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### The Failure of the International Community to Implement RtoP: The Darfur Crisis

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## **The Failure of the International Community to Implement RtoP: The Darfur Crisis**

### **List of Abbreviations**

<b>AL</b> .....	The Arab League
<b>AMIS</b> .....	African Union Mission in Sudan
<b>AU</b> .....	The African Union
<b>AUPSC</b> .....	African Union Peace and Security Council
<b>CPA</b> .....	Comprehensive Peace Agreement
<b>DPA</b> .....	Darfur Peace Agreement
<b>DPKO</b> .....	Department for Peacekeeping Operations
<b>GoS</b> .....	Government of Sudan
<b>ICC</b> .....	International Criminal Court
<b>ICISS</b> .....	International Commission on Intervention and State Sovereignty
<b>IDP</b> .....	Internally Displaced Person
<b>IGO</b> .....	International Governmental Organization
<b>JEM</b> .....	Justice and Equality Movement
<b>RtoP</b> .....	Responsibility to Protect
<b>SLM/A</b> .....	Sudan Liberation Movement/Army
<b>UN</b> .....	The United Nations
<b>UNAMID</b> .....	United Nations-African Union Mission in Darfur
<b>UNGA</b> .....	United Nations General Assembly
<b>UNSC</b> .....	United Nations Security Council
<b>US</b> .....	The United States

## **Abstract**

Who is responsible for protecting the rights of global populations, and how should such protection be implemented? This paper illustrates the ineffectiveness of the doctrine, *Responsibility to Protect* (RtoP), in terms of practice and implementation in the global community. Focusing on the Darfur conflict that emerged in 2003, this paper presents qualitative and quantitative data that provide evidence of the international community's failure to successfully intervene and promote a sustainable conflict resolution. The emergence of RtoP and its defining points are first examined in this paper, followed by the failures of RtoP as they relate to international organizations and external states involved in resolving the Darfur conflict. RtoP's failures can be attributed to its ambiguous foundation, lack of legal standing, and its controversial nature. Consequently, Darfur continues to experience mass atrocities today.

## **Introduction**

Following the end of the Cold War, intrastate conflicts have increased, triggering necessary debates regarding suitable response methods to such crises. A central theme to these debates is humanitarian intervention, its legality, and its implementation. In 2001, the Canadian International Commission on Intervention and State Sovereignty (ICISS) announced its creation of the doctrine, *The Responsibility to Protect* (RtoP), which was later endorsed by 150 Heads of State and Government in the text of the 2005 World Summit Outcome ("2005 World Summit" 2005). The doctrine has served as an international norm that unites human rights with state sovereignty, and provides a foundation for when human intervention should be deemed appropriate. However, RtoP has not been successful in facilitating effective change when confronting intrastate conflict. The Darfur crisis provides evidence of RtoP's failure, as Darfur's population continues to suffer from mass atrocities, and the international community remains in disagreement over how to implement

such an ambiguous international concept. In theory, RtoP serves to protect individual human rights, which has the potential to shift the current international order. However, RtoP lacks a clear legal status and, therefore, fails to be effectively implemented, as exemplified in the Darfur conflict that erupted in 2003.

### *The Emergence of RtoP*

Throughout the 1990s, international intervention greatly increased as a result of escalating intrastate humanitarian crises, including the Rwandan genocide in 1994 and the mass killings in Srebrenica in 1995 (Orford 2013, 98). However, problems regarding the legitimacy, authority, and credibility of such international operations quickly formed, making it clear that existing legal and political concepts could not serve to address such issues (Orford 2013, 98). For example, it remained unclear which local actors to recognize as collaborators when making pragmatic decisions about who could effectively demonstrate control in a region, or justly claim to represent the people (Orford 2013, 99). Furthermore, both the successes and failures of UN operations in the 1990s called into question the legitimacy of international authority (Orford 2013, 99).

Recognizing the controversial concept of international intervention, Francis Deng proposed a solution labeled, “sovereignty as responsibility,” specifically in regards to conflict management in Africa (Bellamy 2013, 26). This idea marks the starting point for RtoP, as it argues for sovereign states to protect their populations from human rights violations (Hall 2010, 2). As argued by Deng, “We are clearly witnessing what is probably an irresistible shift in public attitudes toward the belief that the defense of the oppressed in the name of morality should prevail over frontiers and legal documents” (Hall 2010, 2). However, Deng’s work did not come without criticisms, specifically from China during a 1993 discussion on IDPs in the UN’s Human Rights Commission (Bellamy 2013, 26). China voiced its opposition of interference in the internal affairs of states based on ‘self-

interested' concepts of human rights and ideologies held by 'a few countries' (Bellamy 2013, 26).

China's argument stated:

The practices of distorting human rights standards, exerting political pressure through abuse of monitoring mechanisms, applying selectivity and double-standards have led to the violation of principles and purposes of the UN Charter, and the impairing of the sovereignty and dignity of many developing countries. Thus the beautiful term human rights has been tarnished (Bellamy 2013, 26)

According to China, 'sovereignty as responsibility' posed a threat to legitimizing the interference of the strong in the affairs of the postcolonial, weaker countries (Bellamy 2013, 26-27). China views humanitarian intervention as having ties to imperialism, which calls into question the ability of powerful states to remove self-interests from their agendas when acting as humanitarian interveners (Orford 2013, 100). In opposition to China's view, Kofi Annan stressed the horridness of not providing humanitarian aid on the basis that it directly conflicts with state sovereignty (Grono 2006, 622).

In response to this debate, the Canadian government announced at the General Assembly in 2000 its establishment of the ICISS, which sought to eliminate the apparent tension between sovereignty and humanitarian intervention through its 2001 report, *The Responsibility to Protect* (Orford 2013, 101). Per the ICISS, state sovereignty calls for the responsibility of a state to protect its own population and the rights of its people (Grono 2006, 623). If a state is unable to do so, then the international community has the right to intervene on the grounds of a responsibility to protect individuals' sovereignty (Grono 2006, 623). With that said, the international community and the states themselves should always first attempt to prevent the outbreak of any violations to human rights (Hall 2010, 10). The report even mentions the necessity of dedicating a greater commitment and more resources to prevention options (Hall 2010, 10). RtoP was unanimously adopted by the states that participated in the 2005 World Summit, which served as the Summit's greatest

accomplishment (Grono 2006, 622). RtoP's mandate is outlined in sections 138 and 139 of the 2005 World Summit Outcome, which state:

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes...

