The Responsibility To Protect and the Conflict in Darfur: The Big Let-Down
Cristina G. Badescu and Linnea Bergholm
DOI: 10.1177/0967010609336198

The online version of this article can be found at:
https://sdi.sagepub.com/cgi/content/abstract/40/3/287

Published by:
SAGE
https://www.sagepublications.com

On behalf of:
PRIO
International Peace Research Institute, Oslo

Additional services and information for Security Dialogue can be found at:

Email Alerts: https://sdi.sagepub.com/cgi/alerts
Subscriptions: https://sdi.sagepub.com/subscriptions
Reprints: https://www.sagepub.com/journalsReprints.nav
Permissions: https://www.sagepub.co.uk/journalsPermissions.nav
Citations https://sdi.sagepub.com/cgi/content/refs/40/3/287
The Responsibility To Protect and the Conflict in Darfur: The Big Let-Down

CRISTINA G. BADESCU & LINNEA BERG HOLM*

Munk Centre for International Studies, University of Toronto, Canada & Department of International Politics, Aberystwyth University, UK

This article discusses the international response to the conflict in Darfur from 2003 onwards in order to explore some of the key challenges related to implementing the responsibility to protect (R2P). First, we show that the debates on R2P in connection to Darfur translated into little more substantive action than the pragmatic decision to deploy peace operations with mandates that included civilian protection, as suggested by the African Union (AU) Mission in Sudan (AMIS), and later by the hybrid UN–AU Mission in Darfur (UNAMID). Second, we argue that the international response to Darfur illustrates three major challenges to R2P implementation. These are: political limitations inherent in the R2P framework; moral dilemmas emerging from military action; and tactical challenges, as exemplified by the struggles faced by the AU and the UN in Darfur. We conclude that the international failure to offer meaningful protection in Darfur highlights the need for continued caution and critical analysis of the ways in which R2P is conceptualized and implemented.

Keywords responsibility to protect • Darfur • protection of civilians • United Nations • African Union

In the post-9/11 security environment, questions of when and how the international community might intervene to protect civilians from genocide, ethnic cleansing or crimes against humanity are as compelling as ever. Recent debates on how to improve international responses to mass atrocities emerged out of the failures to protect vulnerable civilians during the 1990s, as seen in Rwanda in 1994 or in Srebrenica in 1995. The humanitarian intervention theme became intertwined with the broader impact of human rights norms and the concept of human security in the international discourse. The idea of ‘sovereignty as responsibility’ also surfaced in relation to such debates. Francis Deng (1995) first articulated this concept, which he later expanded collaboratively in a book suggesting that sovereignty entails certain responsibilities for which governments must be held accountable,
both towards their national constituencies and to the international community (Deng et al., 1996: 1). UN Secretary-General Kofi Annan (1999) also emphasized the concept of responsible sovereign states, arguing that sovereignty translates into both rights and responsibilities. Fuelled by such conceptual developments and state practice in response to extreme humanitarian emergencies, questions emerged as to whether a permissive norm of military intervention for humanitarian purposes had come into existence (Wheeler, 2000).

The responsibility to protect (R2P) surfaced in an attempt to shed more light onto the contentious humanitarian intervention debate. In 1999, Kofi Annan urged the UN General Assembly to ‘prevent another Rwanda’ and to reach consensus on the issue of humanitarian intervention.\(^1\) In response to his challenge, the government of Canada established an independent commission, the International Commission on Intervention and State Sovereignty (ICISS), in 2000. The following year, ICISS (2001) released its report, *The Responsibility to Protect*. The R2P report tackled the widening gap between the codified practice of international behaviour captured in the UN Charter by the explicit emphasis on the need to respect state sovereignty, on the one hand, and actual state practice during the 1990s, which underlined the limits of sovereignty and the need to protect human rights, on the other (ICISS, 2001: 15).

The central normative tenet of R2P is that state sovereignty entails responsibility and, therefore, each state has a responsibility to protect its citizens from mass killings and other gross violations of their rights. However, if a state is unable or unwilling to carry out that function, the state abrogates its sovereignty, and the responsibility to protect devolves onto international actors. These would then have to consider a range of actions, including prevention, reaction and post-conflict rebuilding. The R2P report changed the conceptual language from ‘humanitarian intervention’ to ‘responsibility to protect’ in an attempt to move the focus from the prospective interveners to the civilians in need of protection. The report also argued in favour of approaching sovereignty not in terms of ‘control’ but in terms of ‘responsibility’. The emphasis of the ICISS report on the responsibilities of each sovereign state to protect its own populations and its reinterpretation of sovereignty as responsibility are justified by two key motives: the need to appease the claims regarding the potential for abuse of humanitarian intervention, on the one hand, and practicalities related to the enforcement mechanisms of the human rights regime, on the other (Badescu, forthcoming).

While R2P has gained terrain in principle, the key questions relate to when, how and by whom it might be implemented. In this context, the most contentious debates revolve around the reaction component of R2P, with some

\(^1\) In his address to the General Assembly, Kofi Annan requested the international community to ‘find common ground in upholding the principles of the UN Charter, and acting in defence of our common humanity’ (United Nations, 1999).
arguing that the R2P framework might encourage interventionism.\(^2\) The rhetoric of international institutions, individual states, civil society and advocacy groups invoking – rightfully or not – R2P in conflicts like those of Darfur and the eastern region of the Democratic Republic of the Congo (DRC), in post-elections Kenya, in the aftermath of Cyclone Nargis in Burma, and more recently in Zimbabwe suggests that the R2P language is gaining increased recognition. However, reactions to such invocations also show that R2P continues to activate the same contentiousness regarding the use of force for humanitarian purposes as that triggered by the debates on humanitarian intervention. So far, responses to conscience-shocking situations have depended on political conditions and interests at stake in the conflicts in question, as well as on the willingness and capabilities of various actors – whether international or regional organizations or individual states – to react. The broader question of whether R2P can overcome such ad hoc and reactive ways of offering civilian protection in extreme humanitarian emergencies merits further consideration.

