Human Security and the Responsibility to Protect Approach  
A Solution to Civilian Insecurity in Darfur

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The conflict in Darfur presents the international community with the opportunity of testing its avowed commitment to issues of human security. The introduction of the responsibility to protect principle into the debate on civilian protection gives an added impetus for the international community to act in protecting the Darfuris. This article makes a case for the international community's intervention in Darfur.

Since the United Nations Development Programme (UNDP) in its 1994 report introduced the terminology "human security" in international relations discourse, scholars, practitioners, states, and researchers have been grappling with the concept. In the report, the concept of security was expanded to include non traditional threats like hunger, diseases, lack of access to the basics of life etc. While recognising the primacy of the state within the international relations discourse, the report, through its analysis, established the hitherto dormant link between state/national security and security of individuals within the state. However, despite the report's findings, the issue of human security did not gain much currency until a few years later. With the establishment of the Commission on Human Security (the Commission) co-chaired by Sadako Ogata and Amartya Sen in 2000, and the contributions made by some states and NGOs towards highlighting the threats facing people living within the developing states, human security has resurfaced to become a subset of international relations discourse. The Commission's first report published in 2003, while echoing the importance of human security as articulated by the UNDP's report, avoided defining human security, but rather states that, the essence of human security "is to protect the vital core of all human lives in ways that enhance human freedoms and human fulfilment." The report thus magnified the problems faced by people within states and also emphasised the message that traditional view of security, must have a paradigmatic shift from state centricism to people centricism.

While recognising that the human security of people is not only threatened through violence, it is trite knowledge that violence, either when perpetrated by the state or its agents, or when perpetrated by non-state actors is also a major...
source of human insecurity. In addressing the issue of civilian protection, the international community, through the United Nations (UN) and other bodies, has always sought for a mechanism to offer civilians the best protection. The latest in the international community's "tool kit" is the concept of "responsibility to protect." Simply put, the concept acknowledges that the primary responsibility of protecting the people within a state is that of the sovereign state where the people belong. The core of the concept is that where the state is unable or unwilling to protect its people, or is itself the source of threats, the responsibility shifts to the international community.3

With the adoption of the groundbreaking principle by the UN General Assembly at its 60th Summit in 2005,4 and its confirmation by the Security Council in its Resolution 1674,5 the civilian population in Darfur who have been caught up in a conflict which enveloped the Western part of Sudan since 2003 should have heaved a sigh of relief. However, it appears that the twin concepts of human security and responsibility to protect have not offered much hope to the Darfuris.

This article aims to discuss the two concepts within the international relations discourse using Darfur as a focal point. It asks the question whether the international community is desirous of crafting and implementing mechanisms that will offer genuine protection to civilians, or is it reinventing mechanisms that have been tried over time to apply them in present day conflict situations. It therefore makes a case for a more robust international engagement in Darfur on the basis of the responsibility to protect principle.

The article is divided into four sections, with section I introducing the issues to be discussed. Section II discusses the concept of human security and argues that while the paradigm shift is in the right direction, the scaling down of issues lumped together as issues of human security should be done so as not to trivialise the concept. The article contends that the introduction of such issues under the human security concept is an indirect way of smuggling in the so called second generation rights into the larger debate of human security. The section asserts that given the meaning attached to human security, the Darfuris’ human security has been seriously compromised. Section III in discussing the concept of responsibility to protect, argues that while the concept is new in terms of its language on human protection, the idea and the philosophical underpinning is not entirely new in international relations. It argues that the two situations, namely; where there is large-scale loss of life and large-scale ethnic cleansing as articulated by the International Commission on Intervention and State Sovereignty (ICISS) and the UN High-Level Panel on Threats, Challenges and Change exists in the Darfur conflict, and hence the responsibility to protect concept should be triggered. It therefore makes a case for the use of force to protect the civilians. Section IV concludes the article arguing that for the two concepts to be given the "breath of life," states must act collectively while exercising individual political will. It recognises that no matter the theories spouted by the international community, once there is no political will on the part of the leaders themselves, it will amount to nought.