139. The international community, through the United Nations, also has the responsibility to protect to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity ("Implementing RtoP" 2009, 4)

According to UN Secretary-General Ban Ki-moon, there exists a three-pillar RtoP implementation strategy, which includes "(1) The protection responsibilities of the State, (2) International assistance and capacity building, and (3) Timely and decisive response" ("Implementing RtoP" 2009, 2). Ki-moon claims that the provisions presented in paragraphs 138 and 139 exist within well-established principles of international law, which permits this implementation strategy to exist ("Implementing RtoP" 2009, 5). Under conventional and customary law, states are obligated to prevent and punish "genocide, war crimes, and crimes against humanity" ("Implementing RtoP" 2009, 5). Ethnic cleansing is not technically a crime under international law, but acts of ethnic cleansing may fall under one of the other three crimes ("Implementing RtoP" 2009, 5). It should be stressed that actions under paragraphs 138 and 139 of the Summit Outcome are to be undertaken only in conformity with the requirements, purposes and principles of the UN Charter ("Implementing RtoP" 2009, 5). In that regard, RtoP does not change, but instead reinforces, the legal obligations of Member States to refrain from the use of force except in compliance with the Charter ("Implementing RtoP" 2009, 5).

### *Background on the Darfur Conflict*

Located in Sudan's western region, Darfur has experienced decades of oppression, drought, and numerous overlapping conflicts (Refer to Figure 1 for a visual of Darfur's geographical location) (De Waal 2007, 1039). The civil war in Darfur that is made up of large-scale attacks by the GoS and its proxies, as well as rebel groups, serves as a model situation in which RtoP can and should be implemented (De Waal 2007, 1039). With a lack of political will from Sudan's government to resolve conflict, the international community, as stated in RtoP, has the responsibility to offer its protection to the people of Darfur.

**Figure 1: Political Map of Darfur in Sudan**



“Origins: Current Events in Historical Perspectives.” 2017. Ohio State University.

In April of 2003, war in the Darfur region was officially declared, as rebel groups attacked the airport in El Fashir, the capital of North Darfur (“Chaos by Design” 2007, 27). In response to the attacks, the GoS recruited and armed their primarily Arab forces, known as the Janjaweed militia, to commit atrocities against civilian populations (“Chaos by Design” 2007, 27). Specifically, the Fur, Zaghawa, and Masalit ethnic groups were attacked, as they are the same groups that make up most the rebel Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) (“Chaos by Design” 2007, 27). By mid-2004, it is estimated that

hundreds of villages had been burned and looted, thousands of civilians had been killed, over a million civilians had been displaced (“Chaos by Design” 2007, 27).

Tensions in the Darfur region have existed for decades. After being an independent Muslim sultanate until 1916, Darfur became a neglected adjunct to Sudan for a brief 40-year colonial period (De Waal 2007, 1039). The following 40 years of independent rule did not make progress in terms of developments, as Darfurians remained desperately poor (De Waal 2007, 1039). In the 1980s, the Darfur region had very little political stability due to the conflict in southern Sudan (“Chaos by Design” 2007, 28). Additionally, climate change and famine played factors in the tensions that grew among Darfurians. The Sudanese government began to provide Arab militia with weapons to fight off southern Sudanese rebels. At the same time, the civil war in neighboring Chad spilled over into Darfur. The GoS took no action as militia drawn from Darfur’s Arab tribes armed themselves with the support of their Chadian comrades and tried to seize land from their Fur and Masalit neighbors (De Waal 2007, 1039).

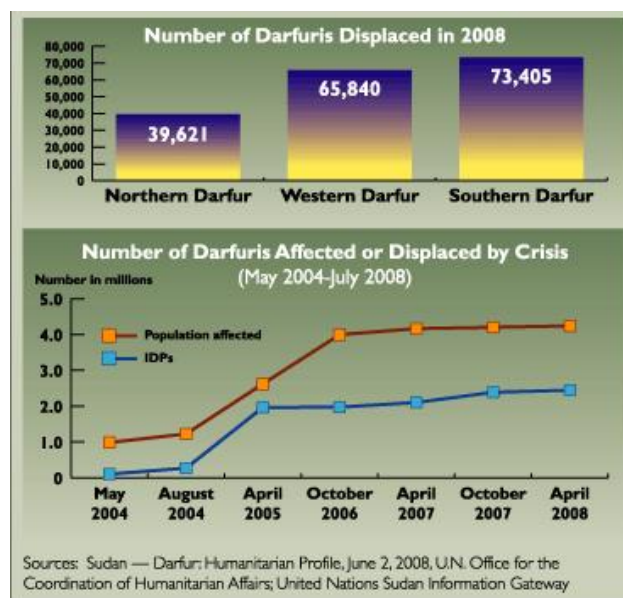
Throughout the 1990s, parts of Darfur erupted into conflict due to a combination of clashes among tribes over land, grazing, and water resources. Khartoum addressed local conflicts by distributing arms to one side to overpower the other. Generally, the GoS favored the Arabs through this policy (De Waal 2007, 1039). The Sudanese police force was not proactive due to a lack of funding and resources, as well as a lack of political will. It was during this decade that certain non-Arab communities, more specifically the Fur, Zaghawa, and Masalit, began to announce the government’s biased treatment of Darfur’s communities, based upon race and politics (“Chaos by Design” 2007, 28).

In 2003, the GoS increased tensions in the region by recruiting thousands of poor men, most of whom identified as Arabs (“Chaos by Design” 2007, 29). These men had suffered through desertification and water shortages, which made the recruiting process easy for the GoS. They



joined the Janjaweed militia, and committed numerous atrocities, mainly targeting non-Arab communities. This ethnic cleansing campaign continues today due to “the climate of fear, along with the land occupations and almost total lack of accountability for war-related crimes” (“Chaos by Design” 2007, 29). The effects of the Darfur conflict have been significant, as indicated in Figure 2. Approximately four million civilians have been affected by the conflict, and roughly two million civilians have been internally displaced as of 2008 (Foerstel, 2008, 260).

**Figure 2: Number of Darfurians Displaced by Crisis**



Foerstel, Karen. 2008. “Crisis in Darfur.” CQ Global Researcher 2 (9): 243-270.