This article explores what the international response to the conflict in Darfur shows in terms of limitations to R2P implementation. This response refers solely to the reaction component of the R2P framework, described in paragraph 139 of the 2005 World Summit Outcome Document as collective action.\(^3\) In particular, we ask whether critics are correct to argue that R2P ‘failed’ in Darfur. First, we provide a brief assessment of R2P and the crisis in point, to reflect upon what R2P might have been expected to contribute in relation to Darfur. Second, we discuss how the international and regional responses to Darfur materialized in the African Mission in Sudan (AMIS) and the hybrid UN–AU Mission in Darfur (UNAMID), both with mandates to protect civilians. Seen through the lens of the international response to Darfur from 2003 onwards, a set of important challenges to R2P implementation becomes clear. These limitations are categorized as political, moral and tactical, and are discussed in the third section of the article, together with our assessment of the argument regarding the ‘failure’ of R2P in Darfur.

The reactions to Darfur suggest that UN member-states were reluctant to assume their collective responsibility to protect in that case. R2P language did help to keep high-level international attention on the conflict, but it failed to mobilize comprehensive political agreement on the best ways to protect civilians. We argue that while the international failure to offer meaningful protection in Darfur in line with the R2P framework shows a number of key challenges to implementation, the appraisal of R2P should not be reduced to the question of the effectiveness of a military response. Darfur has witnessed a lack of unified and timely prioritization of legal, diplomatic and economic actions falling short of military reaction, which, together with sustained

\(^2\) For such arguments, see, for example, Ayoob (2004); Mamdani (2007).
\(^3\) See United Nations (2005c).
political pressure, should have been seriously attempted prior to, and in tandem with, the use of force to protect civilians.

The Responsibility To Protect and Darfur

The Official Endorsement of R2P by UN Member-States

Since September 2005, when R2P was embraced by the UN’s membership, the principle has been portrayed as a ‘new declaratory commitment to protect endangered populations’ (Wheeler, 2005: 12) and as a ‘normative innovation’ (Brunnee & Toope, 2006: 2). UN Secretary-General Ban Ki-Moon referred to the implementation of R2P as one of his priorities as secretary-general (United Nations News, 2008a), appointed two new positions related to its application, and issued his own report on Implementing the Responsibility To Protect (United Nations, 2009). But, what is the significance of the official endorsement of R2P in the 2005 World Summit Outcome Document?

The September 2005 moment symbolizes the political responsibility embraced by the UN membership to forge collective responses to genocide, war crimes, ethnic cleansing and crimes against humanity. The 2005 World Summit Outcome Document outlined an R2P framework in line with the two key aspects identified in the ICISS report: state sovereignty as responsibility and international responsibility in extraordinarily bad circumstances. It also put forward the reference point for any subsequent interpretation of what R2P entails. The conception of R2P in the World Summit Outcome Document emphasizes first and foremost the responsibility of each state to offer protection. Only when national authorities ‘manifestly fail’ to protect their citizens does the international responsibility apply. Paragraph 138 of the World Summit Outcome Document details the responsibility of individual states to protect their populations. Paragraph 139 outlines the international responsibility ‘to take collective action... through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations... should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity’.

While the three paragraphs referencing R2P in the World Summit Outcome Document (paras 138–140) were officially endorsed by all UN member-states, subsequent disagreements about what exactly this commitment expresses – especially voiced by states opposing the framework – illustrate the uncer-

4 That is, the Special Representative of the Secretary-General for the Prevention of Genocide and Mass Atrocities (Francis Deng) and the Special Advisor on Matters Relating to R2P (Ed Luck), with the latter specifically assigned to translating R2P into practice.
tain legal signification of R2P.\(^\text{5}\) Paragraph 139, however, provides the foundation for taking action when political will exists, while also dismissing the traditional excuses for inaction (Badescu, forthcoming). The September 2005 endorsement advanced the R2P framework from its configuration in the ICISS report, in the sense that member-states’ internal situations may have become more legitimate issues for debate in the UN arena. Paragraph 139, nonetheless, calls for collective action on a ‘case-by-case’ basis, and this does not amount to a binding political commitment. Such a formulation explains, in part, the lack of agreement among member-states – and particularly within the Security Council forum – on what R2P might have been expected to contribute in relation to Darfur.

Without doubt, the 2005 endorsement was a watered-down version of the ICISS version of R2P – because of the concessions that had to be made during negotiations in order for the issue to be considered at all.\(^\text{6}\) So were subsequent references to R2P in Security Council resolutions, such as Resolution 1674 on the protection of civilians (28 April 2006) and Resolution 1706 on Darfur (31 August 2006). Unlike the ICISS report’s suggestions placing equal emphasis on conflict prevention, post-conflict rebuilding and reaction, paragraphs 138–140 of the World Summit Outcome Document do not explicitly consider such a continuum of measures. Also, the Summit Outcome Document does not provide an answer to what should happen in instances when the Security Council is unable to agree on specific mechanisms in cases requiring swift reaction, as has been the case many times in the past (see Wheeler, 2005; Bellamy, 2006; Badescu, 2007).

The lack of UN enforcement authority regarding UN General Assembly resolutions diminishes the value of commitments such as those expressed in paragraphs 138–140 of the World Summit Outcome Document. R2P was framed in a sufficiently flexible and broad language to temporarily ‘veil’ the important differences in opinion among states over when and how to respond to mass atrocities. Accordingly, states’ actions may be influenced, but not necessarily determined, by the moral ambition to offer civilian protection in faraway places. Paragraph 139 does not elaborate on the resources available for such exercises, nor does it bring much novelty to the UN’s potential to protect civilians during armed conflict.\(^\text{7}\) Instead, looking at how R2P relates to the specific UN efforts of the last decade to improve civilian protection might provide more light on this issue.

---

\(^\text{5}\) Since Paragraph 139 is not legally binding, R2P clearly cannot yet be considered a new norm of international law; see, for example, Brunnee & Toope (2006: 3, 13).

\(^\text{6}\) Thomas G. Weiss (2007: 117) calls it an ‘R2P-lite’.

\(^\text{7}\) After all, peace operations have been mandated for such tasks since 1999.
R2P and the Protection of Civilians

Until the late 1990s, the UN had only addressed issues related to international humanitarian law in respect to specific countries (Security Council Report, 2008: 6). The increased need for civilian protection was first addressed in detail in the 1998 report of the secretary-general on the situation in Africa, which described protection as a ‘humanitarian imperative’ (United Nations, 1998). This also marked the beginning of approaching civilian protection as a separate conceptual thematic issue at the UN (Security Council Report, 2008: 6). In 1999, Canada put the issue of civilian protection on the Security Council’s agenda. This translated into two key Security Council resolutions with implications for future peacekeeping missions, namely, Resolution 1265 of September 1999 and Resolution 1296 of April 2000. Security Council Resolution 1265 was the first of its kind to express the Council’s ‘willingness . . . to respond to situations of armed conflict where civilians are being targeted or where humanitarian assistance to civilians is being deliberately obstructed’. Security Council Resolution 1296 addressed operational measures to improve the UN’s capacity to conduct operations to protect civilians.