**Human Security in Context**

In the ordinary discourse of international, regional and national affairs, the expression "security" evokes the protection of territorial integrity and dignity of the state. This is not surprising given the fact that hitherto, international relations has been more "state-centric" than "people-centric." However, given the consequences of post-cold war and globalization, the concept of security is also expanding to include or to focus more on people than on the state. Security in its traditional sense refers to the security of the state from external aggressors. This concept which was advocated in the 17th Century through the signing of the Treaty of Westphalia ending the Thirty Years War has dominated international relations discourse for a long time.7 According to this concept, the state has a monopoly to the rights and means of protecting its citizens.8 The modern state was born after the signing of the peace treaty. With this concept came the notion of sovereignty and the notion that each state is allowed to do as it pleases within its own domain. However, while sovereignty
was seen as absolute, it also tried to "set up a scheme for collective security." The implication of sovereignty especially during the Westphalian period was that there is no higher power above the state and hence a state can treat its citizens without being questioned by any other state. Most states especially the colonial powers, maintained this concept of security in their interactions with the colonies and protectorates under their control. It is therefore not surprising that African States had to adopt the colonial model of security structure at the attainment of independence. This model treated the issue of security in a very narrow sense of state power over its people and territories.

While the Treaty of Westphalia shaped the traditional concept of security, the emergence of the United Nations in 1945 brought new hope for the refocusing of the emphasis on security. However, this new hope was immediately dashed by the onset of the cold war. The international system initiated post World War II (WW II) principally aimed at protecting states and peoples from threats beyond their borders. This system therefore maintained "collective security" by limiting the rights of states to use force for the purpose of self or collective defence after an attack, following a United Nations Security Council Resolution. However, what the security system did not anticipate was the new type of threats being witnessed by states—threats from within. During the period immediately after the end of WW II, and the end of the cold war, states still approached all issues of security from a state-centric view point. It was also a period which witnessed a lot of human rights abuses ranging from arbitrary arrests to torture and genocide, all in the name of protecting the state. It became difficult to actually differentiate the state from the regime, as what affects the regime in power was interpreted by the state agencies to affect the integrity of the state.

The question one may ask is what is the state? The state refers to a defined territory with a population and an organized form of government. This definition shall be kept simple for the purposes of this analysis. Using the above definition of the state as a basis, one can safely assume that any threat which affects the population should be treated as affecting the security of the state and also any threat that affects the government or the territory of the state affects the security of the state, since the state cannot exist without any of its composite parts. However, much emphasis was placed on the territorial integrity of the state and most times on the "integrity of the regime." The situation becomes even more problematic when the state uses its powers and agencies to oppress the very people it is supposed to protect.

After the collapse of Communism and, hence, the end of cold war, the view of security has been expanded to include other issues hitherto not contemplated as security. One of the main reasons advanced for the shift in focus of security from state centered to people centered approach is the end of the cold war era. This absence of ideological differences has affected the security approach of the international community. The other catalyst that catapulted this shift is the political, economic and technological globalization of the world and the emergence of new players in international relations. The influence of technology which made it possible that events in one part of the globe could easily be monitored in another part of the globe without accusations of espionage, has also significantly influenced the security discourse.

With the dynamics of world politics changing, post-cold war era, states were then faced with more of internal security threat than external. It also became apparent that, not only do agitations for political power and resources pose security threat to states and citizens, other issues like, poverty, environmental degradation, and health are also security issues. These issues are those that affect people directly. The emergence of certain diseases (HIV/AIDS, SARS), which is not restricted to particular states, status in life or skin colour, has also informed the manner in which the world view the concept of security. Therefore, security is no longer defined in strict military terms. The role the change in the dynamics of conflict played in the understanding and expansion of security needs also to be factored into the equation. One of the unique, though negative, characteristics of the violent conflicts that erupted in Africa after the end of the cold war was the level of violence directed at...
In the post-cold war conflicts in Africa, approximately 70% of the victims are civilians. Approximately 80% of the wars in the post-cold war era was also intra-state as opposed to inter-state conflicts witnessed during the cold war era. With this change in dynamics of conflicts in the world and particularly in Africa, it became very important that the idea of security should focus on the protection of the people. The non-materialization of the much anticipated peace after the end of the cold war in some parts of the world prompted some countries to champion a more people-oriented approach to security, as against state-oriented security. Part of the compelling reason that affected the decision to expand the concept of security to include factors such as political democracy, human rights, social and economic development, and environmental sustainability, includes the fact that in conflict zones, civilians continued to suffer. In Africa, as in some other parts of the world, the bipolar cold war system exposed the nature of state failure with its attendant human tragedies.

For many citizens of the world, security represents protection from the threat of disease, hunger, crime, social conflict, freedom from oppression, and environmental hazards. While there is no definitive meaning ascribed to human security, it has been viewed rather through its inclusiveness. Human security therefore includes the protection of people from severe and prevalent threats, and situations. It is the protection of the vital core of all human lives in such a way that human freedom and human fulfilments are enhanced.