Fighting continues among the GoS and rebel groups today, with an estimated 300,000 fatalities in 2012 (“Enough Project” 2014). The Darfur conflict has been categorized as genocide, which sets the crisis up as a test case for RtoP (Okeke 2010, 67). There must exist a deep understanding of the political and economic context in which the Darfur crisis has been shaped and sustained in order to determine the way in which RtoP should be applied (Okeke 2010, 77). Even with the approval of RtoP among 150 Heads of State and Government, there is still yet to be an effective solution in terms of forming a conflict resolution and sustaining peace in Darfur.

## **Literature Review: Theoretical Views on International Intervention**

Does the international community have the right, or perhaps the duty, to intervene in the internal affairs of states? Such has been debated by international relations scholars for decades, and continues to spark polarizing opinions in the academic and political courts. Cases have been made for this question based on theoretical applications, including the pluralist perspective, cosmopolitan school of thought, and the realist critique. Although strong arguments have been made based on each theory, the realist critique continues to dominate international relations, as it best captures real world politics.

One who embraces the pluralist perspective believes in the idea of an international community of sovereign states, in which the right to intervene in the affairs of other states is not permitted (Ramsbotham et al. 2011, 396). Instead, the pluralist perspective promotes conflict settlement through peaceful means, such as diplomacy, mediation, and negotiation (396). Although this theory suggests a moral approach to international crisis, it is not the reality in which the world functions today. As argued by realist thinkers, Kegley and Wittkopf, there is an incentive for UN members to assist in the peacekeeping missions that benefit their own self-interests (Mandoyi et al. 2013, 2). Furthermore, Nel claims that states only act morally when it is beneficial to their self-interests, and refrain from such morality when it does not assist their self-benefitting agendas (Mandoyi et al. 2013, 2). The points made by realist thinkers in regards to states favoring national interests and security over moral concerns has been illustrated throughout history. For example, China continues to support the Sudanese government, despite atrocities it has committed since 2003, in order to secure its stake in Sudan's oil supply (Mandoyi 2013, 2-3).

Unlike the pluralist view of the international community of sovereign states, the cosmopolitan perspective is the idea of a world community (Ramsbotham et al. 2011, 396). This perspective focuses on a non-violent transformation through reformed structures of global

governance (Ramsbotham et al. 2011, 396-397). It tends to stray from non-intervention norms, which directly opposes the pluralist resistance of outside domination (Ramsbotham et al. 2011, 398). The cosmopolitan belief in transformative conflict resolution, which strives to ensure that genuine human needs are satisfied, is looked upon by the pluralist theory as directly opposing state sovereignty (Ramsbotham et al. 2011, 398). Such an idea is combated by the realist perspective, which argues that mediation, negotiation, and humanitarian aid can have an unintentional effect of extending the conflict, with civilian populations suffering most (Ramsbotham et al. 2011, 400). Such is evident in the case of Darfur, as the non-violent intervention of international organizations like the African Union has indeed prolonged the conflict, resulting in the continued atrocities against civilians (Mandoyi et al. 2013, 8).

The realist perspective critiques the cosmopolitan view by labeling it as ‘idealistic’ (Ramsbotham et al. 2011, 399). David Shearer argues that there are limitations to strategies that rely exclusively on negotiation and the ability of parties to reach a consensus (Shearer 1997, 845). He claims that military force can serve as a means to conflict resolution, despite its controversial nature (Shearer 1997, 845). On the other hand, Richard Falk’s idea of “humane governance” embodies the cosmopolitan perspective, as it focuses on a non-violent transformation of conflict, and is “informed by one of the most fully formed and morally powerful globalist conceptions available today” (Shaw 1996, 183). However, the steps taken to implement a non-violent conflict transformation remain somewhat vague, and extremely difficult to successfully apply.

According to the realist perspective, conflict resolution is incapable of solving the impact of “globalization on the weakening of vulnerable states, the provision of cheap weaponry suitable for ‘asymmetric war,’ and the generation of shadow economies that make ‘new wars’ self-perpetuating and profitable” (Ramsbotham et al. 2011, 399). Therefore, it is widely accepted among realist thinkers that conflict resolution, which disregards non-intervention norms, should

be avoided. David Chandler even goes so far as to claim that regardless of the reason for neglecting non-intervention norms, whether it is for humanitarianism, democracy, or conflict resolution, it is simply not tolerable (Ramsbotham et al. 2011, 398).

The ongoing debate among international relations scholars, as well as political actors, in regards to international intervention reflects the complexity of the issue. Although the cosmopolitan perspective focuses on the important need of catering to individual human rights, it does not provide a realistic means of doing so, as states are naturally selfish, and constantly seeking self-preservation. Therefore, it cannot be assumed that states will be able to join together to intervene in the affairs of another state on the basis of moral purposes. The realist perspective provides a much more applicable depiction of current world affairs, including states' motives for international intervention.

### **Opposing Viewpoints on Humanitarian Intervention: State Sovereignty Vs. Human Rights**

RtoP is founded on the belief that sovereign states have a responsibility to protect their populations from “genocide, war crimes, ethnic cleansing, and crimes against humanity” (Grono 2006, 623). If a state is unable to provide protection, then the responsibility falls on the international community to intervene and provide protection to a population. The report also stresses that the international community not only holds the responsibility to react to situations in which human rights are violated, but it must also work to prevent such violations, and to rebuild a stabilized state (Grono 2006, 623). With a current international order based on the sovereignty of states, RtoP has produced a great deal of controversy, hindering its universal acceptance and implementation. One of the underlying issues of RtoP is the continuous debate over state sovereignty and human rights.

The origins of human security are credited to the actions of the United Nations in the twentieth century (Hall 2010, 4). During a time of growing emphasis on human rights to the international community, and the idea that states could not be trusted to ensure the safety of their own populations, the UN introduced human rights as a factor when dealing with international peace and security. It is important to note that the UN focused on individual human rights, rather than on states' rights. Human security was officially defined in the 1994 Human Development Report released by the United Nations Development Program as an idea, which "equates security with people rather than with territories, with development rather than with arms" (Hall 2010, 4). Such a new concept has called for the redefining of state sovereignty and the introduction to individual sovereignty (Hall 2010, 5).