Since 1999, most UN peace operations, and also some non-UN peace operations, have been authorized ‘to protect civilians under the imminent threat of physical violence’. This insertion has become standard language in Security Council resolutions that authorize peace operations where civilian lives are in danger. Consequently, some have argued that the protection of civilians has become ‘a normative expectation’ in peace operations (see Johnstone & Bah, 2007: i). Apart from several UN resolutions on the protection of civilians in armed conflict, a key development towards improving the conduct of peace operations and the design of peacekeeping mandates was the UN Office for Coordination of Humanitarian Affairs (OCHA) aide-mémoire, adopted by the Council in 2002 as an annex to a Security Council Presidential Statement. The UN has also taken concrete steps to offer better protection, such as creating an initial standing police facility to provide effective start-up capacity for the policing component of UN peacekeeping operations. Powerful Western countries, such as the USA, have developed new concepts to deal with complex and robust environments, the ‘three-block war’ concept being an example in point.

Despite such thematic and institutional developments, current responses to armed conflicts around the world direct attention to the extreme levels of suffering for civilians caught up in such conflicts. Darfur is one key example in point. It also provides a good foundation to introduce the distinctions and overlaps between the R2P and the civilian protection agendas, since R2P was explicitly invoked in Darfur in relation to calls for protection. Rightfully so, Darfur was described as a supreme humanitarian emergency, providing an

---

important test case for R2P (Williams & Bellamy, 2005: 30) – a first ‘test case’, that is, since the endorsement of R2P at the 2005 World Summit (Mepham & Ramsbotham, 2006: 2). It is, however, important to apprehend the conceptual distinctions between R2P and civilian protection, especially in view of assessing whether the efforts to protect in Darfur could be seen as an R2P-type of response. Since R2P was embraced at the UN level, diplomats and policymakers have warned against the dangers of intertwining R2P with the protection-of-civilians agenda. More recently, it has been suggested that equating the two would translate into an unnecessary politicization of the concept of civilian protection (Security Council Report, 2008: 4). The protection agenda is more broadly defined than the R2P framework. It covers measures meant to protect the dignity and safety of individuals under threats of violence, while R2P refers to the need to protect civilians facing mass atrocities, such as genocide, war crimes, ethnic cleansing and crimes against humanity.

However, there are important interlinkages. For example, both R2P and the civilian protection agenda are based on international humanitarian law and human rights law, and they are both focused on the protection of individuals. Both frameworks recognize the primary responsibility of states to protect their own populations. Furthermore, neither of the two concepts should be understood as tantamount to the use of military force. This is especially relevant in the light of recent debates on the usefulness of military responses to offer protection. Indeed, only in the most extreme cases is the use of force with a Chapter VII mandate envisaged.

As seen in conflicts like Darfur, the protection of innocent civilians represents the centre of recent efforts to operationalize R2P. However, important tensions exist in relation to protection as a military task. For example, military intervention may lead to counterproductive outcomes, even when there is an abundance of political will and resources behind it (Falk, 1993: 757). Also, relying on peace operations can do little to put in place adequate provisions for sustainable peace (de Waal, 2007). There is a lack of consensus not only about the range of activities regarded as ‘protection’ but also about the ‘who’ and the ‘how’ of protection – namely, ‘who or what are the legitimate targets of protection?’ and ‘who decides and on what basis?’ Such varied perspectives explain why there are multiple interpretations of the protection concept: military leaders, UN officials and NGOs to some degree understand it in different ways (Holt & Berkman, 2006). The successful implementation of R2P towards civilian protection is contingent upon several conditions occurring at the same time. These include the existence of one of the four types of mass atrocities triggering R2P, a willingness on the part of contributing states to risk their soldiers’ lives to ‘protect strangers’, appropriate training and doctrine to address the specific requirements of non-permissive conflict.

environments, and sufficient and reliable capabilities to react. As seen so far, there have been many unresolved tensions in the R2P framework since it was adopted by the UN membership in September 2005. It is essential to keep this in mind when reviewing the lack of clearcut answers to the question of how world leaders should have responded to Darfur since 2003 onwards.

**World Politics and ’Pragmatic Solutions’**

By the spring of 2004, mass atrocities and crimes against humanity were widely known to be occurring in Darfur, a region roughly the size of France in western Sudan.10 The actions of the government of Sudan resembled a textbook illustration of a government unwilling to live up to its responsibility to protect its citizens. At the time, the UK, the USA, Canada and the EU were vocal advocates of the R2P principle. However, this did not mean that these same countries were prepared to agree on a comprehensive strategy along the lines of the R2P framework in relation to Darfur.

As Paul Williams & Alex Bellamy (2005: 36–40) best synthesize the matter, three main obstacles account for such a lack of agreement. First, R2P-coated interventions suffered a legitimacy blow after Western states wrongly tried to justify their intervention in Iraq as primarily ‘humanitarian’. Despite the ongoing atrocities in Darfur, it would have been hard for Western states to design a critic-proof case to intervene without the consent of the Sudanese government. Many developing-world countries had lost their initial enthusiasm for R2P. Some suggested that it resembled a ‘Trojan horse’ for big-power meddling (Bellamy, 2005), while others were wary of becoming potential targets for intervention (Donald Steinberg, cited in Hoge, 2008). Second, geostrategic interests played a significant role. Washington’s interests in Sudan revolve around oil and intelligence-exchange. Therefore, the USA preferred to keep the government of Sudan on its good side in the ‘war on terror’ and to avoid fuelling anti-Western terrorist activities. These priorities trumped the concerns with the human rights situation on the ground. Furthermore, Russia and China wanted to protect their lucrative oil interests and arms trade with Sudan. Third, the considerable diplomatic and financial investments by Western states and the Intergovernmental Authority on Development (IGAD) in the mediation of the north–south conflict in Sudan hindered mediation in the country’s other wars. These actors wanted to conclude the Machakos–Naivasha peace process before any other Sudanese troubles could be taken seriously (Williams & Bellamy, 2005: 36–40).