Notwithstanding the internationalization of human security by the UNDP Human Development Report of 1994, the offered definition offered of human security is not as precise as would have been expected, especially for an emerging field of study. It defines it in the following way "[H]uman Security can be said to have two main aspects. It means, first, safety from such chronic threats as hunger, disease and repression. And second, it means protection from sudden and hurtful disruptions in the patterns of daily life—whether in homes, in jobs or in communities." The creation of the Commission on Human Security could be seen as an international approval to the debate on the shift in the understanding of security. The Commission was created primarily to follow up the UN Secretary General’s Millennium Report. The report stresses that the paradigm must shift from state security to human security, not because state security does not matter in the overall scheme of international activities, but because the state often fails to fulfil its security obligations and sometimes even becomes the source of threat to its people. National security therefore, must be anchored on the security of individuals to live in peace and enjoy the basic needs of life.

However, it needs to be pointed out that the scope of the concept of human security is so vast that virtually any kind of unforeseen or irregular distress could be interpreted to constitute a human security threat. This is one of the major criticisms against the concept. The UNDP Human Development Report of 1994 identified the following specific elements as those that represent human security threat: economic security, food security, health security, environmental security, personal security, community security, and political security. It is therefore so difficult to visualize what, if anything, might be excluded from this "definitive" list. This definition has also confused scholars and policy makers alike in drawing a line between human security issues and development issues. The Commission makes a distinction between human security and human development. The report argues that the two are complimentary and that human security is concerned with reducing, and when possible, removing such insecurities that plague human society, and that human development's concern is the removal of such hindrances that restrain and restrict human lives and prevent it
from emerging. Notwithstanding the emphasis on human security, security between states remains a necessary condition for security of the people. However, national security is not enough to guarantee peoples security. Human security therefore provides a wider range of protection to the people.

While the definitions of human security vary, most definitions emphasize the welfare of ordinary people. The departure point of human security therefore, is its recognition that people are the most active participants in the determination of their well being, hence, human security also aims "at developing the capabilities of individuals and communities to make informed choices and to act on behalf of causes and interests in many spheres of life." Human security also recognizes that people and communities are largely threatened by events beyond their control; such events like financial crises, violent conflict, chronic destitution, terrorist attack, HIV/AIDS, underinvestment in healthcare, water shortages, drought, pollution from a distant land and natural disasters.

A careful study of the human security components identified by the UNDP's and the Commission's reports reveals that these issues have been provided for as human rights in both the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR) respectively. These same issues are also extensively covered by the African Charter on Human and Peoples' Rights. More specifically to the point, the ICESCR in its Articles 11, 12, and 13, makes provision for the right to adequate standard of living, which includes food, clothing and housing, the right to the highest attainable standard of physical and mental health, and the right to education respectively. For its part, the ICCPR in its Articles 6, 7, 8 and 16 provides for the right to life, right not to be subjected to torture, cruel or inhuman or degrading treatment, right not to be held in slavery, and the right to be recognized as a person before the law respectively. The constitutions of the democratic African nations also guarantee these rights discussed above, for instance, the Constitution of the Federal Republic of Nigeria provides for these rights under Chapter IV as Fundamental Human Rights, and the Constitution of the Republic of South Africa provides for these rights under Chapter II as Bill of Rights. However, it is not enough for there to be provision for the fundamental human rights in the constitutions, there should be practical ways in achieving the identified rights. As articulated by Rautenbach and Malberbe that "[T]he effectiveness of a bill of rights largely depends on the nature and control exercised over compliance with its provisions." An expansive view of the above mentioned rights reveals that, they cover the three basic freedoms, articulated by the UN Secretary General in his Report to the Heads of States and Government titled In Larger Freedom: Towards Development, Security and Human Rights for All. The three basic freedoms refer to freedom from want, freedom from fear and freedom to live in dignity. It can be argued that the international community is repackaging these rights to make them more presentable and acceptable to the states as human security issues. Notwithstanding this repackaging, the human security of people especially in the developing states has not fundamentally improved.