This concept has stimulated much debate, as those who believe in traditional sovereignty argue that intervention conducted by the international community is a violation of state sovereignty, and poses a threat to international order in the long term (Ayoob 2006, 225). In the traditional sense (according to Chapter VI of the UN Charter), peacekeepers are only supposed to act in self-defense and with the consent of the host government (Williams 2010, 12). Advocates of traditional sovereignty argue that nations enjoy a fundamental right to self-determination (Bellamy 2013, 15). In other words, all sovereign states should be free to determine their own cultures and systems of governance (Bellamy 2013, 15). To secure this freedom, non-intervention is necessary, as it protects the weak states from the strong states (Bellamy 16). In doing so, the potential return of colonialism is prevented (Bellamy 2013, 16).

A traditional sovereignty supporter believes that "A relaxed attitude to intervention would create disorder, as states would wage war to protect and export their own cultural and political preferences" (Bellamy 2013, 17). The relaxation of non-intervention could ultimately lead to the legitimization of colonialism (Bellamy 2013, 17). This position is held by most states, which

severely inhibits RtoP from evolving and spreading (Bellamy 2013, 18). As a counterargument to favoring human rights over state sovereignty, Ayoob states that “Even if human rights are thought to be inalienable...rights still must be identified – that is, constructed – by human beings and codified in legal systems” (2006, 226). Currently, only the UNSC can legally authorize intervention and, therefore, acting otherwise would undermine the rule of law and the fundamental human right to self-determination (Bellamy 2013, 17). It is of the utmost importance that states abide by the legal rules of the current international order, which supports the notion of non-intervention (Bellamy 2013, 17).

Mamdani states, “Many believe that we are in throes of a systematic transition in international relations” (2009, 273). He is referring to the undeniable shift that has taken place since the end of the Cold War, in which the international humanitarian order promises to ensure that a human rights standard is held by all sovereign states (Mamdani 2009, 273). However, as argued by Mamdani, this humanitarian order does not acknowledge citizenship. Instead, it turns citizens into “passive beneficiaries” of an external “responsibility to protect” (Mamdani 2009, 275). Citizens are no longer “bearers of rights,” which eliminates their citizenship and forces them to rely upon the help of external forces (Mamdani 2009, 275). This creates an unchanging international order in which “fragile” states remain weak, while core nations continue to dominate, using RtoP as a vehicle to do so.

Those who opt for change in the current international order, however, strongly challenge the perspective of traditional sovereignty. Williams argues that state sovereignty and human rights are not opposing concepts, but rather are associated with one another (2010, 12). The principle of RtoP is formed on this basis. Nonintervention is not a result of sovereignty, as it is merely a rule created by sovereigns to govern their relations with one another (Bellamy 2013, 14). This rule, however, can be changed and still permit the existence of sovereign states. What is then proposed

is ‘sovereignty as responsibility’, which is based on two foundations: First, the recognition that individuals have inalienable human rights that are “natural, equal, and universal” (Bellamy 2013, 19). These rights were formed before politics and, therefore, are not secondary to the rights of sovereigns (Bellamy 2013, 19). Second, governments maintain the responsibility to protect their populations, but the international community has the right and duty to intervene if the rights of a population are being abused (Bellamy 2013, 19). Such concepts have served as the basis for RtoP, which gained unanimous support among states at the 2005 World Summit.

Despite its praise at the World Summit, RtoP has since been reconsidered among policymakers. As stated by the president of the International Crisis Group, “There has since 2005 been some backsliding from this highpoint. One doesn’t have to spend too much time in UN corridors...before hearing expressions of regret, or even denial, that so far-reaching a doctrine could possibly have been agreed to by national leaders” (Mamdani 2009, 275-276). Such a powerful statement indicates a significant disconnection between current international policies and the goals set by RtoP. Thus, RtoP remains a controversial doctrine that requires further development in order to gain stronger support.

### **International Organizations in Darfur: Failure to Bring Conflict Resolution and Peace**

International organizations and the international community of sovereign states initially failed Darfur by not taking action to dissolve tension between the rebel groups and the GoS, which resulted in the start of mass atrocities in 2003. Looked upon as a test case for RtoP, the Darfur conflict illustrates the international community’s failure to prevent mass atrocities and diffuse a highly tense situation before it became a conflict. Not only were no prevention measures taken, but international organizations, such as the African Union (AU) and the UN, proved to be indecisive and timid when acting as peacekeepers in Darfur. In 2009, the Secretary General of the UN published the three pillars that should be used to implement RtoP: The protection

responsibility of the State, international assistance and capacity-building, and timely and decisive response (“Implementing RtoP” 2009). Such implementation methods have not been effectively executed in Darfur, as the AU continues to lack the proper funds and resources, and the decisions of the UNSC are influenced by states with opposing views.

### *The African Union*

The AU was created in 2002, and is considered to be an improvement over the performance of its predecessor institution, the Organization of African Unity (OAU), in terms of human rights and peacekeeping initiatives (Keith 2007, 153). However, such improvements are not evident in the Darfur region, as mass human rights violations continue to occur daily, and peace is yet to be attained (Keith 2007, 153). The AU’s failure to protect human rights can be attributed to its limited resources and lack of political will (Keith 2007, 153). Regardless of the unanimous acceptance of RtoP as an international norm during the 2005 World Summit, the AU has not effectively established its presence in Darfur, nor has it guided a conflict resolution through RtoP’s provisions.

The Darfur crisis, which began in 2003, greatly tested the ability of the AU to uphold its Constitutive Act (Keith 2007, 154). The charter emphasizes a commitment to human rights, and provides the AU with the authority to back up that commitment with action. As stated in Article 4(h) of the Constitutive Act, the AU has the right “to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity” (“Constitutive Act” 2000, 7). The AU was forced to act as both peacemaker and peacekeeper in Darfur, as no other organization wanted to take on the challenge, and pressure from outside forces, including the US and several European countries, began to surface (Flint 2008, 173).



The Constitutive Act strongly indicates that the AU, not the UNSC, may undertake primary responsibility when confronted with humanitarian emergencies (Bellamy 2013, 79). As the primary international organization responding to the Darfur crisis, the AU insisted that RtoP should not be used to undermine the sovereignty of states (Bellamy 2013, 80). Additionally, the AU argues that the use of force must comply with Article 51 of the UN Charter, which claims self-defense as a necessary means of using force, and Article 4(h) of the AU Constitutive Act (Bellamy 2013, 80). Such demands sought to limit UNSC activism, and ultimately deemed the provisions of RtoP as insignificant (Bellamy 2013, 80). RtoP enables the international community to intervene in the internal affairs of a state, with or without the consent of that state, when that state is unwilling or unable to protect its population. Instead of using RtoP to act quickly and efficiently, the AU demanded consent from the GoS. The AU's actions indicate that the debate between state sovereignty and human rights is still very much apparent in today's international order.