10 An account of the wars in Darfur is outside of the scope of the present article. See instead de Waal (2005); de Waal & Flint (2006); Prunier (2007). As far back as in December 2003, the UN referred to Darfur as being among the world’s worst humanitarian crises. By May 2004, the number of ‘war-affected’ (the UN’s term for all those killed, raped, displaced, malnourished, etc.) civilians stood at one million. By June 2005, the number had reached 2.9 million, and most estimates put the death toll at around 300,000; see Prunier (2007: 148–152).
The UN member-states, however, recognized the need to ‘do something’ about mass atrocities in Darfur. However, the Security Council hardly ever agrees to deploy non-consensual, forcible interventions into states with a sitting regime. Aware of this, Sudanese officials and ministers often reminded the UN membership of their country’s juridical sovereignty and consequent right to refuse and oppose foreign interference in the Darfur conflict, which Sudan’s regime considered an internal matter. From the UN Secretariat’s point of view, a multilateral military intervention in Darfur was unfeasible.11 Without the consent of the government of Sudan, there was no solution as to how the UN and the contributing states might access Darfur with the considerable logistics and resources they would require. Gathering the necessary military resources would be problematic, since the major Western powers claimed overstretch of their military capabilities in Afghanistan and Iraq.

The UN Security Council issued its first strong statement of concern about the situation in Darfur in Resolution 1556 of 22 July 2004, adopted owing to China’s abstention. The conflict was described as a ‘threat to international peace and security’. However, the Council’s subsequent demands were not coherent, nor were they accompanied by enforcement mechanisms.12 At this point in time, more substantial political mediation, involving the Sudanese government, might have been attempted. Instead, a range of humanitarian and human-rights-relevant measures were set in place. The Security Council also set up a UN International Commission of Inquiry on Darfur on 18 September 2004, which concluded on 25 January 2005 that the government of Sudan and the janjaweed were responsible for ‘crimes against humanity and war crimes [that] may be no less serious and heinous than genocide’ (United Nations, 2005a: 3–4). Acting on the Commission’s recommendations, the Security Council referred the situation in Darfur to the International Criminal Court (ICC), a vote that only passed because of the USA’s abstention.

Moreover, the UN membership pragmatically decided to support an AU-led peace operation for Darfur. In doing so, UN members knowingly ‘placed the major burden of response upon the continent least able to marshal the necessary troops, funds and materiel to conduct a large-scale civilian-protection operation’ (Williams, 2006: 178). AMIS was the AU’s first large-scale military intervention in an internal conflict within one of the Union’s own member-states. The peace and security department of the AU lacked experience in financial accountancy, logistical procurement, and military and defence matters. Regrettably, the AU’s own members did not come forward to contribute to

12 The Khartoum government did not comply with requirements on facilitating humanitarian access, the disarmament of militias, civilian protection, and the investigation and punishment of human rights violations. However, the argument has been made that sometimes the demands were not based on an adequate understanding of events on the ground; see de Waal & Flint (2006: 128).
AMIS. All along, the mission was overdependent on external donors’ funds and technical advice (International Peace Academy, 2007: 4). Nonetheless, the AU was the only multilateral organization willing to risk soldiers’ lives in Darfur, and, most critically, it had the consent of the Sudanese regime. Sadly for Darfur’s population, the first 80 African military observers arrived in Darfur in June 2004, together with a small protection force of 300 Nigerian and Rwandan troops, after the heaviest phase in the killings of civilians was already over (Williams, 2006: 176–177,179).

Taken together, these actions indicated a high degree of awareness of the gravity of the violence in Darfur. At the same time, however, they indicated a level of disagreement among world leaders on how best to proceed. All of the UN Security Council’s demands in 2003 and 2004 in relation to assistance with humanitarian access, the disarmament of militias, civilian protection, and the investigation and punishment of human rights violations were relevant and appropriate measures. However, a range of critiques could, and should, be raised regarding their timeliness as well as mechanisms to ensure compliance. In this context, it may well be argued that such measures did not amount to a substantive R2P response. While we do not wish to overlook the problems with this response, we want to suggest that the attention paid to Darfur from 2003 onwards was in no small part due to the developments regarding R2P at the UN level around the very same time. This was evident in the framing of the need to react to Darfur within the R2P language. However, when the Darfur conflict – in all its horrific proportions – had caught the attention of the UN, Western media and their publics, the disengagement between the moral ambition to rescue civilians caught up in war zones and the political reality of detachment widened.

One primary concern for would-be interveners was Sudanese unity and the need to preserve cooperative diplomatic and trade relations with a stable Sudanese regime. State sovereignty also appears to have been used by Western states as a convenient excuse for not doing more. This illustrates how R2P is rooted in – and thus restricted by – the structures of world politics. Its implementation is dependent on international institutions, which are, in turn, influenced by the geostrategic interests of their members. The disagreements among UN member-states regarding the extent of the R2P commitment they

13 Linnea Bergholm, confidential interview, AMIS official, Addis Ababa, September 2007. Close to 75% of the entire AU budget is paid by only five countries, namely, South Africa, Egypt, Libya, Nigeria and Algeria. Other countries with significant financial resources, such as Angola and Botswana, contributed little to the AU budget. The Arab League was also criticized for its members’ meagre support and their relative silence on the conflict in Darfur.

14 The initial task was to monitor the N’Djamena ceasefire agreement, signed on 8 April 2004 as the result of mediation started in Chad in the summer of 2003 and later led by the AU, with help from international actors.

15 For more and diverging views on Sudan’s current role in the international political order, see for example, Prendergast (2006); Beaumont (2006); Slim (2004); Lusk (2008: 173–174); Natsios (2008).
 signed on to in 2005 translated into divergent opinions on the most appropriate ways to respond to Darfur and amplified the above limitations.

**R2P in Darfur Through AU and UN Lenses**

The most concrete and visible part of the international response to the Darfur conflict consisted of two peace operations: AMIS and UNAMID. This section explores the tactical challenges that these missions have encountered. While the missions were not directly linked to R2P from the outset, the UN later made one such link. Resolution 1674 on the protection of civilians in armed conflict reaffirmed the R2P provisions in paragraphs 138 and 139 of the 2005 World Summit Outcome Document, and recognized the contribution to the protection of civilians in armed conflict by the AU, who at the time of the adoption of this resolution in April 2006 had peacekeepers mandated to protect civilians in Darfur.