In the past, the issues of human security have taken a back seat on the international agenda. Even when these issues were discussed at all, they seem not to be well coordinated. Much as the UN Charter provides for human security, the responsibility for various aspects of human security is lodged in separate parts of the UN and its related bodies; with the Security Council being in charge of issues relating to peace and security, the General Assembly being in charge of issues covering economic, social and cultural issues among others, while the International Financial Institutions are in charge of resources and operational strength on development. The need for a coordinated effort in order to adequately articulate issues of human security therefore becomes very critical. The problem is not lack of normative instruments guiding issues on human security, but lack of political will.
Responsibility to Protect: The Last Hope of Endangered Civilians

With the existence of all the above mentioned normative instruments and developments, the continued atrocities witnessed in the conflict in Darfur, Sudan seems to nonplus analysts. In February 2003, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) attacked and captured Gulu, the district headquarters of Jebel Marra in central Darfur. This attack internationalised the conflict that has been part of Western Sudan for decades. Prior to 2003, the conflicts that existed in Darfur which took the nature of inter-racial and inter-ethnic were more about access to local resources—mainly grazing land and water. Equally, they had always been resolved through an established traditional conflict resolution mechanism. The internationalisation of the conflict was not necessarily due to the attack, but more due to the response of the Sudanese government. The government responded to the attack by using its regular armed forces, but failed to restore order in the area, and, therefore, introduced the Janjaweed militia to intimidate and attack the civilian population directly. This was not the first time the Sudanese government introduced the use of militia in a national conflict. The government of Sadiq el Mahdi first used the Murahaleen as a counter-insurgency force against the SPLM/A especially against the people of Dinka and Nuer. In the Murahaleen era, the government convinced the volunteers that they were fighting a Jihad (a religious war) against the largely populated non-Muslim South. It is therefore the same tactic of using the militia to do its dirty work that the Bashir government resorted to with the employment of the Janjaweed, without however, the religious undertone, since the majority of Darfuris are Muslims, even if Africans. It must be noted that the identification of a person in Sudan is oftentimes determined by the social and cultural context of the situation. For instance, a northern Sudanese might be considered an Arab in the south of Sudan, however, if that same person were in the north, he might be considered not as an Arab, but more as a member of a local northern tribe. The use of militia presents an opportunity for the government to disown its actions where such actions shock the conscience of the world. Moreover, the regular military forces of Sudan are overwhelmingly manned by Darfuris, and the GoS distrusted these units in their struggle against JEM and SLA.

Media reports indicate that at least 300,000 civilians have lost their lives and over 2.5 million people have either been internally displaced or are refugees since the beginning of the conflict in 2003. While this analysis is not about the root causes of the conflict, suffice it to say that from the extensive body of literature both on those that deal directly with the Darfur conflict and the Sudan conflicts generally, it can be observed that there are different interpretations of the causes of the conflict. This ranges from political, social and economic marginalisation of Darfur to the racial differences and the Arabization and Islamization of the region. However, the economic, social, and political marginalisation factor seems to stand out more than the racial factor.

The Report of the United Nations High Commissioner for Human Rights and Follow-Up to the World Conference on Human Rights to the Economic and Social Council on the situation of human rights in the Darfur region of Sudan is very instructive in this analysis. The report listed the following gross violations of human rights by the government-backed Janjaweed militia. These are indiscriminate attacks against civilians, rape and other serious forms of sexual violence, destruction of property and pillage, forced displacement, disappearances, persecution and discrimination. The crisis has led to a large population of Darfuris becoming either refugees or internally displaced. There is no doubt that this situation affects the human security of the affected target population of Darfur. The number of Internally Displaced Persons (IDPs), refugees and deaths vary depending on the source of the statistics. However, what is clear is that they are in a hundreds of thousands. The refugees, who fled across the Chadian-Sudanese border between January and March of 2005, alleged that aerial bombardment of villages and "ethnic cleansing" by pro-government Arab militias
was a common occurrence. Recent attacks by the government army and the Janjaweed on Abu Suroj, Sirba, and Suleia villages around the second week of February 2008 where there was no presence of rebels indicates strongly that those attacks were primarily directed against the civilian population. This is indicative of the government's continued effort to "empty Darfur of Africans." The source of livelihood of the Darfuris has been threatened as they have been prevented from planting or harvesting crops. They have also been prevented from gathering wood and water for fear of being attacked by the Janjaweed. Humanitarian relief agencies still find it difficult to access all regions of Darfur due to the ongoing insecurity and the Government of Sudan's denial of travel permits to humanitarian workers. With the introduction of responsibility to protect into the debate on human protection, it is expected that the international community is ready to assume its responsibility to act, where the state, which has the primary duty of protection, fails.

One of the positive aspects of the end of the cold war is the seeming determination by the United Nations Security Council not to view matters of international peace and security from the myopic lens of ideological differences. Situations which the UN Security Council would hitherto have dismissed as matters strictly under the preserve of the state are now considered as threats to international peace and security. However, notwithstanding the end of ideological tensions which permeated the cold war, the UN has failed to protect civilians in a number of situations. A classical example is the genocide of 1994 in Rwanda. The apparent failure of the international community and more especially the UN Security Council, to protect the Tutsi and moderate Hutu population of Rwanda has continued to haunt the collective conscience of the international community. The genocide in Rwanda revealed once more, that atrocities within a state can also have international consequences and that such atrocities when they are of such magnitude, requires an obligated action from the international community.

