and Helman, G.B (Eds.). *Post-Gulf War Challenges to the UN Collective Security System: Three views on the Issue of Humanitarian Intervention*. (Washington, DC: United States Institute of Peace, 1992) pp 4

<sup>182</sup> *Op. Cit.*, Bellamy & Williams, pp39

<sup>183</sup> *Ibid*, pp 39

jeopardized the end of a protracted civil war, but also threatened the possibility of deposing President al-Bashir thus unraveling the security structures in Sudan.<sup>184</sup>

According to a senior Professor of International Relations<sup>185</sup> interviewed for the study, in response to a question of dominant interests among the P-5 that limited action in Darfur, he argued that from 2003 to 2005, the role of the international community was on securing the Comprehensive Peace Agreement (CPA) between Sudan's NCP and SPLM/A. This lack of focus on getting an all-Sudan solution deflected attention from addressing issues relating to Darfur. The US led this process wanting to avoid an open confrontation with Khartoum as the CPA appeared, and was considered, to have better prospects. This consequently led to Resolution 1590<sup>186</sup> mandating UNMIS to support CPA implementation. Resolution 1591 imposed sanctions and travel bans on individuals perceived to be a threat to the CPA and Darfur, while 1593 made it possible to refer the Darfur situation to ICC.<sup>187</sup> The US and its allies later became more interested in issues relating to ICC than CPA and it became difficult to make any outcomes of the two. While China and Russia insisted on supporting CPA only on the conditions that the peacekeeping operation built into it must be supported to the government of Sudan, they also failed to give support to ICC partly because of their oil deals with Khartoum.

It is evident that the apprehension of exacerbating the conflict in Sudan is a clear illustration of the utilitarian nature of decision-making employed by the international

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<sup>184</sup> Hugo Slim, "Dithering over Darfur? A Preliminary Review of the International Response," in *International Affairs*, Vol. 80, No. 5, 2005, pp811-833

<sup>185</sup> Ndungu L., Interview with Professor of International Relations, Cape Town, June 2011.

<sup>186</sup> For full text of Resolution 1590, see <http://www.un.org/News/Press/docs/2005/sc8343.doc.htm> Retrieved on 08/23/2011

<sup>187</sup> For Resolutions 1591 and 1593, see [http://www.un.org/Docs/sc/unsc\\_resolutions05.htm](http://www.un.org/Docs/sc/unsc_resolutions05.htm) Retrieved on 08/23/2011

community, especially the West. A combination of the risk associated with intervention and the perceived significance of ending Sudan's civil war in the South, downgraded Darfur to a less important issue all together.<sup>188</sup> Such a stance calls into question the upshot of non-interference achieved via utilitarian rationale. It is also perceptible that the violence in Darfur had incessantly spilled over into Chad, rendering the conflict irresolvable and further elevating the humanitarian cost of perpetual violence. Evidence suggests, that the Janjaweed had been attacking Darfurian refugees as well as Chadian citizens; and that the Janjaweed coordinated attacks with both the Sudanese military and the Chadian rebels.<sup>189</sup> Debatable in these cases, is the manner in which states as well as institutions such as the Security Council that are geared to intervene chose not to do so, notwithstanding the preconditions that invoked intervention in for example Somalia and Rwanda.

It is improbable that the Security Council would have objected had others used force to halt the 1994 Rwandan genocide.<sup>190</sup> The case study of Rwanda reveals that throughout the Security Council's deliberations about Rwanda, no state publicly argued that either the ban on force (Article 2(4)) or the non-intervention rule (Article 2(7)) ought to prohibit armed action to halt the bloodshed.<sup>191</sup> Moreover, as Chesterman has argued, little evidence suggests that sovereignty concerns inhibit states from saving strangers when they have the means and aspiration to do so.<sup>192</sup> The Responsibility to Protect (R2P) doctrine explicitly mandates the international

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<sup>188</sup> *Op. Cit.* Bellamy & Williams pp 38.

<sup>189</sup> See Human Rights Watch Report,

<http://www.hrw.org/background/africa/chad0206/chad0206.pdf>. Retrieved on 08/23/2011

<sup>190</sup> Wheeler, N. J. *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2001) pp 232

<sup>191</sup> *Op. Cit.*, Barnett, pp 109-114

<sup>192</sup> Chesterman, S. *Just War or Just Peace?: Humanitarian Intervention and International Law* (Oxford: Oxford University Press, 2001) pp 231



community to act in order to protect civilians in instances of genocide, war crimes and crimes against humanity.

As earlier noted in the study, throughout the 1990s the Council expanded its interpretation of “international peace and security” by authorizing interventions in intra-state conflicts to protect civilians in the so-called safe areas in Bosnia, maintain law and order, protect aid supplies in Somalia, and restore an elected government toppled by a coup in Haiti. The central question of international responsibility for stopping intrastate violence remained essential, but unanswered in moral terms, legally, practically and institutionally.<sup>193</sup> Devoid of intervention from the Security Council or the West, the AU was the only foreign force ready to intervene in Darfur.<sup>194</sup>

In August 2004, the AU deployed its first 300 of an envisaged 3000 troops to protect its civilian observers monitoring the oft-broken ceasefire agreement between the rebels and Sudanese government.<sup>195</sup> Khartoum’s repugnance for foreign intervention and the aversion and inability of the AU’s Peace and Security Council to violate the principle of sovereignty and its corollary, non-intervention in domestic affairs of a state, led to a provisional AU mandate in Darfur.<sup>196</sup>

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<sup>193</sup> *Op. Cit.*, Slim, pp 820