**AMIS: Sovereignty of the Host State Conditioned Tasks To Protect Civilians**

The violence targeting civilians in Darfur gave rise to pressures on the AU to display African non-indifference to human rights abuses. However, the organization would not have deployed AMIS without the consent of Khartoum. All of the AU’s actions were taken in respect of this consent (O’Neill & Cassis, 2005: 12). Amid rampant ceasefire violations by all parties, more voices started calling for the AU to grant AMIS a stronger mandate and an increase in force levels (BBC News, 2004). In October 2004, AMIS grew into a larger peace operation of approximately 2,200 personnel, which included force protectors and unarmed civilian police.

The AU’s leadership redrafted the mandate of AMIS in a way that responded to humanitarian appeals but at the same time satisfied the Sudanese host state, the AU membership and the foreign donors. AMIS’s new tasks were to monitor the situation proactively and report any violations of the ceasefire to the relevant organs; to assist in the process of confidence-building; and to contribute to a secure environment for the delivery of humanitarian relief. It was also tasked to protect civilians whom it encounters under imminent threat and in the immediate vicinity, within resources and capability, it being understood that the protection of the civilian population is the responsibility

---

16 On the importance of non-indifference for the AU, see Williams (2007).
17 In 2004, the conflict was primarily being fought between the Sudanese armed forces, the militias known as janjaweed who had been armed and equipped by the government of Sudan, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM).
of the government of Sudan’ (African Union, 2004: paras 65, 67). This was the first time that an AU-led mission was explicitly permitted to protect civilians. The UN’s endorsement of the enhanced AMIS mandate affirmed this legal capacity (United Nations, 2004: para. 54).

Because the mandate was so ambiguous, AMIS personnel faced difficulties in interpreting it, which led to confusion and controversy. By December 2005, AMIS had almost 7,000 personnel on the ground and a stronger civilian police component of about 1,320. This increase in numbers stabilized security on the ground. During 2005 and 2006, AMIS carried out some innovative – yet selective and ad hoc – civilian protection measures, such as water and firewood patrols and market days. In a few cases, AMIS commanders ordered preventive deployments to prevent attacks on villages. Overall, however, AMIS did not constitute an overt ‘R2P response’ to the violence in Darfur. Rather it was a symbolic presence that amounted to little proactive or effective physical protection. It was also clear that civilian protection was only one of AMIS’s mission tasks, and in practice ceasefire monitoring was the prioritized task. AMIS did not engage elements of the Sudanese army or other parties when these attacked civilians, as most of its insufficient troops lacked the experience and training to do so successfully. All along, the Khartoum government ignored the AU Peace and Security Council’s condemnations and ‘appeals’ for it to disarm the janjaweed.

An unwillingness to challenge the sovereignty of the government of Sudan characterized all international actors involved in supporting AMIS. The UN advised and assisted the AU. However, as long as AMIS was an AU-led mission, there could be no transfer of resources or troops on a formalized basis. UN assistance consisted of human resources (military and police advisers, and civilians), training, skills and limited logistics on an ad hoc basis (United Nations, 2004: para. 55). This is because the UN’s assessed contributions budget, which finances UN-led peacekeeping, cannot be used towards actions undertaken by regional organizations. Although the out-

18 The civilian protection element was reemphasized one year later (African Union, 2005).
19 Additionally, UN Resolution 1590 of March 2005 reaffirmed AMIS’s mandate and accorded the UN Mission in the South of Sudan (UNMIS) similarly worded protection tasks (United Nations, 2005b).
20 The concepts of operation and the rules of engagement did not describe what civilian protection meant as a mission task. Human Rights Watch (2006: 7) argues that the rules of engagement needed to clarify that the use of deadly force was allowed to protect civilians and humanitarian operations under imminent threat to their survival.
21 The troops came from Nigeria, Rwanda, South Africa, Senegal, Gambia and Kenya, and the police from Ghana. There were also military observers from, among others, Egypt and Libya. AMIS was evidently understaffed for the task of stabilizing the situation for an estimated population of 6 million people in Darfur; see Williams (2006).
22 Linnea Bergholm, confidential interview, senior UN officials at the UN Department of Peacekeeping Operations (DPKO), New York, October 2007.
23 At its Libreville and Abuja summits in January 2005, the AU Peace and Security Council strongly condemned the repeated ceasefire violations, including attacks against civilians and humanitarian workers.
side support was important, it was piecemeal, short-term and unreliable. It soon became clear that the donors and the outside world expected AMIS to operate at a standard far below what was normal in UN peace operations (Prunier, 2007: 145–146).

It has been suggested that the way in which support was offered indicated how AMIS provided a convenient excuse for Western powers to avoid direct involvement in Darfur (Cohen & O’Neill, 2006: 52). For example, donors did not follow through on the recommendation in the March 2005 assessment to provide AMIS with attack helicopters (United Nations, 2005b). The mobility of AMIS was highly dependent on the vehicles, civilian helicopters and fixed-wing aircrafts provided by donors. The lack of attack helicopters in the subsectors of Darfur was a substantial obstacle. When sector commanders learned of impending attacks, they had to request helicopter backup from El Fasher, and it could take up to two days for a helicopter to arrive. Such a delay was not caused only by distances, but also by the fact that civilian pilots could not be ordered to fly in dangerous circumstances. The helicopter had to be back in El Fasher before 6 p.m. owing to the curfew that the government of Sudan imposed on AMIS in 2005, namely, from 6 p.m. to 6 a.m. If further evidence was needed, the attack on the AMIS Military Group Site in Haskanita, southern Darfur, on 29 September 2007 provided another sad illustration of the vulnerability of African peacekeepers.

UNAMID: Fragile Consent and No Sustainable Peace Agreement Hampered ‘Primary Task’ To Protect

The signing of the Darfur Peace Agreement (DPA) on 5 May 2006 did not result in a sustainable political process. This was the culmination of the AU-led mediation, sustained, largely, by British and US funding and influence. Only the government of Sudan and the Minni Minawi faction of the SLM signed, while both the JEM and the Abdel Wahid al Nur faction of the SLM rejected the agreement. Soon after, more segments of Darfuri society began to perceive AMIS as siding with the government of Sudan (Fadul & Tanner, 2007; de Waal, 2006). The Darfur rebellion fractured into more than 15 groups, largely along tribal lines, without clear political positions and with little popular support (ICG, 2007). Meanwhile, the government of Sudan initiated new offensives to crush the rebellion.