Controversies still exist as to what the nature of such obligated action would be. While some contend that the international community can intervene on humanitarian grounds, others argue that the UN Charter which prohibits the use of force and intervention in the domestic jurisdiction of a state expressly prohibits humanitarian intervention. Since the protection of civilians in violent conflict has become paramount, the international community has been in "search" of the best possible approach to intervening in

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violent conflicts in the globe. Diplomatic means and the use of military force are options open to the international community. However, there has been no consensus on "when" and "if" such military options should be exercised.

Following the failure of the international community to effectively intervene and protect civilian populations in the conflicts of the 1990s, and more particularly in the case of Rwanda and Bosnia, the debate on the merits and pitfalls of intervention has been a major discourse in international relations. While the failures of the international community to prevent and respond to some of these situations were criticized, debates also arose when the international community did intervene. The debates mostly dwelled on the perceived unequal responses to situations in different regions of the world, questions of whether there were options to military response that had not been exhausted, critiques of the failure to respond earlier, and condemnation of the conduct of the intervening forces themselves. For instance, there is a groundswell of opinion amongst analysts, especially from the global south, that had Darfur been in the global north, the UN would have intervened long before. This is more like the echo of the criticisms levelled against the UN in its failure to intervene in Rwanda. Christian Scherrer's honest statement that the international...
community ignored the killings in Rwanda because "there were no whites dying there," can also be applied to the Darfur situation. There has been the perception of applied racism in the authorization of peacekeeping missions and also the deployment of financial capacity to such missions. The UN Under-Secretary for Peacekeeping alluded to this in his statement that "[T]he Democratic Republic of Congo, where millions have died, is 200 times as large as Kosovo, yet that province in the heart of Europe has a larger peacekeeping force that is better equipped, better supported and backed by an aid effort that is, per person, several hundred times more generous than the one that feeds Congo." A disturbing but true statement was made by Rubinstein W.D that "if two collectors had been stationed in any shopping mall in the Western world at the time of the [Rwandan] genocide, one raising money to stop 100,000 Tutsi children from being murdered by Hutus, the other raising money to stop 100 elephants from being slaughtered by poachers, which would collect more? If you had a bet on the elephants, it is safe to say you would have put some change in your pocket." While the above statement might sound absurd, if not funny, and while many, especially in the West might cringe at the hidden truth, Rubinstein could have spoken the minds of the many in the West. The Somalia debacle of 1992 where eighteen US peacekeepers were killed and dragged through the streets of Mogadishu has left a sour taste on the taste buds of the international community's reaction to conflict in Africa. It has often been argued that Africa is not of very strategic importance to the West and other dominant world powers, and so, conflicts in Africa are often neglected. However, Darfur presents another side to the coin. Ironically, the Darfur atrocities are being ignored for the simple reason that Sudan is of strategic importance to the West, China and Russia. The core of the civilian protection debate centers on the UN Charter prohibition on the use of force. Post September 11 2001 era, it has become more apparent to the world that the law on the use of force is more honoured in the breach. Following this realisation and the acknowledgment that the gross and systematic violation of human rights affects the humanity as a whole, the government of Canada, on the initiative of its former Foreign Minister, Lloyd Axworthy and with the support of several major US foundations, the Switzerland government and the British government, established the International Commission on Intervention and State Sovereignty (ICISS), in September 2000. The final report of the Commission which was published in December 2001 added impetus to the debate.

The ICISS re-conceptualised the concept of the "right to intervene" and introduced the "the responsibility to protect" into the debate. The central argument of the concept is that the primary responsibility for the protection of the people lies with the sovereign state. However, if the sovereign state is unable or unwilling to protect its people, or is itself the source of the threats, the responsibility to protect the population shifts to the international community of states. The concept is an acknowledgment of the African concept of ubuntu. The Secretary-General of the United Nations, in furthering his efforts to finding lasting peace in the world, and more particularly in many of the conflict hotspots, set up a High-Level Panel on Threats, Challenges and Change in 2004. The panel in its report to the Secretary-General inter alia endorsed the recommendation of the ICISS regarding the concept of the responsibility to protect. The UN at its 60th General Assembly Summit in 2005 further adopted a declaration in favour of the responsibility of the international community to protect civilians in danger. The UN Security Council in its Resolution 1674 of April 28 2006 acknowledges the concept of the responsibility to protect. The Resolution also states that the deliberate targeting of civilians during armed conflicts and the deliberate, systematic and widespread violations of international humanitarian and human rights law may constitute a threat to international peace and security. It is hoped that with the adoption of the responsibility to protect, the controversy surrounding the question of intervention will be laid to rest. However, the adoption of the responsibility to protect concept will not by itself offer protection to civilians caught up in violent conflicts.