The AU has been the lead international actor in Darfur since mid-2004, beginning as a small monitoring mission (Grono 2006, 625). This mission, endorsed by the UNSC, monitored a humanitarian ceasefire agreement, known as the N'Djamena Agreement, between the rebels and Khartoum (Keith 2007, 154). The agreement was signed on April 8, 2004 by the GoS, the SLM/A, and the JEM, and is responsible for creating the African Union Mission in Sudan (AMIS), a team of military observers protected by an armed force. The agreement also called for the GoS to neutralize the Janjaweed militia forces and to provide humanitarian assistance, with the help of the rebel factions ("Humanitarian Ceasefire..." 2014).

Despite its good intentions, the N'Djamena Agreement was a flawed document for several reasons. First, the agreement contained no maps, which professional military officials from both sides claimed beforehand would be problematic (Flint 2008, 174). They argued that no ceasefire could be monitored if the peacemakers could not locate the belligerents (Flint 2008, 174). Second,

the US and the UK wanted Khartoum, Chad, and the AU to quickly fix the Darfur crisis, as it threatened to undo the progress made in the North-South Sudan talks (Flint 2008, 174-175). However, the ceasefire agreement was not respected by any of the opposing parties, and the AU monitors did not have the power to enforce the agreement (Flint 2008, 175). Third, and perhaps the most serious flaw, the N'Djamena Agreement existed in two versions (Flint 2008, 175). After both the GoS and the rebel factions signed the agreement, the GoS delegation demanded that it be revised to include a provision of the location of the armed forces' sites ("Humanitarian Ceasefire..." 2014). Such a demand would not have been agreed upon by the SLM/A, as doing so would have put their men at risk of the government's air force and army (Flint 2008, 175). Nevertheless, the AU representative added the provision by hand to Article 6, and the Chadian mediator decided to support the amended version without the approval of the SLM/A ("Humanitarian Ceasefire..." 2014). As a result, the SLM/A deemed the final agreement to be invalid, inhibiting its implementation ("Humanitarian Ceasefire..." 2014).

The AU's failure to bring peace to Darfur is a result of several factors, including the mutual mistrust between the GoS and the rebel movements (Mandoyi 2013, 7). A lack of trust diminishes confidence among the opposing parties, and limits their willingness to negotiate and compromise (Mandoyi 2013, 7). Additionally, the incompetence of the mediators hindered the Darfur peace process from the very beginning (Mandoyi 2013, 7). As is evident from the N'Djamena Agreement, Chad did not have mediation experience and lacked impartiality, as Chadian President Derby clearly favored the GoS throughout the ceasefire process (Mandoyi 2013, 7). President Derby's firm stance against the rebels damaged his credibility as a neutral mediator, and ultimately led to the demand of international observers by the rebel factions (Mandoyi 2013, 7). Even after the AU took the lead in the negotiation process, little progress was made, as the AU also proved to be a weak mediator (Mandoyi 2013, 8).

The N'Djamena Agreement did not successfully produce a ceasefire, but it did provide the establishment of AMIS, through which 120 military observers were dispatched to monitor the ceasefire and 350 troops were sent to protect them (Flint 2008, 174). The AU Council did not consider an armed humanitarian intervention, even though such was possible under the Constitutive Act (Flint 2008, 174). Instead, the Council focused on traditional ceasefire monitoring, and the troops were not mandated to protect civilians (Flint 2008,174). The AU's mandate has been termed an "observer mission," as it was limited from taking action and proactively protecting citizens in Darfur (Grono 2006, 626). Such limitations coincide with the lack of funds and support that the AU received from the international community (Grono 2006, 626). With a very restrictive mandate and little international support, the AU was unable to implement RtoP in Darfur, resulting in little progress made by the organization.

Although AMIS was underfunded and understaffed, it received credit for making small improvements in Darfur (Keith 2007, 154). The UNSC even gave recognition to AMIS in Resolution 1706 for "reducing large-scale organized violence" (Keith 2007, 154). However, contributions made by AMIS have been generally regarded as inadequate, largely because of its small size and lack of financial and military resources (Keith 2007, 154). A small number of Africa's wealthier states have suffered with the burden of paying for the AU's peacekeeping budgets, accompanied by limited foreign funding (Keith 2007, 155). From the start of its mission in Sudan, the AU has lacked a sufficient number of soldiers, which has limited its ability to use the proper amount of force needed to contain the conflict (Keith 2007, 155). Furthermore, domestic political factors have inhibited AMIS from its potential to be an effective force. Wealthy African nations contributing funds to the AU's peacekeeping missions are limited to "what their people will tolerate and what their other priorities will accommodate" (Keith 2007, 155). Thus, the AU received inadequate funding since the beginning of its presence in Darfur.

In 2004, the AU assisted in monitoring the Abuja Peace Talks, which began among the two main rebel groups, the SLM/A and the JEM, as well as the GoS. These talks eventually led to the signing of the Darfur Peace Agreement (DPA) in 2006 (Lanz 2008, 78). During the Abuja Peace Talks, the AU played a major role in facilitating a political agreement through means of mediation and infrastructure. However, the Abuja Talks dealt only with security and humanitarian issues, instead of addressing political and economic issues, the root causes of the conflict (Mandoyi 2013, 8). The lack of addressing such foundational issues, along with a misguided mediation strategy involving “deadline diplomacy,” lead to the collapse of the Abuja Talks (Mandoyi 2013, 8).

There are several reasons why the DPA failed to bring about a peaceful resolution to this conflict. To begin, the DPA was constructed by external mediators and, therefore, was essentially not owned by the Sudanese people (Lanz 2008, 78). This has proven to be a universal problem in attempts at conflict resolution by regional and international organizations. Parties must accept the agreement as something that they contributed to, and are a part of, for such an agreement to be successful. Limiting the participation of all opposing parties severely inhibited their ability to negotiate with one another, and form a sustainable resolution.