<sup>194</sup> O’Neill, W.G. and Cassis, V. *Protecting Two Million Internally Displaced: The Success and Shortcomings of the African Union in Darfur* (Brookings: University of Bern Project on Internal Displacement, 2005) pp 16

<sup>195</sup> *Ibid*, pp 16

<sup>196</sup> *Ibid*, pp 26

## **The UNSC and Domestic Politics of its Members**

The Council unmistakable failure to live up to its responsibility to protect the people of Darfur and help restore peace and security in Sudan has been attributed partially to the domestic politics of the P-5. A professor of Politics and International Relations interviewed for the study reckons that domestic politics of the P-5 play a major role in the decisions of the UNSC.<sup>197</sup> While analyzing the position each of the P-5 members takes on the Council's intervention in a conflict region, their respective domestic politics largely inform these positions. This scholar gives the February 2011 instance when US stood its ground on behalf of Israel by vetoing a resolution on the Israeli Settlements in the West Bank and East Jerusalem. He argues that despite this resolution enjoying strong support from all other 14 members of the Council, and having been sponsored by 130 member countries, US relations with Israel saw it veto the resolution. Of course the US veto is not some idiosyncratic whim but rather an expression of the realities of domestic politics of the US, and the wishes of its congress. The Israel lobby in the US is believed to be a strong force on domestic politics which prompted a former Special Representative of the Secretary General to sardonically quip that in this scenario the "real veto-holder is Israel and the US Congress are merely designated as implementers and enforcers."<sup>198</sup>

The need to satisfy domestic constituencies plays a large role in international organizations-a basic tenet of this claim lies in the belief that leaders are attentive to how their actions in the international organization will be received domestically. They

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<sup>197</sup> Ndungu L., Interview with a Professor of Politics and International Relations, Naivasha, August 2011.

<sup>198</sup> Ndungu L., Interview with former Special Representative of the Secretary General in various countries, Nairobi, August 2011.

anticipate likely public reactions and try to avoid policies that will provoke a domestic backlash while looking for ways to demonstrate competency or boost domestic support for foreign policy.<sup>199</sup> Scholars such as Rousseau and Kant<sup>200</sup> wrote of the virtues of public influence on foreign policy and seemed to believe in the ability of citizens to influence their leaders in reasonable directions. Domestic politics obviously influence the way states behave in international organizations such as the UN. While this varies from country to country, democracies often have the most open channels through which public attitudes affect policy and decisions in IOs. The same channels are absent to a greater or lesser degree in nondemocratic countries depending on their internal makeup.

### **UNSC in Darfur and the Responsibility to Protect**

The complex question in Responsibility to Protect doctrine lies in its implementation- how the international community can implement its responsibility to protect populations from genocide, war, crimes, ethnic cleansing and crimes against humanity have moved from the affirmation of the responsibility to protect to the implementation of this concept.

In 2005, the World Summit formally adopted the responsibility to protect (RtoP) at the highest level.<sup>201</sup> In resolution 1674 (2006) on the protection of civilians in armed conflict and 1706 (2006) on the conflict in Darfur, the UN Security Council reaffirmed and recalled the provisions on RtoP, as laid-out in the World Summit

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<sup>199</sup> Chapman, T. L. *Securing Approval: Domestic Politics and Multilateral Authorization for War* (Chicago: The University of Chicago Press, 2011) pp 33-36; 101-130

<sup>200</sup> *Ibid*, pp 35

<sup>201</sup> For a synopsis of the Report, see [http://www.un.org/summit2005/presskit/fact\\_sheet.pdf](http://www.un.org/summit2005/presskit/fact_sheet.pdf) Retrieved on 08/23/2011

Outcome Document.<sup>202</sup> In January 2009, the Secretary-General presented his report on *Implementing the Responsibility to Protect* to the General Assembly, which discussed the next steps in operationalizing RtoP between July 21 and 29, 2009. On September 14, 2009, the General Assembly adopted its first Resolution on the responsibility to protect by consensus.<sup>203</sup>

Increasingly, it has become unacceptable for a state to brandish sovereignty as a norm while international crimes of genocide, war crimes and crimes against humanity are taking place within its territory. Deng *et al* argue that there is a responsibility for regional and international actors which cannot be abdicated in the name of national sovereignty.<sup>204</sup> Essentially, what the author posits is that the responsibilities of sovereignty require both internal and external accountability, which may be at odds, especially when internal practice departs from the universal standards that the international community is responsible for defending. States have the legal obligation of protecting their populations—citizens or not—from genocide, war crimes, ethnic cleansing, and crimes against humanity, and from their incitement. When this fails, then the international community has every right to step in and uphold international law.

The 2005<sup>205</sup> World Summit resolved that RtoP is anchored within three pillars: while the first pillar is firmly anchored within existing international law obligations, the second and third pillars are more innovative and have farther reaching

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<sup>202</sup> For the resolutions full text, see [http://www.un.org/Docs/sc/unsc\\_resolutions06.htm](http://www.un.org/Docs/sc/unsc_resolutions06.htm) Retrieved on 08/23/2011

<sup>203</sup> See UN General Assembly Resolution A/RES/63/308 <http://www.un.org/en/ga/63/resolutions.shtml> Retrieved on 08/23/2011

<sup>204</sup> Deng, F. M., *et al. Sovereignty as Responsibility: Conflict Management in Africa* (Washington, DC: Brookings Institution, 1996) pp 90

<sup>205</sup> See 2005 World Summit Report <http://www.un.org/summit2005/documents.html> Retrieved on 08/23/2011

implications. The second pillar is a commitment by the international community to assist states in meeting these obligations while the third pillar is acceptance by members states of their responsibility to respond “in a timely and decisive manner,” in accordance with the UN Charter, to help protect populations from the four listed crimes and violations when a state is “manifestly failing” to do so.