In this worsening context, the outside world began to call AMIS a ‘failure’. The USA, influenced by its interventionist lobby, immediately argued for a

24 The EU contributed approximately €300 million to AMIS. NATO provided strategic airlift of African peacekeeping contingents into Darfur. The US State Department covered the cost of a private contractor, Lockheed Martin’s Pacific Architects and Engineers, to construct and maintain base camps, with water and canteens, for AMIS in Darfur. Canada, the Netherlands and the UK were other significant donors.

25 Linnea Bergholm, confidential interview, AMIS official, November 2006.

26 This attack, by a large and organized group of heavily armed men, resulted in 12 dead peacekeepers.
UN takeover, since there was now a peace agreement in place. Canada and the EU were also keen to stop funding the AU force, citing reasons such as the AU’s administrative incompetence or the force’s lack of credibility. 27 There was a strong financial argument for a UN takeover, since this would shift the financial responsibility to the UN instead of the option of continuing with donor money (United Nations, 2007a: 12). 28 Donors withdrew their support for AMIS, which, as a consequence, could do little more to facilitate the implementation of the DPA. Significant pressure was placed on the government of Sudan that still objected, in strong terms, to a UN takeover. On 31 August 2006, the UN Security Council adopted Resolution 1706 ‘inviting’ Khartoum to consent to a UN takeover. 29 The fact that Resolution 1706 made reference to R2P was all the more troubling for the permanent five members (P-5) of the Security Council. The government in Khartoum did not consent this time either. The Sudanese regime insisted that it would not allow an Iraq-style occupation or foreign interference to weaken the regime. However, when the USA and China compromised on a ‘hybrid’ AU–UN force in November 2006, Sudan’s leaders eventually had to compromise, as officially suggested on 12 June 2007. The hybrid force, it was agreed, would have a predominantly African character. In addition to this condition, which came from both the AU and the government of Sudan, it was also agreed that the transition would occur in three steps: through a ‘light’ and then a ‘heavy’ support package, followed by the full takeover (United Nations, 2007b). This approach allowed the UN to build up its presence in steps, without provoking the opposition of the Sudanese regime.

On 31 July 2007, the UN Security Council unanimously adopted Resolution 1769, which authorized UNAMID under Chapter VII of the UN Charter to implement the DPA and to protect both civilians and its own personnel. This is the UN’s first hybrid mission with the AU, and it became operational on 31 December 2007. 30 Civilian protection initiatives undertaken by AMIS, such as night patrols, firewood patrols and deployment to high-tension areas, became priority tasks for UNAMID. Moreover, the latter’s Civilian Police Units have strived to be a visible presence in the camps for internally displaced people. 31 However, up until now, it seems that UNAMID has not offered meaningful protection for the Darfuri population. In July 2008, the force comprised only

27 Linnea Bergholm, confidential interview, Canadian and EU officials, Addis Ababa, September 2007. Nonetheless, AMIS’s requested force levels of 12,500 troops were not supported.

28 While the UN takeover was being planned, AMIS’s mandate was extended until 31 December 2006. Its troops had not received their salaries for months and were severely demoralized. The support provided by the European Union covered salaries, but the EU wanted to see proper financial accountability before releasing funds for an additional quarter. When the paperwork did not arrive, it suspended the provision of funds.

29 Resolution 1706 on Sudan was passed under Chapter VII of the UN Charter. It referred to R2P by recalling Resolution 1674 on the protection of civilians in armed conflict, which had reaffirmed the R2P paragraphs of the 2005 World Summit Outcome Document.


31 Linnea Bergholm, confidential phone interview, senior OCHA official, March 2008.
approximately 9,400 troops, mostly ex-AMIS forces (Darfur Consortium, 2008: 3). By 30 November 2008, the total strength of UNAMID had reached 15,444 (United Nations, 2008), which was still far from the actual authorized deployment of 26,000 troops. Humanitarian organizations assisting an estimated 4.2 million people have considered withdrawal (United Nations News, 2008b). People in Darfur ‘are losing faith in the international community’s will or ability to help them’ (Reuters, 2008).

The mission’s purpose and mandate are vague and have been contested. In the lead-up to the adoption of Security Council Resolution 1769, the role of civilian protection was heavily debated. For example, UNAMID was not tasked to disarm combatants. Moreover, a Sudanese defence ministry official, General Majzoub Rahamah, claimed that UNAMID did not have the right to protect civilians, only themselves (Abass, 2007: 434–435). The former UN force commander in Rwanda, Romeo Dallaire (2007), has argued, however, that the clear intent of the resolution was for Chapter VII to also be directed toward, and therefore permit, civilian protection. Nonetheless, the question is what peacekeepers can realistically do in such a fragile political environment (see The Guardian, 2008).

In contrast to AMIS, UNAMID’s primary mission objective is civilian protection. However, there was no strategy in place to prepare the UNAMID leadership or its troops for this task in any comprehensive way. As Alex de Waal (2007: 1047–1049) argues, the planning for UNAMID rested on flawed assumptions, and also lacked a strategic goal. For example, the AU–UN joint assessment missions did not carry out a comprehensive field assessment of all armed parties, nor did they build the necessary confidence between these parties. According to UNAMID Force Commander Martin Luther Agwai, even if the mission were at full deployment, the peacekeepers would not stand between rival armies and militias engaged in full-scale combat (cited in Adada, 2008). This is reflective of the UN Secretariat’s unease with UNAMID’s position: the peacekeepers have no peace to keep, and the UN’s role is not to wage war. This also speaks volumes about the tensions inherent in present operations mandated to protect civilians.