The question of "right" of intervention into
what was hitherto considered to be the domestic preserve of a state has been partially addressed by the adoption of the responsibility to protect concept. However, the spirit of the concept is not as novel as it sounds. The first Geneva Convention of 1864 was crafted to care for the wounded combatants during armed conflicts. In 1949, the Fourth Geneva Convention on the protection of civilians during war situations came into being. A plethora of international and regional human rights instruments that also seeks the protection of civilians have since been crafted. The Genocide Convention for instance, makes genocide an international crime and seeks to prevent and punish the act of genocide whether committed in time of peace or during war situations. It calls for all UN bodies and agencies to prevent and suppress acts of genocide and requires state parties to enact national laws prohibiting genocide and to punish persons or officials who commit genocide, while allowing extradition of such persons in cases where the state lacks the ability or is unwilling to punish.

Given that these normative instruments have been in existence for decades, the question therefore is, whether the responsibility to protect concept will affect state and the international community's behaviour towards the protection of the civilian population. It is recognised that this is the first time the international community has agreed that it has a responsibility to protect civilians, where the state is unable or unwilling to do so. What remains unclear is whether this responsibility is borne out of a moral, ethical, or political responsibility? It will take the political will and commitment of all stakeholders to actualise the spirit of the concept.

The principle embedded in the responsibility to protect is that "intervention for human protection purposes, including military intervention in extreme cases, is supportable when major harm to civilians is occurring or imminently apprehended, and the state in question is unable or unwilling to end the harm, or is itself the perpetrator." Empirical evidence exists to support the fact that the violence in Darfur has reportedly led to the death of thousands and displacement of over 2 million civilians. An official Sudanese daily Al-Anbaa reported President Bashir as saying, "[O]ur top priority will be the annihilation of the rebellion and any outlaw who carries arms" against the state. Assuming that the above were the exact words of the President, it leaves one in no doubt as to the intention of the state. Given that the statement came six months after the conflict was internationalised, one wonders if the president ever intended the pursuit of diplomatic means to end the conflict. The conflict has been variously described as "genocide," "ethnic cleansing," and "the worst humanitarian crisis in the world." In the light of the atrocities committed against the Darfur civilian population, it can then be argued that the conditions anticipated by the ICISS and the High-Level Panel Report that can trigger the international responsibility to protect therefore exist in the Darfur case. Moreover, it is obvious that the Sudanese government is unable and unwilling to protect the Darfuris.

The question that should occupy our minds now, especially, since the diplomatic efforts by the international community to resolve the conflict have so far not yielded any positive results, is whether an intervention for the purposes of human protection as articulated by both the ICISS and the High-Level Panel Report can be justified in the Darfur context. An analysis of the criteria as enunciated by the High-Level Panel Report is made to determine if the international community can legitimately intervene.

The High-Level Panel on Threats, Challenges and Change set up by the UN Secretary-General, proposed five basic criteria of legitimacy to be considered by the Security Council in reaching a decision to endorse the use of force. They are firstly, the seriousness of the threat, i.e., if the threatened harm to the state or human security is of such magnitude that it justifies a prima facie case to use military force. In an internal threat, the question should be whether such threat involves genocide, and other large-scale killings, ethnic cleansing or serious violations of international humanitarian law. Applying this criteria to the Darfur conflict, the actions of the Janjaweed and even the regular Sudanese Army of resorting to rape, pillaging, torture, kidnapping and other war crimes, constitutes serious violation of
international humanitarian law. It is common knowledge that thousands of people have lost their lives and millions have been displaced because of the violence. The International Criminal Court (ICC) has equally issued out indictments against Ahmed Harun and Ali Kushaib who are members of the Sudanese government and has been linked to the Janjaweed militia for various violations of International Humanitarian Law.