The failure of the international community to respond in a timely and decisive manner to the horrors of Rwanda, and again in Darfur has been a source of indeterminate debate on the third pillar of RtoP. The UN has attempted to explain its failure to apply RtoP in Darfur to the fact that the doctrine came three years after the conflict had begun. In spite of this, the UN should have responded to the Darfur crisis given the stark realities of the situation, and the GoS’ flagrant disregard of RtoP the people of Darfur. A former Special Representative of the Secretary General<sup>206</sup> argues that the debate over RtoP in Darfur and at the UN is looked through the North-South relations lens-as long as Africa is still viewed in the international system as subordinate, conflict and humanitarian issues in the continent will never elicit a speedy response from the international community. He further adds that some African leaders view RtoP as a foreign concept conceived by the West and imposed on developing countries of the South. With this mantra, they then use sovereignty as the front to frustrate any RtoP attempts by the international community. This was evident in Darfur when the GoS remained intransigent in the face of UNAMID’s deployment.

A senior UN official avers that some countries argue against RtoP response in some crisis regions because the situation in effect reflects their own domestic

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<sup>206</sup> Ndungu L., Interview with former Special Representative of the Secretary General, Nairobi, August 2011

shortcomings in respecting human rights. He reckons that China's abstention from the resolutions on Darfur was partly informed by its own poor record on human rights issues and its treatment of Taiwan.<sup>207</sup> This claim is in fact held by Bellamy<sup>208</sup> who argues that some recalcitrant states invariably have their own human rights problems and therefore use sovereignty arguments as political posturing when the international community intends to respond in a conflict situation. He gives the example of Pakistan in 2004, when it argued against collective action in order to halt the mass killings in Darfur sponsored by the GoS on the grounds that the 'Sudan has all the rights and privileges incumbent under the UN Charter, including to sovereignty, political independence, unity and territorial integrity.'<sup>209</sup> Paradoxically, this same argument is sometimes held by liberal states as was the case in 2005 in the UNSC's debate on whether to refer alleged crimes in Darfur to the ICC. The US representative argued that the court 'strikes at the essence of the nature of sovereignty' by purportedly sitting in judgement over the conduct of a state's internal affairs.<sup>210</sup>

Skepticism about implementing RtoP remains among some member states. This appears to relate less to the basic principles of the responsibility to protect than to fears over how the concept might be applied in real crises. This reluctance stems from the fear that RtoP could be abused by powerful states as justification for interventions that serve their political interests. This suspicion clearly indicates the need to root RtoP in the framework of the UN Charter, which bars unilateral military action except in self defense. This fear however seems misplaced as paragraphs 138 and 139 of the

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<sup>207</sup> Ndungu L., Interview with Senior UN Official, Nairobi, August 2011.

<sup>208</sup> Bellamy, A. J. *Responsibility to Protect: The Global Effort to end Mass Atrocities*. (Cambridge & Massachusetts: Polity Press, 2009 ) pp 9-

<sup>209</sup> *Ibid*, pp 10

<sup>210</sup> *Ibid*, pp 10

2005 World Summit Outcome Document make it abundantly clear that the response could involve the whole range of Chapter VI, coercive ones under Chapter VII and collaboration with regional and sub-regional arrangements espoused in Chapter VIII.

Proponents of RtoP argue that the existence and implementation of a multilateral framework for preventing and responding to mass atrocities unmasks procedural illegitimacy of unilateral “humanitarian” intervention thereby it may raise the political costs of unilateral use of force for alleged protection purposes.<sup>211</sup>

In addition, some states fear that RtoP, though universal in theory, will be applied selectively in practice. Great powers and their allies may be able to use their leverage to prevent timely and decisive action by the Security Council in the event of their failure (or their friends’ and allies’) to protect their own populations. The veto power of the permanent Security Council members has indeed often been used to prevent international censure for illegal acts by great powers and their allies, and the veto could prove an obstacle to the uniform application of the third pillar of RtoP in all conflict areas.

The added value of RtoP is not so much the novelty of international action to protect populations from mass atrocities, but rather the concept’s value as an organizing principle that ties different normative strands together and that has broad popular appeal. This helps to clarify what the United Nations stands for and what it seeks to accomplish, when it engages in preventing or responding to situations of

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<sup>211</sup> It is commonly believed that sovereignty concerns have been held largely by smaller developing countries that are potentially vulnerable to interventions from more militarily powerful developed countries. However, these concerns about territorial sovereignty have been matched by the worries of some larger developed countries that their decision-making sovereignty could be compromised by RtoP obligations to intervene to stop the commission of major atrocity crimes. See, for example, Edward C. Luck, “Sovereignty, Choice, and the Responsibility to Protect,” in *Global Responsibility to Protect*, Vol.1, No. 1, 2009, pp 10-21

mass atrocities. Thus, it can provide an overarching rationale for the work of the organization in specific crisis situations. The UN Secretary General Ban Ki-moon underscores this by stating that the key lies in an early and flexible response tailored to the specific needs of each situation.<sup>212</sup> The Secretary-General further urged the P-5 members of the Council to refrain from employing or threatening to employ the veto in situations where states are manifestly failing to protect their populations, and to reach a mutual understanding to that effect.<sup>213</sup>

Doubts are plenty on whether the P-5 will reach an understanding on not using the veto in situations involving genocide, war crimes, ethnic cleansing and crimes against humanity in the near future. However, the formal adoption of RtoP already raises the political costs of obstructing the delivery on this commitment by casting a veto that prevents timely and decisive collective action in the face of a mass atrocity. If a veto cast in the context of mass atrocities prevents the Council from living up to its responsibility to protect, the qualified majority of Council members could make use of the “uniting for peace” procedure so the General Assembly can take timely and decisive action.