UNAMID troops remain caught between a rock and a hard place. The UN member-states – and particularly the P-5, who authorized this mission – have not supported UNAMID with crucial tactical and transport helico-

32 However, according to the Darfur Consortium (2008: 6), the mission could be doing more, even with its existing troops and resources – such as, for example, foot patrols.
33 The estimated budget for the first year was US$ 2.2 billion (United Nations, 2007c), a sum that Alpha Oumar Konare, former AU Commission chairperson, described as ‘scandalous’; see Deen (2008).
34 The regional dimensions of the conflict, such as the Sudan–Chad tensions, also jeopardize UNAMID’s efforts (Henshaw, 2008).
35 The operational environment was made even more fragile after the decision of ICC prosecutor Luis Moreno-Ocampo on 14 July 2008 to charge Sudan’s President Omar Hassan al-Bashir with genocide, crimes against humanity and war crimes.
36 Linnea Bergholm, confidential interview, senior UN official, DPKO, New York, 26 October 2007.
ters or ground transportation capacities. The UN Secretariat has generally awaited permission from Sudanese authorities on decisions regarding troop composition, permission for night flights and land use. Such matters, however, should have been settled through a ‘Status of Mission Agreement’. An 8 July 2008 attack by armed militias on a UNAMID convoy in northern Darfur underscored the urgency of the situation. Seven peacekeepers died and 19 were wounded, but UNAMID was unable to mount a rescue or reinforcement operation (Withington, 2008: 6).

Assessing R2P’s Potential for Implementation

**Political, Moral and Tactical Limitations**

The calls for protection in Darfur were framed within the language of the responsibility to protect. R2P helped mobilize international attention on the conflict in Darfur, as well as recognition of its severity. However, it failed to activate united, or even sufficient, political will for states to agree on an explicit and convincing response in line with the R2P framework for action. The Security Council member-states were divided over what actions were within the UN’s mandate, even when the conflict had been declared a ‘threat to international peace and security’. The most visible parts of the response, AMIS and UNAMID, represented symbolic measures that, to some degree, allowed world leaders to claim that action was being taken in response to Darfur. However, it is apparent that Darfur’s civilian population has been let down by the civilian protection offered by AMIS and, so far, by UNAMID. Yet, the goal of protecting civilians is central to R2P implementation. Assessing what limits its implementation is therefore a crucial exercise.

Seen through the lens of the international response to Darfur from 2003 onwards, three important sets of limitations to R2P implementation emerge. The most serious ones relate to political challenges. The struggles faced by AMIS and UNAMID in their attempts to offer protection suggest that the norms of non-intervention and sovereignty are still stronger among the UN membership than the emerging norm of R2P. In spite of the growing declared support for concepts like human security and sovereignty as responsibility, and UN reports suggesting that state sovereignty is no longer a shield behind which mass atrocities could pass unnoticed, the Security Council was not willing to consider intervention in Darfur without the consent of the government in Khartoum. However, such unwillingness does not apply solely to UN responses. Reluctance to challenge the sovereignty of the govern-

---

37 A report found that there was spare capacity of suitable medium-lift tactical helicopters among NATO countries. To name just a few, the Czech Republic, India, Italy, Romania, Spain or Ukraine could all have contributed toward the 18 required helicopters (Withington, 2008).
ment of Sudan characterized all international actors involved in supporting, first, AMIS and, later on, UNAMID. The AU, for instance, would have never considered deploying AMIS without consent from Khartoum, and all its subsequent actions in relation to Darfur were taken in respect of this consent.

As such, it becomes clear that UN member-states viewed protection for Darfur as secondary to their respect for Sudan’s sovereignty, which speaks to the strength of the non-intervention norm and to the self-interested motives of international actors in connection with Sudan. The international response to the conflict in Darfur further illustrates that there is no consistent political will from powerful states, especially those that have declared their support for R2P, to commit military forces in ways that would challenge the traditional meaning of sovereignty. So far, the concept of sovereignty as responsibility appears wedded to preserving international order. Another key problem emerges from the disagreements among UN member-states regarding the extent to which the 2005 World Summit Outcome Document expresses their commitment to R2P. In turn, these explain the lack of any unified position on the most appropriate ways to respond to Darfur.

Apart from political limitations, the reaction to the conflict in Darfur also advances some key moral challenges. We argue that the focus on what peace operations can do to implement R2P and the question of failure and success of the use of force to protect civilians narrows the framework of R2P considerably. As the previous section showed, peacekeeping is no credible substitute for timely and united emphasis on prevention, peace talks and sustained political pressure on a regime ‘unable or unwilling’ to protect its people. Such measures should be worked out to the greatest degree possible in consultation with the regime in power, and they should be implemented both non-coercively and, if necessary, coercively. Indeed, the R2P framework put forward in the 2005 UN General Assembly resolution permits an interpretation of the principle as including such diverse measures.

A third set of limitations refers to tactical issues. This category includes vague mandates, fragile political environments, and poor resources and support to match the ambitions to protect civilians – all reflective of the lack of political agreement behind what role peacekeepers could play in armed conflict. Both AMIS and UNAMID were deployed with vague mandates, especially with regard to civilian protection, in an attempt to mask the disagreements among UN member-states on this issue. The peacekeepers in Darfur were ill-prepared and insufficiently supported for the task of protection, while the political process was not afforded enough time or resources. Neither the AU nor the UN managed to significantly change the criminal behaviours of the government of Sudan against civilians in Darfur; indeed, they were only present in the area because they had respected Khartoum’s requirements. Both organizations have lacked the political authority to set the terms for their operations or to enforce their freedom of movement.
The troop-contributing countries had differing understandings of what peacekeepers were permitted to do militarily. Both AMIS and UNAMID have operated with far less resources and far fewer troops than what would have been reasonable to expect. Except in the instances of courageous initiatives, the two missions had minimal civilian protection success. Although they were not explicitly deployed to implement R2P, we argue that their mandate provisions to protect civilians came as a response to the ongoing debate about the need for the world to show commitment to R2P. As described above, action was taken at various institutional levels to improve the protection of civilians, by focusing on the training of personnel and the development of relevant doctrine. The UN Department of Peacekeeping Operations expanded and codified a set of operational practices designed to encourage peacekeepers to interfere in instances when civilians are being slaughtered. However, what Paul Williams (2006: 181) argued in 2006 remains accurate in 2009: ‘For all the money governments spend on their militaries . . . the international society is still not prepared to conduct effective responses to mass killing that prioritize the needs of the victims.’ In the case of Darfur, there is no doubt that the levels of political commitment to R2P were disappointing. The question is whether this amounts to a failure of the R2P framework per se.

Has R2P ‘Failed’ in Darfur?