Another negative impact that the AU brought upon the resolution process was its usage of “deadline diplomacy” (Lanz 2008, 78). The AU hurried through negotiations by setting unrealistic deadlines in an attempt to stop the mass killings in Darfur as quickly as possible. For this reason, as well as pressure from the international community, the AU forced along the negotiation process, which was ultimately deemed counterproductive (Lanz 2008, 78). The set deadlines were supposed to put pressure on the parties and exhibit the seriousness of the international community. However, when deadlines were not met, there were no negative repercussions (Nathan 2007, 498). As stated in July of 2006 by a senior Sudanese government official, “The United Nations has threatened us so many times, we no longer take it seriously” (Nathan 2007, 498). Such a statement illustrates the

ineffectiveness of the deadlines as a means of pressuring the parties, and instead suggests a lack of seriousness from the international community (Nathan 2007, 498).

Even if the level of destruction is severe, it is vital that mediators remain patient when facilitating a negotiation process. An attempt to force a quick agreement in civil wars, such as the AU's usage of deadline diplomacy in Darfur, is a set-up for failure. Mediators had limited the timeframe of the negotiations by setting deadlines, so that the opposing parties were not allotted enough time to solve their differences, and to fully discuss and understand the DPA before signing it (Mandoyi 2013, 8). Five days prior to the April 30 deadline, the mediation team presented the DPA to the parties on a "take-it-or-leave-it basis" (Nathan 2007, 498). The parties were given less than a week to understand and support an 86-page English-language document intended to accomplish a ceasefire and address the causes of a civil war (Nathan 2007, 498). Not only was the DPA forced upon the parties, but many rebels had difficulty understanding the complicated document, as most rebel negotiators spoke Arabic (Nathan 2007, 498). The Arabic version of the DPA was not presented until April 28 and contained many mistranslations. Most the rebels felt as though they were not given enough time to study the DPA and, therefore, rejected it altogether (Nathan 2007, 498).

Pressure from the international community reached its peak during the process of the DPA signing. Despite its reservations, the GoS stated its readiness to endorse the DPA (Nathan 2007, 499). External leaders and officials, including US Deputy Secretary of State, Robert Zoellick, offered the rebels guarantees regarding the implementation of the DPA and threatened them with collective and individual sanctions (Nathan 2007, 499). The rebel leader of the SLA, Minni Minnawi, was put under significant pressure and eventually signed the DPA, along with the GoS, on May 5 (Nathan 2007, 499). Months following the DPA signing, both the GoS and Minnawi breached their obligation to refrain from killing civilians and obstructing humanitarian relief

efforts (Nathan 2007, 500). Additionally, the DPA did not include the JEM, led by Abdel Wahid, which made such an agreement very unlikely to succeed. Without the inclusion of all opposing parties, the DPA did not provide a concrete foundation for conflict resolution in Darfur.

Tragically, the DPA did not achieve peace and in some ways made the conflict even worse. Neither party obeyed its commitments, and the GoS continued to bomb villages and terrorize IDP camps (Flint 2008, 178). As insecurity grew around IDP camps due to Janjaweed activity and rebel threats after the DPA was signed, AMIS officers began to rely on the government representatives in their observer bases for intelligence and force protection (Flint 2008, 178). Between May and August of 2006, the DPA destroyed what remained of the AU's impartiality and troops' security (Flint 2008, 179). Attacks against AMIS escalated, leaving more than 40 peacekeepers dead by the time their mandate ended on December 31, 2007 (Flint 2008, 179).

Throughout history, overstretched and poorly funded peacekeeping missions have struggled to keep peace in a place where peace does not exist (Cooper 2009, 204). To measure the success of peacekeeping, four criteria are taken into consideration: 1) completion of the mandate, 2) facilitation of the conflict resolution, 3) containment of the conflict, and 4) the limitation of casualties (Mandoyi 2013, 8). None of these criteria have been met in Darfur. The AU's mandate has not been fulfilled, and civilian casualties, as well as IDPs, have continued to increase (Mandoyi 2013, 8). Moreover, the ways in which the AU facilitated conflict resolution in Darfur have prolonged the conflict, rather than terminating it. The actions implemented by the AU call into question the effect, or lack thereof, that RtoP has in regards to international intervention. There remains great debate over how responsibilities should be divided among the UN, regional organizations, and third states under the principle of RtoP (Hoffman 2012, 18). Furthermore, the principle itself remains ambiguous in regards to its scope and the contents of its legal core (Hoffman 2012, 19). It is also vague in terms of its moral and political implications (Hoffman

2012, 19). For the RtoP principle to be truly helpful in undertaking global humanitarian crisis, more transparency on its standards and practical implications is needed (Hoffman 2012, 19).

### *The United Nations*

Over the period of 2004 to 2007, the international community sought to achieve several objectives for Darfur that included refining security and humanitarian access, supporting the CPA, developing a negotiated peace, deploying a UN force, and punishing those standing in the way of these goals (De Waal 2007, 1041). The complexity of these goals hindered the formation of a clear and coherent strategy, and few objectives were consistently monitored. For example, the UNSC's Resolution 1556 of July 30, 2004 demanded the disarmament of the Janjaweed within 30 days, but failed to define 'disarmament' and 'Janjaweed' (De Waal 2007, 1041). As a result, the UNSC failed to monitor the implementation of its demand, and did not pose consequences on Khartoum for failing to act (De Waal 2007, 1041). In August, the UNSC demanded that security from the GoS be provided to IDP camps, but once again, the UNSC failed to take any follow-up actions when the GoS stalled in addressing the demand (De Waal 2007, 1041). With an internally dysfunctional regime answering to a perplexed and inconsistent international community, it is no surprise that little progress was made in facilitating a peaceful resolution (De Waal 2007, 1043).

Edwards attributes such failures of international organizations, like the UN, to "the lack of universal membership, slow response time, and insufficient capability or resolve" (2010, 4). With this being the case, RtoP can in no way improve collective intervention without the appropriate foundation to do so. The international community under the UN struggled to act in a timely manner in response to the Darfur crisis, which is largely due to the differing opinions of the major permanent states that make up the SC. Furthermore, without equal representation from all

participating UN member states, the underlying motives of the states involved in the decision-making of international organizations must be called into question.