### **The Role of UNSC in Implementing RtoP**

The Security Council plays a crucial role in the implementation of both the second and the third pillars of the responsibility to protect. The 2005 World Summit Outcome expresses the preparedness of the international community to take collective

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<sup>212</sup> Address of the Secretary General in Berlin on July 15, 2008 available on <http://www.un.org/News/Press/docs/2008/sgsm11701.doc.htm> Retrieved on 08/23/2011

<sup>213</sup> See United Nations Secretary-General Report on Implementing the Responsibility to Protect available on <http://www.unric.org/en/unric-library/26580> Accessed on 08/23/2011



action through the Security Council should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

In addition to coercive collective action, such as binding sanctions and the use of force, the Security Council can also resort to non-coercive means to afford protection to populations victimized by mass atrocities (pillar three of the responsibility to protect). It can do so by deploying peacekeeping operations with civilian protection mandates. By conducting investigations into past abuses, which project a shadow of sanctions against those responsible for mass atrocity crimes, it may also help prevent an escalation or repetition of mass atrocities.

Finally, the Security Council can diplomatically engage the parties concerned under Chapter VI of the United Nations Charter to ensure the protection of populations suffering from mass atrocity crimes. The Security Council may also take non-coercive action under Chapter VI to encourage states to exercise their responsibility to protect their population from genocide, war crimes, ethnic cleansing and crimes against humanity (pillar two). Similarly, the Security Council makes important contributions to the second pillar of the responsibility to protect when it mandates peace operations to support security sector reform, the establishment of effective judicial authorities, and disarmament, demobilization and reintegration processes in post conflict countries as was the case in Cambodia.<sup>214</sup>

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<sup>214</sup> Ndungu, L., Interview with Former Special Representative of the Secretary General, Nairobi, August 2011

## **CNN Effect, the UNSC and Intervention in Darfur**

The growth and expansion of global all news television networks such as CNN, Al Jazeera and British Broadcasting Corporation (BBC) World has created a fascinating perception of the power the media holds in influencing policy and intervention in humanitarian crises. This exponential growth in reach and influence has prompted scholars of international relations (IR) and foreign policy to name this phenomenon the “CNN Effect,” as a new theory in IR. The basic assumption of the CNN Effect in this study is that it influences the decisions of the UNSC by presenting information and images from conflict areas. This assumption is anchored on the basis of the 24-hours broadcasts transmitted in real-time from all over the world, and the greater levels of attention and focus they sustain in conflicts and humanitarian crises regions. This constant media glare constrains world leaders to respond faster to unfolding events in a crisis area. Gilboa, who has written of the CNN Effect, defines it to refer to compelling television images, such as images of a humanitarian crisis, which force policymakers to adopt a policy, such as military intervention, that might otherwise not be in the national interest of their countries.<sup>215</sup> He adds that two particular formats are more significant: the breaking news and the continuing crisis coverage characterized by a special logo such as *America at War* or the *Middle East Crisis*.<sup>216</sup>

This effect creates a triangular relationship among media, governments and the public. The perceived power of the media resides in the extent of its ability to

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<sup>215</sup> Etyan Gilboa, “The Global Networks and U.S. Policymaking in Defense and Foreign Affairs,” in *The Joan Shorenstein Center on the Press, Politics and Public Policy*, Paper No.2002-6, 2002.

<sup>216</sup> *Ibid*, 6

stimulate or even shape public opinion.<sup>217</sup> In democratic states such as the US where public opinion is highly regarded as an expression of support, or otherwise, of the government, the media plays a critical role. In demonstrating the “power” the media through the public, former Secretary of State Madeleine Albright told the US Senate: “Television’s ability to bring graphic images of pain and outrage into our living rooms has heightened the pressure both for immediate engagement in areas of international crises and immediate disengagement when events don’t go according to plan.”<sup>218</sup> Other officials have expressed similar sentiments, for instance former UN Secretary General Boutros Boutros-Ghali when he complained “CNN is the sixteenth member of the Security Council”<sup>219</sup> to relate the powerful role the media plays in constraining the Council into responding to humanitarian crises. In 1993, British secretary of state for Foreign Affairs Douglas Hurd blamed foreign correspondents covering the Bosnia War for the military intervention, calling them the founding members of the “something must be done” school of thought.<sup>220</sup> While all these statements imply a certain loss of policy control to global television, implicit is the idea that decisions especially on humanitarian crises and conflicts are driven by emotional public opinion aroused by television pictures, as well as national interests.