Advocates such as Human Rights Watch, the Aegis Trust and the International Crisis Group (ICG) invoked the R2P framework to call for ‘robust’ international action over Darfur (Pace & Deller, 2005: 22). In some cases, ‘robust action’ and ‘real action’ were euphemisms for military intervention. For example, Nick Grono (2006: 626–628) argues that those capable of acting failed because they did not put real pressure on the government of Sudan to disarm the janjaweed or contribute their troops for a military intervention in Darfur. Others suggested that NATO should have sent troops (Rice, Lake & Payne, 2006; ICG, 2004: 15).38 We caution against the assessment that the global commitment to R2P failed on the sole grounds that international forces were not rapidly deployed to Darfur. That is, military intervention should not have been seen as the central way to realize R2P in the region. We argue this on two grounds.

First, the principle of R2P is surrounded by many unresolved tensions. As discussed above, the paragraphs on R2P in the World Summit Outcome Document are deliberately vague on when and how sovereign responsibili-

38 Linnea Bergholm, confidential interview, senior AU adviser, Addis Ababa, September 2007. The adviser’s view was that a US or NATO presence in Sudan, given that country’s internal Islamic struggle, would have caused a challenge as big as that in Afghanistan.
ties devolve onto international actors. Given the ambiguity of Paragraph 139 with regards to specific mechanisms and resources necessary to react to concrete cases, ignoring potential responses distinct from the use of force may have seemed possible. Also, selectivity was made part of the R2P framework because R2P was not intended to be applied to all imaginable crises worldwide. Furthermore, the R2P advocacy turned protection into a question of intervention rather than support for the political process. According to Alex de Waal (2007: 1043, 1045), in the absence of a workable political process, designing R2P in the guise of a large UN force under Chapter VII was an unfeasible plan for Darfur.

There is thus a clear need to guard against advocacy that narrows R2P down to a question of interventionism and military measures. A potential danger exists that such advocacy may overlook important questions about what intervention can actually achieve. Military civilian protection in an ongoing conflict should never substitute for the government’s responsibilities, but should rather be done with a view to reinforcing them. Those who argued for NATO action did not explain fully to what extent the North Atlantic organization could have made a significant difference. Military experiences such as those in Afghanistan and Iraq highlight the limits of what ‘robust’ military power and presence on the ground can achieve (Weiss, 2007: 135).

Second, it is important not to underestimate the complexities of the political conflict in Darfur. As Ramesh Thakur (2006: 247) best puts it, ‘the size of Sudan, the historical roots of the crisis, and the ease with which any Western intervention can be exploited as yet another assault on Arabs and Muslims, means that the prospects of a successful outcome of the use of unilateral military force are questionable’. Without Sudan’s consent, unilateral intervention would probably have been met with sustained resistance, resulting in decreased security for large segments of Darfur’s civilian population and diminished humanitarian access for the humanitarian agencies. Without good strategy and sustained political support to bear the financial and human costs, such consequences would have been negligent of any global duty to care worth its name. As de Waal (2007) has argued compellingly, the expectations were set too high in regard to what peacekeeping operations could actually achieve in active conflicts such as the one in Darfur, especially in light of their vague mandates and their shortage of proper resources and troops on the ground. In the sense that R2P has not generated the necessary political will to

---

39 Darfur was not the only case where R2P could have been applied around the time of the World Summit, or where the question of success versus failure could be raised. Darfur received high levels of attention from R2P advocates and civil society, while the crises in Burundi and the Democratic Republic of Congo (DRC) received considerably less. The African Mission in Burundi (AMIB) and the UN Mission in the DRC (MONUC) were both deployed before 2005 and, in different ways, have had a bearing on debates on R2P and civilian protection.

40 A credible military response would have had to have been led by NATO or a coalition of Western states led by France, the UK or the USA; see Williams (2006: 171, 173).
protect the innocent civilians of Darfur, the failure is haunting. However, we
disagree that the global commitment to R2P failed on the sole grounds that
international forces were not rapidly deployed to Darfur.

In sum, we have argued that while the international failure to offer mean-
ingful protection in Darfur in line with the R2P framework shows a number
of key challenges to implementation, the appraisal of the responsibility to
protect should not be reduced to the question of the effectiveness of a military
response. The examination of the two most visible responses to Darfur, AMIS
and UNAMID, suggests a lack of unified and timely prioritization of non-
coercive and, if necessary, coercive political, legal, diplomatic and economic
actions falling short of military reaction. Such measures could also have been
aimed at enforcing protection. Certainly, the challenges to R2P implementa-
tion are significant, as gloomily suggested by the failures to protect the inno-
cent civilians of Darfur. They do not, however, justify proclaiming the overall
failure of R2P as an emerging norm – not on the basis of one case, no matter
how pivotal that case may be.

*Cristina G. Badescu is SSHRC Postdoctoral Fellow at the Munk Centre for International
Studies, University of Toronto, and Visiting Research Fellow at the Ralph Bunche Institute
for International Studies, The City University of New York Graduate Center. E-mail:
cristina.badescu@utoronto.ca. Linnea Bergholm is completing a doctoral thesis at the
Department of International Politics, Aberystwyth University. E-mail: linnea.bergholm@g
mail.com. The authors wish to thank Alex Bellamy, Don Hubert and the anonymous
referees at Security Dialogue for helpful suggestions and comments on earlier versions of
this article.

References

Abass, Ademola, 2007. ‘The United Nations, the African Union and the Darfur Crisis: Of
25 June.
20 October.
African Union, 2005. ‘Briefing Note on the Renewal of the Mandate of the AU Mission in the
Sudan (AMIS)’, PSC/PR/2(XLII), 20 October.
Ayoob, Mohammed, 2004. ‘Third World Perspectives on Humanitarian Intervention and
Badescu, Cristina G., forthcoming, ‘“The Responsibility To Protect”: Embracing Sovereignty
and Human Rights’, in Noha Shawki & Michaelene Cox, eds, Negotiating Sovereignty and
BBC News (London), 2004. ‘Frustration of Darfur “Observer”’, 14 November; available at


Bellamy, Alex J., 2005. ‘Responsibility To Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention After Iraq’, Ethics and International Affairs 19(2): 31–53.


Prendergast, John, 2006. ‘So How Come We Haven’t Stopped It?’, The Washington Post, 19 November.