Secondly, the primary purpose of the proposed military action must be aimed at halting or averting the threat in question, despite whatever other purposes or motives may be involved. Notwithstanding the resource undertone of the war and the allegations by the Sudanese government of oil being the US interest in advocating for a UN peacekeeping force to be deployed in Darfur, it must be stated that civilians are dying in their thousands. The proposed military action is primarily aimed at halting the continued killing and displacement of civilians. Furthermore, in order to avert further threats to the peace and security of the state and the region, it becomes very important for the international community to intervene. It is obvious that the Sudanese government is not just unable, but also unwilling to protect the civilians in Darfur. In his briefing to the UN Security Council after his November 2006 visit to the Darfur region, the UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Jan Egeland stated that "for more than a thousand days and a thousand nights, the defenceless civilians of Darfur have been in fear for their lives, and the lives of their children. The Government's failure to protect its own citizens even in areas where there are no rebels, has been shameful and continues. So does our own failure, more than a year after world leaders in this very building pledged their own responsibility to protect civilians where the Government manifestly fails to do so."[80]

Thirdly, the use of force must be a last resort. The international community must have exhausted other non-military options and in the prevailing circumstances, no other option other than military force is necessary. Since the internationalisation of the conflict in 2003, there have been various diplomatic and political efforts made either through the UN or through the African Union (AU) to reach a settlement of the conflict. The signing of the Darfur Peace Agreement in Abuja in May 2006 notwithstanding, reports of killings, pillage, burning and looting of villages and rapes still make the media headlines. The continued delay tactics of the Khartoum government to frustrate the full deployment of the 26,000 UN/AU peacekeepers in Darfur in keeping with UN Security Council Resolution 1769 of July 31 2007 is an indication that, political efforts alone might not sway the government's strong resolve to continue its atrocities in Darfur. The Khartoum government has been playing a cat and mouse game with the international community for more than four years now. Instead of concentrating on finding a lasting solution for the atrocities of Darfur, Omar Bashir’s preoccupation is on becoming the chairman of the African Union. The rejection of the deployment of western peacekeepers and equipment by Khartoum is a mere ploy by it to frustrate the peacekeeping capabilities of UNAMID. Of course, one must recognise that there might be genuine concerns by Al Bashir that the presence of western peacekeepers might lead to a regime change in Sudan.

Fourthly, the proposed action must be of such minimum scale, duration, and intensity to address the threat in question. While it might not be easy to determine the duration of a military action in Darfur, especially given the dynamics of racial and religious influences in the country and the region, one can safely assume that since the larger section of the Darfur community would be in support of the action to destabilise the Janjaweed, the action would not last for more than two years. However, the military action by the United States of America in Iraq seems to suggest that determination of duration is not an easy feat. Though, one should also recognise the different set of dynamics involved in the US invasion. The continued suffering of the civilians will therefore have to be weighed against the effect of such military action being employed.

Finally, the balance of consequences needs to be considered. That is, does a reasonable chance exist that the military action would be successful in meeting the threat in question, and would
the consequences resulting from military action not likely to be worse than the consequences of inaction? This is a difficult criterion to analyse especially when viewed against the backdrop of recent events surrounding the United States invasion of Iraq. However, given the fact that political solutions have not borne any edible fruits in more than three years of the conflict, the argument is; for how long does the international community have to hold on to the hope that it might bear fruit.

However, it is understood that since authorization of intervention into Darfur rests totally with the UN Security Council, it will not be surprising if the Council does not authorize such an intervention. This is as a consequence of the probable exercise of veto by countries like China and Russia who are largely the beneficiaries of Sudanese oil. For instance, between 65% and 80% of Sudan's 500,000 barrels of oil per day goes to China. Russia has also been linked with the supply of arms to Sudan. In fact, most of the air planes that the government forces use for the aerial bombardment of Darfur are of Russian make. What is ironical is that while China and Russia do not want intervention in Darfur, apparently due to their oil interests, the Sudanese government accuses the US and Britain of spearheading the call for UN deployment of peacekeepers due to interest in Sudanese oil. The evolution of the responsibility to protect from a mere proposition by the ICISS in 2001 to an acknowledged and broadly accepted international norm, with a potential of evolving into a rule of customary international norm is encouraging. The concept therefore is an inventive way of looking at humanitarian intervention from the lens of responsibility to protect people at grave risk instead of looking at the right of states to intervene.

No situation presents an ample opportunity for testing the operationalisation of the concept than the Darfur conflict. The conflict is a classical case of a situation which requires the collective will of the international community to protect civilians at risk.

Notwithstanding the above argument advocating for military intervention, the international community might consider the alternative route of serious targeted economic sanctions against the Khartoum government. Presently, the US is the leading state in targeted economic sanctions against Sudan. The success of such targeted sanctions would however depend on the full cooperation of all the veto wielding members of the UN Security Council and to a large extent, the Arab League. However, with China and Russia being beneficiaries of business opportunities in Sudan, one doubts the possibility of the UN Security Council passing a resolution to such effect.