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<sup>217</sup> Bennett, W.L. “The Media and the Foreign Processes,” in Deese, D.(Ed.) *The New Politics of American Foreign Policy*.( New York: St. Martin’s Press, 1994) pp 168-188 See also Gurevitch, M. “The Globalization of Electronic Journalism,” in Curran, J. & Gurevitch, M (Eds.) *Mass Media and Society*. (London: Edward Arnold Publishers, 1991) pp 178-193 and Nacos, B., Shapiro, R., & Isernia, P. (Eds.) *Decisionmaking in a Glass House*.(Lanham, MA: Rowman & Littlefield, 2000) pp 111-121

<sup>218</sup> Neumann, J. *Lights, Camera, War: Is Media Technology Driving International Politics?* (New York: St. Martin’s Press, 1996) pp 124-132

<sup>219</sup> Potter, E.H. *Cyber-Diplomacy: Managing Foreign Policy in the Twenty-First Century*. (Montreal: McGill-Queen’s University Press, 2002) pp 87-93

<sup>220</sup> *Ibid*, pp 88

In *Current History*,<sup>221</sup> Prunier writes that the deteriorating situation in Darfur had been known to the wider world since about 1999, but only through specialized publications such as *Africa Confidential* or the *Indian Ocean Newsletter*. However, the crisis went almost unnoticed by the international media. It was non-governmental organizations that began noting Darfur, first Amnesty International and then the International Crisis Group, and it is largely through them that the crisis began to emerge from the shadows. Given their interest in Chad, the French media were among the first to give attention to the Darfur situation.<sup>222</sup> For almost a year, there was barely any reaction on the part of the international community, which had constantly misconstrued the Sudanese civil war, interpreting it to be a religious conflict and not a racial one. The article goes on to say that notwithstanding an emerging awareness of the conflict in Darfur – which was prompted by reports from advocacy organizations like Amnesty International and Human Rights Watch in the second half of 2003 – media coverage and popular awareness of the situation was virtually non-existent.<sup>223</sup> This drove *Médecins sans Frontières* to offer the paradoxical but insightful observation, that Darfur was a “forgotten crisis”, even though it had not yet emerged as an event which could be remembered.<sup>224</sup>

All of this changed when the United Nation’s Human Rights Coordinator for Sudan, Mukesh Kapila, pronounced in a March 2004 BBC interview, that Darfur was the world’s worst humanitarian crisis which differed from the genocide in Rwanda only in terms of the numbers affected. At the time there was significant media

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<sup>221</sup> Gérard Prunier, “The Politics of Death in Darfur,” in *Current History*, Vol.105, No. 691, 2006, pp 195-196

<sup>222</sup> *Ibid*, pp 195

<sup>223</sup> *Ibid*, pp 195

<sup>224</sup> Prunier, G. *Darfur: The Ambiguous Genocide*. (London: Hurst and Company, 2005) pp131

attention on the 10th anniversary of the genocide in Rwanda, and Kapila deliberately looked for a way to use that concern for the remembrance of the past to overcome the forgetfulness of the present.<sup>225</sup>

Senior UN officials and former president of the Council interviewed for the study are agreed the media plays a big role in *influencing* response by the Council.<sup>226</sup> However, one of the officials disagrees that the media *determines* the Council's decisions in humanitarian crises but rather *creates* the environment and emotional appeal to respond. He asserts that the CNN Effect has been grossly exaggerated-that it's understood to mean that global media *controls* policy makers at the UNSC-while in essence, national interests still largely inform the decisions the Council makes in responding to conflicts.<sup>227</sup> Tragically, he adds, once the television lenses have moved out of the crisis into a new wave of interest, the region may be in effect "blacked out." This view is supported by such scholars as Gowing<sup>228</sup> who argues that media coverage draws attention to crises and may evoke emotional public reactions but world leaders in the UNSC resist pressure to *react* solely in response to television news reports.

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<sup>225</sup> See <http://www.alertnet.org/thefacts/reliefresources/11061528666.htm> Retrieved on 08/23/2011

<sup>226</sup> Ndungu L., Interviews with Senior UN Officials and former UNSC President, Nairobi, August 2011.

<sup>227</sup> Ndungu, L., Interview with Senior UN Official, Nairobi, August 2011

<sup>228</sup> Gowing, N. "Media Coverage: Help or Hindrance in Conflict Prevention?" in Badsey, S. (Ed.) *The Media and International Security*. (London: Frank Cass Publishers, 2000) pp 203-226

## **Challenges Facing UNAMID in Executing its Mandate**

A senior UNAMID official states that UNAMID faced, and still faces, a myriad of challenges in the execution of its mandate.<sup>229</sup> These challenges were divided into four namely; political, operational, security and environmental.

On the political challenges, intransigence of the government of Sudan (GoS) delayed the deployment of UNAMID right from the start. It kept renegeing on its word to allow deployment citing logistical factors such as the need to adjust the existing camps to accommodate the additional troops. The GoS was expressing concerns over overstretched amenities and infrastructure in the camps hence the need to ensure an uninterrupted supply of water and electricity. Other factors quoted were the need to meet and agree on land and water use by the additional troops to be deployed (additional from UNMIS). Since peacekeeping missions require consent of the country that they are being deployed to, it was imperative to have the Khartoum government's consent. In addition, the GoS demanded that the force had to be predominantly African to make it as weak as possible. It's believed that some of the resistance from the GoS also arose from the presence of oil and the UN was felt by the GoS to be spying for the permanent five members of the Security Council, especially the US.

On operational challenges initially, the mission was faced with ambiguities concerning the command structure and the relationship between AU and UN. The joint force envisioned to have one joint chain of command provided by the UN required extensive coordination and commitment by both AU and UN. Representatives from the AU sometimes felt they were the underdog in the operation

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<sup>229</sup> Ndungu, L., Interview with Senior UNAMID official, Nairobi, July 2011.

and were reported to be unhappy with the UN. Hoebnik<sup>230</sup> underscores this challenge and goes on to add that the mission not being integrated is quite a challenge too since it seems to be a stand-alone affair-the UN country teams decided not to be associated with the operation out of fear for their own security.