In the summer of 2005, the US government voiced its support for replacing AMIS with a UN peacekeeping force, as it believed the UN had superior resources and personnel capable of handling such a complex humanitarian crisis as Darfur proved to be (De Waal 2007, 1042). If the AU, UN, and GoS agreed rapidly to this proposal, it could have been timely and effective. Instead, the secretariats and SC members of the AU and UN were hesitant, and Khartoum was opposed (De Waal 2007, 1042). Over the next two years, the US spent the majority of its diplomatic resources and political capital in the attempt to persuade the AU, UN, and GoS to accept this policy (De Waal 2007, 1042). Despite Khartoum's continuing opposition, the UNSC adopted Resolution 1706 on August 31, 2006, which called for Sudan's consent to a UN force. This resolution implied that if consent was not given, such a force might be dispatched without it (De Waal 2007, 1042). In this case, the UN's use of collective security was not enforced, as Sudanese President Omar al Bashir rejected Resolution 1706 without any repercussions (De Waal 2007, 1042). A compromise proposal for a 'hybrid' AU-UN force was suggested by the US and China, and adopted by the UNSC on November 16. After another eight months of disputing, the SC finally obtained Sudan's consent to the hybrid AU-UN force, the United Nations-African Union Mission in Darfur (UNAMID), which was mandated in Resolution 1769 on July 31, 2007 (De Waal 2007, 1042).

Throughout 2004-2006, prior to the official deployment of UNAMID, the debate on the international military presence in Darfur caused the international community's response to be slow and inefficient (De Waal 2007, 1044). A major area of debate included whether the troops should be under the AU or the UN command. Additionally, the numbers of troops and their capabilities were called into question. The international community generally agreed that the AMIS force was too small and poorly equipped (De Waal 2007, 1044). If AMIS or any UN successor organization



was to be responsible for protecting IDP camps and humanitarian supply routes, monitoring patrols over large areas of Darfur, or administering a ceasefire, it would have to be larger in size and better equipped with more logistics and communications (De Waal 2007, 1044).

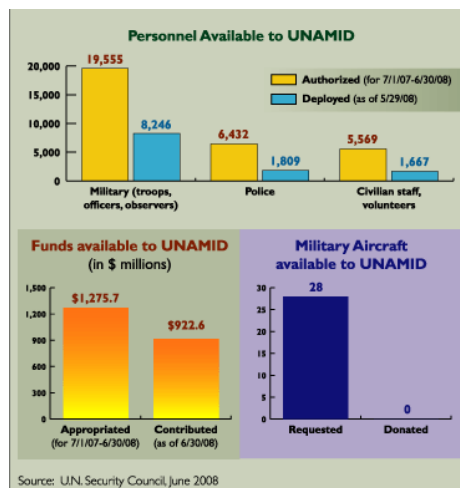
Another area of debate rested on the mandate itself that would be created and implemented by the international force. All states agreed that the mandate of ceasefire monitoring that resulted from the N'Djamena agreement was inadequate (De Waal 2007, 1044). Questions regarding the mandate gave rise to whether the force should operate under Chapter VI or VII of the UN Charter, as well as how the force would be financed (De Waal 2007, 1044). The AU had no way of obtaining ample financial contributions from its member states to support AMIS because African countries did not have the ability to pay (De Waal 2007, 1044). Therefore, AMIS was funded by optional contributions from Europeans and North American governments. A UN force authorized by the UNSC, however, would be financed through required contributions by UN member states, deeming it more dependable (De Waal 2007, 1044).

The deployment of a UN force produced many debates, yet very little attention was given to the notion of operations and strategic goals of such a force (De Waal 2007, 1045). The continuing debate on RtoP parallels this emphasis, as RtoP debates have focused on when and whether to intervene, not how to do so and with what goal in mind (De Waal 2007, 1045). Flawed and impractical expectations of what UN troops would do in Darfur, which were intensified by many Darfur activists in the US, fueled fears and hopes in Sudan (De Waal 2007, 1045). The GoS feared the possibility of a UN force mandated under Chapter VII of the UN Charter, which would impose peace enforcement in Darfur, rather than just peacekeeping (De Waal 2007, 1045). Those fears were stimulated partly by the potential threat that a UN operation might pose, such as executing arrest warrants on behalf of the International Criminal Court (ICC) (Aboagye 2007). At no point were sufficient time, resources, or political leadership committed to the duty of “properly

analyzing the security challenges on the ground in Darfur, obtaining a common understanding of the basic tasks by all players (government, movements, other armed groups and militia, AU and UN), and orchestrating the different military, civilian and political instruments available” (De Waal 2007, 1048). Hence, planning the peace support operation in Darfur through UNAMID proved to be deficient (De Waal 2007, 1049).

Because of a poor strategy on behalf of the AU-UN force, as well as inadequate funds and resources, humanitarian workers have been exposed to kidnapping, robbery, and harassment by government and rebel forces (Reinold 2013, 75). Delays in achieving full deployment of UNAMID were caused by two factors, including obstruction strategies used by the GoS, which Khartoum also used to weaken AMIS, and by the international community’s slowness in providing the essential personnel and resources for UNAMID to function efficiently (Reinold 2013, 76). As illustrated in Figure 3, the funds and resources supplied to UNAMID as of 2008 had been far from adequate. At the time, not even a single military aircraft had been donated to UNAMID (Foerstel 2008, 247). This depicts the international community’s confusion on which states should be responsible for supplying funds and resources to international organizations in times of humanitarian crisis.

**Figure 3: UNAMID Resources and Funds (June 2008)**



Foerstel, Karen. 2008. “Crisis in Darfur.” CQ Global Researcher 2 (9): 247

## **The Views and Actions of External States in Response to the Darfur Crisis**

The international community of sovereign states has succeeded in providing some life-saving humanitarian aid to Darfur, but its initial response was a failure (Reinold 2013, 76). In addition to China and Russia's opposition to international intervention in Darfur without the consent of its government, Western states must also be criticized for not raising the costs of noncompliance for Khartoum (Reinold 2013, 77). Reinold argues that the international community's implementation of a consent-based strategy in Darfur remains the most fundamental issue that resulted in failure to provide adequate humanitarian assistance (2013, 77). Although the concept of RtoP suggests that the international community has a duty to intervene even against the consent of the host government, states have not been willing to act without the consent of the GoS (Reinold 2013, 77).

### *The United States*

Since the end of the Cold War, the US is less motivated to become involved in distant African conflicts (Francis 1998, 8). This is the result of donor weariness, deaths of Westerners in Somalia, and the feeling that ethnic conflicts are oftentimes endless (Francis 1998, 8). However, the US government has done more than most other governments to help Darfurian citizens, yet its efforts are mainly "responsive only to pressure" (Reinold 2013, 77). A significant factor in shaping the US response to the crisis in Darfur was the public outrage at the atrocities reported by the US media (Reinold 2013, 78). The US has repeatedly called for tougher measures to force Khartoum to stop using the Janjaweed and it has provided aid to the people of Darfur (Reinold 2013, 77).