**CONCLUSION**

There is a noticeable paradigmatic shift of security from state centricism to people centricism. The dynamism of the international system has reflected in the way issues of security are treated internationally. A different set of dynamics existed during the Westphalian period when the traditional concept of state or national security was ushered in. The issue of security should be addressed in a holistic manner in order to include the excluded. There is the need to define more precisely the issues of human security in order not to create a tension between it and development issues. The precise definition will also assist scholars and policy makers in their research and policy making respectively. People in violent conflict tend to suffer more than people in a relatively peaceful environment, and efforts need to be geared towards the prevention of those underlying factors that lead to conflict in the first place. It may be argued that poverty and denial of human rights may not on their own cause civil wars, terrorism or organized crime; however, they all greatly increase the risk of instability and violence.

The conflict in Darfur and the failure of the international community to respond adequately has once again exposed the lack of will or capacity for the international community to respond to conflict situations. After the failure of the world to respond to the situation in Rwanda in 1994, the phrase "Never Again" became a collective song on the lips of the international community. The shift in focus of security from state security to human security is a realisation that the state is no longer
the only unit of analysis in international relations. The focus has been moved forward with the new meaning given to sovereignty—responsibility—and the emerging principle of the "responsibility to protect." Governments will continue to fall back on the traditional defence of infringement on national sovereignty even when it is so obvious that there are cases of large-scale atrocities. However, this acknowledgment of the responsibility needs to be operationalised in order to give life to the principle. For every day the international community delays in intervening in Darfur due to the limitation of consent and sovereignty, civilians in Darfur continue to lose their lives. The international community will be failing in its responsibility to protect if it does not intervene in Darfur to save civilians from further deaths.
Notes

5 UN Security Council Resolution 1674 of April 30 2006, para. 138-139.
6 Ibid.
10 Ibid.
12 Art. 51 UN Charter 1945. This is strengthened by UN General Assembly Resolution 2625 of 1970 (Declaration on Friendly Relations).
14 Ibid.
17 Severe Acute Respiratory Syndrome.
19 Ibid.
20 Ibid., p. 35.
21 Ibid.
23 UNDP Human Development Report, *New Dimensions of Human Security* (New York: UN, 1994). This author conducted an opinion poll in Hill brow (city centre), Johannesburg to determine what the ordinary person on the street perceive as security. There was a consensus of opinion by the people interviewed that security does not represent fear of invasion by a foreign country, but rather issues concerning food security, health, crime, and adequate housing. Interview conducted between November and December of 2006.
25 Ibid.
26 Ibid.
27 Ibid.
29 Ibid. p. 2.
32 Ibid.
35 Ibid. p. 11.
40 Constitution of the Republic of South Africa, 1996, Chapter II.
"Janjaweed" is a combination of three Arabic words for ghost, gun, and horse that historically refer to criminals, bandits, or outlaws.  


Ibid.  


UN Economic and Social Council E/CN.4/2005/3 of May 7 2004. See also Report of the Panel of Experts on Sudan established pursuant to Resolution 1591 (2005), http://www.eyethesneun.org/assets/attachments/documents/sudan_response_to_panel_report_2-15-06.doc, which reported evidence of ongoing and widespread acts that may constitute a violation of International Humanitarian Law both of a treaty and customary law nature. The report further states that the Janjaweed militia continues to maintain its cache of ammunitions and that the Government of Sudan (GoS) is still actively supporting the militia.  

Ibid. Chapter IV.  

Ibid.  


Ibid.  


Shedrack Aghbakwa, "Genocidal Politics and Racialization of Intervention: From Rwanda to Darfur and Beyond," German Law Journal, 6 No.2 (2005): 527-528  

Art. 2 (4) UN Charter 1945.  


International Commission on Intervention and State Sovereignty, The Responsibility to Protect (Canada: International Development Research Centre, 2001) Para. 1.41  

Ibid Chapter 2.  

Ubuntu is a Zulu/Xhosa (South African indigenous languages) which means humanity. It is synonymous with the saying "I am because you are"- It encourages the spirit of togetherness and cooperation among African people. The concept is represented in the Kiswahili word 'Umoja.'  


Convention for the Amelioration of the Wounded in Armies in the Field, August 22 1864.  


Ibid.  


7 For a detailed and in depth account of the atrocities committed by the Janjaweed, see Julie Flint and Alex de Waal, Darfur: A Short Story of a Long War, (London & New York: Zed Books, 2005).

7” Ibid.


8 International Commission on Intervention and State Sovereignty, The Responsibility to Protect (Canada: International Development Research Centre, 2001)


8” Ibid.


87 See generally http://www.sudandivestment.org/home.asp.