Secondly the fact that UN doesn't have a force and relies on member states' goodwill to contribute troops to PKOs meant that generating a sufficient number of troops and police would be a herculean task. At the deployment point, the mission lacked capacity in number of qualified troops, supplies and necessary equipment to effectively execute their mandate. In fact, UNAMID didn't have tactical helicopters until February 2010.<sup>231</sup>

Insecurity, intimidation, targeted attacks, abduction, hostage taking and killings of relief workers and peacekeepers are some of the security challenges that UNAMID is facing in Darfur.<sup>232</sup> While UNAMID is mandated to offer protection to the civilians in Darfur, its soldiers are in dire need of protection themselves. UNAMID has been the subject of frequent and arbitrary attacks and killings since the beginning of their mission in Darfur.<sup>233</sup> Some of the attacks were carried by the GoS aboard helicopters

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<sup>230</sup> Hoebnik, P. *The Netherlands Yearbook on International Cooperation 2008*(Assen: Royal Van Gorcum, 2009) pp 175

<sup>231</sup> Ndungu, L., Interview with Senior UNAMID Official, Nairobi, July 2011

<sup>232</sup> See CNN Reports available on

<http://edition.cnn.com/2010/WORLD/africa/11/04/sudan.clash/index.html?iphoneemail>

<http://edition.cnn.com/2010/WORLD/africa/08/14/sudan.darfur.abductions/index.html>

<http://edition.cnn.com/2010/WORLD/africa/08/17/darfur.kidnappings.britain/index.html>

<http://edition.cnn.com/2010/WORLD/africa/04/13/sudan.peacekeepers.missing/index.html>

<http://edition.cnn.com/2010/WORLD/africa/06/21/sudan.darfur.peacekeepers.killed/index.html>

<http://edition.cnn.com/2010/WORLD/africa/07/27/un.darfur/index.html?hpt=T2>

<http://edition.cnn.com/2010/WORLD/africa/06/14/un.sudan/index.html>

<sup>233</sup> See <http://www.humansecuritygateway.com/documents/HAND->

Past and Future of UNAMID Tragic Failure or Glorious Success.pdf Retrieved on 08/27/2011

with UN logo emblazoned on them.<sup>234</sup> This blatant violation by the GoS was strongly condemned by UNSC as is evidenced in the text of Resolution 1779.<sup>235</sup>

The international media has been awash with reports of attacks against the mission especially in 2010-CNN reports detailed attacks against UNAMID only one week after deployment in January 2008. UNAMID soldiers were attacked by what was believed to be the GoS army while they were traveling in a supply convoy between Umm Baru and Tine in northern Darfur state. The deadliest attack on UNAMID was reported on 8<sup>th</sup> July 2008 during which seven soldiers were killed and 22 others were wounded when a UNAMID joint police military patrol was ambushed by about two hundred unidentified attackers near UM Habikal village Wadal, 100km southeast of El Fasher, Northern Darfur.<sup>236</sup> More attacks on the mission were orchestrated with 2010 seemingly being the most deadly year for UNAMID.

UNOCHA reported an increase in attacks against relief workers in Darfur. The International Committee for the Red Cross (ICRC) also reported a widening gap between increasing humanitarian needs and access, the latter varying across regions. Systematic forced displacement of civilians resulted in the overcrowding and stretched capacity of IDP camps, increasing the challenges faced by both UNAMID and humanitarian agencies. Increasingly, the greatest impediment remains the government policy to delivery of relief material to the needy people in Darfur, either

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<sup>234</sup> Ndungu L., Interview with Former UNSC President, Nairobi, August 2011.

<sup>235</sup> For the Resolution, see <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/521/58/PDF/N0752158.pdf?OpenElement> Retrieved on 08/24/2011

<sup>236</sup> See <http://edition.cnn.com/2008/WORLD/africa/07/09/darfur.peacekeepers/index.html?iref=allsearch> Accessed on 08/25/2011



through restrictive administrative measures or by expulsion of relief agencies from the country.

A comprehensive report released by Human Rights and Advocacy Network for Democracy (HAND) indicated that the attacks against mobile UNAMID forces appeared to be pre-meditated, well planned and punctual, and that such attacks appeared to be facilitated by prior knowledge of the timing and routes used by UNAMID troops in their movement which is information usually shared by UNAMID with the parties to the conflict in Darfur in advance. It was also observed that the majority of the deadly attacks against UNAMID forces were committed in areas under the control of the GoS or in areas that witnessed an active presence of the SPLM/A factions that signed peace agreements with the government of Sudan.<sup>237</sup>

The situation of security of UNAMID's personnel deteriorated rapidly with the killing of two Egyptians soldiers in May 2010 and three Rwandans in June 2010.<sup>238</sup> The then UN under Secretary General for PKOs, Mr. Jean-Marie Guèhenno quipped, "The international community is confronted with hard choices to move ahead with deployment of a force that will not make a difference; that will not have the capacity to defend itself and that carried the risk of humiliation of the security council and the United Nations and the tragic failure for the people of Darfur."<sup>239</sup> Continued developments in Darfur have testified to the accuracy of this statement.