Actions taken by the US in response to the Darfur conflict, though greater than other nations, remain limited. Many of the decisions made by the US can be attributed to various factors, including the War on Terror (Reinold 2013, 81). Involvement in Afghanistan and Iraq left the US with little "troops, political capital, or attention for Darfur" (Reinold 2013, 81). Additionally, the

Bush administration devoted significant efforts to settle the war in the South of Sudan by helping to finalize the CPA (Reinold 2013, 81). Thus, the US did not dedicate the necessary amounts of funds and resources in Darfur. Cooper accuses the US of focusing on crisis management in the middle or late states of a conflict: “Western governments have invested hundreds of billions of dollars in the capability to fight and win wars, but little money or time in developing the skill, knowledge, and practical tools necessary to prevent deadly conflict.” (Cooper 2009, 205). While State Department documents now claim that the US has a commitment to preventing and resolving conflict, rhetoric does not match reality (Cooper 2009, 205). Governments at the 2005 World Summit agreed that prevention should be a priority focus of international efforts to protect populations because, in theory, prevention stops conflicts (Cooper 2009, 205). However, conflicts that seem preventable continue to emerge (Cooper 2009, 205).

### *China*

During the 1990s, China acted on its interest in Africa for new sources of oil and other key resources (Traub 2010). In 1996, China had bought a 40 percent stake in Sudan’s leading oil company, while Western oil companies were pulling out of Sudan due to its state sponsor of terrorism (Traub 2010). China later helped Sudan develop the country’s major oil refinery. By 2004, Sudan was supplying 10 percent of China’s imported oil, while China was helping the GoS build a pipeline to the Red Sea and was supposedly Sudan’s most important source of weaponry (Traub 2010). It was understood that China’s trade relations with Khartoum included protection that China was able to offer as a permanent member of the UNSC (Traub 2010). By threatening to use its veto on the UNSC, China has provided protection to Khartoum from sanctions, and has thinned out every resolution on Darfur in order to protect its interests in Sudan (Mandoyi 2013, 2-3). China’s position on action in Darfur, however, cannot be entirely reduced to its trade policy.

China has long been one of the main supporters of the principle of absolute sovereignty (Traub 2010).

In 2004, several states, including Sudan, recognized that it had a responsibility to protect its population, and the majority agreed that the situation in Darfur was a legitimate matter of international concern (Glanville 2013, 199). Some states, most notably China and Russia, disagreed with coercive interference in Darfur on the grounds that “the main responsibility still lies with the Sudanese authorities” (Glanville 2013, 199). By 2006, it was unquestionable that the GoS had failed in its responsibility to protect civilians in Darfur under the terms of the 2005 World Summit agreement (Glanville 2013, 199). On August 31, the SC adopted Resolution 1706, which “invited” the consent of the GoS to the deployment of more than 20,000 UN peacekeepers in Darfur (Glanville 2013, 199). It was widely accepted among member states that consent from Sudan would be needed before UN forces could be deployed (Glanville 2013, 199). Even though the resolution called for Sudanese consent, China, Russia, and Qatar still refrained from the vote on principle (Glanville 2013, 199). China was upset that the phrase “with the consent of the Government of National Unity” was not included in the text of the resolution, since this was “a fixed and standardized phrase utilized by the Council when deploying United Nations missions” (Glanville 2013, 199-200). China and Russia repeatedly insisted that RtoP did not overrule the necessity for sovereign consent and that international assistance should only ever be provided with “full respect for the will of the state concerned” (Glanville 2013, 200).

### **Defining the “International Community”**

According to the RtoP doctrine, it is the responsibility of the “international community” to protect individuals against abusive state sovereigns. However, there is no clear understanding of who exactly the “international community” is. Mamdani argues that the international community is composed of the UNSC, whose permanent members are the great powers (Mamdani 2009, 274).

If such is true, then an argument can be formed to claim that these great powers cannot possibly make decisions based solely on humanitarian intervention, as they are bound to consider their own political, economic, militaristic, and diplomatic gains. However, it remains true that only a few countries, including these great powers, have an abundance of assets needed to implement intervention mandates (Evans et al., 2002).

In the case of Darfur, the response of the international community, including international organizations, was chaotic. Due to a lack of political will and ambiguous guidelines set by RtoP, the international community found itself in debates over who exactly should be responsible for intervening in Darfur. Thus, the international community wasted valuable time in responding, while mass atrocities continued to take place. As Hoffman points out, it is one thing to argue that all states must act in case of mass atrocities, but this does not answer the question as to which state or organization is to act (2012, 19).

## **Conclusion**

There is a developing consensus in today's world around the idea that state sovereignty must coincide with RtoP, and that individual human rights are of the utmost importance. Despite acceptance of RtoP in principle, its implementation continues to be nonexistent. This is attributed to its presence as only an international norm, and not an international law. As stated by UN Secretary General Ban Ki-moon, RtoP is "one of the more powerful but less understood ideas of our times" (Hoffman 2012, 19). For the RtoP principle to assist in undertaking humanitarian crises in the world, more transparency on the principle, its foundations and practical implications is needed (Hoffman 2012, 19). Due to its little impact so far, RtoP is being supported in principle by states, such as Sudan, despite it being a target for RtoP-type action (Hoffman 2012, 48).

The conflict in Darfur illustrates the current confusion that exists in the international community in regards to RtoP. For example, it is still unclear as to who specifically is responsible

for responding to intrastate conflicts, like that of Darfur, and to what extent. This has resulted in slow humanitarian action taken by the AU, the UN, and external sovereign states. Furthermore, there remains debate over how responsibilities are to be shared within the international community. In the case of Darfur, confusion over responsibilities shared between the AU and the UN resulted in a poor strategic implementation of a peace agreement and a conflict resolution (De Waal 2007, 1049). It is essential that RtoP be more clearly defined for the international community to properly execute it. Such requires that RtoP become more than just an international norm, and that it addresses specifically those responsible for providing protection to affected populations of “genocide, war crimes, ethnic cleansing, and crimes against humanity” (“Implementing RtoP” 2009, 4). Otherwise, RtoP will remain an ineffective doctrine with no clear universal understanding, and intrastate conflicts like the one in Darfur will continue to flourish.

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