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<sup>237</sup> See [http://www.humansecuritygateway.com/documents/HAND-Past and Future of UNAMID Tragic Failure or Glorious Success.pdf](http://www.humansecuritygateway.com/documents/HAND-Past%20and%20Future%20of%20UNAMID%20Tragic%20Failure%20or%20Glorious%20Success.pdf) Accessed on 08/25/2011

<sup>238</sup> *Ibid*, HAND Report, pp 9

<sup>239</sup> *Ibid*, pp 10

Other challenges cited as facing the mission include water shortages, population displacement and increased splintering of the rebel groups.<sup>240</sup> At the start of the crisis, the main rebel groups were, JEM, SPLM/A and Janjaweed. Currently, it is estimated these rebel groups have splintered into more than 20 factions further complicating the already volatile situation. The Doha negotiations currently on-going are increasingly inhibited since they are not inclusive of all the insurgent movements. This has created a degree of uncertainty and mistrust which have seen the GoS and JEM abandon the process at some points.<sup>241</sup> By June 2010, the Doha Peace Process didn't hold much promise especially after SLA/M leader Minni Minawi, who was one of the signatories of the DPA was relieved of his official functions as Senior Assistant to the President of Sudan and Chairperson of the Darfur Transition Authority in June 2010.<sup>242</sup> This move threatened to throw the process into disarray but an interesting twist of events later on in the year injected some hope to the process. The SLA/M stripped Minni Minawi of his executive powers as leader of the insurgent movement claiming ignorance of the leader to "his executive and political duties,"<sup>243</sup> and subsequently rejected a return-to-war call opting to re-enter the talks to implement the Abuja Agreement articles including security arrangements. The return to the negotiations by the insurgents presented a glimmer of hope although prevarication by the various factions and the fact that the process has been viewed as being far from all-inclusive still poses a great threat.

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<sup>240</sup> Ndungu, L., Interview with Senior UNAMID Official, Nairobi, July 2011.

<sup>241</sup> *Op. Cit.*, HAND Report, pp 21

<sup>242</sup> *Ibid*, pp 22

<sup>243</sup> See <http://www.markthetruth.com/world/1131-slm-rejects-return-to-war-option.html> Accessed on 07/13/2011

Another spanner in the works has been presented by the ICC in form of the indictment of the Sudanese President Omar al-Bashir when the peace process is underway. The UNAMID official interviewed for this study indicated that most of the attacks on the mission have been viewed as backlash occasioned by the indictment as they came after the warrant of arrest for the president had been issued. While this cannot be underestimated given GoS attacks on the mission, the ICC's timing for this action was miscalculated and strains the already fragile situation and mission further.

## **Conclusion**

Darfur remains a sore thumb for the international community represented by the UNSC. Against the ghost of Rwanda, continued failure in Darfur increasingly heralds the ineffectiveness of the Council in handling conflicts in Africa. It remains to be seen what the Council will do to rescue itself from the malaise that it has often had to carry on account of its P-5 members. Clearly, this study has shown that despite the international community agreeing on the principle of non-indifference and RtoP where crime of genocide, war crimes, crimes against humanity are being committed; and the state is manifestly unable or unwilling to intervene, the actualization of their words into deeds is inherently far from being achieved. The UNSC must move expeditiously to realize its potential as mandated in the Charter; otherwise it will have failed in its duty as the principal organ for the maintenance of international peace and security. Power politics and national interests should not take precedence over humanitarian intervention and prevention of the all-too common international crimes being committed in Darfur.

## CHAPTER FIVE

### CONCLUSION AND RECOMMENDATIONS

From the study, it is obvious that the UNSC seems to have failed in its Charter mandate of maintenance of international peace and security. It is also evident that a great deal of inconsistency exists within the Council in its response to conflicts that threaten international peace and security. In light of the great significance of the Council's actions for maintenance of international peace and security, it is crucial that the institution plays its role in a principled, consistent and effective manner. However, as the study has proven, this is not the case. Its composition and decision-making processes are far from democratic or representational of the international political system today. Its actions seem consistent with the realist theory that states always pursue their own interests, and they would never cede to supranational institutions the strong enforcement capacities necessary to overcome anarchy in the international system.<sup>244</sup>

As this study has shown, states use international institutions such as the UN to further their own goals and consequently, the Council is little more than a cipher for state power of the P-5. It has also been consistent in the findings of the study that the Council seems to exist to serve primarily national (of the P-5 members) rather than international interests (of the 192 member states of the UN). In Chapter four of the study, the data collected indicated that the UNSC's decisions are shaped and limited by the states that founded and sustains the mother institution, the UN. Thus, the Council is *not* independent of the P-5 influence in its decision making-the national

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<sup>244</sup> Koremenos, B., Lipson, C., & Snidal, D. *The Rational Design of International Institutions* (Cambridge & New York: Cambridge University Press, 2001 ) pp 2

interests of the P-5 have both negative and positive effect on the Council's ability to discharge its charter-mandated responsibility. While it may be in the national interest of some P-5 member to authorize a response to a threat to international peace, as long as other P-5 members perceive such intervention to be against their *respective* national interests, it is unlikely the Council will authorize an intervention.

Over-accommodating Western self-interest as promoted by its acolytes is conspiring to destroy the moral authority of the UNSC at the expense of global peace and security. The use of, or threat of use of the veto (what a former president of the UNSC called 'pocket veto') often driven by competing interests of the P-5, continues to pose an insurmountable challenge to the Council's effectiveness in responding to armed conflict. How then can the Council wiggle out of this veto morass and effectively attempt to reclaim its glory? A lot has been written on reforming the UNSC in a bid to make it more effective. A reform of the Council to reflect the modern international system, and not the post WWII era, has been prescribed as a possible cure out of this. While reforming the Council does hold promise, it is detrimental to think of reforms as being the messianic solution to the ineffectiveness of the Council. Including hitherto underrepresented regions would enhance the legitimacy of the UNSC and its decisions. Furthermore, sharing more responsibility with influential regional powers would raise the likelihood of UNSC resolutions being implemented effectively.

A former representative of the Secretary General interviewed for this study believes that expanding the Council's membership in terms of representational blocs holds some promise. He adds that since the Council pays attention to the voice

emanating from the regional bloc in which the conflict under discussion originates and therefore concert around the issue by African countries would greatly improve chances of their view being considered. He however maintains that African countries should seek permanent membership in the Council *without* the added 'benefit' of wielding veto power. This argument rests in the belief that the P-5 are not keen to allow 'outsiders' into their privileged club of veto, and the continued marginalization of Africa as a backward, primitive and subordinate in the international system.

The basis of ongoing marginalization of Africa in world politics and stereotypes of the western discourse about the continent seem to be informed by the persistent conflicts and poverty that bedevil it. Africa is, in the Western society, perceived as backward, primitive, brutal and tribal. As Soyinka-Airewele notes, in the former Yugoslavia people were *killed in ethnic conflict*, in Rwanda, they were *massacred in tribal violence*.<sup>245</sup> This seems to present the term "tribe" to represent a negative stereotype. To caricature the worst aspects of the "ethnic" thesis, it is that "native" people are "primitive," racially or genetically predisposed to fight, and incapable of or unwilling to resolve conflicts themselves. Therefore, the task of resolving such conflicts falls to higher status of outsiders who regard themselves as experts or specialists, who are thrust into the crisis when it's "severe" enough for the UNSC to get involved. Case studies analyzed here and responses from UN officials interviewed have shown that in each African instance, the Council had to deem the situation "severe" enough it to draw its attention to discuss it, let alone respond. This double

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<sup>245</sup>Soyinka-Airewele, P. "Western Discourse and the Socio-Political Pathology of Ethnicity in Contemporary Africa," in Ike Udogu, E (Ed.) *The Issue of Political Ethnicity in Africa*. (Alderchot: Ashgate Publishers, 2001) pp 59-78

standard is further exemplified by the humanitarian assistance the international community extends to the displaced persons-in Kosovo for instance; the international community was spending USD 1.50 per day per refugee while in Rwanda and Sierra Leone the amount was USD 0.11.<sup>246</sup> In both the genocides in Rwanda and Darfur, the international community represented by the UNSC was for a long time immersed in the debate of whether it should be called “genocide” or ethnic fighting. Protracted debate on semantics in both cases indicates that the P-5 have no particular interests in rapid and effective response to conflicts in Africa. This realization should then bolster the efforts of regional organizations such as African Union although they have to be authorized within the Chapter VIII of the UN Charter. The UNSC can support these initiatives in order to retain its credibility for maintenance of international peace and security. While taking these undertakings, there ought to be clear mandate of what the regional organization can and cannot do; and the involvement of the state that is party to the conflict should be avoided at all cost. For instance, the AU allowed Sudan to play leadership in drafting provisions of the AU resolution that authorized AMIS deployment. AU’s acceptance of this and that Sudan exercises veto power within the AU Peace and Security Council on any amendments of AMIS sentenced the mission to failure right from the start. Regional organizations, in order to succeed, must avoid encumbrances presented by interested parties and proximity to the conflict area.

Drawing on evidence from this study, there is need for greater involvement of national governments of African states and their constituents, NGOs, media and other actors seeking to influence the UNSC’s decision making. This can be achieved by

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<sup>246</sup> Boulden, J. “The United Nations Security Council Policy on Africa,” in Boulden, J., (Ed.) *Dealing with Conflicts in Africa*, (New York: Palgrave Macmillan, 2003) pp 11

systematic and sustained advocacy through identified points of entry to inform policy change in the UNSC. The UNSC response drafting involves long, intense processes within the Secretariat and the DPKO. In these processes, staff members and other internal actors become entrenched in particular mindsets based on the unfolding events in the conflict region. This may distract them from being impartial and thorough in analyzing and projecting the information getting to them as was the case with the cable MIR-79. In such instances, the actors and the environment interact in a fashion that doesn't allow for criticism of the mainstream view, or offer alternatives. In fact, the objectives of the two organs (Secretariat and the Council) may vary considerably depending on personal convictions, country-specific objectives and normative principles.

This study found out that the Secretariat is traditionally viewed within the system as 'playing safe' by following the safe, lowest-common denominator approaches and attempting to shield the UNSC from disconcerting information unless it absolutely has to act on it. This creates a bureaucratic divide between the Secretariat and the Council. While these pathologies of decision making impact on the Council's effectiveness, this situation presents a window of opportunities for 'policy entrepreneurs.' Policy entrepreneurs within the UNSC can be seen as single countries who, do not need to be permanent members, enter into the decision making process and take the lead to resolve the internal standoff. These entrepreneurs invest their time, energy, reputation to promote a position in return for a future gain in the form of material and/or purposive benefits. They can also be middle powers, eminent persons



or lobby groups, and respectable NGOs, that can take up this role in areas of conflict where the UNSC seems to be slow in response to mitigate the effects of the crisis.

While CNN Effect cannot be overlooked, its influence on policy makers has been viewed with a pinch of hyperbole. There is importance of sudden, attention-grabbing events in advancing issues on the Council's agenda and as potential triggers for response. These kind of attention-grabbing events are known as focusing events, for instance the targeted attacks by GoS on villages in Darfur. These events *may* lead the UNSC decision makers, advocacy groups and public to influence the agenda of the organ.

The record achievement of the UNSC in maintenance of peace and security in Africa has been uneven at best. While the Council shall continue being the principal organ mandated for maintenance of international peace and security, and while it is an undemocratic institution, it's eminently indispensable. Therefore, a concerted and more deliberate effort at addressing conflicts in Africa should be an approach that both the Council and regional organizations in Africa should embrace.

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